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federal register

Wednesday
June 23, 1982

Selected Subjects

Administrative Practice and Procedure
Agricultural Marketing Service

Air Carriers
Civil Aeronautics Board

Air Pollution Control
Environmental Protection Agency

Animal Feeds
Environmental Protection Agency

Credit
Farm Credit Administration

Crop Insurance
Federal Crop Insurance Corporation

Fisheries
National Oceanic and Atmospheric Administration

Medicaid
Health Care Financing Administration

Medicare
Health Care Financing Administration

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Pesticides and Pests
Environmental Protection Agency

Prisoners
Prisons Bureau

Reporting and Recordkeeping Requirements
Environmental Protection Agency

V 47 / 121
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Contents

Federal Register
Vol. 47, No. 121
Wednesday, June 23, 1982

Agricultural Marketing Service
RULES
Tobacco inspection:
27057 User fees for inspection and certification; interim rule and request for comments
PROPOSED RULES
Milk marketing orders:
27080 New England

Agriculture Department
See also Agricultural Marketing Service; Federal Crop Insurance Corporation; Packers and Stockyards Administration.
NOTICES
27088 Agency forms submitted to OMB for review

Air Force Department
NOTICES
Meetings:
27089 Scientific Advisory Board

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
27164 ARA Services, Inc., et al.
27180 Ashland-Warren, Inc.

Child Support Enforcement Office
NOTICES
27224 Research demonstration grants; 1982 FY

Civil Aeronautics Board
PROPOSED RULES
Terminations, suspension, and reductions of service:
27081 Notification requirement
NOTICES
27089 Agency forms submitted to OMB for review
Hearings, etc.:
27089 China Interocean Transport, Inc.
27089 UT Freight Services (USA) Ltd.

Commerce Department
See National Oceanic and Atmospheric Administration.

Commodity Futures Trading Commission
NOTICES
27192 Meetings; Sunshine Act

Defense Department
See Air Force Department.

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
27183 M.D. Pharmaceutical, Inc.
27183 Smithkline Beckman Corp.
27183 Sterling Drug, Inc.

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
27094 Houston Lighting & Power Co.
Powerplant and industrial fuel use; prohibition orders; exemption requests, etc.:
27093 Crown Zellerbach Corp.

Education Department
NOTICES
Grant applications and proposals; closing dates:
27091 Handicapped children, severely; innovative programs
Grantback arrangements; award of funds:
27092 North Dakota
27089 Handicapped children, severely; innovative programs; annual funding priorities

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation:
27071 Monsanto Chemical Intermediates Co.; alternative emission reduction plans
27073 State implementation plan processing procedures
Air quality implementation plans; approval and promulgation; various States, etc.:
27065 California and Nevada
27070 Nevada
27071 Ohio; correction
Pesticides; tolerances in animal feeds:
27063 Ethephon
27064 Methamidophos
Pesticides; tolerances in food:
27062 Ethephon
Toxic substances:
27075 Inventory reporting; release of aggregate production statistics; final rule and request for comments
Water pollution control:
27075 Secondary treatment requirements; discharge into marine waters: correction
PROPOSED RULES
Toxic substances:
27206 Small manufacturers; reporting and recordkeeping requirements; exemption standards
NOTICES
Air pollution control; steel industry compliance extension applications, etc.:
27127 Alabama By-Products Corp.
Pesticide, food, and feed additive petitions:
27126 Mobay Chemical Co. et al.

Pesticide programs:
27109 Dialiate; determination concluding rebuttable presumption against registration
27118 Oxyfluorfen; determination concluding rebuttable presumption against registration
Pesticide registration, cancellation, etc.:
27125 3-(alpha-acetonylbenzyl)-4-hydroxycoumarin[warfarin], etc.
27116 Pesticides; emergency exemptions granted during April 1982 through April 1983
Pesticides; temporary tolerances:
27118 Methamidophos

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
27129 East Riverfront Development Project, Sites No. 1, 2, and 3, Detroit, Mich.
27130 Shenandoah New Community, Coweta County, Ga.

Farm Credit Administration
RULES
Loan policies and operations:
27060 Farm credit system institutions; clarification and upate

Federal Communications Commission
PROPOSED RULES
27087 Regulatory flexibility; review of rules

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
27059 Almond
27058 Grapes

Federal Energy Regulatory Commission
PROPOSED RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations:
27082, 27083 Colorado (2 documents)
NOTICES
Hearings, etc.:
27095 Arizona Public Service Co.
27104 Banister Hydro Associates
27105, 27106 Big Rivers Electric Corp. (3 dcouments)
27107 Campbell and Thayer, Mo.
27095 Cliffs Electric Service Co.
27095 Consumers Power Co.
27095 El Paso Natural Gas Co.
27096 Energy Conversions of America, Inc.
27097 Florida Power & Light Co. (3 documents)
27107 Granite State Gas Transmission, Inc.
27098 Jacobs, Jerrold L.
27096 Kansas Power & Light Co.
27108 Keys Mill Hydro Associates
27097 Liberty Oil & Gas Corp.
27098, 27099 Montana Power Co. (6 documents)
27100 Northern Natural Gas Co. (3 documents)
27101 Pacific Power & Light Co. (2 documents)
27101 Pennsylvania Electric Co.
27101 Scherer, Robert W.
27102 Schill, Robert E.
27102 Tennessee Gas Pipeline Co. (2 documents)
27103 Transcontinental Gas Pipe Line Corp.
27103 Tuck Industries, Inc.
27104 Western Gas Interstate Co.

Federal Home Loan Bank Board
NOTICES
27192 Meetings; Sushine Act

Federal Maritime Commission
NOTICES
Complaints filed:
27127 Phillips-Parr, Inc., et al.

Federal Reserve System
NOTICES
Applications, etc.:
27127 Riverton State Bank Holding Co. et al.
Bank holding companies; proposed de novo nonbank activities:
27128 Ramapo Financial Corp. et al.

Health and Human Services Department
See Child Support Enforcement Office; Health Care Financing Administration.

Health Care Financing Administration
RULES
Medicaid:
27076 State residency requirements; individual insititutionalized in one State and resident of another State; extension of time period for coverage; interim rule and request for comments
PROPOSED RULES
Medicare:
27084 Optometrists services coverage; inclusion of examination services related to condition of aphakia
NOTICES
Medicaid; State plan amendments, reconsideration; hearings:
27128 Tennessee

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
27108 Decisions and orders
Remedial orders:
27109 Objections filed

Hearings and Appeals Office, Interior Department
PROPOSED RULES
27086 Hearings and appeals procedures withdrawn

Housing and Urban Development Department
See Environmental Quality Office, Housing and Urban Development Department.

Interior Department
See Hearings and Appeals Office, Interior Department; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Communication Agency
NOTICES
Meetings:
27145 Book and Library Advisory Committee; postponement

International Trade Commission
NOTICES
Import investigations:
27145 Bicycle tires and tubes from Taiwan
27151 Frozen french fried potatoes from Canada
27160 Hot rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod from Spain
27150 Log splitting pivoted lever axes
27150 Sneakers with fabric uppers and rubber soles
27157 Stainless steel sheet and strip from West Germany
27150 Vacuum cleaner brush rollers

Interstate Commerce Commission
NOTICES
Motor carriers:
27134 Agricultural cooperative transportation; filing notices
27135, 27137 Finance applications (2 documents)
27139, 27141 Permanent authority applications (2 documents)
27144 Temporary authority applications
Railroad services abandonment:
27135 Consolidated Rail Corp.

Justice Department
See Antitrust Division; Drug Enforcement Administration; Prisons Bureau.

Land Management Bureau
RULES
Public land orders:
27079 Idaho (2 documents)
27078 Montana
NOTICES
Alaska native claims selections; applications, etc.:
27131 Doyon, Ltd.
Classification of lands:
27132 South Dakota
Management framework plans, review and supplement, etc.:
27132 New Mexico

National Aeronautics and Space Administration
NOTICES
27184 Agency forms submitted to OMB for review

National Oceanic and Atmospheric Administration
RULES
27062 Coastal zone management program; Federal consistency term "directly affecting the coastal zone"; interpretation withdrawn; effective date confirmed; correction
PROPOSED RULES
Fishery conservation and management:
27228 Fishery management plans; guidelines

National Park Service
NOTICES
Historic Places National Register; pending nominations:
27134 South Carolina

National Science Foundation
NOTICES
27184 Agency forms submitted to OMB for review

Nuclear Regulatory Commission
RULES
Byproduct material domestic licensing, etc.:
27060 Regional licensing program; authorities delegated to Regional Administrators; correction
NOTICES
Applications, etc.:
27185 Philadelphia Electric Co. et al.
27185 Virginia Electric & Power Co.

Packers and Stockyards Administration
NOTICES
Stockyards; posting and deposting:
27088 Mountain Home Horse Auction, Ark., et al.
27088 North Georgia Farmers Livestock Market, Inc., Ga., et al.

Prisons Bureau
RULES
Inmate control, custody, care, treatment, and instruction:
27218 Suicide prevention program
27219 Use of force, chemical agents, and physical restraints

Securities and Exchange Commission
NOTICES
Hearings, etc.:
27187 Equitable Life Assurance Society of United States
27189 Flight Transportation Corp.
Meetings:
27185 Government-Business Forum
27192 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
27186 Options Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
27185 Cincinnati Stock Exchange
27187 Midwest Stock Exchange, Inc.
27187 Philadelphia Stock Exchange, Inc.

Small Business Administration
NOTICES
Disaster loan areas:
27189 Alaska
27189 Illinois
27190 Massachusetts
27190 Oklahoma
27190 Texas

State Department
NOTICES
27190 Agency forms submitted to OMB for review
Passports, foreign; validity:
27190 Antigua and Barbuda et al.

Surface Mining Reclamation and Enforcement Office
NOTICES
27134 Agency forms submitted to OMB for review (2 documents)

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
29 27057
411 27058
439 27059
Proposed Rules:
1001 27080

10 CFR
30 27060
40 27060
70 27060

12 CFR
611 27060
614 27060

14 CFR
Proposed Rules:
323 27081

15 CFR
930 27062

18 CFR
Proposed Rules:
271 (2 documents) 27082, 27083

21 CFR
193 27062
561 (2 documents) 27063, 27064

28 CFR
549 27218
552 27219

40 CFR
52 (5 documents) 27065-27073
125 27075
710 27075
Proposed Rules:
704 27206

42 CFR
435 27076
436 27076
Proposed Rules:
405 27084

43 CFR
Public Land Orders:
6277 27079
6278 27078
6279 27079
Proposed Rules:
4 27086

47 CFR
Proposed Rules:
Ch. I 27087

50 CFR
Proposed Rules:
602 27228

V 4 7 / 1 2 1
J E 2 3 8 2
UMI

Rules and Regulations

Federal Register
Vol. 47, No. 121
Wednesday, June 23, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; User Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Secretary of Agriculture is revising, effective July 1, 1982, the fees and charges assessed by the Department for the mandatory inspection and certification of quota tobacco, and other services, including administrative and supervisory costs, at tobacco auction markets, to reflect the Department's increased costs of operating the tobacco inspection program. The fees and charges assessed by the Department for the permissive inspection of tobacco, now performed upon request and paid for at a prescribed hourly fee, are also being increased. Inspection of tobacco at designated auction markets will continue to take precedence over permissive inspections.

DATES: Effective date: July 1, 1982. Comment date: Comments due on or before July 23, 1982.

ADDRESS: Send comments to J. T. Bunn, Deputy Director, Tobacco Division, Room 502, Annex Building, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250. Comments will be available for public inspection at this location during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
J. T. Bunn, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250 (202) 447-7235.

SUPPLEMENTARY INFORMATION: The Department promulgates these regulations as an interim final rule effective July 1, 1982, increasing fees and charges both for the permissive inspection and certification of tobacco conducted upon request and for the mandatory inspection and certification of producer tobacco sold at designated tobacco auction markets throughout the tobacco producing areas. These increased fees and charges shall, as nearly as practicable, cover the Department's costs of the services, including administrative and supervisory costs. The authority for these regulations is contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 *et seq.*) as amended by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35).

Prior to October 1, 1981, the Department, pursuant to the Tobacco Inspection Act, provided free and mandatory inspection of all quota tobacco sold at designated auction markets. The Omnibus Budget Reconciliation Act of 1981 directed the Secretary of Agriculture to promulgate regulations setting fees and charges under the Tobacco Inspection Program for the inspection and certification of tobacco, and other services, including administrative and supervisory costs for all quota tobacco sold on designated markets. These fees and charges were, as nearly as possible, to cover the Department's costs of performing these services. Effective October 1, 1981, the Department established these fees and charges at $.0045 per pound, as published in the **Federal Register** (46 FR 6239) on December 24, 1981. This fee had been calculated after a review of historical data regarding production and marketing. However, a current review of data not available prior to the implementation of user fees on October 1, 1981, has demonstrated that the initial fee of $.0045 per pound is insufficient to reimburse the Department for its costs of operating the tobacco inspection program at the level of service presently provided. The primary reasons for the need to increase the assessed fee are as follows: (1) The effective quota for flue-cured tobacco is the smallest since the inception of the acreage-poundage concept thereby reducing the revenue to the Department; (2) Government-wide salary increases; (3) Cost of workers' compensation and unemployment compensation previously paid for from USDA appropriated budget and which must now be included as part of the administrative costs of this program; and (4) The cost of recruitment and training resulting from the large number of resignations and retirements of tobacco inspectors. Therefore, it has been determined that in order to cover the Department's costs associated with the mandatory inspection and certification of tobacco and thereby maintain the present level of service requested by growers, warehousemen, and tobacco buyers, it is necessary to increase the fee to $.0055 per pound. This increase will generate the funds necessary to continue the level of service currently in effect.

This interim final rule also increases the fees and charges under which permissive tobacco inspection and grading services are provided to those requesting the service. The Tobacco Inspection Act requires that permissive inspections, as defined by 7 CFR 29.56, be made available to interested parties on a fee basis. This hourly fee schedule for permissive inspection has not been increased since February 3, 1981 (46 FR 10451). The Department has determined that the present fees for permissive inspections are insufficient to cover the Department's costs of inspection and certification, and other services, including administrative and supervisory costs. The major factors causing the need for an increase of the fees include the government-wide salary increase, and the cost of workers' compensation and unemployment compensation previously paid for from USDA appropriated budget and which must now be included as part of the administrative cost. Therefore, based on these factors, the Department has determined that, in order to cover the Department's present costs of providing permissive tobacco inspection, the hourly salary fee must be increased from a "basic hourly salary of $17.80," an "overtime rate of $21.30", and a "Sunday and holiday rate of $26.70", to "$20.45", "$24.40", and "$30.50" per hour, respectively.

As previously stated, the present fees are not providing sufficient revenue to reimburse the Department for its costs in providing the level of service being requested by tobacco growers, warehousemen and tobacco buyers. However, the Secretary is required by

the Omnibus Budget Reconciliation Act of 1981 and the Tobacco Inspection Act to recover the costs incurred by the Department for the inspection and certification of tobacco, the establishment of standards and other services, including administrative and supervisory costs, from the users of the inspection service. For these reasons, the Department has determined that a situation exists which warrants the publication of this action as an interim final rule effective on July 1, 1982, without the opportunity for a prior public comment period. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause shown that notice and other public procedures with respect to this action are impracticable, unnecessary, and contrary to the public interest, and good cause is found for publishing this interim final rule effective July 1, 1982, with opportunity for public comments after publication.

William T. Manley, Acting Director, Tobacco Division, AMS, has determined that the comment period on this interim final rule will end 30 days after publication hereof because all segments of the tobacco industry must be informed of any rule changes affecting the marketing process to continue orderly marketing of their crop and a 30-day comment period is adequate to provide all interested parties an opportunity to file views and comments. The Department, after evaluating the comments received, will issue a final rule concerning 7 CFR Part 29.

This interim final rule has been reviewed under U.S.D.A. procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1515–1 and has been determined to be a "nonmajor rule" because it does not meet any of the criteria established for major rules under the Executive Order. Review of the regulations contained in 7 CFR Part 29, for need, currency, clarity, and effectiveness will be accomplished within the next 3 years.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small business. All tobacco warehousemen and producers fall within the confines of "small business," as defined in the Regulatory Flexibility Act. The Department has informally advised all segments of the tobacco industry of the anticipated increase of user fees and that there would be no change in the level of the services provided. It has been determined that the economic impact upon small entities would not be adverse and would in no way affect normal competition in the market place. Furthermore, the Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the Tobacco Inspection program.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Tobacco.

PART 29—TOBACCO INSPECTION

Accordingly, the Department hereby amends the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29 as follows:

§ 29.123 [Amended]

1. Section 29.123 Fees and Charges, is amended by removing the words "October 1, 1981," in line one and inserting in lieu thereof the words, "July 1, 1982."

2. Section 29.123(a) is amended by removing the figure "$.0045" in line two and inserting in lieu thereof "$.0055."

3. Section 29.123(b) is amended by removing the phrases "$17.80 per hour," "21.30 per hour," and "$26.70 per hour," and inserting in lieu thereof "$20.45 per hour," "$24.40 per hour," and "$30.50 per hour," respectively.

§ 29.9251 [Amended]

1. Section 29.9251 is amended by removing the phrases "$17.80 per hour," "21.30 per hour," and "$26.70 per hour," and inserting in lieu thereof "$20.45 per hour," "$24.40 per hour," and "$30.50 per hour," respectively.

Dated: June 17, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-17019 Filed 6-22-82; 8:45 am]
BILLING CODE 3410-02-M

Federal Crop Insurance Corporation

7 CFR Part 411

[Amdt. No. 2]

Grape Crop Insurance Regulations; Mediterranean Fruit Fly Damage

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith amends the Grape Crop Insurance Regulations, effective with the 1982 and succeeding crop years, by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss. This action is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Final Impact Statement describing the options considered in developing this action and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in the regulations to which this amendment applies (7 CFR Part 411—Grape Crop Insurance Regulations) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0001, 0563–0005, and 0563–0007. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, or other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this amendment applies are: Title-Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). That review will be completed prior to the sunset review date of May 30, 1985.

On November 30, 1981, FCIC published a notice of proposed rulemaking in the **Federal Register** at 46 FR 58089, in which FCIC proposed to

amend the Grape Crop Insurance Regulations (7 CFR Part 411), effective for the 1982 and succeeding crop years, by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss.

The public was given 60 days in which to submit written comments on the proposed rule, but none were received.

List of Subjects in 7 CFR Part 411

Crop insurance, Grapes.

Final Rule

PART 411—GRAPE CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith amends the Grape Crop Insurance Regulations (7 CFR Part 411), effective with the 1982 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 411 is revised to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516).

2. Paragraph 1(a) of the "Terms and conditions" of the Grape Crop Insurance Policy (7 CFR 411.7(d)) is amended as follows:

§ 411.7 The application and policy.

* * * * *

(d) * * *

Grape Crop Insurance Policy

Terms and Conditions

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, fire, or direct Mediterranean fruit fly damage occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

Direct Mediterranean fruit fly damage shall be actual physical damage to the grapes which, as determined by the Corporation, causes such grapes to be considered unmarketable or have a value of less than $50 per ton, and shall not include unmarketability of such grapes as a result of a quarantine, boycott, or refusal to accept the grapes by any entity without regard to actual physical damage to such grapes.

Done in Washington, D.C., on March 4, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 2, 1982.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 82-16081 Filed 6-22-82; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 439

[Amdt. No. 1]

Almond Crop Insurance Regulations; Mediterranean Fruit Fly Damage

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith amends the Almond Crop Insurance Regulations (7 CFR Part 439), effective with the 1982, and succeeding crop years, by adding direct physical damage caused by the Mediterranean fruit fly as an insured cause of loss and clarifying the production to count for unmarketable almonds. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Final Impact Statement describing the options considered in developing this action and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in the regulations to which this amendment applies (7 CFR Part 439—Almond Crop Insurance Regulations) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0001, 0563–0003, and 0563–0007. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). Merritt W. Sprague, Manager, Federal Crop Insurance Corporation (FCIC) has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this amendment applies are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically on area and community development; therefore, review as established in OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

It has also been determined that this action does not constitute a review as to need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). That review will be completed prior to the sunset review date of May 30, 1985.

On November 30, 1981, FCIC published a notice of proposed rulemaking in the **Federal Register** at 46 FR 58089, in which FCIC proposed to amend the Almond Crop Insurance Regulations (7 CFR Part 439) effective for the 1982 and succeeding crop years by adding direct physical damage caused by the Mediterranean fruit fly making the fruit unmarketable as an insured cause of loss, and by adding a new subparagraph (d) to paragraph 8 of Terms and Conditions to clarify production to count for unmarketable almonds.

The public was given 60 days in which to submit written comments on the proposed rule, but none were received.

List of Subjects in 7 CFR Part 439

Crop insurance, Almonds.

Final Rule

PART 439—ALMOND CROP INSURANCE

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith amends the Almond Crop Insurance Regulations (7 CFR Part 439), effective with the 1982 and succeeding crop years, in the following instances:

1. The authority citation for 7 CFR Part 439 revised to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516)

2. Paragraph 1(a) of the "Terms and conditions" of the Almond Crop Insurance Policy (7 CFR 439.7(c)) is amended as follows:

§ 439.7 The application and policy.

* * * * *

(c) * * *

Almond Crop Insurance Policy

Terms and Conditions

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, wildlife, earthquake, fire, or direct Mediterranean fruit fly damage occurring within the insurance period, subject to any exceptions, exclusions, or limitations with respect to causes of loss shown on the actuarial table.

Direct Mediterranean fruit fly damage shall be actual physical damage to the almonds which, as determined by the Corporation, causes such almonds to be considered unmarketable, and shall not include unmarketability of such almonds as a result of a quarantine, boycott, or refusal to accept the almonds by any entity without regard to actual physical damage to such almonds.

§ 439.7 [Amended]

3. Paragraph 8 of the "Terms and conditions" of the Almond Crop Insurance Policy (7 CFR 439.7(c) is amended by adding at the end thereof the following:

* * * * *

(d) No production will be counted for almonds which the Corporation determines cannot, due to an insurable cause, be marketed.

Done in Washington, D.C., on March 1, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 2, 1982.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 82-16862 Filed 6-22-82; 8:45 am]

BILLING CODE 3410-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40 and 70

Regional Licensing Program; Correction

In FR Doc. 82-14501 appearing at page 23138, in the issue of Thursday, May 27, 1982, make the following changes:

(1) On page 23139, middle column, in § 30.6, paragraph (b), introductory text, ninth line, the word "be" should follow after "Regions I and III must".

(2) On page 23140, in the first column, § 40.5, paragraph (b)(1), third line, a comma should appear after "modify" and before "suspend".

(3) On page 23140, middle column, in § 70.5, paragraph (b), introductory text, ninth line, "Regions I and II" should be changed to read "Regions I and III".

(4) On page 23140, third column, in § 70.5, paragraph (b)(2)(i), sixth line, the period that appears between "Delaware" and "Maine" should be a comma.

BILLING CODE 1505-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 614

Organization; Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration adopts regulations authorizing the incorporation of service organizations to perform services for or on behalf of Farm Credit System banks, and clarifying the delegation of supervisory and loanmaking authority by System banks. These amendments are primarily for the purpose of implementing the Farm Credit Act Amendments of 1980 (Pub. L. 96-592) and clarification.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202-755-2181).

SUPPLEMENTARY INFORMATION: On November 23, 1981, the Farm Credit Administration ("FCA") noticed and published for public comment proposed new and amended regulations to 12 CFR Parts 611 and 614 (46 FR 57306-57322). The new regulation is § 611.1150. The amended or revised regulations are §§ 614.4020 and 614.4030. Also, § 614.4031 is being combined with § 614.4030.

Incorporation of Service Organizations

The new regulation, 12 CFR 611.1150, is added to implement Title IV, Part D of the Farm Credit Act of 1971, as added by the Farm Credit Act Amendments of 1980 (the amended statute being referred to hereinafter as "the Act") which authorizes the incorporation of service organizations by one or more banks of the Farm Credit System ("System") to perform services for or on behalf of the bank(s), except the extension of credit or the sale of insurance. Nine commentators submitted views on the proposed regulation.

All commentators felt that § 611.1150(a), as proposed, was considerably more restrictive than § 4.25 of the Act in that it would prohibit the creation of a service corporation to provide "other direct services to borrowers." The commentators recommended that the additional restriction be deleted. The Federal Farm Credit Board ("Board") accepted this suggestion and deleted the phrase "and the other direct services to borrowers" based on the fact that neither the Act nor its legislative history suggests that such a restriction was intended.

Seven of the commentators recommended deletion of paragraph (b)(3)(xii) because it effectively eliminates "the limited liability advantage to be gained by incorporating a service entity." The commentators recommended that the decision to honor unpaid creditors' claims in the event of the service corporation's insolvency be left to the stockholders' business judgment. Also, commentators understood the paragraph to require the Governor to determine the validity of the creditors' claims and suggested the deletion of the phrase "at the direction of the Governor." The Board does not believe that Congress intended that System banks, which are themselves corporate entities with limited liability, should be able to further limit their liability through service organizations. Rather, the authority to organize service corporations was provided merely to permit System banks to perform their joint undertakings more efficiently. Further, the Board believes that the chartering authority vested in the Governor by the Act is sufficient to require stockholders to pay valid claims of the service corporation's creditors in the event of its insolvency. Accordingly, paragraph (b)(3)(xii) is retained. However, the phrase "at the direction of the Governor" has been deleted because it was widely misunderstood by the commentators to require the Governor to determine the validity of the claims. The effect of this deletion is to require the stockholders to pay all valid claims of creditors of the service corporation in the event of insolvency. This change is consistent with the intent of the Board.

The commentators also recommended that paragraph (b)(3)(xiii) of the proposal be deleted on the basis that it is not necessary to promulgate a regulation in order for stockholders to share liabilities on an equitable basis. The Board accepted this suggestion and deleted paragraph (b)(3)(xiii).

Delegation of Authority

Sections 614.4020, 614.4030, and 614.4031 of existing regulations were combined and published for comment as proposed regulation § 614.4020. No comments were received regarding this regulation. However, during final review, FCA staff concluded that it would be inappropriate to combine present regulation § 614.4020 with §§ 614.4030 and 614.4031 because it could confuse the delegation of

supervisory authority with the delegation of loanmaking authority. Therefore, the only change to the present § 614.4020 invokes revision of the heading of the section to reflect more accurately its contents.

Sections 614.4030 and 614.4031 are now combined as § 614.4030, and some adjustments have been made to reflect more accurately the lending authority vested by the Act without changing the intent of the present two regulations. The purpose of the adjustments is to clarify that loanmaking authority of Federal land bank associations is derived by delegation from the Federal land banks, whereas loanmaking authority is vested directly in the production credit associations. However, the FCA finds it necessary and appropriate in the administration of the Act to require Federal intermediate credit banks, as a supervisory matter, to adopt policies that limit the exercise of loanmaking authorities of those production credit associations which do not demonstrate the ability to administer credit soundly.

List of Subjects in 12 CFR Parts 611 and 614

Agriculture, Banks, banking, Organization and functions, Credit, and Rural areas.

For the reasons set out in the preamble, Parts 611 and 614 of Chapter VI, Title 12, of the *Code of Federal Regulations* are amended as shown.

PART 611—ORGANIZATION

1. Part 611 is amended by revising § 611.1150 to read as follows:

Subpart F—General Rules for the Districts

* * * * *

§ 611.1150 Incorporation of service organizations.

(a) *General.* Any Farm Credit bank(s) may organize a corporation to perform, for or on behalf of the bank(s), any function or service that the bank(s) is authorized to perform under the Act and the regulations, except extending credit and providing the sale of insurance services. The bank(s) wishing to organize such a corporation shall submit an application to the Farm Credit Administration according to the application requirements of paragraph (b) of this section. If the proposal meets the requirements of the Act, the regulations, and any other conditions which the Governor may impose, the Governor may issue a charter for the service corporation making it a federally chartered instrumentality of the United States. Such service corporation shall be subject to supervision and examination by the Farm Credit Administration. Only Farm Credit banks are eligible to become stockholders in such a corporation. Each bank shall be eligible to become a stockholder of each service corporation organized under this section.

(b) *Application.* The application for a corporate charter shall include:

(1) The certified resolution of the board of each organizing bank authorizing the incorporation.

(2) A request signed by the president(s) of the organizing bank(s) to the Governor of the Farm Credit Administration to issue a charter, supported by a detailed statement demonstrating the need and the justification for the proposed entity.

(3) The proposed articles of incorporation addressing, at a minimum, the following:

(i) The name of the corporation;

(ii) The city and State in which the principal offices of the corporation are to be located;

(iii) The general purposes for which the corporation is formed;

(iv) The general powers of the corporation;

(v) The procedures under which a bank may become a stockholder;

(vi) The procedures by which bylaws may be adopted and amended;

(vii) The title, par value, voting and other rights, and authorized amount of each class of stock to be issued by the corporation, and the procedures by which each class may be retired;

(viii) The notice and quorum requirement for a meeting of shareholders, and the vote required for shareholder action on various matters;

(ix) The procedures and shareholder voting requirements for the merger, voluntary liquidation, or dissolution of the corporation or the distribution of corporate assets;

(x) The standards and procedures for the application and distribution of corporate earnings;

(xi) The duration of the corporation;

(xii) A requirement, which shall be binding on all stockholders, that in the event of insolvency of the service corporation, such stockholder(s) will pay the valid claims of the creditors of the corporation.

(4) The proposed bylaws which shall address general matters of corporate procedure.

(5) A statement as to the proposed amounts and sources of capitalization and operating funds.

(6) Any agreements between the organizing banks relating to the organization or the operation of the corporation.

(7) Any other supporting documentation as may be requested by the Governor of the Farm Credit Administration.

(c) *Approval.* The Governor may condition the issuance of a charter as he deems appropriate and for good cause may deny the application. Upon approval by the Governor of a completed application, which shall be kept on file at the Farm Credit Administration, the Governor shall issue a charter for the service corporation which shall thereupon become a corporate body and a Federal instrumentality.

(d) *Amendment of articles of incorporation.* The articles of incorporation of a service corporation may be amended in either of two ways:

(1) The board of directors of the corporation may request that the Governor amend the articles of incorporation by sending with its request a certified resolution of the board of directors of the service corporation and stating:

(i) The section(s) to be amended;

(ii) The reason(s) for the amendment;

(iii) The language of the articles of incorporation provision, as amended; and

(iv) That the requisite shareholder approval has been obtained. The request shall be subject to the approval of the Governor as stated in paragraphs (a) and (c) of this section.

(2) The Governor may at any time make any and all changes in the articles of incorporation of a service corporation that he deems necessary and appropriate for the accomplishment of the purposes of the Act.

(e) *Amendment of bylaws.* Amendments of the bylaws of a service corporation shall require prior approval of the Governor.

PART 614—LOAN POLICIES AND OPERATIONS

2. Section 614.4020 is amended by changing the section heading to read as follows:

Subpart A—General

* * * * *

§ 614.4020 Delegation of supervisory authority.

* * * * *

3. Section 614.4030 is revised to read as follows:

§ 614.4030 Policies for delegating loanmaking authorities.

(a) Federal land banks and Federal intermediate credit banks shall adopt policies and procedures governing the exercise of loanmaking authority by the associations subject to their supervision. Federal land banks may delegate loanmaking authority to Federal land bank associations that demonstrate the ability to extend and administer credit soundly, provided adequate control and supervisory measures are developed and exercised. The Federal intermediate credit banks shall adopt policies that limit the exercise of loanmaking authority by production credit associations that do not demonstrate the ability to extend and administer credit soundly.

(b) It shall be the responsibility of each bank board to adopt policies relating to the exercise of loanmaking authority by bank personnel and associations subject to the bank's supervision. Such policies shall require the bank to define authorities to be delegated; provide for documented evaluation of the capability and responsibility of individuals or associations where authority is delegated; provide for reporting of actions taken under delegated authority; provide procedures for periodic review and enforcement; and provide for withdrawal of authority where appropriate. Where associations' boards are authorized by the bank to redelegate loanmaking authority to employees, procedures of the supervisory bank shall require associations to utilize similar control measures.

§ 614.4031 [Removed]

4. Part 614, Subpart A, is amended by removing § 614.4031.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, 12 U.S.C. 2243, 2248 and 2252)

Kenneth J. Auberger,

Acting Governor.

[FR Doc. 82-16973 Filed 6-22-82: 9:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 930

Interpretation of the Federal Consistency Term: "Directly Affecting the Coastal Zone"; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA); Department of Commerce.

ACTION: Final rule; correction.

SUMMARY: This document corrects the CFR citation to a National Oceanic and Atmospheric Administration rule that confirmed the effective date of the withdrawal of a final rule concerning the interpretation of the Federal consistency term "Directly affecting the Costal Zone", which was published in the **Federal Register** on May 11, 1982.

EFFECTIVE DATE: April 28, 1982.

FOR FURTHER INFORMATION CONTACT: Vickie Allin, Office of Costal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634-4245.

In this notice, appearing at 47 FR 20110-20111 in the issue of May 11, 1982, make the following corrections:

On page 20110, in the second column, remove the citation "15 CFR Part 931." In its place, add the citation "15 CFR Part 930."

On page 20110, in the third column after Supplementary Information, remove the heading "List of Subjects in 15 CFR Part 931." In its place, add the heading "List of Subjects in 15 CFR Part 930."

Dated: June 17, 1982.

JoAnn Chandler,

Director, Policy, Evaluation and External Relations Staff, Office of Coastal Zone Management.

[FR Doc. 82-16918 Filed 6-22-82: 9:45 am]

BILLING CODE 3510-08-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 2H5330/T93; PH-FRL-2153-6]

Tolerances for Pesticides in Food Administered by the Environmental Protection Agency; Ethephon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation for the plant growth regulator ethephon in the milling fractions of barley and wheat except for their flours. This regulation is established in conjunction with an experimental use permit requested by the Union Carbide Company. This rule will permit the marketing of the milling fractions of barley and wheat except for their flours while further data are collected on ethephon.

EFFECTIVE DATE: Effective on: June 23, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of February 24, 1982 (47 FR 8089) that Union Carbide Agricultural Products Co., Inc., P.O. Box 12014 Research Triangle Park, NC 27709, had filed a food additive petition (FAP 2H5330). This petition proposed that 21 CFR Part 193 be amended by establishing a regulation permitting the residues of the plant growth regulator ethephon [(2-chloroethyl)phosphonic acid] in wheat germ up to 1.0 part per million (ppm) and wheat bran up to 1.7 ppm resulting from application of the plant growth regulator to growing small grain (cereal) crops in conjunction with a proposed experimental program. The petition was subsequently amended by changing the proposed tolerance to 5.0 ppm for the milling fractions of barley and wheat except for their flours.

No comments were received by the Agency in response to this notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included an acute oral toxicity study in rats with a median lethal dose (LD_{50}) of 4.2 grams (g)/kilogram (kg) of body weight (bw); a 90-day rat feeding study with a NOEL of 200 ppm; a 3-generation rat reproduction study with a NOEL of 1,500 ppm; a neurotoxicity study up to 1,000 milligrams (mg)/kg/day; a 2-year dog chronic feeding study with a NOEL of 30 ppm (for cholinesterase inhibition) and a NOEL of 3,000 ppm for systemic effects and a rat chronic feeding/oncogenic study with a systemic NOEL of 3,000 ppm; and a NOEL of 30 ppm for cholinesterase effects and no observed oncogenic effects.

Desirable studies that are lacking, or to be repeated, are a teratology study and a screening battery of mutagenicity tests. The petitioner has agreed to perform these studies.

Tolerances have previously been established for ethephon. The dog 2-year chronic feeding study with a systemic NOEL of 300 pm was used with a safety factor of 100 to calculate the ADI. The current tolerances occupy 9.57 percent

of the acceptable daily intake (ADI) and the current theoretical maximum residue contribution (TMRC) is 0.4304 mg/day/1.5 kg. Granting these tolerances will change the percentage of the occupied ADI to 12.29 percent. The new TMRC will be 0.5531 mg/day/1.5 kg.

The metabolism of ethephon is adequately understood, and an adequate analytical method is available for enforcement purposes. A related document establishing a temporary feed additive regulation [FAP 2H5330/T94] for residue of ethephon appears elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide can be safely used in accordance with the provisions of the experimental use permit which was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 76 U.S.C. 136 *et seq.*). Therefore, a food additive regulation is established for the milling fractions of barley and wheat except for their flours as set forth below.

Any person adversely affected by this regulation may on or before July 23, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945). Effective on: June 23, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives Pesticides and pests.

Dated: June 15, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.186 is revised to read as follows:

§ 193.186 Ethephon.

(a) [Reserved]

(b) A food additive regulation is established for the plant growth regulator ethephon [(2-chloroethyl)phosphonic acid] in or on the following food commodities resulting from application of ethephon to growing crops in accordance with an experimental use program.

Foods	Parts per million	Company	Expiration date
Barley, milling fractions, except flour	5.0	Union Carbide	Apr. 20, 1984.
Sugarcane, molasses	7.0	Union Carbide	Feb. 12, 1983.
Wheat, milling fractions, except flour	5.0	Union Carbide	Apr. 20, 1984.

(c) The following conditions for the regulation in paragraph (b) of this section shall be met.

(1) Residues in the food in excess of the established tolerance resulting from the use described in paragraph (b) of this section remaining after expiration of the experimental use program will not be considered to be actionable if the plant growth regulator is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and the food additive regulation.

(2) The Company concerned shall immediately notify the Environmental Protection Agency of any findings for the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 82-16825 Filed 6-22-82; 8:45 am]
BILLING CODE 6560-38-M

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21 CFR Part 561

[FAP 2H5330/T94; PH-FRL-2153-5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Ethephon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an animal feed additive regulation for the plant growth regulator ethephon in the milling fractions of barley and wheat except for their flours. This regulation is established in conjunction with an experimental use permit requested by the Union Carbide Company. This rule will permit the marketing of the milling fractions of barley and wheat except for their flours while further data are collected on ethephon.

EFFECTIVE DATE: Effective on: June 23, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M St, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of February 24, 1982 (47 FR 8089) that Union Carbide Agricultural Products Co., Inc., P.O. Box 12014 Research Triangle Park, NC 27709, had filed a feed additive petition (FAP 2H5330). This petition proposed that 21 CFR Part 561 be amended by establishing a regulation permitting the residues of the plant growth regulator ethephon [(2-chloroethyl)phosphonic acid] in wheat shorts at 1.2 parts per million (ppm) and barley hulls at 1.6 ppm resulting from application of the plant growth regulator to growing small grain (cereal) crops in conjunction with a proposed experimental program. The petition was subsequently amended by changing the proposed tolerance to 5.0 ppm for the milling fractions of barley and wheat except for their flours.

No comments were received by the Agency in response to this notice of filing.

The metabolism of ethephon is adequately understood, and an adequate analytical method is available for enforcement purposes. The data submitted in the petition and other

relevant material have been evaluated and discussed in a related document establishing a temporary food additive regulation [FAP 2H5330/T93] appearing elsewhere in this issue of the Federal Register.

The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the pesticide can be safely used in accordance with the provisions of the experimental use permit which was issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973; 76 U.S.C. 136 *et seq.*). Therefore, a feed additive regulation is established for the milling fractions of barley and wheat except for their flours as set forth below.

Any person adversely affected by this regulation may, on or before July 23, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24945). Effective on: June 23, 1982.

(Sec. 409(c)(1), 72 Stat. 1786; (21 U.S.C. 346(c)(1))).

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticide and pests.

Dated: June 15, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.225 is revised to read as follows:

§ 561.225 Ethephon.

(a) A feed additive regulation is established permitting residue of the plant growth regulator ethephon [(2-chloroethyl) phosphonic acid] in or on the following feed commodities.

Feeds	Parts per million
Raisin waste	65.0

(b) A feed additive regulation is established for ethephon in or on the following feed commodities resulting from the application of ethephon to growing crops in accordance with an experimental use program.

Feeds	Parts per million	Company	Expiration date
Barley, milling fractions, except flour	5.0	Union Carbide	Apr. 20, 1984.
Wheat, milling fractions, except flour	5.0	Union Carbide	Apr. 20, 1984.

(c) The following conditions for the regulation in paragraph (b) of this section shall be met.

(1) Residues in the feed in excess of the established tolerance resulting from the use described in paragraph (b) of this section remaining after expiration of the experimental program will not be considered to be actionable if the plant growth regulator is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and the feed additive regulation.

(2) The Company concerned shall immediately notify the Environmental Protection Agency of any findings for the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 82-16824 Filed 6-22-82; 8:45 am]
BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 9H5223/T89; PH-FRL-2151-2]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Methamidophos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation to permit the residues of the insecticide methamidophos in or on the commodity peanut meal resulting from its use in an experimental program involving application of the insecticide on the growing crop peanuts. This regulation to permit the marketing of peanut meal, while further data are being collected, was requested by Mobay Chemical Corp.

EFFECTIVE DATE: Effective on June 23, 1982.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of July 11, 1979 (45 FR 40556) which announced that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, had submitted feed additive petition 9H5223 to the EPA proposing that 21 CFR 561.277 be amended by establishing a regulation permitting the residues of the insecticide methamidophos (*O,S*-dimethyl phosphoramidothioate) in or on the feed commodity peanut meal at 0.2 ppm.

No comments were received in response to this notice of filing.

The data submitted in the petition and all other relevant material have been evaluated and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The toxicological data considered in support of the tolerance included an acute oral lethal dose (LD_{50}) rat study, an acute dermal LD_{50} rabbit study, primary dermal rabbit irritation study, primary rabbit eye irritation study, a 90-day dog feeding study with a no-observed-effect level (NOEL) of 1.5 ppm (0.0375 milligrams (mg)/kilogram (kg) of body weight (bw)) based on

cholinesterase inhibition, a 90-day rat feeding study with a cholinesterase NOEL of 2.0 ppm (0.1 mg/kg of bw), a rabbit teratology study with no-observed effects at the 2.5 mg/kg dosage level, an acute delayed neurotoxicity study (hen) with no-observed effects at the 50.63 mg/kg dosage level, and an interim report of an oncogenic study (mouse).

Desirable data that are currently lacking and the projected dates of completion of these studies are as follows: A chronic feeding/oncogenic study (rat)—August 1984; the final report of the oncogenic study (mouse)—January 1983; a teratology study (rat)—October 1982; a reproduction study (rat)—June 1984; and mutagenic studies (Ames and dominant lethal, August 1982).

Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the tolerance since the proposed use will result in an insignificant increase (0.33 percent) in the current theoretical maximum residue contribution (TMRC) to the human diet. As stated in the **Federal Register** of May 11, 1979 (44 FR 27932–27954) the "Agency will generally consider as insignificant an increase in the TMRC of 1.0 percent or less."

A related document (PP 9G2151/T371) establishing a temporary tolerance for residues of the insecticide methamidophos in or on peanuts and peanut hulls appears elsewhere in this issue of the **Federal Register.**

The established tolerances for the combined residues of acephate and cholinesterase-inhibiting metabolite, methamidophos in meat, milk, poultry, and eggs at 0.1 ppm (40 CFR 180.108) are adequate to cover any secondary residues occurring in this commodity from the proposed use of methamidophos on peanuts. An adequate analytical method (gas chromatographic procedure using a cesium bromide thermionic detector) is available for enforcement purposes and the nature of the residues is adequately understood.

Tolerances have previously been established for residues of methamidophos in or on a variety of raw agricultural commodities (40 CFR 180.315). There are no regulatory actions pending against continued registration of the pesticide and there are no other considerations involved in establishing this feed additive regulation.

The insecticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.*) Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 23, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this regulation from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 23, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 9, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.277(a) is amended by adding an entry for "peanut meal" in the table to read as follows:

§ 561.277 Methamidophos.

(a) * * *

Feed	Parts per million	Company	Expiration date
Peanut meal	0.2	Mobay Chemical	June 10, 1984.
*	*	*	*

[FR Doc. 82-16401 Filed 6-22-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-9-FRL 1871-6]

Lake Tahoe Basin Nonattainment Area Plans and Regulations, States of California and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On September 10, 1980, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the Lake Tahoe Basin nonattainment area plans (NAPs) for ozone (O_3) and carbon monoxide (CO). That notice proposed to conditionally approve the overall NAPs, since they contain minor deficiencies with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas."

On March 3, 1981, EPA published a notice of final rulemaking redesignating the Lake Tahoe Basin to attainment for ozone. The effect of this redesignation was to remove the Part D requirements for ozone. EPA is today taking final action to fully approve the ozone portions of the NAPs under Section 110 of the Act as revisions to the California and Nevada State Implementation Plans (SIPs) since they contain measures which strengthen the existing SIPs.

EPA is also approving California's request for an extension to 1987 for attainment of the CO standards in the California portion of the Lake Tahoe Basin.

Further, since the States have provided assurances to correct the minor deficiencies in the NAPs for CO, EPA is today taking final action to conditionally approve the NAPs for CO under Part D as revisions to the California and Nevada SIPs. This action removes the prohibition on construction of major new or modified sources in this area.

This notice provides a brief summary of the proposed rulemaking notice, describes recent revisions which supplement the NAP, discusses public comments, and describes EPA's final action on the revisions.

DATES: This action is effective June 23, 1982.

ADDRESS: A copy of the revisions mentioned above is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Director, Air and Hazardous Materials Division, Environmental Protection

Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The Governor's designee for California submitted revisions to the California SIP consisting of control strategies and regulations for the California portion of the Lake Tahoe Basin on May 23 and August 21, 1979 and February 11, 1980. The Governor of Nevada submitted revisions to the Nevada SIP consisting of control strategies and regulations for the Nevada portion of the Lake Tahoe Basin on July 24, 1979 and March 17, 1980. These revisions constitute the Lake Tahoe Basin NAPS for O_3 and CO.

On September 8, 1980 (45 FR 59177) EPA proposed to approve the State's rescission of Nevada's Indirect Source Review Program (ISRP) based on EPA's proposed conditional approval of Nevada's NAPs. The ISRP is not addressed in this notice but is the subject of a separate **Federal Register** rulemaking action.

On September 10, 1980 (45 FR 59591) EPA published a notice of proposed rulemaking for the Lake Tahoe Basin NAPs. That notice provided a description of the NAPs, summarized the applicable Clean Air Act requirements into 13 criteria, compared the NAPs to those criteria, and proposed to approve or conditionally approve portions of the NAPs. The September 10, 1980 notice should be used as a reference in reviewing today's action.

O_3

EPA proposed to fully approve all but one portion of the Lake Tahoe Basin NAPs for O_3. The permit program portion was found to contain a minor deficiency with respect to Part D and was proposed to be approved with the condition that the deficiency be corrected by a specified deadline.

Supplemental Revisions

California Environmental Quality Act (CEQA)

The September 10, 1980 notice proposed to conditionally approve the California NAP for CO based upon the submittal of those portions of CEQA that relate to the requirement providing for an analysis of alternatives for new sources which demonstrates that benefits of the source outweigh the environmental costs (Section 172(b)(11)(A) of the Clean Air Act).

On October 20, 1980, the State submitted the following portions of CEQA:

Sections 2100; 21001; 21002; 21002.1; 21061; 21063; 21065; 21080.1; 21080.4(a); 21080.5 (a), (b), (c) and (d); 21081; 21082; 21100; 21104; 21151; 21153; and 21160.

As discussed in a previous rulemaking notice (January 21, 1981, 46 FR 5967), EPA has determined that these portions of CEQA satisfy the requirements of Section 172(b)(11)(A) of the Clean Air Act and therefore this minor deficiency has been corrected.

Public Comments

During the public comment period, EPA received comments from the Nevada Department of Conservation and Natural Resources (NDCNR) and the California Air Resources Board (CARB). This notice discusses only those comments that caused EPA to change certain proposed actions. All comments received are specifically identified and responded to in EPA's Public Comment Technical Support Document (contained in Document File NAP–CA–NV–01 at the CARB, NDCNR, Tahoe Regional Planning Agency (TRPA), EPA Region 9 Office, and EPA Library in Washington, D.C.). A discussion of National comments received is also contained in the Technical Support Document.

Both California and Nevada indicated that an additional period of time is necessary for satisfying the conditions of approval. The assumptions and strategies in both NAPs are significantly affected by the recently revised Tahoe Regional Planning Compact (Pub. L. 96–55, December 19, 1980) which may require complicated amendment to several aspects of the plans. Accordingly, EPA is extending all conditional approval deadlines to 180 days from the date of publication of this notice. However, EPA is extending the submittal date for the NSR condition only to November 7, 1981, because of the national schedule for submittal/approval of permitting provisions established on August 7, 1980, (see 45 FR 52676).

California commented that resource commitments should be required in the annual report for each year, rather than as binding multi-year budget commitments. EPA will allow for the submittal of future resource needs in this manner. Therefore, EPA is revising this condition to require that the State submit annual resource commitments.

Both Nevada and California commented that the Tahoe Basin is now attainment for ozone. EPA published on March 3, 1981, a notice of final rulemaking redesignating the area to attainment (see 46 FR 14892). As a result of this redesignation, the States are no longer subject to the requirements of Title I, Part D of the Clean Air Act for ozone in the Lake Tahoe Basin, including the proposed condition respecting the permit program for the California ozone NAP.

EPA Actions

Introduction to Action on NAPs

It is important for reviewers of this notice to understand the overall nature of NAPs and of EPA's review and approval role. Central to such an understanding is recognition that action may be taken on a portion of the NAPs for a specific pollutant or rule. Therefore, a portion of the NAPs may be adequate for one pollutant but inadequate for others. Further, a rule may be adequate under Section 110 but inadequate under Part D. It is EPA's policy to take final action on all portions of the NAPs for each pollutant. As a result, this notice contains a series of actions for each pollutant and for each portion of the NAPs rather than a single action. One of the following three actions may be taken for each portion of the NAPs:

1. Disapproval where the State does not agree to correct minor deficiencies or where deficiencies are of such magnitude as to significantly interfere with the basic objective; or

2. Approval where the portion of the NAP under consideration meets all requirements; or

3. Approval with conditions where deficiencies exist, but where the effect of the deficiency is not judged to be major and the State has agreed to take those steps necessary to correct the deficiency.

In this case, it is EPA's intent that the State proceed expeditiously to correct the noted deficiency by certain dates.

EPA's final actions on the Lake Tahoe Basin NAPs are described below and are based on the proposed rulemaking notice, supplemental revision, and the public comments received by EPA.

Rules

EPA is taking final action under Section 110 of the Clean Air Act to approve all of the volatile organic compound rules listed in the September 10, 1980 proposed rulemaking notice. Also, EPA is taking final action under Section 110 of the Act to approve the new source review (NSR) rules listed in the notice of proposed rulemaking, with exception of Placer County's banking

rule, Rule 508(I)(C)(3)(h). Rules governing the operation of the bank need to be submitted. EPA will soon be publishing guidance in the form of a policy statement in the **Federal Register** describing minimum conditions required of State in establishing rules governing the creation, holding (i.e., "banking"), and use of emission reduction credits.

Approved Portions of the NAPs

Following the redesignation of the Lake Tahoe Basin to attainment for ozone under Section 107(d) of the CAA, the ozone portions of the NAPs need not satisfy the provisions of Part D and EPA's Criteria for NAP submittals. EPA is taking final action today to approve the entire ozone portions of the NAPs and to incorporate them into the California and Nevada SIPs. The effect of this action is to reorder, update, and make more stringent the ozone portions of the SIPs for the Lake Tahoe Basin. The revisions meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

As proposed in the September 10, 1980 notice, EPA is taking final action under Part D of the Clean Air Act to approve the following portions of the Lake Tahoe Basin NAPs for CO: emission inventory, modeling (California plan), attainment provision (California plan), reasonable further progress, emissions growth, annual reporting, permit program (Nevada plan), public and government involvement, and public hearing.

As stated in the September 10, 1980 notice, EPA is accepting portions of the Transportation Improvement Program and Regional Transportation Plan that were submitted with the California plan for informational purposes only and not as a part of the Federally-enforceable SIP.

Conditionally Approved Portions of the NAPs

As discussed in the September 10, 1980 notice, the following portions of the Lake Tahoe Basin NAPs for CO contain minor deficiencies and the States have provided assurances to correct these deficiencies: Modeling (Nevada plan), emission reduction estimates, attainment provision (Nevada plan), legally adopted measures, permit program (California plan), resources, and extension requirements (California plan).

Therefore, EPA is taking final action to conditionally approve these portions of the NAPs.

The material required to satisfy conditions of approval must be submitted as an SIP revision as specified below:

California/CO

1. By November 7, 1981, NSR rules for El Dorado and Placer Counties (Tahoe portion) must be revised and submitted as SIP revisions. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the counties' NSR rules, the State must address all the requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the counties' rules do not currently satisfy, including those deficiencies cited in EPA's Evaluation Report which still apply despite new EPA NSR requirements (contained in Document File NAP–CA–NV–01 at the CARB, NDCNR, TRPA, EPA Region 9 office, EPA Library in Washington, D.C.) As EPA noted on August 7, 1980 in promulgating the revised NSR requirements (see 45 FR 52687), if the revised NSR rules have not been submitted and approved by November 7, 1981, a construction moratorium will take effect in the California portion of the Lake Tahoe Basin.

2. By December 20, 1982, the State must submit emission reduction estimates for each adopted control measure or package of control measures.

3. By December 20, 1982, the State must submit written evidence that all adopted measures are supported by sufficient implementation commitments or that adopted schedules for obtaining such commitments will ensure that all measures will be implemented consistent with reasonable further progress. As an alternative, the State may submit equivalent control strategies supported by commitments and full legal adoption.

4. By December 20, 1982, the State must provide a commitment to submit annual implementing agency fiscal and personnel commitments to implement the Lake Tahoe Basin NAP.

5. By December 20, 1982, the State must submit written evidence of commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs.

6. By December 20, 1982, the State must submit a schedule to analyze alternative packages of transportation control measures, including but not limited to those measures listed in Section 108(f)(1)(A) of the Clean Air Act. The State must also submit a commitment to initiate implementation of those measures shown to be reasonably available.

Nevada/CO

1. By December 20, 1982, the State must submit emission reduction estimates for each adopted control measure or package of control measures.

2. By December 20, 1982, the State must submit a fully documented modeling analysis indicating attainment by 1982 based upon legally adopted control measures.

3. By December 20, 1982, the State must submit written evidence that all adopted measures are supported by sufficient implementation commitments or that adopted schedules for obtaining such commitments will ensure that all measures will be implemented consistent with reasonable further progress. As an alternative, the State may submit equivalent control strategies supported by commitments and full legal adoption.

4. By December 20, 1982, the State must submit evidence of the necessary resource commitments to implement the Lake Tahoe Basin NAP.

Final Action on the NAPs

As described in the September 10, 1980 notice, only minor deficiencies remain in the Lake Tahoe Basin NAPs for CO. Therefore, EPA is taking final action today to conditionally approve the overall Lake Tahoe Basin NAPs for CO with respect to Part D. As noted above, EPA is fully approving the NAPs for O_3 under Section 110. As a result, the prohibition on construction of certain major new or modified sources in the Lake Tahoe Basin is no longer in effect.

EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibitions, since the States have submitted conditionally approvable NAPs for the Lake Tahoe Basin. Therefore, EPA finds that good cause exists for making this action immediately effective.

Under Section 307(b)(1) of the Clean Air Act, judicial review of today's action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble (44 FR 38583 (July 2, 1979) and 44 FR 67192 (November 23, 1979)). Conditional approval requires the States to submit

additional material by the deadlines specified in today's notice. There will be no extensions granted to the conditional approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the States have satisfied the conditions.

1. If the States submit the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the States' submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the NAPs, or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the NAPs. If the NAPs are disapproved, the Section 110(a)(2)(I) restrictions on construction would be reimposed.

3. If the States fail to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the deadline. The notice will announce that the conditional approval is withdrawn, the NAPs are disapproved, and the Section 110(a)(2)(I) restrictions on construction are in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See 5 U.S.C. 553 (b)(B), Administrative Procedure Act). The States are the parties responsible for meeting the deadlines. In addition, the public has an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 59591, September 10, 1980).

40 CFR Part 52 Rescissions

As a result of EPA's final promulgation of conditional approval for the Lake Tahoe Basin CO NAPs and final promulgation of approval for the ozone NAPs EPA is also taking final action to rescind Federally promulgated regulations from 40 CFR Part 52. Several of the regulations proposed were rescinded in a final action published for the San Diego Air Basin NAP on April 14, 1981 (46 FR 21749). The remaining regulations: 40 CFR 52.245, 52.255, and 52.284 are being rescinded in today's final action.

Attainment Dates

The 1980 edition of 40 CFR Part 52 lists, in the Subparts for California and Nevada, the applicable deadlines for attaining the NAAQS (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on the attainment date chart for California and Nevada in 40 CFR Part 52.

The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373–74, (April 4, 1979)).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only approves state actions. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plans for the States of California and Nevada was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110, 129, 171, to 178, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: May 28, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subparts F and DD of Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended by adding subparagraphs (51)(xiv)(B), (80)(i)(B), (80)(ii), and (81)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(51) * * *

(xiv) * * *

(B) New or amended Rules 102, LAER, stationary source, and modifications; 213; and 214.

* * * * *

(80) * * *

(i) * * *

(B) New or amended Rules 212, 213, 508 (except Paragraph (I)(C)(3)(h)), and 514.

(ii) Chapter 8, Lake Tahoe Basin Control Strategy, including Support Documents and Appendices. The Transportation Improvement Program and Regional Transportation Plan are for informational purposes only.

(81) * * *

(i) * * *

(B) New or amended Rules 501 to 506, 508 to 510, and 516 to 518.

* * * * *

2. Section 52.222 is amended by adding paragraph (d)(2) to read as follows:

§ 52.222 Extensions.

* * * * *

(d) * * *

(2) Lake Tahoe Basin for CO.

* * * * *

3. Section 52.223 is amended by adding paragraph (d)(1) to read as follows:

§ 52.223 Approval status.

* * * * *

(d) With the exceptions set forth in this subpart, the Administrator approves the plan with respect to Part D, Title I of the Clean Air Act, as amended in 1977, for the nonattainment areas listed in this paragraph.

(1) Lake Tahoe Basin for CO.

* * * * *

4. Section 52.232 is amended by adding paragraph (a)(8) to read as follows:

§ 52.232 Part D conditional approval.

(a) * * *

* * * * * *

(8) Lake Tahoe Basin.

(i) For CO:

(A) By December 20, 1982, NSR rules for El Dorado and Placer Counties (Tahoe portion) must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the counties' NSR rules, the State must address all the requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the counties' rules do not currently satisfy, including those deficiencies cited in EPA's Evaluation Report which still apply despite new EPA NSR requirements (contained in Document File NAP–CA–NV–01 at the EPA Library in Washington, D.C. and the Region 9 Office).

(B) By December 20, 1982, the submittal of the following as SIP revisions.

(*1*) Emission reduction estimates for each adopted control measure or package of control measures.

(*2*) Written evidence that all adopted measures are supported by sufficient implementation commitments or that adopted schedules for obtaining such commitments will ensure that all measures will be implemented consistent with reasonable further progress. As an alternative, the State may submit equivalent control strategies supported by commitments and full legal adoption.

(*3*) Provide a commitment to submit annual implementing agency fiscal and personnel commitments to implement the Lake Tahoe Basin NAP.

(*4*) Written evidence of commitments by agencies with legal authority to establish, expand, or improve public transportation to meet basic transportation needs.

(*5*) A schedule to analyze alternative packages of transportation control measures, including but not limited to those measures listed in Section 108(f)(1)(A) of the Clean Air Act. The State must also submit a commitment to initiate implementation of those measures shown to be reasonably available.

5. Section 52.233 is amended by revising paragraphs (d)(3), (d)(18), (g)(1)(iii) and (g)(1)(xvi) to read as follows:

§ 52.233 Review of new sources and modifications.

* * * * *

(d) * * *

(3) El Dorado County APCD (Mountain Counties Intrastate portion).

* * * * *

(18) Placer County APCD (Mountain Counties Intrastate portion).

* * * * *

(g) * * *

(1) * * *

(iii) El Dorado County APCD (Mountain Counties Intrastate portion).

* * * * *

(xvi) Placer County APCD (Mountain Counties Intrastate portion).

* * * * *

6. In § 52.238, the entries for the Lake Tahoe Intrastate are added as follows:

* * * * *

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_x		NO_x	CO	O_3
	Primary	Secondary	Primary	Secondary			
Lake Tahoe Intrastate	(d)	(a)	(c)	(a)	(a)	(i)	(a)

* * * * *

§§ 52.245, 52.264 [Removed and Reserved]

7. Sections 52.245 and 52.264 are removed and reserved.

8. Section 52.255 is amended by revising paragraph (b) to read as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Intrastate Air Quality Control Regions, with the following exceptions:

* * * * *

Subpart DD—Nevada

9. Section 52.1470, paragraph (c) is amended by adding subparagraph (16)(vii) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(16) * * *

(vii) Lake Tahoe Basin Nonattainment Area Plan.

* * * * *

10. Section 52.1472 is amended by adding paragraph (b)(7) to read as follows:

§ 52.1472 Approval status.

* * * * *

(b) * * *

(7) Lake Tahoe Basin for CO.

* * * * *

11. Section 52.1474 is amended by adding paragraph (a)(4) to read as follows:

§ 52.1474 Part D conditional approval.

(a) * * *

(4) The Lake Tahoe Basin portion of the Nevada SIP is approved as satisfying Part D requirements for carbon monoxide provided the following conditions are met.

(i) By December 20, 1982, the State must submit, as a SIP revision, emission reduction estimates for each adopted control measure or package of control measures.

(ii) By December 20, 1982, the State must submit, as a SIP revision, a fully documented modeling analysis indicating attainment by 1982 based upon legally adopted control measures.

(iii) By December 20, 1982, the State must submit, as a SIP revision, written evidence that all adopted measures are supported by sufficient implementation commitments or that adopted schedules for obtaining such commitments will ensure that all measures will be implemented consistent with reasonable further progress. As an alternative, the State may submit equivalent control strategies supported by commitments and full legal adoption.

(iv) By December 20, 1982, the State must submit, as a SIP revision, evidence of the necessary resource commitments to implement the Lake Tahoe Basin NAP.

12. In § 52.1480, the entry for the Lake Tahoe Basin is added immediately under "Northwest Nevada Intrastate" as follows:

§ 52.1480 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutants							
	TSP		SO_2		NO_2	CO	O_3	
	Primary	Secondary	Primary	Secondary				
Northwest Nevada Intrastate Lake Tahoe Basin	July 1975	July 1977	c	c	c	e	c	

13. Section 52.1481 is amended by adding paragraph (b)(7) to read as follows:

§ 52.1481 Extensions.

* * *

(b) * * *

(7) Lake Tahoe Basin for CO.

* * * * *

[FR Doc. 82-16827 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 1871-5]

Nevada State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On September 8, 1980, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking concerning the indirect source review program (ISRP) contained in the Nevada State Implementation Plan (SIP). The September 8 notice proposed to approve the State's requested rescission of Nevada's ISRP, since the State's nonattainment area plans were also proposed to be conditionally approved. Today's notice approves the rescission of Nevada's ISRP.

DATE: This action is effective July 23, 1982.

ADDRESS: A copy of today's revision to the Nevada SIP is located at: The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Director, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

An ISRP provides for the preconstruction review of such facilities as shopping centers, sports complexes, and apartment developments, which induce or attract significant traffic. The purpose of this program is to ensure that the substantial increase in traffic resulting from the construction of such facilities will not cause violations of the National Ambient Air Quality Standards (NAAQS) for transportation related pollutants.

On October 16, 1979 (44 FR 59561), EPA proposed to approve revisions to the Nevada SIP which would remove all indirect source review rules. The Governor submitted the revisions on December 29, 1978 and July 24, 1979 which were received by EPA in January and August 1979, respectively. A complete list of the rules being proposed is contained in the October 16, 1979 notice.

EPA's proposed action was based on the view that Section 110(a)(5)(A)(iii) of the Clean Air Act, as amended, permits a state to rescind its ISRP so long as the State complies with the procedural requirements in Section 110. During the 60 day comment period, EPA received comments opposing the proposed approval as well as comments favoring it.

On December 6, 1979 the U.S. Court of Appeals in *Manchester Environmental Coalition v. U.S. Environmental Protection Agency*, 612 F.2d 56, 59 (No. 79-4062, 2d Cir. dec. December 6, 1979), held that Section 110(a)(5)(A)(iii) requires the Agency to ensure that a State's SIP revision rescinding an ISRP meets both the procedural and substantive requirements of section 110. The Court held that before deciding whether to approve such a rescission, EPA must also consider whether the rescission would render the SIP inadequate to attain and maintain the NAAQS. Accordingly, EPA reevaluated the October 16, 1979 proposed action to determine the impact on the NAAQS.

On September 9 and 10, 1980, EPA published rulemaking notices proposing to conditionally approve nonattainment area plans (NAPs) for the areas of the State which have not attained the NAAQS for transportation related pollutants. Since the State's NAPs were proposed to be conditionally approved, EPA determined that the ISRP rescission would not render the SIP inadequate to attain and maintain the NAAQS. Thus EPA proposed to approve the ISRP rescission in the September 8, 1980 **Federal Register**. The September 8 notice should be used as a reference in reviewing today's action.

Public Comments

EPA received comments from the California Air Resources Board, the California State Water Resources Control Board, the California Office of Planning and Research, the California Department of Transportation, the Council on Environmental Quality, and on behalf of the League to Save Lake Tahoe and the Sierra Club, Joseph J. Brecher. A document containing a summarization of the substantive comments and EPA's response to each, entitled "EPA Public Comment Technical Support Document", has been mailed to the commentors and is also available for public inspection at the EPA Library in Washington, D.C., at the EPA Region 9 Office in San Francisco, Cal. and at the Department of

Conservation and Natural Resources in Carson City, Nev.

EPA Actions

EPA has determined that the NAPs submitted by the State of Nevada meet the requirements of the Clean Air Act, with certain minor deficiencies, for the areas of the State which are not attaining the NAAQS for transportation related pollutants. Since the remainder of the State is attaining and maintaining these NAAQS, EPA has determined that the control stategies currently in effect are adequate. Therefore, EPA is taking final action to approve the State's rescission of the ISRP.

Regulatory Process

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it only approves state actions. It imposes no new regulatory requirements.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nevada was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: May 26, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart DD of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart DD—Nevada

1. Section 52.1470, paragraph (c) is amended by adding subparagraphs (14)(vi) and (16)(viii) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(14) * * *

(vi) Nevada Revised Statute 445.493, Limitations on Enforcement of Regulations as to Indirect Sources and Authority to Review New Indirect Sources.

* * * * *

(16) * * *

(viii) Repeal and removal of all references to Indirect (Complex) Sources in the following rules or portions of rules in the Nevada Air Quality Regulations. Article 1—Definitions: 1.12, 1.95, 1.147(b), and 1.202. Article 2—Registration Certificates and Operating Permits: 3.1.9, 3.2.1, 3.2.2, and 3.2.5. Article 13—Point Sources: 13.1.1, 13.1.2, 13.2, and 13.2.1 to 13.5.3.

* * * * *

[FR Doc. 82-16928 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL 2154-2]

Approval and Promulgation of Implementation Plans; Ohio; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: EPA is today correcting clerical errors in footnotes f (1) and (2) to the table in 40 CFR 52.1875, Attainment Dates for National Standards. These errors were inadvertently published in the **Federal Register** on October 31, 1981 (45 FR 72119) and June 18, 1981 (46 FR 31881). The footnotes to the table were not relevant to the rulemaking actions, but were only published in order to show the table in its entirety. Therefore, these corrections have no effect on the final rulemaking notices where the errors appeared.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, U.S. Environmental Protection Agency, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6034.

Dated: June 14, 1982.

Valdas V. Adamkus,

Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart KK—Ohio

1. In § 52.1875 footnote "f" to the table is revised by correcting clerical errors which appeared in f (1) and (2).

§ 52.1875 Attainment dates for national standards.

* * * * *

f. * * *

(1) Youngstown Sheet & Tube Co.; PPG Industries, Inc.; Wheeling-Pittsburgh Steel Corp.; Pittsburgh-Canfield Corporation; The Timken Company; The Sun Oil Company; Sheller-Globe Corp.; the B. F. Goodrich Company; Phillips Petroleum Co.; Shell Oil Co.; Federal Paper Board Co.; The Firestone Tire & Rubber Co.; Republic Steel Corp.; Chase Bag Co.; White-Westinghouse Corp.; U.S. Steel Corp.; Interlake, Inc.; Austin Powder Co.; Diamond Crystal Salt Co.; The Goodyear Tire & Rubber Co.; The Gulf Oil Co.; The Standard Oil Co.; Champion International Corp.; Koppers Co., Inc.; General Motors Corp.; E. I. du Pont de Nemours and Co.; Coulton Chemical Corp.; Allied Chemical Corp.; Specialty Chemicals Division; The Hoover Co.; Aluminum Co. of America; Ohio Greenhouse Assoc.; Armco Steel Corp.; Buckeye Power, Inc.; Cincinnati Gas and Electric; Cleveland Electric Illuminating Light Co.; Columbus and Southern Ohio Electric; Dayton Power and Light Co.; Duquesne Light Co.; Ohio Edison Co.; Ohio Electric Co.; Ohio Power Co.; Pennsylvania Power Co.; Toledo Edison Co.

(2) In Summit County: Diamond Crystal Salt; Firestone Tire & Rubber Co.; General Tire & Rubber; B. F. Goodrich Co.; Goodyear Aerospace Corp.; Goodyear Tire & Rubber Co.; Ohio Edison Co.; RCA Rubber Co.; Chrysler Corp.; PPG Industries, Inc.; Seiberling Tire & Rubber; Terex Division of General Motors Corp.; Midwest Rubber Reclaiming; Kittinger Supply Co.

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[FR Doc. 82-16980 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2144-2]

Approval and Promulgation of Implementation Plans for Monsanto Chemical Intermediates Co., Texas City and Chocolate Bayou, Tex.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving the Monsanto Chemical Intermediates Company Alternative Emission Reduction Plans ("Bubbles") at their two facilities in Texas City and Chocolate Bayou, Texas. At the Texas City Plant, Monsanto is proposing to trade the emission reductions resulting from the shutdown of Department 10 (ethylene unit), the incineration of Synthetic Organic Compounds (SOC) emissions from barge and ship loading facilities, and reducing the emissions from the operation of a Styrene Vacuum System in lieu of the control of emissions from ten storage tanks at this facility. The use of emission reduction credits from a source shutdown is consistent with EPA's newly expanded emissions trading policy statement. At the Chocolate Bayou Plant, Monsanto is

proposing to trade the emission reductions from the incineration of SOC emissions from a formalin unit in lieu of the control of emissions from eight storage tanks. This action will be effective on August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This rule is effective August 23, 1982.

ADDRESSES: Copies of the State's submittals and incorporation by reference materials are available for review during normal business hours at the following locations:

The Office of the Federal Register, 1100 L Street, NW., Room 8501, Washington, D.C. 20460

Environmental Protection Agency, Public Information Reference Unit (PM-213), EPA Library, 401 M Street, SW., Washington, D.C. 20460

Environmental Protection Agency, Air Branch, Region 6, 1201 Elm Street, Dallas, Texas 75270

FOR FURTHER INFORMATION CONTACT: John R. Hepola, Chief, State Implementation Plan Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION: On January 6, 1982, the Governor requested a revision to the Texas SIP for Alternative Emission Reduction Plans ("Bubbles") for Monsanto Chemical Intermediates Company Facilities in Texas City and Chocolate Bayou, Texas. EPA concurrently reviewed the proposed bubbles with the State and developed an evaluation report which analyzes in detail the acceptability of these two Monsanto bubble proposals. This evaluation report was revised in May, 1982 in order to follow the interim guidance criteria established in the new proposed bubble policy published in the **Federal Register** on April 7, 1982. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 Office and the other addresses listed above.

Background

In 1972 Monsanto obtained a Texas Air Control Board exemption from controls for certain Synthetic Organic Compounds (SOC's) on the basis of relatively low reactivity in the formation of photochemical oxidants; now listed as ozone. The 1979 revision to the Texas SIP cancelled the exemptions, thereby requiring Monsanto to control the release of these compounds to the atmosphere. These compounds are stored in eight tanks and ten tanks at Monsanto's Chocolate Bayou and Texas City, Texas Plants, respectively.

At the the Texas City Plant, Monsanto is proposing to trade the emission reductions resulting from the alternative controls (129.0 tons per year) in lieu of the control of emissions from the ten storage tanks (104.2 tons per year) that were exempted prior to the 1979 Texas SIP revision, but which now must be controlled. This action will result in an emissions trade benefit of 24.8 tons per year.

At the Chocolate Bayou Plant, Monsanto is proposing to implement alternative emission controls (200.0 tons per year) in lieu of the control of emissions on the eight storage tanks (163.6 tons per year) resulting in an emission trade benefit of 36.4 tons per year.

Review

The review of these two bubbles follows the criteria outlined in the April 7, 1982 **Federal Register** (47 FR 15076) that discusses procedural and technical requirements for using alternative approaches.

A. Procedural Requirements

For sources to be eligible to use the emissions trading policy statement for bubbles, the following criteria must be met.

1. Emission trades must involve the same pollutant. Both Monsanto Bubbles trade Synthetic Organic Compounds (SOC's) emissions in lieu of controls of SOC emissions at ten (10) storage tanks at the Texas City plant and eight (8) storage tanks at the Chocolate Bayou Plant. Thus, these Monsanto Bubbles meet the first requirement of trading the same pollutant.

2. All uses of Emission Reduction Credits must satisfy ambient tests. For SOC's, "pound for pound" trades may be treated as equal in ambient effect. At the Texas City Plant, the bubble will result in an emissions trade benefit of 25 tons per year; at the Chocolate Bayou Plant, the bubble will result in an emission trade benefit of 36 tons per year. Thus, the ambient test is satisfied because the "pound for pound" requirement has been exceeded.

3. Trades should not increase net baseline emissions in nonattainment areas. Monsanto's Texas City and Chocolate Bayou Plants are located in Galveston County, Texas and Brazoria County, Texas, respectively. Galveston and Brazoria Counties are listed as rural ozone nonattainment areas; the March 3, 1978 **Federal Register** (43 FR 8962) contains a discussion of this designation. EPA's policy toward rural ozone nonattainment areas is discussed in the General Preamble for "Approval of State Implementation Plan Revisions for Nonattainment Areas" of the April 4, 1979 **Federal Register** (44 FR 20372). Demonstrations of attainment and Reasonable Further Progress for rural ozone nonattainment areas are not required. This policy requires States to implement Reasonably Available Control Technology (RACT) for sources located in such areas. These requirements are based on the assumption that the nonattainment status for rural counties is caused by sources in nearby urban counties.

In the March 25, 1980 **Federal Register** (45 FR 19209) EPA determined that Texas had implemented the RACT requirements in the 1979 SIP. Thus, these two bubbles satisfy the third procedural requirements.

4. Emissions trades should not increase hazardous pollutants. The review of the two Monsanto Bubbles indicates that none of the emission points involved in these two proposals are covered under the requirements of Section 112, NESHAPS. Thus, this procedural requirement has been met by the two bubbles under consideration.

5. Emissions trades cannot be used to meet technology based requirements. Both of Monsanto's Texas City and Chocolate Bayou plants are existing sources and there are no emission increases at any emission points involved in this bubble. BACT, LAER and NSPS requirements are not applicable; thus, these two bubbles satisfy this criterion.

6. Provisions for trades involving Open Dust Emissions. The Monsanto proposals do not include provisions for trades involving open dust; therefore, these provisions are not applicable to these two bubbles.

B. Technical Requirements

To assure that emissions trades do not contravene relevant requirements of the Clean Air Act, only reductions which are surplus, enforceable, permanent, and quantifiable can qualify as emission reduction credits and be used in an emissions trade.

In determining whether the emissions involved in both bubbles are surplus, the first step is to locate the facilities. Monsanto's Texas City and Chocolate Bayou Plants are located in Galveston County and Brazoria County, Texas, respectively.

These counties are listed as rural ozone nonattainment areas for which demonstrations of attainment and Reasonable Further Progress are not required. Only RACT is required; EPA has determined that the 1979 Texas SIP

implemented RACT in these areas; therefore, the emissions in these two bubbles are surplus. These two bubbles provide for net decrease of SOC emissions at both the Texas City and Chocolate Bayou Plant.

The second criterion for approvability of a bubble revision is that the provisions of the bubbles must be enforceable. TACB, through Executive Order, attached documents to each of the Monsanto proposals which specified the enforceable emission limits for each of the emission points at which alternative controls are to be implemented. Since this document will be a part of the SIP revision, the alternative emission controls are enforceable.

The third criterion deals with the emissions being permanent. To limit the SOC's emissions from the storage tanks, Monsanto will be required to store only the SOC's in these tanks. Once this proposal is approved, the dedication of these tanks to specific SOC's at each plant will become a part of the SIP.

The fourth criterion for approvability is that all reductions must be quantifiable. EPA has determined that the emissions involved in each of the bubbles are quantifiable in the creation of emission reduction credits.

Summarizing, both Monsanto Bubbles meet the criteria set forth in the April 7, 1982 **Federal Register** that incorporates the Bubble Policy into a comprehensive Emissions Trading Policy. Therefore, EPA is fully approving the two Monsanto Bubbles, as discussed above for incorporation into the Texas SIP.

Since these revisions included in this approval notice are considered general revisions having little effect on air quality and generating minimal public interest, EPA is today approving these revisions without prior proposal.

The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice (August 23, 1982). However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities since it imposes no new requirements.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirement. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the SIP for Texas was approved by the Director of the Federal Register on July 1, 1981. This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

In § 52.2270, (c) is amended by adding subparagraphs (34) and (35) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(34) Revision to the Texas SIP for Monsanto Chemical Intermediates Company Bubble in Texas City, Texas were submitted by the Governor on January 6, 1982, (Board Order No. 81–13).

(35) Revisions to the Texas SIP for the Monsanto Chemical Intermediates Company Bubble in Chocolate Bayou, Texas were submitted by the Governor on January 6, 1982, (Board No. 81–14).

[FR Doc. 82–16922 Filed 6–22–82; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[AD–FRL 2153–4]

Requirements for Preparation, Adoption, and Submittal of State Implementation Plans; New SIP Processing Procedures To Save Time and Resources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Informational notice.

SUMMARY: The purpose of this notice is to inform the public of EPA efforts to shorten and streamline the State Implementation Plan (SIP) review process. Specific new SIP processing procedures, discussed in an earlier **Federal Register** notice (September 4, 1981, 46 FR 44476), are described, as are the results of an EPA study of their effectiveness.

FOR FURTHER INFORMATION CONTACT: John Calcagni, Chief, Plans Analysis Section, Control Programs Operations Branch, MD–15, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, (919) 541–5665; FTS 629–5665.

SUPPLEMENTARY INFORMATION: Over the past several years, numerous concerns have been raised both within EPA and the air pollution control community in general regarding the time and complexities involved in processing SIP revisions. On July 22, 1981, as a result of these concerns, EPA initiated a national experimental SIP processing program designed to improve and enhance the SIP process. The program aimed at shortening the time necessary to complete rulemaking actions, avoiding unnecessary EPA review, providing the State with EPA's formal comments on a more timely basis, and reducing the uncertainty States and industry felt regarding EPA's position on specific issues.

At least 40 percent of all SIP revisions processed between July 22, 1981, and January 5, 1982, were processed using one of three processing techniques. To determine the effectiveness of the techniques, EPA conducted a study comparing the existing system of processing SIP's to these new procedures. The results of the study showed the new processes not only saved significant amounts of time, but generated an overwhelmingly positive response within EPA and without. As a result, EPA is instituting these procedures on a permanent basis.

The following are descriptions of these processing techniques and the results of EPA's study to determine their effectiveness.

Parallel Processing

In the past, SIP revisions were developed between the States and EPA through independent rulemaking processes. First, the State would develop and adopt a regulation following its administrative procedures. Then, it would be submitted to EPA for Federal approval/disapproval action. This sequential/independent rulemaking process often led to tension between the

State and EPA. The total review process was lengthy and there were many opportunities for false starts, miscommunication, and misunderstanding over the approval of a SIP revision, even though the State may have spent a considerable amount of time developing and adopting the regulation. In some cases, if significant changes were required by EPA, the State would have to repeat its rulemaking process.

Parallel processing was first implemented in April 1981 in EPA Region I. In July 1981, the program was expanded to include all EPA Regions. Using the parallel processing procedure, the EPA Regional Office works closely with the State as it develops a major regulation and proceeds through the State rulemaking process. Whenever possible, the State and EPA propose the regulation at the same time, announce concurrent comment periods, and jointly review the comments. The EPA Regional Office will consult with all other appropriate EPA offices as the regulation is being developed and during the State and Federal rulemaking process to ensure that all issues are identified before the State adopts the regulation.

If the State or EPA receives no comments that would necessitate significant changes to the regulation, it will be adopted by the State and submitted to EPA. The State-adopted regulation will then be processed by EPA as a final rulemaking. If significant changes must be made to the proposed regulation due to comments during the public comment period, EPA would have to repropose the regulation.

EPA rulemaking to incorporate a State regulation in a SIP may also be initiated when a rule has been proposed by the State but not yet adopted. This will allow the total Federal/State processing time to be reduced in cases where State rulemaking has progressed too far to allow the ideal parallel processing procedure.

To test the effectiveness of the parallel processing technique, EPA had to first find out the average time it took to process a SIP using previously established procedures. A random selection of 137 typical SIP revisions processed between 1978 and October 1981 were analyzed. Using existing procedures, it took an average of 425 calendar days from the time the SIP revision was submitted to EPA by the State until it was published as a final rulemaking in the **Federal Register**.

A SIP revision processed between April 1981 and January 1982, using the parallel processing technique, took an average of 128 calendar days from the time it was submitted to EPA until the final rulemaking was published in the **Federal Register**. Thus, the processing time was reduced by 297 days.

In conclusion, parallel processing is not appropriate for all SIP revisions. But when issues are clearly understood and the expected State action is well defined, employing such an approach can save in excess of 60 percent of the normal processing time.

Immediate Final Rulemaking

The immediate final rulemaking SIP processing approach was first used in June 1981 in EPA Region IV. In July 1981, the program was expanded to include all Regions.

Previously established procedures required that all SIP revisions be proposed for public comment before going to final rulemaking. The comment period could be 30 or 60 days depending on the anticipated public interest in the revision. Because of the straightforward nature of some actions, or the narrowness of their scope, many SIP revisions get few, if any, comments from the public during the comment period. Therefore, as part of EPA's new SIP processing program, a SIP revision that is judged by EPA to be noncontroversial and where no adverse public comments are anticipated, will be published as a final rulemaking without first going through a proposed rulemaking phase. The public will be advised that no comments are anticipated and that, unless notice is received within 30 days that someone wishes to submit adverse or critical comments, the rulemaking will be effective 60 days from the date the notice is published. If notice is received that someone wishes to submit adverse or critical comments, the final rulemaking notice will be withdrawn and a proposed rulemaking notice will be published. The proposed rulemaking notice will establish a comment period.

As of January 5, 1982, 90 SIP revisions had been processed using the immediate final rulemaking approach. Less than five percent of these were withdrawn because notice was received that someone wished to submit adverse or critical comments. To determine the effectiveness of this technique, the 90 SIP revisions that were processed using it were compared to 81 SIP revisions processed between 1978 and October 1981 using previously established procedures. The 81 SIP revisions used in the comparison did not receive comments during their proposed rulemaking and therefore it was assumed that most of them could have been processed using the immediate final rulemaking approach. The average processing time for the SIP revisions using existing processing procedures was 419 calendar days. Using the immediate final rulemaking approach, it took an average of 161 calendar days. Thus, there was an average savings of 258 days to process a SIP revision using this technique.

Other Agency Actions

EPA has also implemented a number of administrative measures to streamline internal Agency review. One of these measures, which was first implemented as an experimental processing technique in EPA Region V in April 1981 and expanded in July 1981 to include all Regions, eliminates duplicative reviews by EPA Headquarters offices of SIP revisions that do not change significantly during their proposed rulemaking. This technique saved an average of 149 calendar days in processing time.

Because use of these procedures has been found to save considerable time as well as resources, EPA intends, to use them whenever possible to more efficiently process SIP revisions. Parallel processing will be used for major SIP revisions that are likely to require coordination and cooperation between the State and EPA to identify and resolve issues and to make policy determinations in a more expedient manner. Immediate final rulemaking will be used to process SIP revisions that are noncontroversial and are not likely to elicit public comments. Finally, EPA Headquarters has eliminated its review of final rulemaking notices for SIP revisions that do not change significantly during their proposed rulemaking. EPA guideline documents for processing SIP revisions will be updated to reflect these changes.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 11, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise & Radiation.

[FR Doc. 82-16997 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 125

[WH-FRL 2150-3]

Modification of Secondary Treatment Requirements for Discharges Into Marine Waters; Public Meetings

Correction

In FR Doc. 82-16446, published on page 25963, on Wednesday, June 16, 1982, in the third column, in the first paragraph under "**SUPPLEMENTARY INFORMATION,**" in the sixteenth line "may not" should be corrected to read "may now".

1505-01-M

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40 CFR Part 710

[OPTS 80012; TSH-FRL 2153-3]

Inventory Reporting Regulations Intent To Release Aggregate Production Statistics

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule related notice.

SUMMARY: This notice describes an aggregation method by which the Environmental Protection Agency will publicly release total production statistics for chemical substances reported for the Toxic Substances Control Act (TSCA) initial and revised Inventory of Chemical Substances. This aggregation method applies to Inventory chemical substances which have one or more confidentiality claims for production ranges associated with them. The confidentiality of individual production ranges will be protected from disclosure in two ways: First, by using broad production ranges to express the total production for a substance, thereby masking individual confidential production ranges associated with a substance; second, by requiring as a condition of releasing the information that, for each confidential production claim, it would not be possible to identify the reported production claim to within three confidential production ranges from public data.

DATES: Public comments on the aggregation methodology will be accepted until August 23, 1982. Please indicate in your comments whether or not you think a public meeting to discuss the aggregation method would be helpful. If sufficient interest is shown, a future **Federal Register** notice will be published announcing the date and location of the meeting.

ADDRESS: All comments should bear the identifying notation OPTS-80012 and be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office (TS-799), Environmental Protection Agency, Rm. E-509, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), in Washington: (544-1404), outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION:

Inventory Reporting Statistics

In the Final Inventory Reporting Regulations, published in the **Federal Register** of December 23, 1977 (42 FR 64592), and in the Notice of Availability of TSCA Initial Inventory, published in the **Federal Register** of May 15, 1979 (44 FR 28561), EPA stated that it would develop aggregation rules for releasing Inventory data and would propose these rules for public comment. Though a formal public comment provision would not normally be required, EPA believes that this added provision will provide the Agency valuable insight and will encourge the development of a useful aggregation method which provides adequate protection to the confidentiality of Inventory data. "Aggregation" means, in this context, creating totals which include elements of separate records. This Notice contains a proposed aggregation process. The aggregation method described in this Notice would permit the release of total production ranges for almost all chemical substances reported for the Inventory.

When chemical substances were reported for inclusion on the Inventory, submitters were required to report their 1977 production for each substance in one of the following eleven ranges:

Category and Range
N—None
0—0 to 1,000 lbs.
1—1,000 to 10,000 lbs.
2—10,000 to 100,000 lbs.
3—100,000 to 1 million lbs.
4—1 million to 10 million lbs.
5—10 million to 50 million lbs.
6—50 million to 100 million lbs.
7—100 million to 500 million lbs.
8—500 million to 1 billion lbs.
9—Over 1 billion lbs.

Inventory submitters had the option of claiming confidentiality for the production ranges they reported. Of the 54,369 chemical substances reported for the Inventory, approximately 21,400 substances, or about 40 percent, had one or more submitters who made claims of confidentiality for production ranges. The following is a breakdown of the number of confidential production claims per substance: 15,422 substances had only one confidential production claim, 3,000 substances had two confidential production claims; 3,010 substances had three or more confidential production claims.

All non-confidential production ranges for Inventory chemical substances have already been made public.

Rule of Three Rejected

A common method employed by Federal agencies to aggregate information without disclosing confidential information is referred to as the "Rule of Three." Under the Rule of Three, there must be at least three confidential statistics before any data are aggregated. Refer to the "Statistical Policy Working Paper 2—Report on Statistical Disclosure and Disclosure Avoidance Techniques," Appendix A, U.S. Department of Commerce, Office of Federal Statistical Policy and Standards (1978). Because the Rule of Three could be applied only to the 3,010 chemical substances which have three or more confidential production claims, another approach was sought which would allow the release of aggregate information about the remaining 18,422 chemical substances which have less than three confidential production claims.

The Rule of Three is based on the premise that given at least three confidential claims, no one—not even a claimant—can derive the value of another confidential claim from the information released in a public aggregate figure.

In an instance such as this one when the Rule of Three cannot be applied effectively, rolling up data is the technique used to prevent disclosure. In this technique data are combined or aggregated into larger intervals or groupings. Using this method, the amount of aggregation in the published data is set sufficiently high to prevent the use of that data to calculate the value of a confidential item.

Principal Characteristics of the Roll Up Method

The roll up method proposed here has characteristics necessary to ensure the protection of individual confidential production ranges. Broad production ranges were created within which the total reported production for a chemical substance is included. These broad ranges have the effect of masking the smaller confidential production ranges reported to the Inventory. The four aggregate production ranges are:

Range 1—0 to 1 million lbs.
Range 2—1 million to 100 million lbs.
Range 3—100 million to 1 billion lbs.
Range 4—1 billion lbs. and above.

To determine which of the above four ranges could be used to represent the total production for a chemical substance with a confidential production range(s), the upper and lower bounds of all Inventory production ranges reported for that substance were added together. (The value of the upper bound for Reporting Range 9 was presumed to be 4 billion lbs.) As a result of this calculation EPA was able to identify the intervals in which the total production level for each of the reported chemical substances lies. In almost all cases this interval lies within one of the four broader aggregate production ranges listed above. When this is the case, the Inventory chemical name will be associated directly with one of the four production ranges.

However, in a limited number of cases the true production interval calculated overlaps either the upper or lower bound of one of the four aggregate production ranges. In these cases the Inventory chemical name will be associated with one of the four aggregate ranges, but will also be marked with an asterisk. For these substances EPA will publish an expanded aggregate range value which is based on the calculated total production interval.

Requirements Established for the Aggregate Computer Program

A computer program was developed and employed to determine whether the release of aggregated production statistics would breach confidentiality claims made for any Inventory chemical substance and to determine the number of aggregates releasable under imposed constraints. The program tested each data set to determine if, by comparing nonconfidential data to aggregate information, data claimed confidential could be calculated to within three Inventory ranges. No aggregate values will be published for the limited number of substances which failed to pass the three Inventory ranges test.

Number of Aggregates Releasable

Aggregates for the vast majority of the chemical substances with one or more confidential production claims would qualify for release under the constraints imposed by this roll up method. The aggregates for only a small number of the substances with multiple claims failed to meet the requirement of not being identified to within the reported Inventory production intervals.

The requirement that confidential claim values not be identifiable to less than three Inventory ranges realistically balances considerations of confidentiality and data availability. If the requirement were raised from three or more possible Inventory ranges to four or more possible Inventory ranges for each confidential production claim, the number of aggregates releasable would drop dramatically while the confidentiality protection provided would not be significantly more effective.

Public Comment Solicited on Specific Issues

EPA recognizes that the release of aggregate statistics about any confidential data does reveal certain information about that data. In using this standard roll up method, confidentiality considerations were carefully balanced against the Agency's commitment to release aggregated data on Inventory chemicals. Such information about these substances has been requested frequently by State governments, private citizens, and other interested parties.

Public comment is solicited on whether this approach provides adequate protection for confidential production claims and on the value of the public disclosure and the possible uses of these aggregates given that they represent 1977 production statistics and are expressed in broad production ranges.

After considering relevant comments and holding any public meetings which are deemed necessary, EPA will decide whether to publish final procedures for aggregating Inventory production information.

(Sec. 8, Pub. L. 94–469; 90 Stat. 2027 (15 U.S.C. 2607))

List of Subjects in 40 CFR Part 710

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting.

Dated: June 15, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–16896 Filed 6–22–82; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid Program; State Residency for Institutionalized Individuals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These regulations extend the time period in which a State is required to furnish Medicaid to a beneficiary who is institutionalized in that State and who, under other provisions of the regulations, would be considered a resident of another State. As originally published, the regulations specified a time period of two years during which the requirements applied. That period ended on October 15, 1981. This document extends that period to June 23, 1983, in order to allow HCFA time to review all of the Medicaid policies on residency to determine if any changes are needed and to give States more time to transfer patients if desired.

EFFECTIVE DATES: October 15, 1981. These regulations are being published in final, for reasons described in the Supplementary Information, below. However, we will consider any written comments mailed by August 23, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17076, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP–199–FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION, CONTACT: Marinos Svolos, (301) 594–9050.

SUPPLEMENTARY INFORMATION:

Background

When administering the Medicaid program, a State may restrict Medicaid eligibility to individuals who are residents of the State. Until October 15, 1979, our regulations did not specifically address various situations that arise in determining residence and were not uniformly interpreted by the States. The problem was particularly notable with respect to institutionalized individuals who formerly lived in another State.

On October 15, 1979, new regulations regarding residency became effective. One reason for changing the regulations was to achieve equity in terms of which State is responsible for a given individual. For example, the change protected States with good facilities against an influx of individuals from other States that provide less adequate institutional care. However, the regulations also created a classification of persons who could be adversely affected by the new regulations. That is, some beneficiaries, under the new regulations, could be declared residents of States that did not offer the services the individuals were currently receiving; for example, a person in an intermediate care facility for the mentally retarded might be declared a resident of a State that does not provide that service. To counter this effect, the regulations contained a "grandfather" clause that provides continued Medicaid coverage for these beneficiaries for two years. The purpose of the grandfather clause was to protect beneficiaries while allowing States reasonable time to negotiate new placements with another State on a case-by-case basis. During this grandfathering period, the State that was responsible before the regulations changed had to continue to provide Medicaid to any individual who was covered, unless it made arrangements under which the new State of residence would provide Medicaid at an earlier date.

Regulatory Provisions

In these regulations, we are extending the time limits of the grandfather clause to June 23, 1983 (unles the State arranges for the State of residency to provide Medicaid at an earlier date). This will allow time for HCFA to review the complete set of regulations on State residency, and for publication of any changes in the regulations that may result from the review. In the interim, it will also allow States more time to arrange for patients' placement in another State or for reimbursement by the appropriate State of residence as determined under the existing regulations.

Extending the grandfather provision until after HCFA has reviewed the regulations is more practical than requiring the States to implement a provision that may soon be revised.

As an interim measure, we have requested the States to continue the grandfather period until these regulations are published, instead of October 15, 1981, the date the two-year period was originally due to expire. Publication of these regulations will automatically extend the provision from October 15, 1981 to one year after publication.

In this document, we are also making a technical change to 42 CFR 435.403(i). This paragraph discusses requirements for written agreements between States setting forth rules and procedures for resolving cases of disputed residency. This paragraph incorrectly states that agreements between States may establish criteria for residency other than those specified in paragraphs (b) through (f) of § 435.403; the correct reference should be to paragraphs (b) through (g).

Impact Analyses

Executive Order 12291

The Secretary has determined that the proposed regulations do not meet the criteria for a "major rule", as defined by section 1(b) of Executive Order 12291. That is, the proposed regulations will not—

- Have an annual effect on the economy of $100 million or more;
- Result in a major increase in costs or prices for consumers, any industries, any government agencies or any geographic regions; or
- Have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic import markets.

Since we are extending a provision currently in effect, there will be no change in the current Medicaid expenditures with respect to the affected individuals.

Regulatory Flexibility Act

Section 604 of Pub. L. 96–354 (the Regulatory Flexibility Act of 1980) requires that a Federal agency prepare, and make available to the public, a final regulatory flexibility analysis when a final rule is published that has an effect on small businesses and other small entities.

As defined by the Regulatory flexibility Act, the term "small entities" includes "small governmental jurisdictions". The latter term is defined as local governments (cities, counties, towns, townships, villages, school districts, or other special districts) with a population of less than fifty thousand persons.

As explained above, these regulations will extend the grandfathering provision until one year after publication unless the State arranges for the State of residency to provide Medicaid at an earlier date. It is possible the regulations will affect a number of small entities (mainly nursing homes) because some institutions will continue to serve patients who would have left otherwise, and other institutions that might have gained patients will not. Although we are uncertain of the number of institutions or beneficiaries that might be affected by these regulations, we do not believe that the number will be substantial nor the effect economically significant. Therefore, the Secretary certifies, under section 605(b) of the Regulatory Flexibility Act, that the regulations will not have a significant economic impact on a substantial number of small entities.

Waiver of Proposed Rulemaking

The purpose and rationale for these residency regulations were published, in proposed and final form, two years ago. The regulation changes published today merely extend a time period.

Because the content of the regulations has already gone through proposed and final rulemaking and because the extension protects both States and beneficiaries against hardships that would be caused by failure to continue the grandfather clause, we believe that publication of a notice of proposed rulemaking is unnecessary and would be contrary to the public interest.

Until these regulations are published in final, we believe there will be confusion, inconsistent application of the provision, and possible disagreements among States. We have informed States that HCFA will review the entire current residency regulations against the criteria of removing unnecessary requirements while protecting the health and safety of beneficiaries.

We have also notified the States that we intend to continue this provision until after HCFA's review and have requested them to do so on an interim basis, as explained above. However, if some States are uncertain about our publication of regulations, they may propose to transfer beneficiaries to other States, which can cause interstate conflicts, hardship to the receiving States in determining in a very short

time the eligibility of beneficiaries and (if necessary) the availability of a facility or other services, and hardship to both beneficiaries and States if regulations resulting from HCFA's review obviate the basis for the transfers or cause some beneficiaries to be transferred twice.

Because of the potential harm to beneficiaries and States alike, we therefore find good cause to waive notice of proposed rulemaking and our normal 30-day delay in effective date. We will, however, consider any comments on this rule that are mailed by the date specified above in the "Dates" section and make any further changes that may be necessary.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments, we believe that changes are needed in these regulations, we will publish the changes in the **Federal Register** and respond to the comments in the preamble of that document. In addition, we will incorporate those changes, as well as our response to comments, into any revisions to be made as a result of the review by the Task Force on Regulatory Reform.

List of Subjects

42 CFR Part 435

Aid to families with dependent children, Aliens, Categorically needy, Contracts (Agreements—State plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to families with dependent children, Aliens, Contracts (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Parts 435 and 436 are amended as set forth below.

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

The authority citation for Part 435 reads as follows:

Authority.—Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

1. In Part 435, Subpart E, § 435.403 is amended by revising paragraphs (i) and (j)(1) as follows:

§ 435.403 State residence.

* * * * *

(i) *Interstate agreements.* A State may have a written agreement with another State setting forth rules and procedures resolving cases of disputed residency. These agreements may establish criteria other than those specified in paragraphs (b) through (g) of this section, but must not include criteria that result in loss of residency in both States or that are prohibited by paragraph (h) of this section. The agreements must contain a procedure for providing Medicaid to individuals pending resolution of the case.

(j) *Continued Medicaid for institutionalized recipients.* If, on the effective date of this section, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

* * * * *

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority.—Sec. 1102 of the Social Security Act, (42 U.S.C. 1302), unless otherwise noted.

2. In Part 436, § 436.403 is amended by revising paragraph (i)(1) as follows:

§ 436.403 State residence.

* * * * *

(i) *Continued Medicaid for institutionalized recipients.* If, on the effective date of this section, an agency is providing Medicaid to an institutionalized recipient who, as a result of this section, would be considered a resident of a different State—

(1) The agency must continue to provide Medicaid to that recipient until June 23, 1983 unless it makes arrangements with another State of residence to provide Medicaid at an earlier date; and

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: May 20, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 7, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16011 Filed 6-22-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6278

[M-40685]

Montana; Partial Revocation of Various Orders Designating Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke various Secretarial orders designating Public Water Reserve No. 107. This action will restore 783.13 acres of land to full operation of the public land laws, including nonmetalliferous mining. All lands affected by this order have been and will remain open to nonmetalliferous mining and mineral leasing.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Those portions of Public Water Reserve No. 107 granted to BLM by Executive Order of April 17, 1926, and further designated by Secretarial Orders of Interpretation Nos. 155 and 176 dated December 11, 1931, and February 10, 1935, are hereby revoked insofar as they affect the following described lands:

Interpretation No. 155 of Public Water Reserve No. 107

Principal Meridian

T. 20 N., R. 21 E.,
Sec. 10, S½NW¼, N½SW¼.
T. 9 S., R. 24 E.,
Sec. 21, S½NW¼, E½SW¼.

Interpretation No. 176 of Public Water Reserve No. 107

Principal Meridian

T. 26 N., R. 19 E.,
Sec. 24, SE¼SE¼;
Sec. 25, NE¼NE¼.

T. 26 N., R. 20 E.,
Sec. 19, lot 4 (formerly described as SW¼SW¼);
Sec. 30, lot 1 (formerly described as NW¼NW¼).
T. 26 S., R. 23 E.,
Sec. 18, lot 1 and NE¼NW¼ (formerly described as N½NW¼);
Sec. 19, NE¼SE¼;
Sec. 20, W½SW¼.
T. 9 S., R. 24 E.,
Sec. 7, S½SE¼;
Sec. 18, NE¼NE¼.

The area described aggregates 783.13 acres in Blaine, Carbon and Fergus Counties.

2. At 7:45 a.m. on July 21, 1982, the lands described in paragraph 1 of this order will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The described lands in paragraph 1 will also be open to the location of nonmetalliferous minerals under the United States mining laws, at 7:45 a.m. on July 21, 1982. The lands have been and will remain open to the location of metalliferous minerals and applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-16891 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6277

[I-16390]

Idaho; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke a Secretarial Order which withdrew lands lying within the Targhee National Forest for the Dubois Reclamation Project. The affected 160 acres will be open to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated November 4, 1904, which withdrew lands for the Dubois Reclamation Project, is hereby revoked insofar as it affects the following described lands:

Boise Meridan

Targhee National Forest

T. 11 N., R. 43 E.,
Sec. 3, NW¼NE¼, NE¼NW¼, W½NW¼.

The area described contains 160 acres in Fremont County.

2. At 7:45 a.m. on July 21, 1982, this land shall be open to such forms of appropriation as may by law be made of national forest land, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Federal Building, Box 042, Boise, Idaho 83724.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-16892 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6279

[I-16300]

Idaho; Revocation of Forest Service Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two withdrawals affecting 92.00 acres of national forest lands withdrawn for use by the Forest Service as an administrative site and a road right-of-way. This action will restore the lands to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of October 15, 1908 and December 16, 1908, which withdrew the following described lands for the Bonners Ferry Eastport Wagon Road and the Eastport Administrative Site, respectively, are hereby revoked in their entirety:

Boise Meridian

Eastport Administrative Site

T. 65 N., R. 2 E.
Sec. 10, N½N½SE¼.

Bonners Ferry Eastport Wagon Road

A road right-of-way approximately 30 feet in width through the following described sections, the subdivisions of which are undefined:
T. 63 N., R. 2 E.,
Secs. 3, and 10.
T. 64 N., R. 2 E.,
Secs. 2, 11, 14, 23, 26, 34 and 35.
T. 65 N., R. 2 E.,
Secs. 10, 14, 15, 23, 26, 34 and 35.

The areas described aggregate 92.00 acres in Boundary County.

2. At 7:45 a.m. on July 21, 1982, the above described lands will be open to such forms of disposal as may by law be made of national forest lands, subject to valid existing rights and the provisions of existing withdrawals. Portions of those lands in the Eastport Administrative Site are occupied by residential and commercial improvements authorized by the Forest Service under permit. Under revocation of this withdrawal, the lands occupied by such improvements will immediately become available for pending Forest Service exchange.

Inquiries concerning the land should be addressed to the Regional Forester, Forest Service, Federal Building, P.O. Box 7669, Missoula, Montana 59807.

June 15, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-16890 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Rules

Federal Register
Vol. 47, No. 121
Wednesday, June 23, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

Milk in the New England Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions affecting the pool status of dairy farmers whose milk is diverted to nonpool plants by handlers regulated under the New England Federal milk order. The action was requested by two cooperative associations which are handlers under the order. It would suspend for the months of July and August 1982 the provisions of the order which limit the amount of an individual dairy farmer's milk which may be diverted by a cooperative association if the dairy farmer is to retain producer status. Also to be suspended would be the provision which allows a handler to divert no more than 45 percent of its total receipts of producer milk to nonpool plants during the months of December through August.

DATE: Comments are due on or before June 30, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–6273.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major action."

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures and the inclusion of July 1982 in the suspension period if this is found necessary.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

§ 1001.15 [Amended]

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the New England marketing area is being considered for July and August 1982:

In § 1001.15, paragraphs (b)(1) and (b)(2), and paragraph (c).

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 30, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include July 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would make inoperative for July and August 1982 the provisions of the New England Federal milk order that limit the amount of milk that may be diverted from farms to nonpool plants and still retain producer milk status. Provisions which limit the amount of an individual dairy farmer's production which may be diverted to nonpool plants by cooperatives and the percentage of a handler's total receipts of producer milk which may be diverted to nonpool plants would be suspended. The suspension was requested by Eastern Milk Producers Cooperative Association, Inc., and Northern Farms Cooperative, Inc., two cooperative associations which are handlers under the order.

The suspension was requested because of the failure of a handler receiving milk from approximately 100 producers who are nonmembers and members of Eastern Milk Producers and Northern Farms to pay for milk received from those producers. Eastern Milk Producers has assumed the responsibility for marketing the milk of the dairy farmers involved, but has no basis under the order from which to divert their milk since in previous months the nonpaying handler has been the handler of record for the dairy farmers whose milk was received at his plant. As an additional complication, the supply of producer milk is at its seasonal peak, and outlets for surplus milk are limited predominately to nonpool plants. The cooperatives requesting the suspension assert that without suspension action uneconomic movements of milk to pool plants for transshipment to nonpool plants would be necessary solely for the purpose of retaining producer status for dairy farmers regularly and historically associated with the fluid market. According to Eastern Milk Producers and Northern Farms, such unnecessary marketing costs, or the loss of producer status for the dairy farmers involved, could seriously disrupt the orderly marketing of milk in the New England marketing area.

List of Subjects in 7 CFR Part 1001

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 18, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82–16984 Filed 6–22–82; 8:45 am]
BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Procedural Regulations Docket 40757; PDR-78]

Terminations, Suspensions, and Reductions of Service

Dated: June 3, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB's rules now contain a provison that would require certificated airlines to file a notice with the Board 90 days before reducing total available capacity at a point by 33 percent or more. The CAB is proposing to revise this notice requirement so that it would apply only to communities for which the CAB has issued an essential air service determination under the small community air service provision of the Federal Aviation Act. This action is taken as a result of a recent court decision.

DATE: Comments by August 23, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40757, Civil Aeronautics Board, 1826 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Rules & Legislation Division, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: The Board's notice rule, 14 CFR Part 323, requires airlines to file a notice with the Board and the communities concerned before terminating, suspending, or reducing certain air services. Previously, certificated airlines had to file notices in the following situations:

(1) When terminating or suspending all passenger air transportation at a point regardless of how many other airlines were serving that community;

(2) When reducing air service below the level that the Board had determined to be essential for that community;

(3) When reducing service below the level established by section 419(f) of the Federal Aviation Act;

(4) When terminating or suspending all-cargo air transportation to a foreign country; and

(5) When terminating or suspending the last nonstop or single-plane service on a domestic or foreign route.

By PR-244, 47 FR 7393, February 19, 1982, the Board amended Part 323 to reflect a change in its statutory authority to require termination notices (Section 1601(a)(1)(D) of the Act). Notices (1) and (3) above were revised, notices (4) and (5) were eliminated, and a new notice was added. Part 323 now requires certificated airlines to file notices in the following situations:

(1) When terminating or suspending all passenger air transportation at a point where there is either one or no other certificated airline serving that community;

(2) When reducing air service below the level that the Board has determined to be essential for that community;

(3) When reducing service in Alaska below the level established by section 419(f) of the Act; and

(4) When terminating, suspending, or reducing air service so that the total available seats of all airlines linking that community to FAA-designated hubs would be reduced by 33 percent or more over a 90-day period.

A recent court decision, *Delta Air Lines* v. *CAB*, D.C. Cir. No. 80-2339 (decided February 26, 1982), has cast doubt on the Board's authority to require the fourth notice, the 33 percent notice. In that case, the court decided that the Board may guarantee essential service and require notices only at communities for which it was required to make an essential air service determination under section 419(a)(2) of the Act. Section 419(a)(2) requires the Board to establish essential air service levels for communities that were served by not more than one certificated air carrier on the date that the Airline Deregulation Act of 1978 was passed, and for other communities whose service later drops to not more than one such air carrier.

When the Board adopted the 33 percent notice, it was of the view that the Act's essential service provision, section 419 (49 U.S.C. 1389), empowered it to ensure that all eligible points receive essential air service, including those points for which no essential service determination was required by section 419(a)(2). In light of the court's more restrictive reading of the Board's authority in the *Delta* case, we are proposing to revise the 33 percent notice by applying it only to terminations or reductions of service at communities for which the Board has already made, or is required to make, an essential air service determination. This is the maximum extent of our jurisdiction. While this proceeding is pending, airlines will not have to comply with the 33 percent notice at communities for which the Board has not made an essential service determination, because the Board has waived that notice requirement to that extent by Order 82-4-87.

We continue to view the 33 percent notice as necessary for the implementation of the Act's essential service guarantees, and are therefore proposing to retain it where we have the authority to do so. The Board's essential service guidelines, 14 CFR Part 398, set forth a policy of generally guaranteeing a community no more than 160 seats per day (§ 398.6(a)). Yet many communities have sufficient travel demand to support more service, which is provided by airlines in response to these market forces. It is impossible that a carrier could terminate or significantly reduce its service at such a point although the demand for that service had not diminished. This would leave a significant portion of the community's passenger traffic totally unaccommodated even though the point was still receiving more than 160 seats. In such cases, section 419(a)(2)(C) and 14 CFR 398.6(b)(4) authorize the Board to increase a point's essential service guarantee (known as a transitional essential air service determination) and prohibit the termination or reduction until replacement service can be found. There have been six cases where the Board has found it necessary to protect a community's air service in this way. (See e.g. Orders 79-10-166, 79-12-22, 79-12-137.) Of course, the Board can protect communities from abrupt and significant reductions of service in this way only if it has advance notice that such a reduction will occur. The 33 percent notice fulfills this need. The Board recognizes that significant reductions in service may also occur at communities for which an essential service determination has not been made and is not required, but the Act, as interpreted by the court in the *Delta* case, does not permit it to require advance notice in those cases.

We also request comments on the legality of any other notice set forth above in light of the *Delta* decision.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that this rule will not, if adopted as

proposed, have a significant economic impact on a substantial number of small entities. Few air carriers are likely to reduce air service at a community by 33 percent or more over a 90-day period, so there would not be many instances where the 33 percent notice would come into play. If the community involved had had its essential air service level established by the Board, the carrier's obligation to file the 33 percent notice would not be affected by this rule. It is only the communities for which the Board has not established an essential service level that would be affected by this rule, if adopted as proposed. They, however, are likely to be middle-sized communities and the airline serving them is not likely to be a small air carrier.

List of Subjects in 14 CFR Part 323

Air carriers, Essential air service.

Accordingly, the Board proposes to revise § 323.3(a)(5) of 14 CFR Part 323, *Terminations, Suspensions, and Reductions of service*, to read as follows:

§ 323.3 Who shall file notices.

(a) *Terminations, suspensions, or reductions by certificated carriers.* The notice described in § 323.4(a) shall be filed by any certificated carrier that intends to:

* * * * *

(5) Terminate, suspend, or reduce passenger air transportation at an eligible point for which the Board has issued, or is required to issue, an essential air transportation determination under section 419(a)(2) or section 419(b)(4) of the Act so that the total available seats of all the carriers linking that point to FAA-designated hubs will be reduced by 33 percent or more during a 90-day period. Service to a hub shall be considered to be terminated or suspended whenever it is operated less than 5 days per week, with three or more intermediate stops, or in one direction only between two points.

* * * * *

(Secs. 204, 401, 407, 411, 419, and 1601, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 766, 769, 92 Stat. 1732, 1744; 49 U.S.C. 1324, 1371, 1377, 1381, 1389, 1551)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-17000 Filed 6-22-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-122 (Colorado-25)]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the Codell Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 19, 1982.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 6, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or Victor Zabel, (202) 357-8616.

SUPPLEMENTARY INFORMATION: Issued June 16, 1982.

I. Background

On June 4, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that the Codell Formation located in Adams, Boulder, Jefferson, Larimer, and Weld Counties, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Codell Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The area recommended for tight formation designation covers approximately 1,200 square miles in the Wattenberg Field in the western Denver Basin and includes parts of Adams, Boulder, Jefferson, Larimer, and Weld Counties. The formation varies in depth from 3,000 to 8,000 feet, but is generally located at a depth of 7,000 feet and averages about 15 feet in thickness.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG-29, Order No. NG-29-1 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Codell Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North

Capitol Street, NE., Washington, D.C. 20426, on or before July 19, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–122 (Colorado–25), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than July 6, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(121) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

(121) *Codell Formation in Colorado.* RM79–76–122 (Colorado–25).

(i) *Delination of formation.* The Codell Formation is located in the Wattenberg Field of the western Denver Basin in parts of Adams, Boulder, Jefferson, Larimer, and Weld Counties, Colorado. The Codell Formation is found in all of Township 1 North, Ranges 64 through 70 West; all of Townships 2 through 4 North, Ranges 64 through 69 West; Township 2 North, Range 70 West, Sections 1 through 5, 8 through 36; Township 3 North, Range 70 West, Sections 1, 12, 13, 21 through 28, 33 through 36; all of Townships 5 and 6 North, Ranges 64 through 68 West; Township 5 North, Range 69 West, Sections 1 through 4, 9 through 16, 20 through 29, 31 through 36; Township 6 North, Range 69 West, Sections 1 through 4, 9 through 16, 21 through 28, 33 through 36; all of Township 1 South, Ranges 64 through 70 West; and all of Township 2 South, Ranges 69 and 70 West; 6th P.M.

(ii) *Depth.* The Codell Formation ranges in depth from 3,000 to 8,000 feet, but is generally found at a depth of 7,000 feet and average 15 feet in thickness.

[FR Doc. 82–16894 Filed 6–22–82; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–121 (Colorado–1 Addition)]

High-Cost Gas Produced From Tight Formations; Colorado

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendations of the State of Colorado that an additional area of the J Sand Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 19, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 6, 1982.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION: Issued June 18, 1982.

I. Background

On June 4, 1982, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (45 FR 56034, August 22, 1980), that additional areas of the Wattenberg J Sand Formation called the J Sand Formation located in Weld, Jefferson, Boulder, and Larimer Counties, Colorado, be designated as a tight formation. The Commission previously adopted a recommendation that portions of the Wattenberg J Sand Formation in Larimer, Weld, Adams, and Boulder Counties, Colorado, be designated as a tight formation (Order No. 124 issued January 23, 1981, in Docket No. RM79–76 (Colorado–1)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the additional areas of the J Sand Formation in Weld, Jefferson, Larimer, and Boulder Counties, Colorado, be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Colorado recommends that additional areas of the J Sand Formation on the north and west sides of that acreage granted tight formation designation in Order No. 124 be designated as a tight formation. These areas are contiguous to the original acreage, and are not covered by Colorado's infill drilling order, Order No. 232–20 issued August 21, 1979. Colorado wishes to add portions of Townships 2 South through 4 North, Ranges 69 and 70 West to the west of the previously designated area and portions of Townships 5 and 6 North, Ranges 63 through 69 West to the north of the previously designated area of the Wattenberg J Sand Formation. The areas now being recommended do not include any of the areas which the Commission specifically excluded from its designation of the Wattenberg J Sand Formation in Order No. 124 (see appendix to Order No. 124 for a description of the excluded acreage). The top of the recommended formation appears at an average depth of 8,000 feet.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–3 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that additional areas of the J Sand Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 19, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–121 (Colorado–1 Addition), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than July 6, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by revising paragraph (d)(11) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(11) *Wattenberg J Sand Formation in Colorado.* RM79–76 (Colorado–1).

(i) *Wattenberg J Sand Formation.*—(A) *Delineation of formation.* The Wattenberg J Sand Formation is located north and east of Denver, Colorado, on the western flank of the Denver-Julesberg Basin, underlying approximately 702,000 acres of land in Boulder, Adams, Larimer, and Weld Counties, Colorado. This formation underlies portions of Township 1 South, Ranges 64 through 68 West; Township 2 South, Ranges 64 and 65 West; Townships 1 and 2 North, Ranges 63 through 69 West; Townships 3 and 4 North, Ranges 63 through 68 West; Township 5 North, Ranges 63 through 69 West, 6th P.M.

(B) *Depth.* The Wattenberg J Sand Formation ranges in depth from 7,600 feet to 8,400 feet. The average depth is 8,000 feet.

(ii) *The J Sand Formation.*—(A) *Delineation of formation.* This formation underlies all or portions of Townships 1 and 2 South, Ranges 69 and 70 West; Townships 1 and 2 North, Range 70 West; Townships 3 and 4 North, Ranges 69 and 70 West; Township 5 North, Range 63 West; Township 6 North, Ranges 63 through 69 West, 6th P.M.

(B) *Depth.* The J Sand Formation ranges from a depth of 7,600 feet to 8,400 feet. The average depth is approximately 8,000 feet.

[FR Doc. 82–16995 Filed 6–22–82; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Coverage of Optometrists' Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: These regulations would expand Medicare coverage of services furnished by optometrists to include examination services related to the condition of aphakia (absence of the natural lens of the eye). Under our current regulations, Medicare coverage of optometric services is limited to dispensing services in connection with the actual fitting and provision of prosthetic lenses.

The regulations are necessary to conform our existing Medicare regulations to a statutory change made by section 937 of the Omnibus Reconciliation Act of 1980.

DATE: In order to be considered, comments should be mailed by August 23, 1982.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Md. 21235.

If you prefer, you may deliver comments to Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C., of Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Md.

In commenting, please refer to file code BPP–158–P. Comments will be available for public inspection beginning approximately 2 weeks from today, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday from 8:30 a.m. to 5:00 p.m., (202) 245–7890.

FOR FURTHER INFORMATION CONTACT: James Hannon, 301–594–9514.

SUPPLEMENTARY INFORMATION:

Background

Under section 1832 of the Social Security Act, payment may be made

under Medicare Part B (Supplementary Medical Insurance Program) for physicians' services, including certain services furnished by optometrists to Medicare beneficiaries. The law, in sections 1861(r)(4) and 1862(a)(7), limits the kinds of optometric services covered under Medicare.

Before July 1, 1981, section 1861(r)(4) defined a doctor of optometry as one who was legally authorized to practice optometry by the State in which he performed such functions, but only with respect to establishing the necessity for prosthetic lenses. Medicare coverage of services furnished by optometrists was limited to payment for the actual fitting and provision of lenses to replace the natural lens of the eye. Those lenses may be needed temporarily during convalescence from eye surgery or as a permanent replacement when the natural lens was lost through congenital disease or surgical removal. "Examination services" performed by optometrists for any purpose were excluded.

Under section 1862(a)(7) of the Act, payment is prohibited for eyeglasses, eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, and procedures to determine the refractive state of the eye, whether performed by an optometrist or other practitioner.

Statutory Change

Section 937 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499, enacted on December 5, 1980), effective on July 1, 1981, expands covereage of optometrists' services beyond dispensing services by deleting the limitation in section 1861(r)(4) to "establishing the necessity for prosthetic lenses" and authorizing "services related to the condition of aphakia." ("Aphakia" means the absence of the natural lens of the eye due to surgery or to natural causes.) Reports of the House Budget Committee and the Committee on Ways and Means which accompanied Pub. L. 96–499 explained the congressional intent for expanded coverage of other optometric "services" by specifying "payment under Medicare for examination services performed by optometrists in connection with the condition of aphakia." (See "Omnibus Reconciliation Act of 1980, Report of the Committee on the Budget, House of Representatives, to Accompany H.R. 7765," H.R. Rept. No. 96–1167, 96th Congress, 2d Session, July 21, 1980, pp. 375–376, and "Budget Reconciliation Recommendations of the Committee on Ways and Means, Report of the Committee on Ways and Means, U.S. House of Representatives on H.R. 7652," H.R. Rept. No. 96–1150, Part I, 96th Congress, 2d Session, July 2, 1980, pp. 29–30.) This expansion of coverage will allow optometrists to be reimbursed for examination services furnished to aphakic patients to the same extent that previous policy allowed doctors of medicine or osteopathy to be reimbursed for these services, if optometrists are licensed to perform them by the State in which they practice. Eyeglasses, eye examinations for the purpose of prescribing, fitting or changing of eyeglasses, and examinations to determine the refractive state of the eye continue to be excluded from coverage regardless of which practitioner furnishes these services.

Provisions of Proposed Rule

This notice of proposed rulemaking would amend the existing Medicare regulations to conform them to the statutory change by revising the definition of a doctor of optometry under 42 CFR 405.232a and adding a provision for coverage of examinations performed by optometrists if they relate to aphakia. On the basis of the congressional committees' use of "examination services" to explain "services", we propose to specify examples of those examination services within the scope of the optometrist's practice that would be covered. The services would include:

- Case history (the determination of changing visual performance as it relates to the condition of aphakia);
- External examination (the inspection with illumination and magnification of eyelids and surrounding areas of the eye);
- Ophthalmoscopy (the inspection with illumination and magnification of the internal structure of the eye);
- Biomicroscopy (the inspection of frontal tissues of the eye, using illumination and magnification);
- Tonometry (the measurement of the internal pressure of the eye, visual fields, and evaluation of the control and peripheral field of vision);
- Ocular mobility (the determination of the ability of the eyes to move efficiently);
- Binocular function (an evaluation of the ability of the eye to obtain single, clear, two-eyed vision); and
- Evaluation for contact lenses and the provision of ophthalmic prosthesis and services.

This list of optometric examination services is based on conclusions included in a 1976 report to the Congress by the Health Resources Administration, Public Health Service, in which the Department recommended to Congress that services related to aphakia be reimbursable under Medicare Part B when provided by optometrists.

Instructions containing this list of services have been released to our contractors and payments for optometric services are now being made on that basis. These operating instructions will be amended if the final regulations differ from these proposed rules.

Comments on Statutory Change

Since the enactment of Pub. L. 96–499, we have received comments from physicians, especially from ophthalmologists, regarding implementation of the statutory change. Their major comments concerned quality of care and the anticipated increase in costs resulting from Medicare coverage of eye care services furnished by optometrists. Ophthalmologists have requested that the regulations expressly prohibit optometrists from furnishing to Medicare patients such services as surgical removal of the crystalline lens, implantation of the intraocular lens, and the treatment of pseudophakia (failure of development of the crystalline lens, its place being occupied by abnormal tissue). Because these procedures are not examination services and are therefore not covered services, we have not addressed them in this proposed rule.

Ophthalmologists have expressed the concern also that services provided by optometrists to post-surgical patients will jeopardize the quality of eye care services that aphakic patients might receive. Because of this concern, they have also requested that optometrists be required to refer patients to ophthalmologists immediately if certain signs and symptoms occur, and that all claims by optometrists be approved and signed by ophthalmologists. We believe that the basic issue which this request raises is the professional relationship between ophthalmologists and optometrists. We believe this is not a matter to be regulated by us, and should remain the responsibility of the involved professions. We think it is clear that Congress intended to ensure quality care through the requirement that optometrists be reimbursed for services only if they are licensed to perform them by the State in which they practice. (See House Budget and Ways and Means Committee Reports cited earlier and the specific reference in section 1861(r)(4) limiting coverage of services which the optometrist is legally authorized to perform, clearly deferring to State law.) Consequently, these proposed regulations specify that payment will be

made for optometrists' services as described above, within the scope of optometric practice as authorized by the State; they do not contain any additional conditions or requirements.

In addition, ophthalmologists maintain that the new legislation will lead to the problem of payment duplication for services and reimbursement for similar diagnostic procedures when performed for patients by more than one practitioner. The rationale for this concern is that in many areas of the country Medicare includes in the covered allowance for cataract surgery a global fee for the immediate post-operative care of aphakic patients. In most cases, this fee covers up to 3 months of post-operative treatment. We believe that there are sufficient administrative safeguards under existing policy to preclude duplication of payment and payment for services that are not reasonable and medically necessary. As a consequence, we have not addressed this issue in the proposed rule.

We believe that Congress did not intend for us to impose the requirements recommended by the ophthalmologists as conditions for coverage of optometric services. However, we invite comments on the proposals suggested by ophthalmologists and any provisions related to this proposed rule.

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

Impact Analysis

Regulatory Impact Analysis

We have reviewed the cost impact of these regulations in accordance with Executive Order 12291, and have determined that they do not meet the criteria for major regulations—that is, they will not have an annual effect of $100 million or more on the economy; result in major increases of costs or prices for consumers in general, or for particular industries, governmental agencies, or geographic regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States enterprises to compete with foreign enterprises in domestic or import markets.

We estimate that the changes in the coverage of optometrists' services will result in an increase in Medicare costs of $2 million each year for fiscal years 1982 and 1983, and $3 million each year for fiscal years 1984 and 1985. We have no discretion in implementing the provisions of the law. In developing these regulations, we have followed the language of the statute and the congressional intent specified in the committee reports.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires a regulatory flexibility analysis for any regulations that will have a significant economic impact on a substantial number of small businesses, small organizations, and small governmental jurisdictions. This notice of proposed rulemaking would merely conform our Medicare regulations to requirements under the law that are already in effect. The regulations themselves, therefore, do not have a significant economic impact. For these reasons, we have determined that the requirements of Pub. L. 96–354 do not apply.

Paperwork Reduction Act

These regulations do not contain any additional reporting and recordkeeping requirements that are subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 42 CFR Part 405

Administrative practice and procedures, Health care, Health professions, Health suppliers, Medicare.

42 CFR Part 405 is amended as follows:

1. Section 405.232a is amended by revising paragraph (a)(4) to read as follows:

§ 405.232a Physician defined.

(a) The term "physician," when used in connection with the performance of any function or action means:

* * * * *

(4) A doctor of optometry who is legally authorized to practice optometry by the State in which he performs such function, but only with respect to services related to the condition of aphakia (absence of the natural lens of the eye) as set forth in 42 CFR 405.232c; or

* * * * *

2. Section 405.232c is revised to read as follows:

§ 405.232c Optometrists.

The prescription or order of a doctor of optometry will be accepted as evidence of the medical need for prosthetic lenses.

Examination services, including the following if related to the condition of aphakia, are covered when furnished by optometrists:

(a) Case history (the determination of changing visual performance as it related to the condition of aphakia);

(b) External examination (the inspection with illumination and magnification of eyelids and surrounding areas of the eye);

(c) Ophthalmoscopy (the inspection with illumination and magnification of the internal structure of the eye);

(d) Biomicroscopy (the inspection of frontal tissues of the eye, using illumination and magnification);

(e) Tonometry (the measurement of the internal pressure of the eye, visual fields, and evaluation of the control and peripheral field of vision);

(f) Ocular mobility (the determination of the ability of the eye to move efficiently);

(g) Binocular function (an evaluation of the ability of the eye to obtain single, clear, two-eyed vision); and

(h) Evaluation for contact lenses and the provision of ophthalmic prosthesis and services.

(Secs. 1832(a), 1861(r)(4) and (s), and 1862(a)(7) of the Social Security Act, 42 U.S.C. 1395k(a) and 1395x(r)(4) and (s), and 1395y(a)(7))

(Catalog of Federal Domestic Assistance Program No. 13.764, Medicare—Supplementary Medical Insurance.)

Dated: March 26, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: June 7, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-16909 Filed 6-22-82; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Withdrawal of proposed rules.

SUMMARY: This Office had proposed revisions to certain of its procedural regulations governing administrative hearings and appeals within the Department of the Interior. Further consideration of the proposed changes has resulted in the conclusion that they are unnecessary and should be withdrawn.

EFFECTIVE DATE: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Kathryn Lynn, Attorney-Adviser, Office of Hearings and Appeals, (703) 235–3816.

SUPPLEMENTARY INFORMATION: This Office proposed on May 27, 1980 (45 FR 35351), to delete its regulations in 43 CFR Part 4, Subpart B. It has been determined that the proposed incorporation of the general rules in Subpart B into the specific rules in other Subparts of Part 4 should be abandoned. Consequently, the proposed deletion of Subpart B is being withdrawn.

Also on May 27, 1980 (45 FR 35351), this Office proposed revisions to 43 CFR Part 4, Subpart I. The minor changes proposed to these regulations have been determined to be unnecessary. The proposed revisions are being withdrawn.

On December 9, 1980 (45 FR 81074), revisions were proposed to 43 CFR Part 4, Subpart G. These revisions have been determined to be unnecessary and are being withdrawn.

On February 8, 1979 (44 FR 7983), revisions were proposed to 43 CFR Part 4, Subpart J. These revisions, which would have amended the procedural regulations of the Alaska Native Claims Appeal Board, are being withdrawn, because that Board was abolished by Secretarial order No. 3078 of April 29, 1982.

Dated: June 17, 1982.

James A. Limb,

Director, Office of Hearings and Appeals.

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

1. The removal of 43 CFR Part 4, Subpart B, proposed on May 27, 1980 (45 FR 35351), is withdrawn.

2. The revisions to 43 CFR Part 4, Subpart G, proposed on December 9, 1980 (45 FR 81074), are withdrawn.

3. The revisions to 43 CFR Part 4, Subpart I, proposed on May 27, 1980 (45 FR 35351), are withdrawn.

4. The revisions to 43 CFR Part 4, Subpart J, proposed on February 8, 1979 (44 FR 7983), are withdrawn.

[FR Doc. 82-17014 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 81-706; FCC 82-254]

List of Commission's Rules To Be Reviewed Pursuant to the Regulatory Flexibility Act During 1981–82

AGENCY: Federal Communications Commission.

ACTION: Order terminating docket.

SUMMARY: This action terminates General Docket No. 81–706, concerning Rules to be reviewed pursuant to the Regulatory Flexibility Act. Comments have been received, as requested, and are being reviewed in preparation for the initiation of rulemakings to eliminate or modify, as required, those "rules which have significant (adverse) economic impact on a substantial number of small entities." The purpose for the *Notice* having been satisfied, General Docket No. 81–706 is terminated.

FOR FURTHER INFORMATION CONTACT: Donald L. McClure, Office of General Counsel (202) 254–6530.

SUPPLEMENTARY INFORMATION: None.

Adopted: June 3, 1982.

Released: June 8, 1982.

In the matter of list of commission's rules to be reviewed pursuant to the Regulatory Flexibility Act during 1981–82; Gen. Docket No. 81–706; order.

1. The Commission published in the **Federal Register** its *Notice* in Gen. Docket. No. 81–706, Federal Communications Commission's list of rules to be reviewed pursuant to section 610(c) of the Regulatory Flexibility Act during 1981–82, FCC 81–487, 46 FR 56466 (Nov. 17, 1981). Parties were invited to provide comments within 30 days of the date this *Notice* was published in the **Federal Register.** Requests for extension of time were filed by the Radio Technical Commission for Marine Services (RTCM) on November 27, 1981, the Consumer Electronics Group of the Electronics Industries Association (EIA/CEG) on December 7, 1981, and the American Waterways Operators, Inc. on December 10, 1981. Good cause having been shown, the request for extension of time was granted pursuant to authority delegated to the General Counsel. See 47 C.F.R. § 0.251(b)(1980). The *Order* in Gen. Docket No. 81–706 granting an extension of time for filing comments in the above-captioned proceeding to March 1, 1982 was adopted and released on December 15, 1981, 46 FR 62871, Dec. 29, 1981.

2. Comments have been received and are being reviewed in preparation for the initiation of rulemakings to eliminate or modify, as required, those "rules which have a significant (adverse) economic impact on a substantial number of small entities". 5 U.S.C. 610(c). The purpose for the *Notice* having been satisfied, Gen. Docket No. 81–706 will be closed.

3. Accordingly, it is hereby ordered that Gen. Docket No. 81–706 is terminated.

4. Authority for the adoption of this order is contained in section 4(i) of the Communications Act of 1934, as amended.

5. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-16910 Filed 6-22-82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 121
Wednesday, June 23, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 18, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447–6201.

New

• Human Nutrition Information Service
An Exploratory Study of Longitudinal Measures of Individual Food Intakes
Monthly or Quarterly
Individuals or households: 9,300 responses; 3,100 hours; not applicable under 3504(h)
Robert Reese (301) 436–8485

• Rural Electrification Administration
Construction Work Plan and Cost Distribution—Telephone
REA Forms 157, 158, 159
On occasion
Businesses or other institutions: 2,800 responses; 2,100 hours, not applicable under 3504(h)
John Soma (202) 382–8529

Revised

• Food and Nutrition Service
Report of School Program Operations and Adjustment Report for School Program Operations
FNS–10 and FNS–10A
Monthly
State or local governments: 2,976 responses; 110,112 hours; not applicable under 3504(h)
Alan Rich (703) 756–3810

Extension

• Economic Research Service
Survey of Pesticides Situation, 1982 and Outlook 1983
Annually
Businesses or other insititutions: 20 responses; 20 hours; not applicable under 3504(h)
Theodore R. Eichers (202) 447–7340

Reinstatement

• Agricultural Stabilization and Conservation Service
Uniform Grain Storage Agreement
CCC–25 and CCC–25–2
Annually
Businesses or other institutions: 5,440 responses; 5,880 hours; not applicable under 3504(h)
Lynda Flament (202) 447–7912

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82–16890 Filed 6–22–82; 8:45 am]
BILLING CODE 3410–01–M

Packers and Stockyards Administration

Mountain Home Horse Auction; Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility No., name, and location of stockyard	Date of posting
AR–159 Mountain Home Horse Auction; Mountain Home, Arkansas.	July 21, 1979.
IL–168 Doug Komes Horse Auction; Batavia, Illinois.	May 14, 1982.
WI–136 Barron Livestock Sales Barn; Barron, Wisconsin.	Mar. 20, 1981.

Done at Washington, D.C., this 17th day of June, 1982.

Jack W. Brinckmeyer,
Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82–16894 Filed 6–22–82; 8:45 am]
BILLING CODE 3410–02–M

North Georgia Farmers Livestock Market, Inc.; Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
GA–121 North Georgia Farmers Livestock Market, Inc., Cumming, Georgia.	Nov. 26, 1963.
GA–162 Sylvania Stockyard; Sylvania, Georgia.	May 14, 1959.
WI–137 Great Northern Investments, Fond Du Lac, Wisconsin.	Aug. 21, 1962.

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is no legal justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective June 23, 1982.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*).

Done at Washington, D.C. this 17th day of June, 1982.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 82-16893 Filed 6-22-82; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Order 82-6-110]

Denial of Foreign Freight Forwarder Registration; China Interocean Transport Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: order 82-6-110.

SUMMARY: The Board proposes to deny a foreign freight forwarder registration to China Interocean Transport Inc., because the Government of the People's Republic of China has not allowed U.S. citizens to obtain like authority in that country.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions as described in the order cited above, shall, no later than July 14, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, to the Ambassador of the People's Republic of China in Washington, D.C., and to the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board may enter an order which would make final the Board's tentative findings and conclusions and deny a foreign freight forwarder registration to the applicant.

ADDRESSES FOR OBJECTIONS:

Docket 40782, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

China Interocean Transport Inc., One World Trade Center, Suite 3127, New York, NY 10048.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

Dean L. Johnson (202) 673-5371, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 17, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-16947 Filed 6-22-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-6-111]

Denial of Foreign Freight Forwarder Registration; UT Freight Services (USA) Ltd.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 82-6-111.

SUMMARY: The Board proposes to deny a foreign freight forwarder registration to UT Freight Services (USA) Ltd., because Taiwan has not allowed U.S. citizens to obtain like authority in that country.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions as described in the order cited above, shall, NO LATER THAN July 14, 1982, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, American Orient Forwarding Company, The Coordination Council for North American Affairs in Washington, D.C., and to the Departments of State and Transportation.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Board may enter an order which would make final the Board's tentative findings and conclusions and deny a foreign freight forwarder registration to the applicant.

ADDRESSES FOR OBJECTIONS:

Docket 40783, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

UT Freight Services (USA) Ltd., 161-15 Rockaway Boulevard, Room 217, Jamaica, New York 11434.

American Orient Forwarding 11209 South La Cienega Boulevard Los Angeles, California 90045

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT:

Dean L. Johnson (202) 673-5371, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: June 17, 1982.

Phyllis T. Kaylor,

Secretary,

[FR Doc. 82-16948 Filed 6-22-82; 8:45 am]

BILLING CODE 6320-01-M

Forms; Approval of Reporting by the Office of Management and Budget

On June 1, 1982, the Office of Management and Budget approved the extension of the following reporting forms:

CAB Form 297A, "Registration or Amendments under Part 297 of the Economic Regulations of the Civil Aeronautics Board"—extended to November 30, 1984 under OMB No. 3024-0039.

CAB Form 298-C, "Report of Scheduled Operations of Commuter Air Carriers"—extended to June 30, 1984 under OMB No. 3024-0009.

CAB Form 300, "Registration or Amendments under Part 380 of the Special Regulations of the Civil Aeronautics Board"—extended to October 31, 1983.

Dated: June 16, 1982.

Jack Calloway,

Chief, Data Requirements Section, Office of Comptroller.

[FR Doc. 82-16949 Filed 6-22-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 16, 1982.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group meeting set for July 14-15, 1982, as published in the **Federal Register**, Volume 47, No. 98, Thursday, May 20, 1982, is cancelled.

For further information contact the SAB Secretariat at (202) 697-8404.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc. 82-16904 Filed 6-22-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Innovative Programs for Severely Handicapped Children

AGENCY: Education Department.

ACTION: Notice of Final Annual Funding Priorities.

SUMMARY: The Secretary establishes final funding priorities for grants for Innovative Programs for Severely Handicapped Children. To ensure wide and effective use of program funds, the Secretary has established the following priorities to direct funds to the areas of greatest need during Fiscal Year 1982.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the **Federal Register**. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a later date, the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, U.S. Department of Education, Special Education Programs, Room 3135, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202–4714; Telephone: (202) 472–2535.

SUPPLEMENTARY INFORMATION: Grants for Innovative Programs for Severely Handicapped Children are authorized under section 624 of Part C of the Education of the Handicapped Act (EHA).

Section 624 provides the authorization for research, development, demonstration, training, and dissemination activities concerning the education of handicapped children.

Parties eligible to receive funds under this program are public or nonprofit private agencies, organizations, or institutions which operate a center or provide a service which meets one or more of the purposes of Part C of EHA. Part C of EHA authorizes various activities relating to the education of handicapped children, including the operation of Regional Resource Centers, Centers and Services for Deaf-Blind Children, and programs for the Early Education of Handicapped Children.

SUMMARY OF COMMENTS AND RESPONSES: A "Notice of Proposed Annual Funding Priorities" was published in the **Federal Register** On March 17, 1982 (47 FR 11547–11548), listing the four proposed priority areas for the 1982 grant competition for Innovative Programs for Severely Handicapped Children. Because comments from the field indicated support for the priority areas chosen, no change has been made. A total of nine comments were received oncerning the four priority areas. These comments are summarized below:

Comment. A few commenters recommended that the scope of the four proposed competitions be broadened to include other handicapped populations, such as the multi-handicapped blind and severely handicapped children and youth. These commenters stated that the four priority areas should focus on these groups of children as well as the deaf-blind population.

Response. No change has been made in the final annual funding priorities. Given the limited amount of funding available for this year's grant competition, proposed priorities are designed to only meet the needs of deaf-blind children. However, it is anticipated that grant competitions for succeeding years will address the needs of other subsets of the severely handicapped population.

Comment. Several commenters recommended additional priority areas for the FY 1982 grant competition. The priorities recommended were: (1) Independent living skills development for severely handicapped and deaf-blind children and youth; (2) development of alternative writing systems for severely physically handicapped children with normal or above normal intelligence; and (3) formulation of strategies for effectively serving visually impaired multihandicapped children in residential schools. These commenters were also supportive of the priority areas proposed by the Secretary.

Responses. No change has been made in the final annual funding priorities. These suggestions will be used in proposing funding priorities for future grant competitions.

Comment. Several commenters recommended using all of the four proposed priority areas for the 1982 grant competition. The commenters expressed particular support for (1) total life planning and prevocational and vocational training for deaf-blind children and youth; (2) the identification of at-risk deaf-blind children because of the increasing numbers of multi-handicapped infants; and (3) endorsement without reservation of all four priority areas.

Response. No change has been made in the final annual funding priorities.

Priorities

In accordance with § 75.105(c)(3)(i) of EDGAR, the Secretary establishes separate competitions for each of the following priority areas for Fiscal Year 1982 grants. Each priority area contains a discussion of the nature of the priority itself and a statement of the estimated amount of funds expected to be available for that priority area in Fiscal Year 1982. Grant awards will be issued for three-year projects with funding from $110,000 to $115,000 per project per year. Funding for years two and three of Fiscal Year 1982 grant awards will be contingent upon satisfactory completion of first year project activities and the availability of continued federal funding. The selection criteria contained in the program regulations (34 CFR 315.4) will govern the review of applications in the competition for each priority area.

(1) *Approaches to Total Life Planning for Deaf-Blind Children and Youth.* The Secretary establishes a separate competition for projects which implement procedures for the development of total life planning for deaf-blind children and youth. Such planning must include (a) the assessment of cognitive, affective, and pschomotor skills and capacities of project particpants; (b) an identification of services essential for the satisfaction of needs of the children and which provide for the maximization of their potential as they approach adulthood; (c) the development of strategies for life planning individualized for each project participant, with provision for modifying such planning on at least an annual basis; and (d) strategies for the application of the individualized planning designed for project participants, to non-project deaf-blind children and youth. Approximately $330,000 is expected to be available for this competition.

(2) *Pre-vocational and Vocational Training for Deaf-Blind Children and Youth.* The Secretary establishes a separate competition for projects which design, implement, and disseminate innovative practices in the prevocational and vocational education of deaf-blind children and youth. Such practices must extend beyond, expand upon, complement, and/or supplement existing best practices. Also considered innovative for the purpose of this priority are feasible applications of practices still in the developmental stage in research and other experimental programs. Approximately $120,000 is expected to be available for this competition.

(3) *Identification of At-Risk Deaf-Blind Children.* The Secretary establishes a separate competition for projects which design and implement strategies for the early identification of children with apparent visual and auditory impairments who are at-risk of being "categorized" as deaf-blind children. Such projects should devise strategies for providing relevant information to and gaining the cooperation of educational, medical, and social service providers. Projects must evidence procedures and planning for identification of handicapped children,

such as those procedures mandated under Pub. L. 94–142. Approximately $120,000 is expected to be available for this competition.

(4) *Adaptation-Utilization of Curricula for Deaf-Blind Children and Youth.* The Secretary establishes a separate competition for projects which implement strategies to develop and demonstrate the effectiveness of individualized educational programming for deaf-blind children and youth. Such curricula may include (a) innovative, new approaches unique in work with the deaf-blind; (b) best practices currently in use with such children and youth with potential for being modified to meet individual differences; or (c) best practices in educational programming for other types of handicapped or nonhandicapped age peers, adapted to meet the educational needs of the deaf-blind children and youth. Projects must provide verified assessments of the learning needs and capacities of participants and demonstrate the design of curricula and methodologies based upon such assessments. Approximately $120,000 is expected to be available for this competition.

(Catalog of Federal Domestic Assistance No. 84–086, Innovative Programs for Severely Handicapped Children)

Dated: June 18, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–16898 Filed 6–22–82; 8:45 am]
BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Innovative Programs for Severely Handicapped Children

AGENCY: Education Department.

ACTION: Closing Date Notice for Transmittal of Applications for FY 1982.

Applications are invited for new demonstration projects under Innovative Programs for Severely Handicapped Children.

Authorization for this program is contained in section 624 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1424).

Applications may be submitted by public or nonprofit private agencies, organizations, or institutions which operate a center or provide a service which meets one or more of the purposes of Part C of the Education of the Handicapped Act.

The main intent of the program is to support model projects which establish, promote, and demonstrate exemplary practices for meeting the educational needs of severely handicapped and deaf-blind children. The program is authorized to carry out this directive by issuing either contracts or grants. Although contracts have been supported since the program's inception in 1974, this is the first year that a grant competition will be held.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by August 5, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention 84.086A, 400 Maryland Avenue, S.W., Washington, D.C. 20202–3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relyng on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, ROB 3, Room 5673, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: It is expected that approximately $690,000 will be available to fund new grants in FY 1982. The "Notice of Final Annual Funding Priorities," contained in the application packet, lists the four areas of priority for this year's competition. Separate competitions will be held for each priority area. The program anticipates funding three projects from the first priority area, and one from each of the last three priority areas. Awards would be approximately $115,000 to $120,000 per project.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations. Grant approval is for a three-year period subject to an annual review of progress and availability of funds.

Priorities for funding: The selection of priorities was based upon a comprehensive review of the program's history, including the number of responses to various RFP's, and an analysis of comments from professionals serving severely handicapped and deaf-blind children as to perceived needs in the field. The four priority areas are listed below. For further elaboration of the intent of each selected area, please consult the "Notice of Final Annual Funding Priorities," found in the application package.

1. Approaches to total life planning for deaf-blind children and youth;

2. Prevocational and vocational training for deaf-blind children and youth;

3. Identification of at-risk deaf-blind children; and

4. Adaptation/utilization of curricula for deaf-blind children and youth

Application forms: Application forms and program information packages are expected to be ready for mailing by June 21, 1982. These materials may be obtained by writing to: Special Needs Section, State Implementation Branch, Special Education Programs, Donohoe Building, Room 3135, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202–4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that the applicant submit only the information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing Auxiliary Activities under the EHA (34 CFR Part 315);

(b) The Notice of Final Annual Funding Priorities which is published in this issue of the Federal Register; and

(c) The Education Department General Administrative Regulations (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT:
Special Needs Section, State Implementation Branch, Special Education Programs, Donohoe Building, Room 3135, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–4714. Telephone (202) 472–2535.

(Catalog of Federal Domestic Assistance No. 84.086, Innovative Programs for Severely Handicapped Children)

(20 U.S.C. 1424)

Dated: June 18, 1982.

Jean Tufts,

Assistant Secretary for Office of Special Education and Rehabilitative Services.

[FR Doc. 82-16899 Filed 6-22-82; 8:45 am]
BILLING CODE 4000-01-M

Vocational Education Act; Intent To Repay Funds Recovered as a Result of a Final Decision of the Assistant Secretary for Vocational and Adult Education to the North Dakota State Board for Vocational Education

AGENCY: Education Department.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act, the Secretary intends to repay to the North Dakota State Board for Vocational Education an amount equal to 75 percent of funds recovered by the Department of Education (ED). The repayment is a result of an October 22, 1980 final decision by the Assistant Secretary for Vocational and Adult Education. This notice describes the State Board's plans for the use of repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments should be received on or before July 23, 1982.

ADDRESS: All written comments should be submitted to Dr. LeRoy Cornelsen, Director, Division of State Vocational Programs, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 5640, ROB–3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:
Dr. LeRoy Cornelsen, (202) 472–3440.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of State Auditor in North Dakota conducted an audit of North Dakota's Vocational Education Act (VEA) expenditures for the period from July 1, 1975 through June 30, 1977. The Office of State Auditor found that State funds in the amount of $61,300 for vocational education purposes were supplanted by Federal funds. Section 106(a)(6) of the VEA requires States to provide an assurance that Federal funds made available will not supplant State and local funds and will be used only to supplement State and local funds. The North Dakota State plan provided this assurance. In a final determination letter dated October 22, 1980, the Assistant Secretary for Vocational and Adult Education upheld the auditor's finding and requested a refund of $61,300. The Office of State Auditor also found that a salary overpayment in the amount of $6,954 had been made to an exemplary project. In the final determination letter, the Assistant Secretary upheld the auditor's recommendation to refund $6,954. Soon thereafter, the State Board refunded $68,254 (the amount of the two claims) to the Department of Education (ED).

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e, provides that whenever the Commissioner (now Secretary) has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the State agency affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this so-called "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the State Board that resulted in the audit determination have been corrected, and that the State Board is, in all other respects, in compliance with the requirements of the applicable program;

(2) The State Board has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) The use of the funds to be awarded under the grantback arrangement in accordance with the State Board's plan would serve to achieve the purposes of the program under which funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

In a letter dated December 23, 1980, the State Board for Vocational Education formally requested that payment of $51,191, which is 75 percent of the $68,254 recovered as a result of the audit, be made under a grantback arrangement. This request was made after the Department of Education had recovered the outstanding claim against the State Board as a result of the Assistant Secretary's final determination. In accordance with section 456(a)(1) of GEPA, the State Board provided assurances in its request that the practices and procedures of the State Board that resulted in the audit determination have been corrected, and that the State Board will comply with all the requirements of the program.

D. Plan for Use of Funds Awarded Under a Grantback Agreement

In accordance with section 456(a)(2) of GEPA, the State Board submitted a plan to use the grantback funds to—

(1) Extend and improve vocational education programs at the postsecondary level;

(2) Purchase instructional equipment in programs relating to new and emerging occupations; and

(3) Support an exemplary program at a postsecondary institution.

E. The Secretary's Determination

Based upon a review of the State Board's request for the repayment of funds and the assurances provided therein, including the State Board's plan for expending the funds, the Secretary makes the following determinations:

(1) The State Board has corrected the practices and procedures that resulted in the audit exceptions;

(2) The plan submitted by the State Board meets the requirements of the Vocational Education Act and benefits the populations affected by the misexpenditures which resulted in the audit exceptions; and

(3) The use of the funds to be awarded under the grantback arrangement will serve to achieve the purposes of the Vocational Education Act.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement.

Section 456(d) of GEPA requires that, at least thirty days before entering into an arrangement to award funds under a grantback, the Secretary must give a notice of intent to do so, together with the terms and conditions of the

grantback arrangement, in the Federal Register.

In accordance with this requirement, notice is hereby given that the Secretary intends to make $51,191 available under a grantback arrangement with the North Dakota State Board for Vocational Education. This amount is 75 percent—the maximum percentage authorized by the statute—of the funds recovered by ED as a result of the Assistant Secretary's final audit determination. The Secretary's intention to award the maximum amount of grantback funds possible under Section 456 is based on the following factors:

(1) The Secretary's determination outlined in Section E of this notice; and

(2) The timely payment by the State Board of all funds owed to ED as a result of the final decision of the Assistant Secretary.

G. Terms and Conditions Under Which Payments Under a Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payment made under a grantback shall be subject to any terms and conditions which the Secretary deems necessary to accomplish the purposes of the affected programs, including the submission of periodic reports on the use of the repaid funds and evidence that the State Board has consulted with parents or representatives of the population that will benefit from the grantback award.

The State Board agrees to comply with the following terms and conditions under which payments under a grantback arrangement will be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements, and

(b) The plan that was submitted in conjunction with the December 23, 1980 request, and any amendments to that plan that have been approved by the Secretary.

(2) Under section 456(c) of GEPA, all funds received under a grantback arrangement must be obligated not later than September 30, 1984, which is three fiscal years following the fiscal year in which the Assistant Secretary's final decision was made.

(3) The State Borad must, not later that January 1, 1985, submit a report to the Secretary which—

(a) Indicates how the funds awarded under the grantback have been used;

(b) Shows that the funds awarded under the grantback have been liquidated;

(c) Describes the results and effectiveness of the project for which the funds were spent; and

(d) Describes the consultation with parents or representative of the population that will benefit from the grantback payments.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangment.

Invitation to Comment

The Secretary invites public comments on the notice of intent to award funds under a grantback arrangement to the North Dakota State Board for Vocational Education. Interested persons may send written comments to Dr. LeRoy Cornelsen at the address at the beginning this notice. All comments should be received on or before the (July 23, 1982.)

(Catalog of Federal Domestic Assistance Number 84.048, Vocational Education Program)

Dated: June 16, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-16001 Filed 6-22-82; 0:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-82-015; FC Case No. 55080-0366-20-24]

Acceptance of Petition for Exemption and Availability of Certification From Crown Zellerbach Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition for exemption and availability of certification from Crown Zellerbach Corporation.

SUMMARY: On May 11, 1982, Crown Zellerbach Corporation (Crown) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for an electric powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new powerplants, and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA were published in the Federal Register at 46 FR 59872 (December 7, 1981) (final rules).

Crown proposes to install a 36 megawatt natural gas fired combustion turbine, with the capability of burning No. 2 distillate oil, and heat recovery steam generator to produce electricity for sale to Pacific Gas and Electric Company (PG&E) and steam for the company's production processes.

ERA has determined that the exemption petition appears to be sufficient to support an ERA determination, and is therefore accepted in accordance with § 501.3 of the final rules. A review of the petition is provided in the SUPPLEMENTAL INFORMATION section below.

As provided for in Sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rules, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.—4:00 p.m.

ERA will issue a final order granting or denying Crown's petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the Federal Register.

DATE: Written comments are due on or before August 9, 1982. A request for a public hearing must also be made within the same 45-day public comment period.

ADDRESSES: Ten copies of written comments or a request for a public hearing should be submitted to: Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-093, 1000 Independence Avenue, SW, Washington, D.C. 20585. FC Case No. 55080-0366-20-24 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Adminstration, Forrestal Building, Room GA-073, 100 Independence

Avenue, SW., Washington, D.C. 20585, Telephone (202) 252–8162
Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B–178, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252–2967
Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room 7120, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, Telephone (202) 633–8755

SUPPLEMENTARY INFORMATION: Crown plans to install a 36 MW natural gas-fired (with capability of burning oil as a back-up fuel) cogeneration powerplant to produce electricity and steam at its Antioch, California, recycle linerboard mill. The cogeneration facility will consist of a 36 MW gas turbine generator coupled with a supplemental duct burner exhausting into a 260,000 pounds/hour heat recovery boiler. The combustion turbine has a design heat input rate of approximately 457.7 MMBTU's hour. The duct burner will receive 40 MMBTU's per hour supplemental firing from natural gas or No. 6 fuel oil. Up to 32 MW of the electricity produced by the gas turbine are expected to be sold to PG&E.

The balance of approximately 4MW of electricity, along with the steam produced from the turbine exhaust heat supplemented by the duct burner, will be utilized in the mill.

Section 212(c) of the Act provides for a permanent exemption for cogeneration. In accordance with 10 CFR 503.37(a)(1) of the final rules, Crown certified that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility; and

2. The use of a mixture of oil and gas and an alternate fuel in the cogeneration facility is not feasible.

In accordance with the evidentiary requirements of 10 CFR 503.37(c), Crown has also included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13 of the final rules, including a description of the facility and its proposed operations and fuel capability, a description of the existing environment, direct and indirect environmental impacts of the proposed action, and a description of Federal, State and local requirements for air, water, noise and solid waste disposal which much be met for the proposed facility.

Pursuant to 10 CFR 501.3, ERA hereby accepts Crown's petition for a permanent cogeneration exemption. ERA retains the right to request additional relevant information from Crown at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4) of the final rules, the acceptance of the petition by ERA does not constitute a determination that Crown is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comments period provided for in this notice.

Issued in Washington, D.C. on June 17, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-16876 Filed 6-22-82; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-011]

Houston Lighting & Power Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On June 2, 1982, Houston Lighting & Power Company (HL&P), filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for certification of an eligible use of approximately 12.65 billion cubic feet of natural gas until October 31, 1982, which is estimated to displace approximately 2 million barrels of residual fuel oil (0.7 percent sulfur), within the HL&P Gas Power Plant System from June 1982 through October 31, 1982. The eligible seller of the natural gas is East Tennessee Natural Gas Company, P.O. Box 10245, Knoxville, Tennessee 37919. The gas will be transported by Tennessee Gas Pipeling Company, P.O. Box 2511, Houston, Texas 77001, Channel Industries Gas Company, P.O. Box 2511, Houston, Texas 77001, and Energy Gathering, Inc., P.O. Box 165, Corpus Christi, Texas 78402.

HL&P has requested that the certification be issued expeditiously in order that HL&P may be in a position to purchase all of the natural gas and to displace the full volumes of fuel oil.

The ERA has carefully reviewed HL&P's application for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that HL&P's application satisfies the criteria enumerated in 10 CFR Part 595. We are, therefore, granting the certification and transmitting that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification, is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, 12th & Pennsylvania Avenue, NW., Washington, D. C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

The requested certification is being issued prior to the 10 day public comment period because it involves the displacement of large volumes of fuel oil, and it is in the public interest to maximize the displacement of fuel oil. The application also states that the use of this natural gas will be available to displace fuel oil only for a limited period ending October 31, 1982. Given the limited availability of the gas and the authority of the Administrator to terminate a certification for good cause (10 CFR 595.08), it is not in the public interest to permanently lose this opportunity to displace large volumes of fuel oil while public comments are being solicited. Based upon the applicant's representations as to the limited availability of the gas and because they form the basis for our granting expedited treatment, the certificate will expire on October 31, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Natural Gas Branch, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D. C. 20461, Attention: Paula Daigneault, within ten (10) calendar days of the date of publication of this notice in the **Federal Register.**

An opportunity to make an oral presentation of data, views, and agruments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice

will be given to HL&P and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 16, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-16863 Filed 6-22-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-581-000]

Arizona Public Service Co.; Filing

June 18, 1982.

The filing Company submits the following:

Take notice that on June 7, 1982, Arizona Public Service Company (APS) tendered for filing as an initial rate schedule an Agreement for Sale of Energy Interchange between City of Farmington, New Mexico and Arizona Public Service Company (APS) dated March 15, 1982.

The City of Farmington has requested that this Agreement become effective July 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16860 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-582-000]

Cliffs Electric Service Co.; Filing

June 18, 1982.

The filing Company submits the following:

Take notice that on June 7, 1982, Cliffs Electric Service Company (Cliffs) tendered for filing an amendment to the contract for electric service between Cliffs and the City of Marquette Board of Light and Power (Marquette). Clifts states that the amendment provides for an additional service now being provided to Marquette, namely Maintenance Energy. The compensation to be paid for this service by Marquette will consist of the return of equivalent energy.

Cliffs requests an effective date of May 15, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16861 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC82-9-000]

Consumers Power Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that on June 8, 1982, Consumers Power Company (Consumers) submitted an application for Authority to Sell Facilities to the Michigan South Central Power Agency (the Agency).

Pursuant to the Hillsdale and Union City Facilities Agreements dated November 20, 1981 between Consumers and the Agency, Consumers proposes to sell to the Agency various subtransmission and substation facilities located at and in the vicinity of Consumers' Moore Road Substation near Hillsdale, Michigan, and various subtransmission and substation facilities located at and in the vicinity of Consumers' Union City Municipal Substation near Union City, Michigan. The consideration for the sale of the facilities is based upon Consumers' original cost thereof including additions and improvements. Sale of these facilities will facilitate the Agency's sale of electric capacity and energy to the City of Hillsdale and the Village of Union City. Consumers requests approval of its Application pursuant to Section 203(a) of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure and should be filed on or before July 16, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16862 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-323-000]

El Paso Natural Gas Co.; Notice of Application

June 16, 1982.

Take notice that on May 13, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-323-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf of natural gas per day on a best efforts basis for the account of J. R. Simplot Company (Simplot), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport on a best efforts basis up to 15,000 Mcf of natural gas per day for Simplot and to deliver such natural gas to Northwest Pipeline Corporation (Northwest) for Simplot's account at an existing point of interconnection between the pipeline systems of Applicant and Northwest located in La Plata County, Colorado, pursuant to a gas transportation agreement dated April 30, 1982.

Applicant states that Simplot currently owns and operates an anhydrous amonia plant at its fertilizer complex near Pocatello, Idaho. It is stated that the anhydrous ammonia is an essential ingredient in the production of nitrogen and phosphate-based fertilizers and is classified as an essential agricultural use.

It is stated that Simplot has advised Applicant that as of October 1, 1981, the

cost of natural gas purchased from its supplier, Intermountain Gas Company (Intermountain), had increased to levels which made the anhydrous ammonia operations uneconomical, and that in order to provide an economical source of natural gas, Simplot and Southern Union Gathering Company (Gathering Company) entered into a contract for sale and purchase of natural gas dated March 17, 1982, as amended April 22, 1982. It is stated that Simplot entered into separate transportation agreements with El Paso, Northwest, and Intermountain which collectively provide for the transportation of such gas from its source in New Mexico to Simplot's Pocatello Plant.

It is stated that upon receipt of the volumes of natural gas from Gathering Company in San Juan County, New Mexico, Applicant would concurrently deliver equivalent volumes on a volumetric basis to Northwest for Simplot's account at an existing point of interconnection between the pipeline systems of Applicant and Northwest in La Plata County, Colorado.

Applicant proposes initially to charge Simplot a transportation rate of 3.98 cents per Mcf until such time that the Short Haul Charge set forth on Sheet No. 1–D.2 contained in Applicant's general rate increase filing in Docket No. RP82–33 becomes effective, but subsequent to the effectiveness of said general rate increase filing Applicant would charge Simplot the corresponding Short Haul Charge reflected from time to time on Sheet No. 1–D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16952 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-575-000]

Energy Conversions of America, Inc.; Filing

June 17, 1982.

The filing Company submits the following:

Take notice that on June 4, 1982, Energy Conversions of America, Inc., (ENCOA) tendered for filing pursuant to 18 CFR 35.1 and 35.12 proposed FERC Rate Schedule No. 1, applicable to sales of energy and capacity to Cincinnati Gas and Electric Company (CG&E) from a solid waste resource recovery facility to be constructed and operated by ENCOA in the City of Cincinnati, Ohio. ENCOA previously filed with this Commission a Notice of Qualification of its status as a qualifying small power production facility within the meaning of Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 796 and 824a–3. ENCOA is subject to the Commission's ratemaking jurisdication because tis power production capacity is in excess of 30 megawatts. *See*, 18 CFR 292.601. (However, ENCOA is exempted from provisions of the public Utility Holding Company Act and of State law because it uses biomass as its primary fuel to produce electricity. *See*, 18 CFR 292.602.)

ENCOA proposes that the rates under its rate schedule "shall be the full avoided costs as determined by the formula attached to its rate schedule No. 1 as Exhibit No. 1 and Exhibit No. 2 for purchases from ENCOA as a qualifying facility in Ohio under Rules and Regulations of the FERC."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16953 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-580-000]

The Kansas Power & Light Co.; Notice of Filing

June 18, 1982.

The filing Company submits the following:

Take notice that on June 7, 1982, the Kansas Power and Light Company (KPL) tendered for filing a supplemental agreement to original contract dated September 21, 1973 with the Smoky Valley Electric Cooperative Association, Inc., Lindsborg, Kansas for wholesale service to that Cooperative Association with the proposed effective date of June 23, 1982. KPL states that this supplement permits the Smoky Valley Electric Cooperative Association, Inc. to receive service under Rate Schedule RCW–81 designated supplement 1 to supplement 8 to R.S. FERC No. 162. The proposed change will increase maximum capacity available to the West Lindsborg delivery point.

KPL requests an effective date of June 23, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been mailed to the Smoky Valley Electric Cooperative Association, Inc. and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16954 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RI82-3-000 and RI78-78-000]

Liberty Oil & Gas Corp.; Offers for Settlement of Petitions for Special Relief

June 17, 1982.

Take notice that on May 28, 1982, Liberty Oil and Gas Corporation, 234 Loyola Building, Suite 412, New Orleans, Louisiana 70112 (Liberty) filed an offer for settlement of its petition for special relief filed May 24, 1982 in Docket No. RI82-3-000. The petition was noticed June 7, 1982. In its petition Liberty requested authorization to charge a base rate of $2.99 per Mcf plus severance tax for natural gas produced from its Netherlands No. 1 Well, Sabine Production Lease, Bayou Couba Field, St. Charles Parish, Louisiana. The buyer is Transcontinental Gas Pipe Line Corporation. Liberty now offers to settle its pending petition for a base rate of $2.86 per Mcf plus severance tax.

Take further notice that on May 24, 1982, Liberty filed an offer for settlement of its petition for special relief filed in Docket No. RI78-78 on July 11, 1978, as amended September 26, 1978. In its original petition, Liberty sought an increased base rate of $2.03 per Mcf for gas produced from the Simoneaux No. 9 Well, Bayou Des Allemands Field, St. Charles Parish, Louisiana and sold to United Gas Pipe Line Company. Liberty amended its petition to request a reduced based rate of $1.95 per Mcf. Liberty's petitions were filed pursuant to Section 2.76 of the Commission's Statements of General Policy and Interpretations.

In its offer for settlement, Liberty proposes that it be permitted to collect a base rate of $1.95 per Mcf at 15.025 psia ($1.746 per MMbtu at 14.73 psia) plus severance tax.

Any person desiring to comment on the offers for settlement in the above-referenced proceedings should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 on or before June 28, 1982. Reply comments should be filed within 10 days thereafter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16955 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-591-000]

Florida Power & Light Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 10, 1982, tendered for filing documents entitled Amendment Number Ten to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and the City of Homestead.

FPL states that under Amendment Number Ten FPL will transmit power and energy for the City of Homestead (Homestead) as is required by Homestead in the implementation of its interchange agreement(s) with the City of Gainesville.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on the Director of Utilities, City of Homestead.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16933 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-594-000]

Florida Power & Light Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 10, 1982, tendered for filing documents entitled Amendment Number Two, Amendment Number Three, and Amendment Number Four to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and City of Gainesville.

FPL states that under Amendment Number Two FPL will transmit power and energy for City of Gainesville (Gainesville) as is required by Gainesville in the implementation of its interchange agreement with Lake Worth Utilities Authority.

Amendment Number Three updates the rates for transmisson service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL states that under Amendment Number Four, FPL will transmit power and energy for City of Gainesville in the implementation of its interchange agreement with the City of Homestead.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendments be made effective immediately. FPL states that copies of the filing were served on the Administrator—Strategic Utility Planning, Gainesville Regional Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16934 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-592-000]

Florida Power & Light Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 10, 1932, tendered for filing documents entitled Amendment Number Two to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Orlando Utilities Commission.

Amendment Number Two updates the rates for transmission service provided by FPL, bringing them in accord with the increased rates filed by the Commission on July 1, 1981, in *Florida Power & Light Company*, Docket No. ER81-588-000.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on the Assistant General Manager, Orlando Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16935 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1824-002]

Jerrold L. Jacobs; Application

June 21, 1982.

The filing individual submits the following:

Take notice that on May 20, 1982, Jerrold L. Jacobs filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President: Atlantic City Electric Company
Director: Deepwater Operating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16936 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-585-000]

Montana Power Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on June 8, 1982, tendered for filing in accordance with Section 35 of the Commission's Regulations a letter agreement between Cowlitz County PUD (Cowlitz) and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Cowlitz elects not to have the storage energy returned.

Montana indicates that it will not receive revenues from jurisdictional transactions under the proposed Letter Agreement.

The effective date of September 1, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16938 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-587-000]

Montana Power Co., Filing

June 21, 1982.

The filing Company submits the following:

Take notice that on June 8, 1982, Montana Power Company (Montana) tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreement with City of Pasadena. Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Pasadena.

Montana indicates that estimation of revenues from jurisdicational sales under the proposed Letter Agreement would be conjectural. Revenues based upon energy delivered from December 23, 1981 through February 28, 1982, increased by $443,732,000. Montana states that the rates for firm energy delivered by February 28, 1982, under this Letter Agreement were negotiated.

An effective date of December 23, 1981 is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16937 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-588-000]

Montana Power Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on June 8, 1982, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement with the City of Burbank (Burbank). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Burbank.

Montana indicates that estimation of revenues from jurisdictional sales under the proposed Letter Agreement would be conjectural. Revenues based upon energy delivered from January 19, 1982 through February 28, 1982, increased by $703,209.000. Montana states that the rates for firm energy delivered by February 28, 1982, under this Letter Agreement were negotiated.

An effective date of January 19, 1982, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16858 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-586-000]

Montana Power Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on June 8, 1982, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements which amend previously filed Agreements, with Los Angeles Department of Water & Power (Los Angeles). Montana states that this amendment provides for the sale of firm energy between Montana and Los Angeles.

Montana indicates that estimation of revenues from jurisdictional sales under the proposed amendment would be conjectural. Revenues based upon energy delivered from December 23, 1981 through February 28, 1982, increased by $2,809,815.15. Montana states that the rates for firm energy delivered by February 28, 1982, under these Amendatory Agreements were negotiated.

An effective date of December 23, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16859 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-584-000]

Montana Power Co.; Filing

June 18, 1982.

The filing Company submits the following:

Take notice that Montana Power Company (Montana) on June 8, 1982, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreement with the Washington Water Power Company (Washington). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Washington.

Montana indicates that estimation of revenues from jurisdictional sales under the proposed Letter Agreement would be conjectural. Revenues based upon energy delivered from December 23, 1981 through February 28, 1982 increased by $3,579,312.42. Montana states that the rates for firm energy delivered January 31, 1982, under this Letter Agreement were negotiated.

An effective date of December 28, 1981 is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 25 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16860 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-583-000]

Montana Power Co.; Filing

June 18, 1982.

The filing Company submits the following:

Take notice that on June 8, 1982, Montana Power Company (Montana) tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreement with City of Glendale. Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Glendale.

Montana indicates that estimation of revenues from jurisdictional sales under the proposed Letter Agreement would be conjectural. Revenues based upon energy delivered from December 23, 1981 through February 28, 1982 increased by $289,658.32. Montana states that the rates for firm energy delivered February 28, 1982, under this Letter Agreement were negotiated.

An effective date of December 23, 1981 is proposed and waiver of the Commission's requirements is therefore requeted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8

and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16961 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-361-001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Amendment

June 18, 1982.

Take notice that on May 25, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP81-361-001 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application filed June 8, 1981, in Docket No. CP81-361-000 so as to reflect the addition of a delivery point to accommodate the sale of natural gas, all as more fully set forth in the amendment which is on file with the Commission and open to the public inspection.

Applicant states that by its application in Docket No. CP81-361-000, it requested authority to sell up to 100,000 Mcf of natural gas per day to Energy Gathering, Inc. (Energy) and to deliver the sales volumes to Energy at a point of interconnection between Northern and Oasis Pipe Line Company in Pecos County, Texas.

Applicant herein amends the subject application to reflect an additional delivery point at the existing interconnection of the onshore terminus of Applicant's Matagorda Pipeline System and Channel Industries Gas Company's A-S pipeline near Tivoli, Refugio County, Texas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determined the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16962 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-349-000]

Northern Natural Gas Co., Division of InterNorth, Inc., Application

June 18, 1982.

Take notice that on May 27, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-349-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of additional pipeline facilities in Block 205, West Cameron area, offshore Louisiana (WC 205), all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant proposes herein to construct and operate approximately 2.1 miles of 12-inch pipeline, associated metering and appurtenances in WC 205 necessary to transport natural gas from the "B" platform to its existing facilities on the "AP" platform in WC 205.

Applicant estimates that the proposed facilities would provide the capacity needed to transport 120,000 Mcf of natural gas per day. It is asserted that the cost of the facilities proposed herein would be approximately $3,005,900 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16963 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-71-001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Notice of Amended Changes in FERC Gas Tariff

June 17, 1982.

Take Notice the Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), on June 11, 1982 tendered for filing amended changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. On April 28, 1982, Northern filed a general rate increase which the Commission designated Docket No. RP82-71-000. As instructed by the Commission in its May 26, 1982 Order that accepted this filing and suspended its effectiveness and pursuant to Section 154.66 of the Commission's Regulations, Northern is hereby amending this general rate increase by the filing of revisions to its FERC Gas Tariff in order to include in such rate filing all the costs and revenues, including purchased gas cost and transportation costs, associated with the deliveries of Canadian gas to Northern through the Northern Border Pipeline. Northern is also requesting that the Commission: (a) permit the amended increased rates to become effective on the date that deliveries of gas volumes from the Northern Border Pipeline commence (currently scheduled for September 1, 1982), and (b) accept for

inclusion in Northern's FERC Gas Tariff, proposed provisions, entitled "Semi-Annual Adjustment to Reflect the Cost of Procuring Canadian Gas Through the Alaskan Natural Gas Transportation System." The increase in rates reflected in this amended rate increase filing will increase revenues from jurisdictional sales and transportation services by an additional $178,085,020, for a total increase of $348,077,762.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers, to interested State Commissions, and to all other parties who have filled petitions of intervention in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practive and Procedure before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16864 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-578-000]

Pacific Power & Light Co.; Notice of Filing

June 21, 1982.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on June 7, 1982, tendered for filing, in accordance with Section 35.13a(d) Part IV of the Commission's Interim Rule (Docket No. RM81-41), Pacific's Revised Appendix 1 for the state of Montana dated January 18, 1982. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 18, 1982, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Public Service Commission of the State of Montana and the Industrial Customers of Bonneville.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16837 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-590-000]

Pacific Power & Light Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on June 8, 1982, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a Letter Agreement between the State of California, Department of Water Resources (Purchaser) and Pacific dated January 18, 1982 and executed by the Purchaser on March 8, 1982. The Letter Agreement provides the Purchaser with the opportunity to purchase nonfirm thermal energy from Pacific as, if and when available.

Pacific requests the rate schedule to become effective sixty (60) days after the filing date.

Copies of the filing were supplied to the Purchaser.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before *July 6, 1982.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16838 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-593-000]

Pennsylvania Electric Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that on June 10, 1982, Pennsylvania Electric Company (Penelec) filed tariff changes increasing its rates for wholesale all requirements, partial requirements and wheeling service. Penelec states that the changes reflect an annual increase in revenues of $9,282,585. Penelec requests an effective date of August 9, 1982.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16839 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1580-000]

Robert W. Scherer; Application

June 18, 1982.

The filing individual submits the following:

Take notice that on June 1, 1982, Robert W. Scherer filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director and President, Georgia Power Company

Director and Vice President, Southern Electric Generating Company

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16940 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1668-001]

Robert E. Schill; Application

June 21, 1982.

The filing individual submits the following:

Take notice that on June 10, 1982, Robert E. Schill filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President—Strategic Corporate Planning—Central Vermont Public Service Corporation
Vice President—Connecticut Valley Electric Company, Inc.
Vice President and Director—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.
Vice President and Director—Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 8, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16941 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-65-015]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

June 18, 1982.

Take notice that on May 28, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP80-65-015 a petition to amend the order issued May 20, 1981, in Docket No. CP80-65 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in the maximum volume of storage gas Petitioner is currently authorized to transport for Fitchburg Gas and Electric Light Company (Fitchburg), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued May 20, 1981, in the instant docket, Petitioner was authorized to transport for Fitchburg a daily transportation volume of 455 Mcf of natural gas and a winter transportation volume of 50,000 Mcf of natural gas. Petitioner states that in Docket No. CP76-492 Penn-York Energy Corporation (Penn-York) was authorized to store a maximum annual volume of 50,000 Mcf of natural gas for Fitchburg under Penn-York's Rate Schedule SS-1. It is further stated that Penn-York has pending before the Commission at Docket No. CP76-492-021 an application for authorization to increase its maximum annual storage service to Fitchburg from the currently authorized volume of 50,000 Mcf to 137,257 Mcf. Petitioner explains that Fitchburg has requested that Petitioner transport for Fitchburg on a long-term best-efforts basis the additional volumes of storage gas which Penn-York proposes to store for Fitchburg upon grant of its certificate request in Docket No. CP76-492-021.

Accordingly, Petitioner requests authorization herein to transport for Fitchburg a revised daily transportation volume of 1,239 Mcf of natural gas and a revised winter transportation volume of 136,257 Mcf of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16942 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-345-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Application

June 18, 1982.

Take notice that on May 25, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-345-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas for the account of Florida Gas Transmission Company (Florida), all as more fully set forth in the application which is on file with the commission and open to public inspection.

Pursuant to a transportation and exchange agreement dated April 7, 1981, Applicant proposes to transport up to 4,000 Mcf of natural gas per day for Florida from a point of receipt in West Cameron Block 65, offshore Louisiana, to Applicant's station 823 Jefferson Davis Parish, Louisiana. Applicant asserts that Natural gas could then be transported by Applicant to Natchitoches, Louisiana, for delivery by exchange to Florida in Starr County, Texas, delivered by exchange to Florida at the interconnection of project Sabine and Florida's facilities in Calcasieu Parish, Louisiana, or delivered by exchange for Florida's account to Applicant's MLV 523 near Cocodrie in Terrebonne Parish, Louisiana, for transportation and delivery to Florida at Carnes, in Stone County, Mississippi.

It is asserted that Florida would pay Applicant a monthly demand charge equal to $15.531 plus a volume charge dependent upon the point to which gas is delivered. Applicant estimates that for deliveries in Starr County, the monthly charge would be 10.50 cents per Mcf; at

the project Sabine delivery point, 5.02 cents per Mcf, and at the Carnes delivery point, 14.48 cents per Mcf. It is further asserted that there would be a minimum monthly bill and that Florida would provide Applicant certain volumes of natural gas to compensate Applicant for its fuel and use requirements.

It is asserted that the proposed service would provide Florida with a means of transporting an additional supply of natural gas without its having to construct and operate additional facilities duplicative to Applicant's existing pipeline facilities which are accessible.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regualtory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16993 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-360-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

June 18, 1982.

Take notice that on June 4, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82-360-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement dated December 7, 1981, as amended on March 4, 1982, Applicant proposes to transport up to 15,000 dt equivalent of natural gas per day for Southern from a point of receipt at the interconnection between the facilities of Applicant and the facilities which would be jointly owned by Southern, United Gas Pipe Line Company and Applicant in the Ship Shoal area, Block 232, offshore Louisiana. It is stated that Applicant would redeliver thermally equivalent quantities to Southern at a proposed point of interconnection between Southern and Applicant in Livingston Parish, Louisiana, less a 1.2 percent retention for Compressor fuel use and line loss make-up.

It is asserted that Southern would pay Applicant an initial commodity charge of 8.5 cents per dt equivalent.

It is asserted that the proposed service would enable Southern to receive into its system natural gas which is has purchased from Ship Shoal 232 which gas would help Southern maintain adequate and reliable supplies for its customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16994 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-23-000]

Tuck Industries, Inc.; Application for Adjustment

June 18, 1982.

On May 19, 1982, Tuck Industries, Inc. (Tuck) filed with the Commission an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) 15 U.S.C. § 3301 *et seq.* (Supp. IV 1980). Specifically, Tuck requests an adjustment so that it can obtain a refund of amounts which it paid in incremental pricing surcharges under Title II of the NGPA for natural gas consumed for the time period from December 1980 to October 1981, which gas was allegedly used in exempt industrial processes.

Tuck states that it ordered a gas meter in June 1980, to enable it to calculate the amount of natural gas used by it solely as non-exempt boiler fuel. Due to late delivery and than mechanical problems, the meter was not installed and functional until October 9, 1981. For the period prior October 9, 1981, Tuck notified its supplier, Central Hudson Gas and Electric Corporation, that it would compute a ratio of non-exempt gas to total delivered gas for incremental pricing purposes. Central Hudson notified Tuck that it could not approve the use of a ratio, and Central Hudson did not give any exemption for

incremental pricing on its total gas billing to Tuck.

Tuck maintains that it acted in a timely manner to install a gas meter to determine its ratio of exempt to non-exempt gas usage, and that the failure of the meter and delay in delivery was the sole reason for the inability to apply a correct incremental pricing surcharge to Tuck. Due to factors thus beyond its control, Tuck has suffered a monetary loss equal to the amount of the estimated overcharge and interest thereon to date of repayment. Tuck maintains that it suffered an unfair burden in paying a surcharge for approximately one half of the gas it used, which was used for exempt uses.

Tuck therefore requests that it be refunded the amount of surcharge which it paid for gas used in allegedly exempt uses. Tuck has calculated a methodology to determine overpayment, and under this methodology Tuck maintains that the surcharge overpayment amounts to $40,295.92, to which Tuck would add 15% interest prorated monthly to date of repayment.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before July 12, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16945 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-352-000]

Western Gas Interstate Co.; Notice of Application

June 16, 1982.

Take notice that on May 28, 1982, Western Gas Interstate Company (Applicant), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CP82-352-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to Southern Union Gas Company for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to sell natural gas to Southern Union at an additional delivery point in Texas County, Oklahoma. It is stated that deliveries would be from a tap on one of Applicant's gathering lines which extends from the Bacon well located 4 miles south of Applicant's East Line in Texas County, Oklahoma, to a point on the East Line approximately 6.5 miles west of Applicant's Optima Border Station. It is stated that the proposed tap would consist of approximately 15 feet of wrapped steel pipe, one 1-inch plug valve and one 1-inch tapping tee.

Applicant states that the natural gas received by Southern Union would be redelivered and resold for residential use at an estimated peak day rate of 2 Mcf with annual usage of approximately 100 Mcf.

It is further stated that the natural gas for the proposed service would be provided from volumes purchased by Applicant from the Bacon well and that the proposed sale would not diminish service to customers presently served by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16946 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5844-000]

Banister Hydro Associates; Application for Preliminary Permit

June 16, 1982.

Take notice that Banister Hydro Assosiates (Applicant) filed on January 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5844 to be known as the Motleys Mill Hydropower Project located on the Banister River in Pittsylvania County, Virginia. The application is on file with the Commission and is available for public inspection.[1] Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, Banister Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 275-foot long and 13-foot high, concrete capped, stone dam; (2) an existing reservoir of negligible size; (3) a proposed transmission line approximately one-half mile long; (4) an existing powerhouse with an estimated installed generating capacity of 200 kW; and (5) appurtenant facilities. The Applicant estimates the average annual energy output to be 800,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 30, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice

[1] Notice of this application for preliminary permit was published in the Star Tribune of Chatham, Virginia on March 10, 17, 24 and 31.

of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16965 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6354-000]

Big Rivers Electric Corp.; Application for Preliminary Permit

June 16, 1982.

Take notice that Big Rivers Electric Corporation (Applicant) filed on May 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act 16 U.S.C. 791(a)–825(r)] for Project No. 6354 to be known as the Smithland Hydroelectric Project located on the Ohio River, near Smithland in Livingston County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Thorpe, General Manager, Big Rivers Electric Corporation, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42420.

Project Description—The proposed project would consist of: (1) A propodrf powerhouse on the Kentucky side of the Corps of Egineers' Smithland Dam with generating units having an estimated installed capacity of 120,000 kW; (2) a proposed step-up transformer; (3) a proposed substation; (4) a proposed 2-mile transmission line to the Big Rivers Electric Corporation; (5) proposed recreational facilities as appropriate; and (6) appurtenant facilities. Energy produced at the project would be used by the Applicant's system load requirements. The estimated annual power developed at the site is 500,000 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $150,000.

Competing Applications—This application was filed as a competing application to Henderson City Utility Commission's application for Project No. 6110 filed on March 19, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the

Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16666 Filed 6-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6355-000]

Big Rivers Electric Corp.; Application for Preliminary Permit

June 16, 1982.

Take notice that Big Rivers Electric Corporation (Applicant) filed on May 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 6355 to be known as the Uniontown Hydroelectric Project located on the Ohio River, near Uniontown in Union County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Thorpe, General Manager, Big Rivers Electric Corporation, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42420.

Project Description—The proposed project would consist of: (1) A proposed powerhouse on the Kentucky side of the Corps of Engineers Uniontown Locks and Dam with generating units having an estimated installed capacity of 75,000 kW; (2) a proposed step-up transformer; (3) a proposed substation; (4) a proposed 6-mile transmission line to the Big Rivers Electric Corporation's Island Creek-Hamilton No. 2 mine substation; (5) proposed removal of approximately 900 feet of existing over-flow weir; (6) proposed recreational facilities as appropriate; and (7) appurtenant facilities. Energy produced at the project would be used by the Applicant's system load requirements. The estimated annual power developed at the site is 320,000 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $150,000.

Competing Applications—This application was filed as a competing application to Henderson City Utility Commission's application for Project No. 6111 filed on March 19, 1982. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 22, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16667 Filed 6-22-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6353-000]

Big Rivers Electric Corp; Application for Preliminary Permit

June 16, 1982.

Take notice that Big Rivers Electric Corporation (Applicant) filed on May 20, 1982, and application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 6353 to be known as the Newburgh Hydroelectric Project located on the Ohio River, near Newburgh in Henderson County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Thorpe, General Manager, Big Rivers Electric Corporation, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42420.

Project Description—The proposed project would consist of: (1) A proposed powerhouse on the Kentucky side of the Corps of Engineers Newburgh Locks and Dam with generating units having an estimated installed capacity of 60,000 kW; (2) a proposed step-up transformer; (3) a proposed substation; (4) a proposed 9-mile transmission line to the Henderson County substation; (5) proposed recreational facilities as appropriate; and (6) appurtenant facilities. Energy produced at the project would be used by the Applicant's system load requirements. The estimated annual power developed at the site is 250,000 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $150,000.

Competing Applications—This application was filed as a competing application to Henderson City Utility Commission's application for Project No. 6109 filed on March 19, 1982. Public

notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [See: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agenies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements or the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before July 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all Capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16868 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-18-000]

Cities of Campbell and Thayer, Missouri; Filing

June 21, 1982.

The filing Cities submit the following:

Take notice that on May 18, 1982, the Cities of Campbell and Thayer, Missouri (Cities) filed a petition for a declaratory order that the Commission is without jurisdiction to accept Arkansas Power & Light Company's (AP&L) unilateral rate filing for Cities and that AP&L's filing and interim rate changes are thereby illegal.

On August 28, 1981, the Commission accepted for filing the proposed W-61 rate of AP&L for Cities in Docket No. ER81-577-000. The rate was suspended for five-months and became effective, on an interim basis, subject to refund, as of January 30, 1982. Cities state that, under the *Mobile-Sierra* doctrine, the Commission has no jurisdiction to accept AP&L's unilateral rate change and no jurisdiction to permit AP&L to collect the interim rate.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 21, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16869 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-348-000]

Granite State Gas Transmission, Inc.; Application

June 16, 1982.

Take notice that on May 27, 1982, Granite State Gas Transmission, Inc. (Applicant), 120 Royall Street, Canton, Massachusetts 02021, filed in Docket No. CP82-348-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a storage service and a storage-related transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted with Penn-York Energy Corporation (Penn-York) for 2,400,000 Mcf of annual storage capacity. It is asserted that Bay State Gas Company (Bay State) has contracted for 1,850,000 Mcf and Northern Utilities, Inc. (Northern Utilities), for 550,000 Mcf of that space in the storage facility.

It is further asserted that pursuant to a precedent agreement between Applicant and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), dated May 18, 1982, Tennessee would transport up to 21,818 Mcf of natural gas per day and an annual quantity of 2,400,000 Mcf of natural gas for the account of Applicant to and from the Penn-York storage facility. Applicant states that Tennessee would deliver up to 16,818 Mcf a day of storage withdrawal volumes to Bay State and up to 5,000 Mcf a day into Applicant's facilities at Tennessee's station in Essex County, Massachusetts, where Applicant would receive Northern Utilities' storage volumes for further transportation and delivery to Northern Utilities in New Hampshire and Maine.

It is asserted that Applicant would render the storage service under a new Rate Schedule S-1 in its FERC Gas Tariff, First Revised Volume No. 1, and the interruptible transportation service under new Rate Schedules T-2 for Bay State and T-3 for Northern Utilities in its FERC Gas Tariff, Original Volume No. 2. Applicant states that its rates for storage service and the storage transportation service made available through its arrangements with Penn-York and Tennessee would be identical to the rates charged Applicant by Penn-York and Tennessee, respectively. Additionally, Applicant requests waiver of the provisions of §§ 154.38(d)(3) and 154.63 of the Commission's Regulations to the extent necessary to track the charges in Penn-York's and Tennessee's rates coincidental with changes in such rates from time to time.

Applicant states that the proposed storage arrangements would permit Bay State and Northern Utilities to attain some leveling in the overall cost of their gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time reqired herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16971 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5845-000]

Keys Mill Hydro Associates; Application for Preliminary Permit

June 18, 1982.

Take notice that Keys Mill Hydro Associates (Applicant) filed on January 4, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 5845 to be known as the Keys Mill Hydropower Project located on the Maury River in Rockbridge County, Virginia. The application is on file with the Commission and is available for public inspection.[1] Correspondence with the Applicant should be directed to: Wayne L. Rogers, Keys Mill Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing, 340-foot long and 6-foot high concrete gravity dam which has been breached; (2) a reservoir of negligible size; (3) a proposed 200-foot long transmission line; (4) a proposed powerhouse with an estimated installed generating capacity of 400 kW; and (5) appurtenant facilities. The Applicant estimates the average annual energy generation to be 1.6 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 30, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before July 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-16972 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

[1] Notice of this application for preliminary permit was published in the News-Gazette of Lexington, Virginia on March 10, 17, 24 and 31.

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Week of May 10 Through May 14, 1982

During the week of May 10 through May 14, 1982 the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a

proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

June 16, 1982.

Jordan Gas Company, Jordan Gas Service, Inc., Southern Butane, Inc., Centre, Alabama; BEE-1642

Jordan Gas Co., Jordan Gas Service, Inc. and Southern Butane, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212. The exception request, if granted, would permit the firms to increase retroactively their maximum lawful selling prices for propane during the period November 1973 through March 1974, and would relieve them of the potential obligation of refunding overcharges alleged in a PRO issued to the firms. On May 14, 1982, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part.

[FR Doc. 82-16877 Filed 6-22-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Period of March 1 Through March 12, 1982

During the period of March 1 through March 12, 1982, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

June 16, 1982.

Texaco, Inc., White Plains, New York; HRO-0032

On March 10, 1982, Texaco, Inc., 2000 Westchester Avenue, White Plains, New York 10650 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel issued to the firm on January 8, 1982. In the PRO the OSC found that from September 1973 to December 1980, Texaco overstated the amount of its unrecovered increased costs available for pass-through by $30,930,438.

[FR Doc. 82-16878 Filed 6-22-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/15C; PH-2150-5]

Diallate; Determination Concluding the Rebuttable Presumption Against Registration; Notice of Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination; notice of availability.

SUMMARY: This Notice provides the final determination of the Environmental Protection Agency concluding its review of diallate under the Rebuttable Presumption Against Registration (RPAR) process. Diallate was identified for possible regulatory action because animal tests indicate that it is potentially carcinogenic. However, a thorough analysis of human exposure to diallate has led the agency to conclude that, with appropriate modifications to its registrations, diallate can be used without causing unreasonable adverse effects to man or the environment. The agency has, therefore, determined that diallate registrations will be cancelled and future applications for registration will be denied unless registrants and applicants amend the terms and conditions of registration as specified in this Notice.

DATE: Requests for a hearing must be received on or before July 23, 1982 or within thirty (30) days from receipt of this notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Copies of the Position Document 4 are available upon request from: William E. Ades, Special Pesticide Review Division (TS-791), Environmental Protection Agency, Rm. 711F, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: William E. Ades (703-557-7420).

SUPPLEMENTARY INFORMATION:

I. Introduction

In the Position Document 1, the Agency presumed against diallate on the basis of evidence that it was oncogenic in animal studies. In the Position Document 2/3, the agency found that, even in the worst (exposure) case, oncogenic risks to the general public associated with dietary exposure to diallate were negligible. It also found that risks to applicators associated with the mixing, loading, and application of the emulsifiable concentrate (EC) formulation of diallate outweighed the benefits resulting from its use; the granular formulation was found to present lower exposure and risks. The PD 2/3 therefore recommended the cancellation of the EC formulations of diallate, anticipating that they would be replaced by the granular formulation which. However, new exposure and oncogenicity data were submitted by a registrant in response to the PD 2/3 and the subsequent reevaluation of exposure and risk has convinced the agency that it is possible, with certain label modifications, to use the EC formulations of diallate without exposing applicators to unreasonable risk. To insure this reduced applicator exposure (and therefore risk), the agency will require (1) use of protective clothing by applicators, and (2) use of products containing diallate only by or under the direct supervision of trained and certified applicators.

The PD 2/3 also indicated the agency's concern about diallate's potential for mutagenic activity. While several additional studies reviewed by agency scientists since publication of the PD 2/3 have shown diallate to be mutagenic in laboratory tests, diallute's potential as a human mutagen is uncertain. However, the risk reduction measures taken to reduce potential oncogenic risks should also reduce any potential mutagenic risk accordingly. Therefore, further testing for mutagenic potential will not be required at this time.

The agency also indicated concern about diallate's potential for neurotoxic effects in both the PD 1 and PD 2/3. No new tests have been required to date

because the agency is awaiting final validations (from Health Protection branch, Canada) of tests that may resolve those concerns. In the meantime, the agency believes that whatever small neurotoxic risk may exist will be reduced to an acceptable level by the requirements that are already being imposed to reduce exposure to applicators.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, fungicide, an Rodenticide Act, as amended ("FIFRA"), a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment", FIFRA section 3(c)(5). "Unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide", FIFRA, section 2(bb). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practice and in compliance with the terms and conditions of registration. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or modify the terms and conditions of registration whenever it determined that the pesticide caused unreasonable adverse effects on the environment. The agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The agency announces that an RPAR has arisen by publishing a notice of determination in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data upon which the presumption is based and to submit data and information to rebut the presumption of risk by showing that the agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to human beings or the environment with regard to the adverse affects in question. In addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide outweigh the risk of use.

The regulations require the agency to conclude an RPAR by issuing a notice of determination. In that notice, the agency is required to state and explain its position on the question of whether the risk presumption has been rebutted. If the agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the agency, and any other benefits information known to the agency. In determining whether the use of a pesticide poses risks which are greater than the benefits, the agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. After weighing the risks and benefits of pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel, deny, or reclassify the registrations of the pesticide for the use in question, pursuant to FIFRA section 6(b)(1) and section 3(c)(6), or by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations for the use should be cancelled, denied, or reclassified.

FIFRA section 6(b) requires the agency to submit proposed notices pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy. The agency is required to publish any comments received from the Secretary and the Administrator's response to those comments with the notice of proposed action. FIFRA section 25(d) also requires the Administrator to submit section 6 notices to a Scientific Advisory Panel (SAP) for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture. After completing these external review procedures and making any changes in the proposed action which are deemed appropriate as a result of the comments received, the agency issues a notice containing its final determination of the regulatory actions (if any) which the agency proposes to implement. Registrants and other people affected by the agency's action can request a hearing to challenge the agency's determination.

III. Determinations and Initiation of Regulatory Action

A. Determinations of Risk

The agency has reviewed the recommendations and comments of the EPA Scientific Advisory Panel, the Secretary of Agriculture and other interested persons, additional published studies, and the comments and new data submitted by the Monsanto Company. The new exposure data submitted by the Monsanto Company have led to new estimates of mixer, loader, and applicator exposure judged to be more accurate than those used in the Diallate PD 2/3. The addition of the carcinogenic potency data from the Monsanto-sponsored hamster study confirm and support the data from the Innes study used in the PD 2/3. The results of these two studies have been used to provide new estimates of potential risk to users of diallate EC. Those estimates are not only more accurate than those in the PD 2/3, they are substantially lower. The agency concludes that the risks of the EC formulation are not sufficiently high to warrant its cancellation. Instead, the agency will require measures to insure that users are certified applicators and that users wear protective clothing in order to minimize exposure and therefore, risk.

B. Determinations on Benefits

The benefits associated with diallate use were assessed in the PD 2/3 in terms of the new costs that users would experience if diallate registrations were cancelled. Those estimates have not been changed since the PD 2/3 was published in 1980. The information that follows is derived from the analysis that supported the PD 2/3 estimates.

Diallate is used primarily to control wild oats in sugar beets, flax, lentils, and peas. It has minor use with alfalfa, barley, corn, potatoes, safflower and soybeans.

1. *Sugar beets.* The total annual market value of sugar beets is $500 million. Should diallate become unavailable, growers are expected to experience an annual loss of $4 million.

More than 60 percent of the diallate used in this country is applied to sugar beets. The emulsifiable concentrate formulation is applied to approximately 85 percent of the treated acreage while the granular formulation is applied to the remaining 15 percent. The degree of control of wild oats provided by each of these formulations appears to be the same for fall applications but slightly less for the granular formulation in spring applications.

2. *Flax.* Approximately 3 percent of the total flax acreage is treated with diallate. If diallate should become unavailable for use in the control of wild oats in flax, growers are expected to experience a $400,000 annual loss. The emulsifiable concentrate is the only formulation presently registered for this use. However, the granular is expected to be as effective.

3. *Lentils.* Thirty-eight percent of the total lentil acreage is treated with diallate. Lentil production is basically limited to two western states, Idaho and Washington. It is estimated that more than 43,000 pounds of diallate are applied to lentil acreage annually. The emulsifiable concentrate is the only diallate formulation presently registered for this use.

4. *Peas.* Dry peas, like lentils, are primarily grown in Idaho and Washington. Approximately 11 percent of the dry pea acreage is treated with diallate. Only the emulsifiable concentrate formulation of diallate is registered for use on peas for the control of wild oats.

5. *Minor uses including alfalfa, barley, corn, potatoes, safflower, and soybeans.* The total percent of minor crop acreage treated annually with diallate ranges from 0.1 percent to 0.5 percent. More specifically, it is estimated that 0.5 percent of the potato acreage is treated, whereas the percentage of treated acreage for all other crops is 0.1 percent or less. No economic impacts are expected if diallate is cancelled. Only the emulsifiable concentrate formulation is registered for the minor uses.

C. Determinations on Unreasonable Adverse Effects

A careful reevaluation of the findings and recommendations of the PD 2/3 leads the agency to the following determinations regarding the potential for adverse effects associated with the use of diallate:

1. There is evidence that diallate may be a potential human carcinogen. However, if the terms and conditions of registration are changed, the risk of cancer to applicators does not appear to be unreasonable, given the benefits associated with the continued use of all formulations of diallate.

2. There is multitest evidence that diallate is a mutagen, but further testing in mammalian species would be necessary to enable the agency to evaluate the likelihod of its mutagenic potential in humans. The agency will not, however, request additional testing at this time because the risk reduction measures taken to reduce potential oncogenic risks should also reduce any potential mutagenic risks, as well.

3. There is weak evidence that exposure to diallate may cause delayed neuropathy but no regulatory action based on this evidence is justified at this time.

In conclusion, then, the agency believes that the potential cancer risk to applicators is unacceptable at current levels of exposure. The agency has, therefore, determined that the terms and conditions of registrations for pesticide products that contain diallate must be amended, as described in this document, or their continued use will "cause unreasonable adverse effects on the environment."

D. Initiation of Regulatory Action

Based on the determinations summarized in this Notice, and developed in greater detail in the PD 4, the agency has decided that all currently held registrations of diallate products will be cancelled and future applications for registration will be denied unless registrants and applicants modify the terms and conditions of those registrations as specified below. Registrations for all products containing diallate will be continued and future applications for registration granted only if the registrants or applicants incorporate the following terms and conditions in the registrations and labeling of all diallate products:

1. *Restricted use pesticide.* For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the applicator's certification. See FIFRA section 3(d).

2. *Protective clothing required.* The following items of clothing must be worn when mixing, loading or applying Avadex®:

a. Long trousers and long-sleeved shirt or jacket of close-knit material.

b. Gloves made of rubber or other similar impermeable material.

c. Leather or rubber boots high enough to cover the ankle.

IV. Agency Analyses of Comments

A. Comments of the SAP

The comments of the SAP on the Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticides Containing Diallate are presented here in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Diallate

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing diallate under the provisions of section 6(b) of FIFRA as amended. The review was completed in open meetings held in Arlington, Virginia, during the period June 26–27, 1980.

Maximum public participation was encouraged for the review. Public notice of the meeting was published in the **Federal Register** on June 10, 1980. In addition telephonic calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel.

Written and oral statements were received from the Monsanto Company, technical staff of the Environmental Protection Agency, and from representatives of the Red River Valley Sugarbeet Growers Association, Fargo, North Dakota.

The excellent briefing by Ms. Marcia Williams and Dr. Minnie Sochard of the Office of Pesticide Programs was of great value to the Panel. In addition, the Panel was most appreciative of the comments and suggestions received from Dr. Alan Dexter of North Dakota State University; and from Messrs. Green and Warner of the Red River Valley Sugarbeet Growers Association.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report.

Scientific Advisory Panel Report on Diallate

The Panel concurs with the Agency in recommending Option 3 (Position Document 2/3, April 1980): Cancel the emulsifiable concentrate registration effective two(2) years after decision

becomes final, with the following provisions:

1. That granular diallate formulations be substituted or;

2. That the Environmental Protection Agency (EPA) examine the data submitted by the Monsanto Agricultural Products Company relative to the degree of exposure of applicators to the emulsifiable concentrate formulations of diallate when applied using a closed system. If, in the opinion of the Agency, the exposure of diallate from the emulsifiable concentrate using the closed system method of application is equal to or less than that expected using granular formulations of diallate the Panel recommends the conditions of registration be amended to allow closed system applications of the emulsifiable concentrate of diallate.

Recommendations

The Scientific Advisory Panel submits the following special recommendations:

1. That protective clothing be used during the application of both the emulsifiable concentrate and granular formulations of diallate. The extent and type of protective clothing should be described by EPA.

2. That the Agency and Monsanto examine the feasibility and desirability of adding to the emulsifiable concentrates of diallate a malodorous substance or a dye which would encourage changes of clothing contaminated with the pesticide during the process of application.

3. That another neurotoxicity study be performed, perhaps with larger groups of animals than before, to more accurately determine the no observed effect level (NOEL) for this effect of diallate.

For the chairman:

Certified as an accurate Report of Findings: H. Wade Fowler, Jr., Ph.D., Executive Secretary, FIFRA Scientific Advisory Panel.

Dated: July 17, 1980

B. Comments of the Secretary of Agriculture

The comments of the Secretary of Agriculture on the PD 2/3 are presented here in their entirety.

Honorable Walter C. Barber, Jr., Acting Administrator, U.S. Environmental Protection Agency, Washingon, D.C. 20460, Dated: February 19, 1981,

Dear Mr. Barber: This is the United States Department of Agriculture's response to the U.S. Environmental Protection Agency's (EPA) Preliminary Notice of Determination, concluding the Rebuttable Presumption Against Registration (RPAR) of pesticide products containing diallate.

The Department believes that economic and social impacts on producers must be assessed at the local/regional level as well as the national level. Due to climatic and edaphic factors, certain crops are grown within a localized area or region. Regulatory decisions which force major shifts in production areas and/or practices must not be considered insignificant to those affected and efforts to avoid such actions need to receive detailed attention.

We believe that every effort should be made to develop and utilize weed management strategies that allow the use of pesticide when necessary, but with minimal risk to man and the environment.

Our comments on diallate are contained in the enclosure which is an integral part of this response. The additional time that your agency granted for our review of this document was very beneficial and is appreciated. We are hopeful EPA will give favorable consideration to these comments and suggestions.

Sincerely,
John R. Block
Secretary
Enclosure

Specific Comments

Secretary of Agriculture's Response to Diallate Notice of Determination, PD 2/3 Sugar Beets

1. Position Document (PD) 2/3 indicates that economic losses to sugar beet growers in the nonirrigated Red River Valley of North Dakota and Minnesota would be about $900,000. The USDA/State Assessment team in 1977 estimated the economic impact from the loss of diallate at $3.5 million. The Department is concerned about this wide discrepancy. Most of this difference is accounted for by the estimated cost associated with increased hand labor. The Assessment Team estimated that hand hoe labor costs would increase $10 per acre without diallate available. The figure used in PD 2/3 for increased hand labor was $1.17 for hand hoeing. Not only is the figure low, but the Department questions the procedure used to calculate it. EPA assumed that there was a direct relationship between the decreased effectiveness of the diallate substitutes and hand labor costs. Based on research at Fargo, North Dakota (1978), it was reported that diallate reduced hand labor 35 percent when used as the only control strategy. EPA took this figure times the effectiveness of the substitutes as reported by the Assessment Team in 1977. For example, eptam was reported as 90 percent effective as diallate so EPA estimated that hand labor was reduced 31 percent (35% × 90%). This was done for the other substitutes and then a weighted average calculated based on the estimated acres on which each substitute was used. This resulted in an estimated increase in hand labor costs of 7 percent. Based on hand weeding costs of $16.76 per acre, hand hoeing costs were estimated to increase $1.17 per acre.

This procedure does not take into account the difference in per acre charges for a lightly infested field compared to one with a heavy weed infestation. If one takes into account the number of wild oat plants remaining in the field when diallate substitutes are used, a different picture emerges. If the wild oat density is 100,000 (about 2 plants per sq. ft.) plants per acre and diallate gives 98 percent control, then 2,000 wild oat plants would remain. Assuming it takes 3 seconds to remove each plant with a hoe, it would take 1.7 hours per acre to remove the wild oat plants. If eptam, is 90 percent as effective as diallate, then 12,000 wild oat plants would remain after treatment. This would require 10 hours of hand labor, an increase of 8.3 hours per acre over diallate. Generally, it takes laborers 4 hours to hand hoe an acre. Based on the average of $16.76 per acre for hand labor, the hourly rate is $4.00. This would mean a $33 per acre increase in hand labor cost if eptam were used instead of diallate. It is recognized that contractors would not go through such an elaborate method to arrive at the charge for hand labor, but the fact is that they do take into account weed density when negotiating with a grower and charge a higher rate for heavily infested fields. Therefore, the Department concludes that the $10.00 increase in hand labor costs cited in the 1977 Assessment Report is more realistic than the $1.17 per acre used in PD 2/3.

2. We believe that the availability of the liquid formulation of diallate should be maintained. This is based upon our analysis of the following economics and exposure/hazards considerations.

A. Economics

The unavailability of the liquid will have a severe adverse economic impact on individual farmers due to reduced wild oats control when the granular is applied in the spring, and the higher cost of the granular compared to the liquid.

Sugar beet specialists and growers evaluating and/or using diallate do not concur that the granular formulation will give consistently equal performance to

the emulsifiable concentrate. The biological performance will be significantly influenced by climatic and soil factors and the normal performance of the granular is less than that of the emulsifiable concentrate. This is particularly true of broadcast applications on less than consistently uniform and finely pulverized seedbeds. The usual performance standard of granular formulations requires an increase in rate of active ingredient by up to 15 percent to give equal performance to liquid applications. This is true whether fall or spring applied and will be controlled by weather conditions which influence wild oats germination and also by the level of wild oat infestation.

The reduced wild oats control with spring applied granules compared to the liquid would be an important loss to farmers. Maximizing wild oats control is of utmost importance to professional agriculture as wild oat is a severe weed competitor. The importance of wild oats control is exemplified in that the present usage of diallate granules are more effective than the liquid in controlling wild oats. Granules are primarily used in the fall in the Red River Valley of North Dakota and Minnesota. Granulars require more moisture than the liquid formulation to released and distribute the diallate in the soil, which probably explains the reduced wild oats control with spring applied granules. The reduced wild oats control with spring granules compared to the liquid could in part be overcome by higher rates, but this would be another added cost. Diallate is used mainly in areas where rainfall is not adequate for consistent wild oats control with spring applied granules.

The economic importance of maximizing wild oats control in specific situations is exemplified from timed wild oats hoeing experiments which were recently conducted at North Dakota State University. Hoeing time was 73 hours per acre in 1979 and 218 hours per acre in 1978 to remove wild oats from cultivated untreated sugar beets. Hoeing time decreased with increased wild oats control. Hoeing time with diallate was 30 hours per acre in 1979 and 98 hours per acre in 1978. Thus, maximizing wild oats control has an important direct impact on economic returns. Hoe labor is not practiced for fields heavily infested with weeds.

Spring herbicide application options are essential for farming flexibility. Early snows and/or late harvests often prevent fall usage of diallate which must be applied late in order to reduce degradation losses. In 1979, very little diallate was fall-applied because of a sunflower harvest and an early snow in the Red River Valley.

Diallate granulars are presently only used for fall applications by some farmers who believe that the added cost for the granules is justified by the slightly better wild oats control and the lack of a problem with freezing of granular application equipment. Low temperatures cause spray equipment to freeze in late fall applications. The diallate granular formulation presently costs approximately $1 per acre more than the liquid at the 1.5 lb./acre rate.

The restrictions of diallate to only the granular formulation should not only increase losses from wild oats and chemical costs, but also increase application costs. Most farmers do not presently have granular application equipment. Granular applicators presently cost between $3,600 and $7,200 for 36 foot wide applicators. The more expensive type uses more precise metering devices which are essential to uniform herbicide applications and efficient herbicide usage and selectivity. Many farmers could not justify the pruchase of applicators and would need to have the diallate granulars applied commercially, which would be an added cost. Further, granulars may not permit timely application if farmers must depend on custom applicators.

Liquid diallate is generally applied in combination with EPTC (Eptam) or TCA to control other weeds in addition to wild oats in sugar beets. The loss of the liquid would require that a separate application be used for diallate which would add costs and a loss in energy efficiency. Premixing of diallate granulars with granulars of other herbicides would cause problems in obtaining uniform applications. Granulars could be developed with a combination of herbicides, but this would be difficult because the rates of each herbicide are often adjusted to the expected weed population and soil types.

B. Hazards Analysis

Exposure of workers would not be significantly different for the granular formulation than for the liquid, because nearly 90 percent of farmers apply liquid diallate using tractors with cabs and 84 percent incorporated immediately along with application in North Dakota. The use of tractors with enclosed cabs will minimize exposure during application regardless of the formulation.

The exposure during loading of the granular formulation would appear to be similar to that with a liquid as the dust would be more difficult to contain than the liquid. Rubber gloves and other protective clothing during loading will minimize exposure to the liquid formulation.

Exposure to diallate during granular application could be increased compared to the liquid. The liquid diallate is usually incorporated immediately into the soil because sprayers are mounted directly onto incorporating equipment pulled by large tractors with protective cabs. Most farmers do not mount granular applicators directly on incorporating equipment because the equipment will generally be used for liquid herbicide applications. The granular would probably not be applied along with the incorporation when custom applied. The application of the granulars without simultaneous incorporation would only require small tractors which usually do not have protective cabs. Most farmers would not mount granular applicators directly on incorporating equipment because the incorporating equipment will generally be used for liquid herbicide applications. Thus, the separate incorporation and application could increase exposure through less use of tractors with cabs and an extra field operation.

Because most growers do not have equipment for granular applications, the restriction of diallate to only the granular formulation would increase the amount applied by commercial applicators. Thus, exposure would be concentrated in a relatively small number of applicators rather than distributed over many users. Further, diallate granules would be used in the spring at higher rates than the liquid which could also increase exposure.

Recent data indicated that farmers using diallate treated 198 acres on the average in North Dakota. Thus, the average farmer applied diallate for 7.6 hours each year assuming a 36 foot with spray boom and six miles per hour when incorporating and applying diallate in one operation. Thus, exposure would be short and low, especially with protective cabs as presently used by nearly 90 percent of the farmers applying diallate in North Dakota.

Diallate is normally applied late in the fall or early in the spring when temperatures are low so farmers would be normally wearing clothes that would minimize dermal exposure. Thus, exposure would be less than with herbicides applied during warmer times of the year.

3. The Department does not concur with the assessment in the Position Document that "producers will substitute an integrated chemical and cultural strategy for wild oats control."

Such a strategy does not even presently exist. Because of the shortage and cost of hand labor, the potential objection of this work force to handle weedy fields, and the increasing costs of fuel and other inputs for cultivation, it is impossible to predict how the sugar beet farmers will control wild oat population in the absence of liquid diallate.

Flax

1. The Department concurs that the acreage of flax varies from year to year. However, the 1979 acreage was 23 percent higher than 1978. The Department also concurs that the acreage of flax treated with diallate is only about 3 percent. This is because the decision of producers to use a herbicide is based on levels of infestation, climatic conditions, and economics. Such decisionmaking criteria are predicated on the availability of effective weed control technology. At present, there are no alternatives as effective as diallate for wild oat control.

Minor/Specialty Uses

1. The Department concurs that the usage of diallate on soybeans, corn, barley, potatoes, safflower and alfalfa is basically limited to North Dakota, Minnesota, Montana and Idaho, as these are the principal areas of wild oat infestation. Since the use of other currently registered herbicides for these crops are less effective than diallate for wild oat control, the long-term effect will be an increase in the wild oat seed supply in the soil, which would increase the future wild oat infestation and result in increased quantities of herbicides being used, increased labor and cultivation costs, and losses in yield to producers.

2. Also, the Department does not concur that "the cancellation of diallate on these crops is not expected to have any economic impact upon the growers * * *"

3. The net income to producers is based on yield, quality, production costs and market price. Any practice which adversely impacts these factors of production will have an adverse economic impact. An infestation and the resulting competitive effect of wild oats will certainly adversely affect production costs, yields and quality.

Conclusions

Because of the need of diallate for wild oat control, the experience of growers in handling the compound, the availability of equipment to apply liquid formulations and the fact that must of the application is done by individual growers on their own acreage only, which limits the time of annual exposure to a short period, the Department suggests that other regulatory options be pursued that allow the continued availability of the liquid formulation. A thorough evaluation of the following options or combination of options should be made:

1. Kinds, effectiveness and acceptance of protective clothing.
2. Closed system spray units.
3. Application only with enclosed tractor cabs.
4. Restricted use.
5. An assessment of the level of exposure from the use of granular formulations compared to the emulsifiable concentrate.

C. Agency Response to Comments

1. *On risk analysis.* The Monsanto Company commented extensively on the Diallate PD 2/3. Its comments addressed a wide range of issues but concentrated on the agency's assessment of the cancer risk associated with diallate use. The SAP did not comment on the agency's risk assessment.

a. *Cancer risk assessment.* Monsanto took exception to both parts of the agency's assessment of risk: exposure estimates used by the agency to calculate the amounts of diallate to which applicators may be exposed over a lifetime of use; and the animal study results which were used to determine diallate's potency as an oncogen.

(1) *Exposure.* In the PD 2/3 cancer risk assessment, the agency estimated (using surrogate data from the open literature on triallate and paraquat) the equivalent lifetime dietary burden (LDB) to applicators to be 0.0334 part per million (ppm) without protective clothing and 0.008 ppm with protective clothing. Monsanto argued that those estimates were too high and submitted field exposure studies in support of their position.

Agency scientists have evaluted the Monsanto studies and, based on that analysis, has revised its exposure estimates using Monsanto's test data. These revised estimates (0.01 to 0.003 ppm) are used in the PD 4 to reassess diallate's potential cancer risk to applicators.

(2) *Potency.* Monsanto repeated its previously stated reservations about the value of the Innes mouse study in estimating cancer risks, and suggested that its 18-month hamster study should be used instead. The basis for their argument is that the dose-response relationship shown in the hamster study, where two of three doses show statistically significant increases in tumors, is better suited to low-dose extrapolation than is the single dose, high tumor incidence (61 percent) result of the Innes study.

Although the agency received this study before the PD 2/3 was published, it did not complete its review and validation in time to use the study in that assessment. The agency's Carcinogen Assessment Group (CAG) has since reviewed and validated the hamster study and has estimated oncogenic risks using tumor incidence data (44 percent and 57 percent at 600 and 2000 ppm, respectively) from it.

b. *Neurotoxicity.* The Agency indicated concern about the possibility of neurotoxic effects in both the PD 1 (based on a study by Keplinger, 1976) and the PD 2/3 (based on a study by Phillips, 1977 and the Keplinger, 1976 study). Both of these studies were performed by the Industrial Bio-Test Laboratories (IBT) for the Monsanto Company.

The Keplinger study, though suggesting neurotoxicity, established neither a dose/response relationship nor a "no observable effect level" (NOEL). Therefore, the agency did not presume on the basis of neurotoxicity in the PD 1. It did ask for additional data on this effect from the registrant.

The registrant submitted an additional study (Phillips, 1977) in response to the PD 1 request. As indicated in the Diallate PD 2/3, some test birds (at the medium dose level) had nerve lesions that were morphologically similar to those seen in the positive control birds. However, these diallate-treated birds did not show any clinical signs of delayed neurotoxicity. This study did not establish a dose/response relationship nor did it explain the absence of lesions in high-dose test birds. Monsanto contends that symptoms observed in the neurotoxicity tests conducted by IBT reflect acute rather than delayed chronic effects.

As indicated in the PD 2/3, the OPP Toxicology Data Audits Program (TDAP) audits of these studies considered the Keplinger study to be valid. However, the Phillips study could not be validated because raw data were not available. Because a NOEL was not established, the agency was still unable (in the PD 2/3) to calculate the potential neurotoxic risk associated with diallate use.

Subsequent to publication of the PD 2/3, the registrant submitted the raw data from the Phillips study. This study, as well as the Keplinger study, is now being validated by the Health Protection Branch, Canada, which is reviewing all diallate IBT studies under an agreement with the U.S. EPA (Morrison and Johnson, 1978). The agency has not yet

received the results of the Canadian validation of either study. Therefore, the agency cannot, at this time, make a final determination on diallate's neurotoxic potential and risk. The agency believes, however, that any measures taken to reduce potential cancer risk will also reduce any risks associated with possible neurotoxicity. The agency will not require data to resolve the neurotoxicity issue immediately. However, the need for such additional data will be considered prior to diallate's reregistration.

2. *Comments on benefits analysis.* The Secretary of Agriculture (USDA) commented extensively on the Diallate PD 2/3 benefits analysis. The Secretary disagreed sharply with the agency's estimate of the economic effects of cancelling the registrations for diallate emulsifiable concentrate (EC) formulations, based largely on disagreement over the costs associated with increased hand-hoeing. He also took issue with the agency's estimates of the relative efficacy (and, therefore, the relative costs) of using diallate granular formulations as substitutes for the EC formulation and the cost to farmers of changing application equipment and procedures to accomodate exclusive use of the granular formulations.

Several diallate users (or organizations representing users) wrote to the agency endorsing diallate's utility and expressing concern over the possible cost to users of converting application equipment to handle granular formulations if the EC formulations were cancelled. These latter comments have been considered during this review, but have not been addressed explicitly because they do not contribute, substantively, to the agency's analysis of risks and benefits.

The agency has carefully considered these comments. There is cause for legitimate concern over the regional economic impact of cancelling the EC formulation of diallate. Considering the revised estimates of exposure and risk, the agency has reevaluated its regulatory position and determined that risks to workers using diallate EC, assuming appropriate modifications of its use conditions no longer outweight its benefits, whichever estimate is used. Because the agency is no longer planning to cancel EC registrations, the Secretary's specific estimates of benefits (or costs) are no longer directly applicable to the risk/benefit assessment and need not be either accepted or rejected.

3. *Comments on regulatory options.* Among the three major sets of comments received on the Diallate PD 2/3 (USDA, SAP, Monsanto), only the SAP endorsed the regulatory option proposed by the agency: cancellation of all registrations for emulsifiable concentrate formulations of diallate. All three major commenters recommended either further examination of exposure or ways to reduce exposure, or both. Both the Secretary of Agriculture and Monsanto recommended the use of "closed systems" for mixing and loading of diallate emulsifiable concentrate (EC) as an alternative to cancellation. The SAP also suggested that the agency consider closed systems. All three organizations mentioned protective clothing as one means for reducing exposure. The Secretary of Agriculture also mentioned classifying diallate as a "restricted use" pesticide and requiring that application be allowed using only tractors with enclosed cabs. Finally, the SAP recommended that the agency and Monsanto consider the "feasibility and desirability" of adding a malodorous substance or dye to the EC formulation.

4. *Recommendations not accepted.* The agency has carefully considered all of these comments and recommendations, particularly in light of its reassessment of exposure to diallate applicators. Several of the recommendations have been adopted. Those recommendations that were not adopted are:

a. *Closed systems.* The agency has decided not to require closed systems for transfer of diallate EC because the new exposure data provided by Monsanto (see Unit II. A. of this document) show that protective clothing reduces exposure to mixers and loaders to a level at which they will not be exposed to unreasonable risks. The extra protection that would be provided by closed systems does not, in the agency's judgment, justify the extra costs to users that such a requirement would impose.

b. *Enclosed tractor cabs.* Both the Secretary of Agriculture and Monsanto have pointed out that the majority of diallate users already use tractors with enclosed cabs because of the climate in regions where diallate is typically used. The agency does not believe that the reduction in exposure that is achieved by this requirement justifies the costs imposed on those users who do not already have enclosed cabs.

c. *Addition of malodorous material or dyes.* While the potential for secondary exposure to diallate through contact with contaminated clothing is obvious, the agency has no evidence that this is a source of significant risk. Further, the manufacturer (Monsanto) has serious reservations about the effects, i.e., the inadvertent creation of new testing requirements, of the addition of new, inert ingredients to their currently registered formulations. Therefore, because neither the benefits nor the costs of such a requirement can be clearly identified, the agency will not impose it at this time.

IV. Procedural Matters

This Notice initiates actions to cancel registrations and deny applications for registration of diallate products for all uses unless the registrants or applicants modify the terms and conditions of registration as described in this Notice ("conditional" cancellation or denial).

As provided in FIFRA section 6(b), "the proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice." Paragraph (1), FIFRA section 6(b)(1), provides that the Administrator may issue a notice of intent to cancel a registration or change its classification together with the reasons (including the factual basis) of his action.

FIFRA section 3(c)(6) provides that the Administrator may deny applications for registration ". . . unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice. . . ." FIFRA section 3(c)(6) also provides that "Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 6."

This unit of the Notice explains how registrants and applicants for registration may modify the terms and conditions of registration and how registrants, applicants for registration, and certain other interested or affected parties may request a hearing on the cancellation and denial actions that this Notice initiates.

A. Procedures for Amending the Terms and Conditions of Registration

Registrants affected by the cancellation actions described above may avoid cancellation by amending the terms and conditions of registration. Within six months after the date of publication of this Notice, amended labeling must be filed with the agency. That amended labeling must require protective clothing as described in Unit III.D.2 of this Notice. That request must also reflect the change in diallate's

registration classification, to "Restricted Use", required in Unit III.D.1. of this Notice. The application for amended labeling must be submitted to: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7070).

B. Procedure for Requesting a Hearing

Registrants affected by the cancellation actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice, or on or before July 23, 1982, whichever occurs later. Any other person adversely affected by the cancellation actions described above may request a hearing on or before July 23, 1982.

Applicants for registration affected by the denial actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice, or on or before July 23, 1982, whichever occurs later. Other interested persons may, with the concurrence of the applicant, request a hearing during the time period available to the applicant.

All registrants, applicants, and other interested or affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that: (1) all requests must identify the specific registration(s) or application(s) and the specific use(s) for which a hearing is requested, (2) all requests must be acompanied by objections that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the hearing clerk within the applicable thirty (30)-day period. Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Requests for hearings must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing To File a Hearing Request

1. *Consequence of filing a timely and effective hearing request.* If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the agency's rules of practice for hearings under FIFRA section 6 (40 CFR Part 164). In the event of a hearing, each cancellation and denial action subject to the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. *Consequences of failure to file in a timely and effective manner.* If no hearing concerning the conditional cancellation or denial of registration of a specific use of a specific pesticide product containing diallate has been requested by the end of the applicable thirty-day period, registration of that use of that diallate product will be subject to cancellation or denial unless the registrant or applicant amends its application for registration to include the modifications in the terms and conditions of registration specified in this Notice.

Dated: May 30, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–16358 Filed 6–22–82; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180607; PH–FRL 2145–4]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed below are three crisis exemptions, one initiated by Alabama, and two by California. Listed also are 34 quarantine exemptions granted by EPA to the U.S. Department of Agriculture.

DATES: See each specific and crisis exemption for its effective dates. The quarantine exemptions are all effective from April 23, 1982 to April 23, 1983.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name and room number of the contact person. For the quarantine exemptions the contact people are Jack E. Housenger and Libby Welch, Rm. 716C, CM#2. The following information applies to all contact people: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1192)

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Department of Agriculture and Horticulture for the use of propargite on sugar beets to control spider mites in Arizona, effective from April 29, 1982 to August 31, 1982. (Donald R. Stubbs, Rm. 716B, CM#2).

2. California Department of Food and Agriculture for the use of methamidophos on celery to control leaf miners in California, effective from April 8, 1982 to July 1, 1982. (Jack E. Housenger, Rm. 716C, CM#2).

3. Maryland Department of Agriculture for the use of anilazine on watercress to control leaf spot in Maryland, effective from April 29, 1982 to November 30, 1982. (Donald R. Stubbs, Rm 716B, CM#2).

4. Maryland Department of Agriculture for the use of fenamiphos on strawberry nursery stock plants to control nematodes in Maryland, effective from April 26, 1982 to July 15, 1982. (Jack E. Housenger, Rm 716C, CM#2).

5. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds to control powdery mildew in Minnesota, effective from April 27, 1982 to June 30, 1982. (Jack E. Housenger, Rm. 716C, CM#2).

6. Montana Department of Agriculture for the use of Compound 1080 on small grains, hay, and improved pastureland to control the Columbian ground squirrel in Montana, effective from March 15, 1982, to August 13, 1982. EPA has not yet made its final determination concluding the rebuttable presumption against registration (RPAR) of pesticide products containing Compound 1080. (Donald R. Stubbs, Rm. 716B, CM#2).

7. Montana Department of Agriculture for the use of permethrin on small grains (barley, oats, and wheat), to control the army cutworm and pale western cutworm in Montana, effective from April 26, 1982 to June 30, 1982. (Jack E. Housenger, Rm 716C, CM#2).

8. New Jersey Department of Environmental Protection for the use of triadimefon on wheat to control powdery mildew in New Jersey, effective from April 14, 1982 to June 30, 1982. (Libby Welch, Rm. 716C, CM#2).

9. New York Department of Environmental Conservation for the use of fenamiphos on bearing apple orchards to control nematodes in New York, effective from April 26, 1982 to May 31, 1982. (Jack E. Housenger, Rm. 716C, CM#2).

10. North Dakota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew in North Dakota, effective from April 27, 1982 to April 20, 1983. (Jack E Housenger, Rm. 716C, CM#2).

11. Ohio Department of Agriculture for the use of triadimefon on wheat to control powdery mildew in Ohio, effective from April 14, 1982 to August 31, 1982. (Libby Welch, Rm. 716C, CM#2).

12. Oregon Department of Agriculture for the use of methiocarb on barley,

clover, grass for seed, oats, and wheat to control slugs and snails in Oregon, effective from April 30, 1982 to May 1, 1982. Oregon Department of Agriculture had initiated a crisis exemption for this use. (L. Welch, Rm. 716C, CM#2).

13. Pennsylvania Department of Agriculture for the use of anilazine on watercress to control leaf spot in Pennsylvania, effective from April 29, 1982 to November 30, 1982. (Donald R. Stubbs, Rm. 716B, CM#2).

14. Pennsylvania Department of Agriculture for the use of triadimefon on wheat to control powdery mildew in Pennsylvania, effective from April 14, 1982 to June 30, 1982. (Libby Welch, Rm. 716C, CM#2).

15. West Virginia Department of Agriculture for the use of anilazine on watercress to control leaf spot in West Virginia, effective from April 29, 1982 to November 30, 1982. (Donald R. Stubbs, Rm. 716B, CM#2).

16. Wyoming Department of Agriculture for the use of permethrin on wheat to control army cutworms in Wyoming, effective from April 26, 1982 to June 1, 1982. (Jack E. Housenger, Rm. 716C, CM#2).

Crisis exemptions were initiated by the:

1. Alabama Department of Agriculture on April 20, 1982, for the use of propachlor on onions to control weeds. Since it was anticipated that this program would be needed for more than 15 days, Alabama requested a specific exemption to continue it. EPA has issued a specific exemption for this program effective from April 23, 1982 to December 31, 1982. (Libby Welch, Rm. 716C, CM#2).

2. California Department of Food and Agriculture on March 15, 1982, for the use of 1-[2-(2,4-diclorophenyl)-2-(2-propenyloxy)ethyl]-1H-imidazole on cotton seed to control *Thielaviopsis basicola*. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until March 12, 1983. (Jack E. Housenger, Rm. 716C, CM#2).

3. California Department of Food and Agriculture on February 26, 1982, for the use of metalaxyl on onions for seed to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, California has requested a specific exemption to continue it. The need for this program is expected to last until February 26, 1983. (Jack E. Housenger, Rm. 716C, CM#2).

EPA has granted quarantine exemptions to the United States Department of Agriculture, Animal and Plant Health Inspection Service, for the use of:

1. 10 percent ethylene oxide and 90 percent carbon dioxide on miscellaneous cargo to control snails and slugs.

2. Hydrogen cyanide on cargo which is adversely affected when treated with methyl bromide, to control cotton insects, khapra beetles, or snails.

3. Methyl bromide on nonfood cargo to control khapra beetles and snails.

4. Methyl bromide on machinery and nonplant materials to control cotton insects, gypsy moths, golden nematodes, and witchweed.

5. Methyl bromide on logs to control oak wilt fungus.

6. Aluminum phosphide under tarpaulins or in temporary enclosures to fumigate stored nonfood products in ship holds.

7. Formaldehyde in small lots at ports of entry to fumigate rice straw and hulls.

8. Formaldehyde as a spot treatment for nematode cyst-infested material moving from an infested area or port of entry.

9. An aerosol containing G–1707–pyrethrum extract and synergist in aircraft and cargo containers.

10. An aerosol containing 2 percent d-phenothrin applied in aircraft and cargo containers in the presence of people for fruit flies and other soft-bodied insects, and an aerosol containing 2 or 10 percent d-phenothrin for other insects when animals and people are not present.

11. Malathion (56 percent formulations) on metal and wood-surfaced areas associated with the infestation of a quarantine insect on ship bulkheads, pier areas, or other storage facilities near the infestation.

12. Malathion (25 percent wettable powder formulation) on asphalt surfaces (asphalt base paint) on ship decks, bulkheads, pier areas or other storage facilities near the infestation.

13. Malathion-carbaryl-kelthane (dicofol) dip to treat orchids and other plants or plant parts for propagation infested with insects or mites.

14. Malathion-carbaryl dip to treat plants other than orchids found not tolerant to methyl bromide fumigation.

15. Formaldehyde at inspection stations around the country as a plant disease treatment, primarily on seeds.

16. Bordeaux mixture (4 lb. copper sulfate, 4 lb. lime and 50 gallons of water) at inspection stations and port areas around the country as a foliar spray on plants to help reduce surface disease.

17. Carbon disulfide-carbon tetrachloride mixture (1:5 by weight or 1:4 by volume) at inspection stations on seeds for propagation.

18. Sodium hypochlorite (up to a maximum of 12.5 percent) at inspection stations on propagative plant parts and plant materials.

19. Sulfuric acid at designated inspection station as a cotton seed treatment during the delinting process.

20. Captan (22 percent wettable powder formulations) and zineb (21 percent wettable powder formulations) at designated inspection stations to treat seeds for plant diseases.

21. Copper sulfate at designated inspection stations only, for issuance of departmental permits to treat some seeds and dead plant material.

22. Copper carbonate at designated inspection stations only, for issuance of departmental permits to treat certain seeds, which can be completely coated.

23. Zineb at designated inspection stations only, for issuance of departmental permits to treat certain plants infested with diseases.

24. Propoxur in insect traps at approximately 1 gram per trap.

25. Dichlorvos in gypsy moth and khapra beetle traps at approximately 1 gram per trap.

26. Naled in fruit fly traps at approximately 1 gram per trap.

27. Ethyl acetate in black light traps at approximately 1 gram per trap.

28. Trifluralin on established lawns and turf to control witchweed.

29. Methly bromide on fallow fields and small plots of land to be released from quarantine, to kill witchweed seed in soil.

30. Sodium carbonate on surfaces potentially exposed to certain animal diseases, and semen containers.

31. Sodium carbonate plus sodium silicate on surfaces potentially exposed to certain animal diseases, in aircraft.

32. Sodium hypochlorite on surfaces potentially exposed to certain animal diseases.

33. Sodium hydroxide on exposed surfaces, animal product containers, hay, and straw.

34. Sodium ortho-phenylphenate on surfaces exposed to certain animal diseases.

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: June 8, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-16353 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 9G2151/T311; PH-FRL 2151-1]

Methamidophos; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide methamidophos in or on the raw agricultural commodities peanuts and peanut hulls. These temporary tolerances were requested by Mobay Chemical Corporation.

DATE: These temporary tolerances expire June 10, 1984.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2600).

SUPPLEMENTARY INFORMATION: Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120, has requested, in pesticide petition PP 9G2151, the establishment of temporary tolerances for residues of the insecticide methamidophos (O,S-dimethyl phosphoramidothioate), in or on the raw agricultural commodities peanuts at 0.1 part per million (ppm) and peanut hulls at 0.4 ppm. A related document (FAP 9H5223/T89) establishing a food additive regulation for residues of the insecticide methamidophos in or on peanut meal appears elsewhere in this issue of the **Federal Register.**

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 3125-EUP-154 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 10, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 9, 1982.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-16488 Filed 6-22-82; 8:45 am]
BILLING CODE 6560-50-M

[OPP-30000/38A; PH-FRL-2038-5]

Oxyfluorfen; Determination Concluding the Rebuttable Presumption Against Registration; Availability of Position Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination; Notice of Availability.

SUMMARY: Oxyfluorfen was referred for review under the Rebuttable Presumption Against Registration (RPAR) process in January 1980 because pesticide products containing oxyfluorfen as an active ingredient were shown to be contaminated with perchloroethylene (PCE), a liver carcinogen in B6C3F1 mice. This notice constitutes the final determination of the Agency concluding the RPAR proceedings for oxyfluorfen. The final determination implements the preliminary determination of the RPAR issues without change. The Agency has determined that oxyfluorfen registrations will be cancelled and applications for registration denied unless registrants and applicants amend the terms and conditions of registration as specified in this Notice.

DATE: Requests for a hearing must be received on or before July 23, 1982, or within thirty (30) days from receipt of this notice, whichever occurs later.

ADDRESSES: Requests for a hearing must be submitted to: Hearing Clerk (A-110), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Copies Of The Position Document 1/2/3 and Position Document 4 Are Available Upon Request From: Tom Miller, Special Pesticide Review Division (TS-791), Environmental Protection Agency, Rm. 711-A, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Tom Miller (703-557-7420).

SUPPLEMENTARY INFORMATION:

I. Introduction

The herbicide oxyfluorfen was registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) for use on certain nonbearing tree fruits and nuts in California in May 1979, and for use on conifer seedbeds, transplants and outplantings in March 1980. Conditional registration for use on certain bearing tree fruits and nuts was granted in December 1980, and in March 1981, the Agency granted conditional registrations for use on soybeans and field corn (in conjunction with the USDA Witchweed Eradication Program).

Oxyfluorfen was referred for review under the Rebuttable Presumption Against Registration (RPAR) process in January 1980 because pesticide products containing oxyfluorfen as an active ingredient were shown to be contaminated with perchloroethylene (PCE), a liver carcinogen in B6C3F1 mice. On the basis of the carcinogenic potential of perchloroethylene, the Agency determined that oxyfluorfen met or exceeded the RPAR criteria for oncogenicity. (Since the initial referral time, the sole registrant has reduced the level of perchloroethylene in its oxyfluorfen product, Goal® 2E, from 1600 ppm to 200 ppm). During the course of the RPAR review, the Agency also examined the available data on the potential mutagenicity and

teratogenicity of PCE, and the available data on the potential oncogenicity, mutagenicity, teratogenicity and chronic toxicity of oxyfluorfen. Information concerning possible adverse environmental effects of oxyfluorfen was also reviewed, including persistence and bioaccumulation, toxicity to molluscs, hazard to wetlands, and reproductive effects in birds.

The Agency's preliminary determination concluding the oxyfluorfen RPAR, along with the reasons and factual bases for its proposed regulatory action, were set forth in a Position Document 1/2/3 (PD 1/2/3) which integrated the presumption against registration and the risk/benefit analysis.

In the PD 1/2/3, the Agency determined that oxyfluorfen-containing pesticides, which are contaminated with PCE, met or exceeded the oncogenic risk criteria of 40 CFR 162.11(a)(3)(ii). The Agency evaluated risks and benefits in order to determine whether the risks of each oxyfluorfen use are warranted by the benefits of that use, considered what risk reductions could be achieved, and how these risk reduction measures would affect the benefits of the use.

As a result of the risk/benefit evaluation, summarized in the PD 1/2/3/, the Agency determined that the benefits of each oxyfluorfen use outweigh the risks when the level of PCE contamination does not exceed 200 ppm. Consequently, the proposed regulatory action required that the terms and conditions of registration for pesticides containing oxyfluorfen be amended to limit the PCE contamination level to 200 ppm. The Agency determined that the risk reduction associated with this proposed limit on PCE contamination can currently be achieved with no impact on the benefits of oxyfluorfen uses.

The Agency also proposed the requirement, effective six months from the publication of the final Notice concluding the oxyfluorfen RPAR, that a suitable respirator be worn during the mixing, loading, and application of all oxyfluorfen products, unless the registrant submits monitoring data to the Agency establishing that the inhalational exposure for the maximum application rate for each registered use is significantly lower than the inhalational exposure estimated by the Agency. These risk reduction measures can also be implemented without an adverse impact on the benefits of oxyfluorfen use. Additionally, the Agency determined that the registrant must submit additional data on oncogenicity, mutagenicity, teratogenicity, avian reproduction, and field monitoring of aquatic sites, and must modify the labeling of oxyfluorfen products to contain warnings of possible hazards to aquatic life and endangered mollusc species.

These preliminary determinations were submitted to the FIFRA Scientific Advisory Panel (SAP) and the U.S. Department of Agriculture (USDA) for review pursuant to sections 6(b) and 25(d) of FIFRA. The Agency presented its proposed decision to the SAP at a public meeting held on May 13–14, 1981. A Notice was published in the Federal Register of April 27, 1981 (46 FR 23490), announcing the meeting, indicating the availability of the PD 1/2/3 and describing the procedures for making oral and written comments. In addition, the SAP contacted by mail members of the general public who had previously expressed an interest in the Panel's activities. The SAP meeting was attended by the registrant and other interested parties.

After reviewing the comments received from the SAP, USDA and the registrant, the Agency has decided to implement its proposed decision without modification. This Notice announces the Agency's decision to continue registration for all uses of oxyfluorfen products, on the condition that the registrant modifies the terms and conditions of registration as set forth in Unit III of this notice. The notice also announces the availability of Position Document 4 (PD 4), which summarizes the PD 1/2/3/, details the revisions and amendments made to the PD 1/2/3, and analyzes comments from the SAP, USDA and others.

This Notice is organized into four units. Unit I is this introduction. Unit II, entitled "Legal Background", is a general discussion of the regulatory framework within which these actions are taken. Unit III, entitled "Determination and Initiation of Regulatory Actions", sets forth the regulatory actions which the Agency is implementing concerning oxyfluorfen, the bases for these determinations, the comments of the SAP and USDA in their entirety, and the Agency's analysis of these comments. Unit IV, entitled "Procedural Matters", briefly discusses the procedures which will be followed in implementing the regulatory actions which the Agency is announcing in this Notice.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, as amended (FIFRA), a potential registrant must demonstrate that the pesticide satifies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," as set forth in section 3(c)(5). The term "unreasonable adverse effects on the environment" is defined to mean "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide" in FIFRA, section 2(bb). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration or in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for gathering and evaluating information about the risks and benefits of these uses. After an RPAR is issued, registrants and other interested persons are given the opportunity to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of uses of the pesticide subject to the presumption outweigh the risks of use. If the Agency determines that a presumption has not been rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide's use, the

Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA section 6(b)(1) and section 3(c)(6) of by issuing a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration that can reduce risks and the impacts of such modifications on the benefits of use. Among the risk reduction measures short of cancellation that are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA section 3(d). The Agency can require changes to the labeling of a pesticide in most circumstances either under section 3(c)(5) by finding that the pesticide is misbranded if the labeling is not changed, or under section 6(b) by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

Section 3(c)(7)(B) of FIFRA allows the Administrator to conditionally amend the registration of a pesticide to permit additional uses even though data concerning the pesticide may not be sufficient to support an unconditional registration. To grant such a conditional registration, the Administrator must determine that the applicant has submitted sufficient data pertaining to the proposed additional use, and that amending the registration in the manner proposed by the applicant would not significantly increase the risk of any unreasonable adverse effect on the environment. This section also provides that a conditional registration cannot be granted for a pesticide (or any ingredient thereof) which meets or exceeds the risk criteria enumerated in 40 CFR 162.11 for dietary exposure in either of two situations: (1) where the pesticide is used on a major food or feed crop or where the use is on a minor food or feed crop; and (2) where an alternative which does not meet or exceed the risk criteria is available. In view of this statutory requirement, the Oxyfluorfen PD 1/2/3 contained a risk/benefit evaluation of certain uses of oxyfluorfen for which conditional registrations were pending at that time.

FIFRA section 6(b) requires the Agency to submit notices issued pursuant to section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy. The Agency is required to submit these documents to the Secretary at least 60 days before making the notice public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with publication of the notice. FIFRA, under section 25(d) also requires the Administrator to submit section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture.

After completing these external review procedures and accomplishing any changes in the contemplated action which are deemed appropriate as a result of any comments received, the Agency implements the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and the Agency's rules.

III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of oxyfluorfen including information submitted by the registrant. The Agency has also considered information on the social, economic, and environmental benefits of the oxyfluorfen uses. Information on benefits was obtained by the Agency from the registrant, the U.S. Department of Agriculture and various plant scientists in the United States.

The Agency's assessment of the risks and benefits of the uses of oxyfluorfen, its conclusions and determinations whether any uses of oxyfluorfen pose unreasonable adverse effects on the environment, and its determination whether modifications in the terms or conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects, are set forth in detail in the PD 1/2/3 with the revisions and amendments contained in the PD 4. These Position Documents, which are available from the Agency are hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice, and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the Position Documents, the Determinations of the Agency with respect to oxyfluorfen are as follows:

A. Determination on Risk

The Agency has determined that oxyfluorfen is contaminated with perchloroethylene (PCE), a demonstrated carinogen in B6C3F1 mice of both sexes. Oxyfluorfen-containing pesticides therefore meet or exceed the oncogenic risk criterion under 40 CFR 162.11(a)(3)(ii).

The Agency has determined further that human exposure may result from oxyfluorfen uses, and that therefore the uses of oxyfluorfen pose a carcinogenic risk to man of sufficient magnitude to require the Agency to determine these uses offer offsetting social, economic, or environmental benefits. The Agency has identified the populations at risk with respect to oxyfluorfen use to include agricultural workers who mix, load and apply oxyfluorfen, and the U.S. population at large (via dietary exposure).

The maximum carcinogen risk for agricultural workers was calculated by the Agency in the PD 1/2/3 to be four in one hundred thousand. For the population at large, carcinogenic risk through dietary exposure was estimated to be one in one million.

Since publication of the PD 1/2/3, the PCE exposure estimates have been revised. Refinements in calculation have demonstrated that exposure to PCE from use of oxyfluorfen products had been underestimated by a factor of three in the initial review. As a result, it was also necessary to revise the risk figures, which are a function of the exposure. The maximum carcinogenic risk for agriculture workers is now estimated to be one in ten thousand. Risk for the population at large remains at one in one million, since the exposure to tree fruits and nuts, by far the greatest dietary source of PCE (from oxyfluorfen), is the same as the original estimate. Because the revised risk figures are not significantly different from those which appear in the PD 1/2/3, the Agency has determined that these minor revisions do not affect the proposed regulatory action. Means of reducing risk to applicators have already been proposed, and these measures adequately protect applicators from the slightly higher level of risk estimated from the revised exposure figures.

In the Oxyfluorfen PD 1/2/3, the Agency has also considered other potential adverse effects of both oxyfluorfen and PCE. The human health effects considered were the potential

oncogenicity and chronic toxicity of oxyfluorfen, and the potential mutagenicity and teratogenicity of both oxyfluorfen and PCE. Available data on these affects do not indicate the need for further regulatory action. The Agency is, however, meeting with the registrant to determine what types of additional data are needed, and how this data may be provided. The final decisions concerning the Agency's request for data will be implemented in an action independent of this RPAR, under authority of FIFRA section 3(c)(2)(B).

Several potential environmental hazards have also been identified by the Agency with regard to oxyfluorfen. The Agency is concerned about the potential toxicity to certain mollusc species, including a number of endangered species, whose aquatic habitats are subject to runoff and erosion from fields treated with oxyfluorfen. Computer modeling and preliminary field sampling studies indicate the possibility of persistence and bioaccumulation of oxyfluorfen in these aquatic habitats. In view of tests submitted by the registrant showing that oxyfluorfen is toxic to oyster larvae at extremely low concentrations, certain uses of oxyfluorfen could potentially pose a hazard to aquatic molluscs, including endangered species. It is also possible that aquatic plants in wetland areas may be adversely affected by oxyfluorfen use, since oxyfluorfen exhibits residual weed control action at low concentrations.

In conclusion, although questions of health and environmental safety were raised, neither the human health effects (other than the oncogenicity of PCE) nor the environmental effects considered by the Agency were sufficient to meet or exceed the risk criteria of the Agency's RPAR regulations set forth in 40 CFR 162.11.

B. Determination on Benefits

Oxyfluorfen is currently registered for uses on nonbearing and bearing tree fruits and nuts, on conifer seedbeds, transplants and outplantings, on soybeans, and field corn in conjuction with the USDA Witchweed Eradication Program in North and South Carolina.

In 1979, the U.S. harvest of soybeans from 70.5 million acres was 2.3 billion bushels, valued at $13.8 billion. One agricultural expert estimated that oxyfluorfen, as a specialty herbicide, could eventually claim up to 8% of the soybean herbicide market. Use of oxyfluorfen on field corn for witchweed control is limited to the 380,000 infested acres in the Carolinas, about 1,800 acres of which were treated in the USDA Witchweed Eradication Program in 1979. In California, tree fruits and nuts are grown on 1.4 million acres of commercial orchards and vineyards, and that state accounts for 50–100 percent of the U.S. production of peaches, plums, nectarines, grapes, apricots and almonds. For conifer seedbeds, transplants and outplantings, oxyfluorfen is registered for use throughout the United States.

Quantitative estimates of the total economic impact of restricting oxyfluorfen use cannot be made from the information presently available. However, estimates of the impact on herbicide users were made for the soybean and field corn uses by comparing the cost of weed control programs using oxyfluorfen with the cost of weed control using other major herbicides. Oxyfluorfen use was found to result in a comparable per acre herbicide cost to other soybean herbicides and oxyfluorfen was found to be less expensive than other herbicide programs for witchweed control in field corn. User costs for tree fruits and nuts may be less with oxyfluorfen than with other herbicides because of the reduced need for a second, post emergence herbicide application. For conifer use, one corporate user estimated a savings of $50–100,000 per year over the cost of nonherbicide alternatives in its speed and transplant beds. The market and consumer impacts that might result if oxyfluorfen were unavailable were estimated only for the field corn use. A short term yield reduction of at least 10 percent in witchweed infested areas could be expected, and long term economic impacts could be severe if the USDA program is not successful in containing witchweed.

Oxyfluorfen has both pre- and post emergence herbicidal activity, and residual activity that may provide season-long control of many weeds. Emergent weeds are killed by contact with the spray, and late-germinating weeds are killed as they emerge through the treated soil. Because of these attributes and the fact that oxyfluorfen is not deactivated by crop trash and stubble, oxyfluorfen is well suited to no till use in soybeans. When used for witchweed control in field corn, oxyfluorfen reduces crop damage by killing witchweed as it emerges, and prevents seed production in surviving witchweed plants. Oxyfluorfen's residual action reduces the need for repeated herbicide applications, which are expensive and may be impossible if the corn lodges or if fields are too wet. The fact that oxyfluorfen may be applied either pre- or post emergence and its residual weed control properties are also advantages when it is used on tree fruits and nuts and conifers.

Oxyfluorfen is less dependent upon soil and moisture conditions than some otherwise comparable herbicides. Unlike most soil-applied herbicides, oxyfluorfen can be used on soils of various textures from coarse to fine and on soils with organic matter from 0–8 percent, and can be applied at the same rate to these various soil types. The performance of oxyfluorfen is not significantly affected by soil pH. Oxyfluorfen is also less dependent on post-application rainfall or irrigation for activation than many pre-emergence herbicides, which is a particularly beneficial quality for use on soybeans and tree fruits and nuts. Because oxyfluorfen does not require soil incorporation by disking or other cultivation, injury to the root systems of fruit and nut trees, vines and young confiers is avoided.

Oxyfluorfen is less likely to cause crop injury than many other comparable herbicides. Because it is only slightly soluble in water and binds strongly to soil particles, oxyfluorfen does not leach and cause root damage. This is particularly useful in the conifer seedbeds and transplant beds, which have sandy soils and are irrigated. Although it has contact activity on many weeds, oxyfluorfen can be applied to most young tree fruits and nuts and to seedling conifers without causing injury. Oxyfluorfen may also be used on soybean varieties sensitive to metribuzin, a major soybean herbicide.

Oxyfluorfen appears to be uniquely effective against a number of problem weeds. In soybeans, oxyfluorfen may give improved control of black nightshade, cutleaf groundcherry and annual morning glory. Oxyfluorfen is also a superior herbicide for witchweed control in field corn. For use on tree fruits and nuts in California, oxyfluorfen improves control of the troublesome cheeseweed, as well as filare, nettle and several weeds of the Compositae family. For conifer use, neither of the herbicides for seedbed use can be used on all the conifer species claimed on the Goal® label, and none of the transplant bed herbicides controls all of the label-claimed weed species.

Oxyfluorfen also has advantages over nonherbicidal alternatives. Mowing and cultivation to control weeds can damage conifer seedlings. Organic mulch is used in conifer seedbeds and transplant beds, but does not control emerged weeds, and fresh sawdust mulch depletes supplies of nitrogen. Plastic mulch may raise soil temperature to a lethal level for seedling conifers.

C. Determination of Unreasonable Adverse Effects

For the reasons set forth in detail in the PD 1/2/3 and PD 4, the Agency has made the following determinations concerning the potential for unreasonable adverse effects from the use of oxyfluorfen.

The Agency has determined that the benefits of the use of pesticides containing oxyfluorfen exceed the risks when such pesticide products are contaminated with no more than 200 ppm PCE. Reducing the PCE contamination of oxyfluorfen products to 200 ppm has been determined by the Agency to be technically and economically feasible, in consultation with the sole registrant and producer, who is currently producing oxyfluorfen with PCE contamination not exceeding 200 ppm. A modification of the confidential statement of formula limiting the PCE contaminant to 200 ppm is not expected to have any measurable impact on the benefits of use.

The Agency has also determined to impose the requirement, effective six months from the publication of this final Notice concluding the oxyfluorfen RPAR, for the use of a suitable respirator during the mixing, loading, and application of all oxyfluorfen products, unless the registrant submits certain monitoring data to the Agency.

The Agency has determined that, unless these changes in the terms and conditions of registration are accomplished, the use of oxyfluorfen will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices and that the labeling of wxyfluorfen pesticide products will not comply with the provisions of FIFRA.

D. Initiation of Regulatory Action

Based upon the determinations summarized above and developed in detail in the Position Documents 1/2/3 and 4, the Agency has decided to continue registration of currently registered use of oxyfluorfen products on the condition that certain changes are made in the terms and conditions of registration.

The Agency implements this decision in the regulatory context of FIFRA and the RPAR regulations by publishing this Notice of intent to cancel all currently registered uses of oxyfluorfen unless the required modifications in the terms and conditions of registration are made.

If the registrant makes these changes within 30 days of publication of this Notice (or its receipt by the registrant, whichever comes later), this proposed cancellation does not become final and effective at the end of the 30-day period.

This document shall constitute the Agency's Notice of Intention to cancel registrations for all oxyfluorfen-containing pesticide products for use on nonbearing tree fruits and nuts, bearing tree fruits and nuts, conifer seedbeds, transplants and outplantings, soybeans, and field corn (in conjunction with the USDA Witchweed Eradication Program) unless registrants amend the terms and conditions of registration as follows:

1. The perchloroethylene (PCE) contamination of formulated oxyfluorfen products must not exceed 200 ppm. A statement to this effect must be added to the confidential statement of formula for each registered oxyfluorfen product.

2. A pesticide respirator jointly approved by the Mining Enforcement and Safety Administration (formerly the U.S. Bureau of Mines) and by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 2 for perchloroethylene must be used during the mixing, loading and application of all oxyfluorfen products. Labelling of all oxyfluorfen products must be amended to include this statement. This requirement will take effect six months after the date of publication of the Notice announcing the final determination concluding the oxyfluorfen RPAR, unless by that time the registrant submits field monitoring data to the Agency establishing that the inhalational exposure for the maximum application rate for each registered use is significantly lower than the inhalational exposure estimated by the Agency.

E. Other Determinations

As a condition of the registrations of oxyfluorfen-containing products for use on soybeans, field corn (in conjunction with the USDA Witchweed Eradication Program) and bearing tree fruits and nuts, the Agency has determined that the registrant will be required to submit field monitoring studies of oxyfluorfen accumulation in sediments and aquatic organisms.

The Agency has also determined that it will request additional data, under the authority of FIFRA section 3(c)(2)(B), to maintain the registrations of oxyfluorfen products in effect. The request for these data will be independent of the Agency's RPAR determination, as set forth in this Notice, to modify the terms and conditions of registration. The additional data which the Agency will request may include studies on oncogenicity, teratogenicity, mutagenicity, and avian reproduction. The registrant is currently engaged in discussions with the Agency concerning these data requests.

In order to minimize the hazard to aquatic organisms pending the completion of field monitoring studies, the Agency will require the modification of the labeling of oxyfluorfen products for all uses, including experimental uses, to contain the following warning statement:

> This pesticide is highly toxic to aquatic invertebrates, aquatic plants, wildlife and fish. Use with care when applying in areas frequented by wildlife or adjacent to any body of water or wetland area. Do not apply when weather conditions favor drift or erosion from target area. Do not contaminate bodies of water by cleaning of equipment or disposal of wastes.

The Agency will also require the labels of oxyfluorfen products for use on soybeans to contain the following warning statement: This product is highly toxic to freshwater clams, oysters, aquatic invertebrates and aquatic plants. Do not apply Goal where visible erosion to aquatic habitats and wetlands occurs.

F. Agency Analysis of Comments by SAP, USDA and Other Interested Parties

A. Comments of the SAP

The comments of the Scientific Advisory Panel on the Preliminary Notice of Determination Concluding the Rebuttal Presumption Against Registration of Pesticides Containing Oxyfluorfen are presented below in their entirety.

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Oxyfluorfen (GOAL 2E).

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on pesticide products containing oxyfluorfen (GOAL 2E) under the provisions of Section 6(b)(2) of FIFRA, as amended. The review was completed in an open meeting held in Arlington, Virginia on March 13–14, 1981. The following Panel members were present for the review: Drs. Torgeson, Doull, Metcalf, and Davies.

Maximum public participation was encouraged for the review. Public notice of the meeting was published in the Federal Register on Wednesday, April

27, 1981. In addition, telephone calls were received from and mailings sent to the general public who had previously expressed an interest in activities of the Panel.

Written and oral statements were received from technical staff and representatives of the Environmental Protection Agency. A written statement was received from Rohm and Haas Company, the registrant for oxyfluorfen. Company representatives also participated extensively in the discussion.

In consideration of all matters brought out during the meeting and careful review of all documents presented by the Agency and other parties, the Panel unanimously submits the following report:

Scientific Advisory Panel Report on Oxyfluorfen (Goal 2E)

The Panel concurs with the Agency's proposed decision to conclude the Rebuttable Presumption Against Registration (RPAR) of Oxyfluorfen (GOAL 2E) on the grounds that the oncogenic hazard from perchloroethylene (PCE) contained in the compound is no longer sufficient to warrant the denial of a conditional registration for various uses.

However, the Panel has a number of serious concerns with oxyfluorfen *not* related to the oncogenic hazard of PCE and wishes to bring these to the attention of the Agency. These concerns are:

1. *The persistence of oxyfluorfen and its possible biomagnification in the food chain.* This concern is based on Japanese data on related compounds which indicate a bioaccumulation effect.

2. *The adequacy of testing of oxyfluorfen's potential teratological effects.* The Panel expresses the belief that it is necessary to make special efforts to determine that no teratological problems exist with all the diphenyl ether class of chemicals. The Panel thus recommends that additional teratological testing be conducted, with e.g. nitrofen being used for a positive control as a comparison.

3. *The identification of the various inert ingredients in oxyfluorfen and their potential adverse effects on the environment.* The Panel notes that there is an impurities level of 28 percent in oxyfluorfen technical material, and states its belief that considerably more information in needed on the potential effects of these impurities.

The Panel further notes that although oxyfluorfen is intended initially as a specialty herbicide with relatively low usage planned, nonetheless, the potential exists for much greater use, e.g. as a replacement for nitrofen, and therefore one must be concerned over potential health effects on a broader scale.

In conclusion, the Panel recommends that monitoring studies be designed and carried out in order toi clarify any adverse environmental effects of the use of oxyfluorfen.

For the Chairman:

Certified as an accurate Report of Findings: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Date: June 19, 1981.

B. Response to Comments of the SAP Relating to Risk

The SAP concurred with the Agency's proposed decision and did not have any specific comments on the Agency's assessment of the carcinogenic risk from PCE associated with the uses of oxyfluorfen. However, the SAP stated that it has "a number of serious concerns with oxyfluorfen *not* related to the oncogenic hazard from PCE * * *" (Gray, 1981). These concerns relate to the following issues.

1. The persistence and possible bioaccumulation of oxyfluorfen in the food chain.

2. The adequacy of testing of oxyfluorfen's potential teratological effects given its structural resemblance to nitrofen.

3. The identification and potential adverse effects of the various inert ingredients in oxyfluorfen.

With regard to issue 1. above, the Agency shares the SAP's concern regarding the persistence of oxyfluorfen in the environment. This concern was discussed in the PD 1/2/3 and the Agency has recommended extensive field monitoring for oxyfluorfen residues in the major use pattern areas. The field monitoring outlined by the Agency in the PD 1/2/3 includes provisions for evaluating the potential of oxyfluorfen to bioaccumulate in aquatic organisms.

Issue number 2. pertains to oxyfluorfen's potential to cause teratogenic effects. This concern arises from the fact that oxyfluorfen is structurally similar to nitrofen, a known teratogen. Therefore, the SAP believes that an especially careful evaluation of oxyfluorfen is warranted.

The Agency agrees with the SAP that a special effort should be made to determine that no teratological problem exists with oxyfluorfen. The PD 1/2/3 discussed the information available at the time and highlighted the need for some further study. Along with the rat teratology study submitted by the registrant (negative for teratogenic effects at 1000 mg/kg/day), the registrant is currently conducting a second teratology study with rabbits which will be submitted this year. Additional teratogenic evaluation of oxyfluorfen is being conducted by EPA at its Research Triangle Park (RTP), N.C. facility. The Agency notes, however, that structurally similar chemicals do not necessarily possess the same toxicological characteristics. Evidence of this in the case of diphenyl ethers comes from the above-mentioned EPA studies performed at RTP. Data from these studies indicate that nitrofen is teratogenic but that acifluorfen, another structurally related diphenyl ether, is negative for teratogenic effects.

Following the evaluation of the rabbit study to be submitted this year by the registrant and the results of EPA testing of oxyfluorfen, the Agency will determine whether further testing is warranted, or whether information available at that time is sufficient to evaluate accurately the teratogenic potential of oxyfluorfen.

SAP's third concern relates to the level of impurities in technical oxyfluorfen and the possible adverse effects of these impurities on the environment.

Although not specifically discussed in the PD 1/2/3, toxicological information on the impurities identified in technical oxyfluorfen has been reviewed by the Agency. Unless an impurity or inert ingredient of a pesticide is judged to pose an unreasonable adverse effect on man or the environment, it is illegal to disclose such confidential product information in a public document. The Agency has concluded that the impurities in technical oxyfluorfen do not pose an unreasonable risk to humans or the environment and has provided the information supporting this determination to the SAP.

C. Comments of the USDA

The comments of the U.S. Department of Agriculture on the Preliminary Notice of Determination Concluding the RPAR of Pesticides Containing Oxyfluorfen are presented below in their entirety.

Mr. Edwin L. Johnson (TS–788C)
Acting Deputy Administrator for Pesticide Programs, U.S. Environmental Protection Agency, Washington, D.C., July 6, 1981.

Dear Ed: This is the U.S. Department of Agriculture's response to the U.S. Environmental Protection Agency (EPA) Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of the pesticide chemical oxyfluorfen (GOAL).

We concur with the Agency's conclusions that the benefits from the use of this chemical are biologically and economically meaningful to agricultural production. We have used Goal in our witchweed program over the past

three years. Where it has been used, control of witchweed has been excellent lasting from six weeks to full season without observable adverse effects on corn or other aspects of the environment. Goal is rated as the best of the new herbicides for use in forest nurseries. The indications are that it will become a very important tool because it can be applied over the top of five-week old seedlings without any noticeable phytotoxicity and because of the season-long control the material provides. We agree with the requirement to use a respirator during the mixing, loading and application of oxyfluorfen until the registrant can more accurately assess inhalation exposure; however, we are concerned that the requirement for respirators makes no differentiation between methods of applications. In many forest nurseries, pesticides are applied through automatic watering systems which would result in little or no applicator exposure. In less sophisticated nurseries the material is applied with a directed spray which should result in low inhalation exposure. We are hopeful that the additional toxicology studies that the agency has requested from the registrant will demonstrate that the use of respirators is not necessary. If it is determined that the use of respirators is necessary, we suggest that consideration be given to evaluating protective equipment that poses minimal discomfort in hot, humid climate. As we have pointed out in the past, the use of respirators in many areas of the U.S. poses problems of discomfort due to heat and humidity. In these climatic conditions applicators and other support personnel are often reluctant to use them, regardless of regulatory requirements. It has been suggested that in certain high temperature situations the hazards associated with the use of respirators may be more immediate and dangerous than the hazard due to chemical exposure which the use is intended to prevent.

We would recommend followup action that would substantiate that respirators significantly lower exposure during application and that they are mitigating the problem. Research is needed to devise protective measures suitable for hot weather.

If we can be of assistance in developing needed exposure data, please advise.

Sincerely,

Barry R. Flamm,

Director.

D. Response to Comments of USDA Relating to Benefits

The only comments relating to oxyfluorfen benefits were received from the USDA. Essentially, the USDA concurs with the Agency assessment of benefits and adds that oxyfluorfen is particularly beneficial for witchweed control and use in forest nurseries. The Ageny agrees and believes that the benefits of oxyfluorfen for use in corn and forest nurseries have been adequately discussed in the PD 1/2/3.

E. Response to Comments by the USDA and the Registrant Relating to Regulatory Actions—Respirator Requirement for Mixer/Loader/ Applicators

1. The USDA has agreed with the Agency's proposal to require respirators during the mixing, loading, and application of oxyfluorfen products. USDA commented, however, that this requirement does not take into account different methods of application. USDA states that in many forest nurseries, pesticides are applied through automatic watering systems which would result in little or no applicator exposure.

In assessing applicator exposure to PCE from use of oxyfluorfen products, the Agency assumed spray application as indicated on the Goal® 2E conifer label. The Goal® 2E label does not currently provide rates, metering instructions, limitations, precutions or other directions for use of Goal® 2E through automatic watering systems.

USDA also commented that use of respirators in many areas of the United States poses problems of discomfort due to heat and humidity, and that in certain high temperature situations, the hazards associated with the use of respirators may be more immediate and dangerous than the hazard due to pesticide exposure. USDA suggests that research is needed to devise protective measures suitable for hot weather.

In the case of oxyfluorfen, inhalational exposure accounts for 98 percent or more of total applicator exposure to the PCE contaminant, according to Agency esitmates. Reducing inhalational exposure is therefore the most effective method of reducing total exposure to applicators to PCE in oxyfluorfen. Respirator use dramatically decreases total exposure and resultant risk, as illustrated in revised Table 11.

The Agency recognizes the reluctance of applicators to wear respirators in hot and humid weather situations. The Agency is not aware, however, of any data which indicate that the use of respirators in high temperature situations result in "more immediate and dangerous hazards than exposure to the chemical."

With respect to oxyfluorfen specifically, the Agency believes (as stated in the PD 1/2/3) that its exposure estimates for applicators are, of necessity, "worst case" values and has invited the registrant to submit data demonstrating that actual exposure to PCE is significantly lower than Agency esitmates. These data are not anticipated to be costly to generate and could successfully rebut the respirator requirement. Until such time as these data are available or other protective methods are developed, the Agency will require the currently available means of reducing inhalational exposure (respirators) to be used during mixing, loading, and application of oxyfluorfen products.

2. The registrant has also submitted comments on implementation of the respirator requirement. Rohm and Haas believes that "the actual inhalation exposure to PCE from Goal ® formulations is significantly less than that calculated by the agency and the company will obtain actual field monitoring data to substantiate its contention."

IV. Procedural Matters

This Notice initiates actions to cancel registrations and deny applications for registration of oxyfluorfen products for all uses unless the registrants or applicants modify the terms and conditions of registration as described in this Notice ("conditional" cancellation or denial).

As provided in FIFRA section 6(b), "the proposed action shall become final and effective at the end of 30 days from receipt by the registrant, or publication, of a notice issued under paragraph (1), whichever occurs later, unless within that time either (i) the registrant makes the necessary corrections, if possible, or (ii) a request for a hearing is made by a person adversely affected by the notice." Paragraph (1), FIFRA section 6(b)(1), provides that the Administrator may issue a notice of intent to cancel a registration or change its classification together with the reasons (including the factual basis) of his action.

FIFRA section 3(c)(6) provides that the Administrator may deny applications for registration "* * * unless the applicant corrects the conditions and notifies the Administrator thereof during the 30 day period beginning with the day after the date on which the applicant receives the notice * * *". FIFRA section 3(c)(6) also provides that "Upon such notification, the applicant for registration or other interested person with the concurrence of the applicant shall have the same remedies as provided for in section 6."

This unit of the Notice explains how registrants and applicants for registration may modify the terms and conditions of registration and how registrants, applicants for registration, and certain other interested or affected parties may request a hearing on the cancellation and denial actions that this Notice initiates.

A. Procedures for Amending the Terms and Conditions of Registration

Registrants affected by the cancellation actions described above may avoid cancellation by amending the terms and conditions of registration. Within the 30 day period, an application for an amended confidential statement of forumla must be filed with the Agency, containing wording in the inert ingedients statement to the effect that perchloroethylene (PCE) contamination does not exceed 200 ppm in formulated oxyfluorfen products.

Within six months after the date of publication of this Notice, amended labeling must also be filed with the Agency. The amended labeling must require that a pesticide respirator jointly approved by the Mining Enforcement and Safety Administration (formerly the U.S. Bureau of Mines) and by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 2 for perchloroethylene must be used during mixing, loading, and application of all oxyfluorfen products. This requirement will take effect at the end of the 6-month deadline unless the registrant submits field monitoring data to the Agency establishing that the inhalational exposure for the maximum application rate for each registered use is significantly lower than the inhalational exposure estimated by the Agency.

The application for an amended confidential statement of formula and the amended labelling must be submitted to: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202 (703–557–7070).

B. Procedure for Requesting a Hearing

Registrants affected by the cancellation actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice, or on or before July 23, 1982, whichever occurs later. Any other person adversely affected by the cancellation actions described above may request a hearing or or before July 23, 1982.

Applicants for registration affected by the denial actions described above may request a hearing on such actions within thirty (30) days of receipt of this Notice, or on or before July 23, 1982, whichever occurs later. Other interested persons may, with the concurrence of the applicant, request a hearing during the time period available to the applicant.

All registrants, applicants, and other interested or affected parties who request a hearing must file the request in accordance with the procedures established by FIFRA and the Agency's Rules of Practice Governing Hearings (40 CFR Part 164). These procedures require among other things that: (1) all requests must identify the specific registration(s) or application(s) and the specific use(s) for which a hearing is requested, (2) all requests must be accompanied by objection that are specific for each use of the identified pesticide products for which a hearing is requested, and (3) all requests must be received by the hearing clerk within the applicable thirty (30) day period. Failure to comply with these requirements will automatically result in denial of the request for a hearing.

Request for hearings must be submitted to: Hearing Clerk (A–110), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

C. Consequence of Filing or Failing to File a Hearing Request

1. Consequence of filing a timely and effective hearing request. If a hearing on any action initiated by this Notice is requested in a timely and effective manner, the hearing will be governed by the Agency's Rules of Practice for hearings under FIFRA section 6 (40 CFR Part 164). In the event of a hearing, each cancellation and denial action subject to the hearing will not become effective except pursuant to an order of the Administrator at the conclusion of the hearing.

2. Consequences of failure to file in a timely and effective manner. If no hearing concerning the conditional cancellation or denial of registration of a specific use of a specific pesticide product containing oxyfluorfen has been requested by the end of the applicable thirty-day period, registration of that use of that oxyfluorfen product will be subject to cancellation or denial unless the registrant or applicant amends its application for registration to include the modifications in the terms and conditions of registration specified in this Notice.

Dated: June 18, 1982.

John A. Todhunter,

Ph. D., Assistant Administrotor for Pesticides and Toxic Substances.

[FR Doc. 82-16357 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP 30053; PH-FRL-2061-2]

Twenty Chemicals; Availability of Pesticide Registration Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The notice announces that Registration Standard Documents for twenty chemicals are now available to the public.

ADDRESSES: A copy of each Standard is presently available for viewing from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays, from: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–107, 401 M St. SW., Washington, D.C. 20460.

Copies will be available by January 30, 1982 from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22153 (703–487–4600).

FOR FURTHER INFORMATION CONTACT: Ruby Whiters, Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Room 728, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–8193).

SUPPLEMENTARY INFORMATION: Registration Standards have been established at EPA for the purpose of registering and reregistering pesticide products. Under this system, EPA develops a document containing a comprehensive statement of the Agency's regulatory position on all pesticide products containing the same active ingredient(s). The document, or registration standard, describes the data (including limitations and deficiencies) upon which the regulatory position is based, the rationale for the position, and the conditions to be met to register a product under the standard. Registration Standards are now available for the following chemicals.

3-(alpha-acetonylbenzyl)-4-hydroxycoumarin [warfarin]
Aluminum phosphide
3-amino 2,5-dichlorobenzoic acid [chloramben]
Ammonium sulfamate
O,O-diethyl O-(3-chloro-4-methyl-2-oxo-2H-1-bensopyran-7-yl) phosphorothioate) [coumaphos]
O,O-diethyl S-[(6-chloro-2-oxobenzoxazolin-3-yl)methyl] phosphorodithioate [phosalone]
O,O-diethyl S-(2-chloro-1-phthalimidoethyl) phosphorodithioate [dialifor]

5, 6-dihydro-2-methyl-1, 4-oxathiin-3 carboxanilide [carboxin]
N-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine, methyl esther [metlaxyl]
2, 6-dinitro-N, N-dipropylcumidine [isopropalin]
6-ethoxyl-1,2-dihydro-2,2,4-trimethylquinoline [ethoxyquin]
2-ethyl-1,3-hexanediol [6-12]
O-ethyl O-[4-methylthio)phenyl] S-propyl phosphorodithioate [sulprofos]
Methyl 5-(2,4-dichlorophenoxy)-2-nitrobenzoate [bifenox]
S-methyl N-(methylcarbamoyl)oxy] thioacetimidate [methomyl]
3-(methylsulfonyl)-O-[(methylamino) carbonyl)] oxime-2-butanone [butoxicarboxime]
Naphthalene
Naphthaleneacetic acid, its sodium and potassium salts, and its ester and acetamide [NAA]
10, 10'-oxybisphenoxarsine [OBPA]
O,O' (thiodi-4,1-phenylene) bis (O,O dimethyl phosphorothioate [temephos]

Dated: February 8, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-16365 Filed 6-22-82; 8:45 am]
BILLING CODE 6560-32-M

[PF-280; PH-FRL 2153-7]

Certain Companies; Pesticides, Food, and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, food, and feed additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities, and food and feed items.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-280]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide, food, and feed additive petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals is or on certain raw agricultural commodities, food and feed items in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition

PP 2F2677. Mobay Chemical Co., PO Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.332 by increasing the tolerance for the combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on soybeans at 0.2 part per million (ppm). The proposed analytical method for determining residues is gas chromatography using an electron capture detector. (PM-25, Robert J. Taylor, 703-557-1800).

FAP 2H5339. Monsanto Company, 1101 17th St., NW, Washington, DC 20036. Proposes amending 193.235 by establishing a regulation permitting residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the following food items coconut oil and dessicated coconut at 0.1 ppm. (PM-25, Robert J. Taylor, 703-557-1800).

PP 2F2680. Monsanto Co. Proposes amending 40 CFR 180.364 by establishing a tolerance for the combined residues of glyphosate and its metabolite in or on the raw agricultural commodity copra at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using a phosphorous-specific flame photometric detector. (PM-25, Robert J. Taylor, 703-557-1800).

FAP 2H5339. Monsanto Co. Proposes amending 21 CFR 561.253 by establishing a regulation permitting residues of the herbicide glyphosate and its metabolite in the feed item copra meal at 0.1 ppm. (PM 25, Robert J. Taylor, 703-557-1800).

PP 2E2685. The Bureau of Reclamation, PO Box 25007, Bldg. 67, Denver Federal Center, Denver, CO 80225. Proposes amending 40 CFR 180.1021 by establishing an exemption from the requirement of a tolerance for residues of the algaecide/herbicide copper resulting from application of cuprous oxide bearing antifouling coating in or on the following raw agricultural commodities: eggs, fish, irrigated crops, meat, milk, and shellfish. (PM 23, Richard F. Mountfort, 703-557-1830).

FAP 2H5350. The Bureau of Recalamation. Proposes amending 21 CFR 193.90 by establishing a regulation permitting residues of the algaecide/herbicide copper resulting from the application of antifouling coating containing cuprous oxide in potable water at 1 ppm. (PM 23, Richard F. Mountfort, 703-557-1830).

PP 2F2650. BASF Wyandotte Corp., Agricultural Chemical Division., 100 Cherry Hill Road, Parsippany, NJ 07054. Proposes amending 40 CFR 180.380 by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its 3,5-dichloroaniline containing metabolites, in or on the raw agricultural commodities peaches and cherries at 4.0 ppm and plums at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector (Ni 63). (PM-21, Henry Jacoby, 703-557-1900).

PP 1E2457. BASF Wyandotte Corp. Proposes amending 40 CFR 180.380 by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its 3,5-dichloroaniline containing its metabolites, in or on the raw agricultural commodity grapes (table) at 6.0 ppm. The proposed analytical method for determining residues is gas chromatography using electron capture detector (Ni 63). (PM-21, Henry Jacoby, 703-557-1900).

PP 6F1770. Mobay Chemical Corp., PO Box 4913, Hawthorne Road, Kansas City, MO 64120. In the Federal Register of May 12, 1976 (41 FR 19373), EPA announced that Mobay Chemical Co. has submitted a pesticide petition (PP 6F1770) which proposed the establishment of tolerances for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoroamidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity carrots at 0.1 ppm.

Mobay Chemical Co. has amended the petition by increasing the proposed tolerance on carrots from 0.1 ppm to 0.5 ppm. The proposed analytical method for determining residues is gas chromatography procedure using a flame ionization detector. (PM-21, Henry Jacoby, 703-557-1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: June 15, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-16907 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2138-2; OLCE FRL 2138-2]

Findings of Administrator With Regard to Steel Industry Compliance Extension Act of 1981: Alabama By-Products Corp.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final findings.

SUMMARY: The Administrator consents to the entry of an amended consent decree permitting extensions of compliance to Alabama By-Products Corporation under the Steel Industry Compliance Extension Act of 1981. The Administrator also modifies her preliminary findings of December 17, 1981, 46 FR 62537 (December 24, 1981).

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Michael Alushin, Acting Deputy Associate Enforcement Counsel for Air, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202 382-2824).

SUPPLEMENTARY INFORMATION: On December 17, 1981 (46 FR 62537), the Administrator announced findings preliminary to the lodging of a consent decree under the Steel Industry Compliance Extension Act of 1981 to extend certain compliance deadlines for the Alabama By-Product Corporation's steel facilities in Tarrant, Alabama. In the announcement the Administrator gave preliminary consent to the entry of a decree requiring capital expenditures to be made on the schedule reflected in finding number (5). This notice amends findings number (5) and (6) by striking the first paragraphs thereof and substituting therefore the following respectively:

(5) I find that a "phased program of compliance" (as defined in Section 113(e)(2) of the Act) would require ABC to make pollution control capital expenditures on the following schedule, beginning with the entry of a decree:

At least $968,358 by June 30 1983
At least $2,227,859 by June 30, 1984
At least $3,227,859 by November 30, 1984
At least $6,859,200 by June 30, 1985

(6) I find that an integration of the "qualifying modernization investment" and the "phased program of compliance" schedule when allowing for the required investments under section 113(e)(1)(B) of the Act, results in the following required schedule of capital expenditures:

At least $6,859,200 for qualifying modernization investment by July 17, 1983
At least $986,358 for pollution control by June 30, 1983
At least $2,227,859 for pollution control by November 30, 1984
At least $6,859,200 for pollution control by June 30, 1985

Consent: I hereby give notice that the United States of America and the Alabama By-Products Corporation have successfully negotiated a proposed consent decree complying with the requirements of section 113(e). I have consented to the entry of that consent decree which supercedes the decree entered as an order in the United States District Court for the Northern District of Alabama on October 31, 1980, Civil Action No. 77-M-1455-S: *U.S. v Alabama By-Products Corporation.* The superceding decree is to be lodged with the court under 28 CFR 50.7 and an appropriate notification of lodging has been or will be published by the Department of Justice at that time, including an indication of how copies of the amendment may be obtained and where public comment, if any, may be addressed.

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-17008 Filed 6-22-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-29]

Phillips-Parr, Inc. v. Empresa Lineas Maritimas Argentinas, S.A.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Phillips-Parr, Inc. against Empresa Lineas Maritimas Argentinas, S.A. was served June 15, 1982. Complainant alleges that respondent unlawfully performed ocean transportation under a cancelled tariff and seeks to recover charges under that tariff in violation of section 18(b) and sections 16, First and 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-16859 Filed 6-22-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Riverton State Bank Holding Company*, Riverton, Wyoming; to acquiring 100 percent of the voting shares or assets of Dubois National Bank, Dubois, Wyoming. Comments on this application must be received not later than July 17, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Antioch Holding Company*, Antioch, Illinois; to acquire 100 percent of the voting shares or assets of New Lenox State Bank, New Lenox, Illinois, currently a subsidiary of New Lenox Holding Company, New Lenox, Illinois; West Chicago State Bank, West Chicago, Illinois, currently a subsidiary of Wesco Investment Corporation, La

Grange, Illinois; and First National Bank of La Grange, La Grange, Illinois, currently a subsidiary of F.N.B.C. of La Grange, La Grange, Illinois. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than July 17, 1982.

Board of Governors of the Federal Reserve System, June 17, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16800 Filed 6-22-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and, unless noted, received by the appropriate Federal Reserve Bank not later than July 17, 1982.

A. Federal Reserve Bank of New York (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Ramapo Financial Corporation,* Wayne, New Jersey (management consulting activities; New York and New Jersey): To engage, through its subsidiary, RFC Services Corporation, in providing instruction and advice regarding the development of loan programs in order to enable unaffiliated client banks, savings and loan associations, and mutual savings banks to operate such loan programs independently. This service would include instruction and advice concerning operations; systems and procedures; accounting procedures; credit administration, documentation and evalution; product development and advertising programs; and personnel training. These activities would be conducted from an office of the subsidiary in Wayne, New Jersey, serving the New York City metropolitan area, primarily northern New Jersey. Comments on this application must be received not later than July 9, 1982.

B. Federal Reserve Bank of Cleveland (Harry W. Huning, Vice President) 1455 East Sixth Steet, Cleveland, Ohio 44101:

1. *Banc One Corporation,* Columbus, Ohio (leasing and financial activities): To engage, through a subsidiary, Banc One Financial Corporation, in the activities of leasing personal property and equipment, or acting as agent, broker, or advisor in leasing of such proprty, where such property is acquired by the lessor at the request of the lessee, for business purposes and where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to compensate the lessor for not less than the lessor's full investment in the property; making, acquiring, and selling, for its own account and for the account of others, loans and other extensions of credit including loans to finance agricultural production, commercial and industrial loans, and loans to individuals for household, family, and other personal expenditures; and servicing such loans and other extensions of credit for itself and for non-affiliated banks and for institutional investors. These activities will be conducted from an additional office at 9023 Darrow Road, Twinsburg, Ohio and will serve northern Ohio.

Board of Governors of the Federal Reserve System, June 17, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-16802 Filed 6-22-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Notice of Hearing; Reconsideration of Disapproval of Tennessee State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on August 10, 1982 in Atlanta, Georgia to reconsider our decision to disapprove portions of Tennessee State plan amendment 82-6.

CLOSING DATE: Request to participate in the hearing as a party must be received by July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Sharyn Smith, Docket Clerk, Bureau of Program Policy, G-20 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to deny portions of a Tennessee State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a denial of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to Tennessee's proposals to provide physician and pharmacy services only to medically needy individuals who are institutionalized. The Health Care Financing Administration contends that these proposals violate statutory and

regulatory provisions which require that services available to a covered medically needy group must be equal in amount, duration and scope for each member of that group; that is, to both institutionalized and noninstitutionalized medically needy recipients.

The notice to Tennessee announcing an administrative hearing to reconsider our denial of its State plan amendment reads as follows:

June 17, 1982.

Eugene W. Fowinkle, M.D., *Commissioner, Department of Public Health, 344 Cordell Hull Building, Nashville, Tennessee 37219.*

Dear Dr. Fowinkle: This is to advise you that your request for reconsideration of the decision to disapprove portions of Tennessee State Plan Amendment 82–6 was received on May 24, 1982. The provisions of this amendment which were disaproved are those which limit physican and pharmacy services to medically needy individuals who are institutionalized. You have requested a reconsideration of whether these provisions of the subject plan amendment conform to the Social Security Act and pertinent regulations.

I am scheduling a hearing on your request to be held on August 10, 1982, at 10 a.m. in the 7th floor Conference Room, 101 Marietta Tower, Spring and Marietta Streeets, Atlanta, Georgia. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact Mrs. Sharyn Smith, Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify Mrs. Smith of the names and addresses of the individuals who will represent the State at the hearing. Mrs. Smith can be reached on (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: June 17, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82–17018 Filed 6–22–82; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI–96]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared by the City of Detroit, Michigan, for the following projects under HUD programs as described in the appendix to this Notice: East Riverfront Development Project, Sites Nos. 1, 2, and 3. This notice is required by the Council on Environmental Quality under its rule (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This Notice shall be effective for one year. If one year after the publication of the notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., June 11, 1982.

Richard Brown,

Director, Office of Environment and Energy.

Appendix—EIS on the East Riverfront Development Project, Sites Nos. 1, 2, and 3

The City of Detroit, Michigan, intends to prepare three Environmental Impact Statements for the projects described below and solicits information and comments for consideration in the Environmental Impact Statements.

Description: The proposed East Riverfront Development Project Site No. 1 will consist of approximately 1500 dwelling units, together with associated land uses (recreation and commercial). The project will be situated on a largely vacant tract of land bounded on the north by East Jefferson Avenue and Guoin Street, on the south by the Detroit River, on the east by U.S. Naturalization/Immigration and U.S. Coast Guard facilities, and on the west by Adair Street and the Stroh's Brewery executive office complex. The estimated cost of the project is $205 million.

Site No. 2 will provide for adaptive reuse of a complex of buildings (formerly a major pharmaceutical manufacturing operation) as a mixed-use development project including office, residential and retail facilities. A new office building and a hotel and garage are also proposed. The project will be situated on a tract of land bounded by Atwater Street, Franklin Street and Wright Avenue to the north; by the Detroit River to the south; and by the Dundee Cement Company and Joseph Campau Avenue to the west; and by Adair and Walker Streets and a property line midway between Adair and Joseph Campau to the east. The estimated cost of the project is $113 million.

Site No. 3 is proposed to consist of approximately 300 dwelling units of mixed income and senior citizen housing. The project will be situated on a tract of land in the City of Detroit, Michigan, bounded by Franklin Street and East Jefferson Avenue to the north, by Atwater Street on the south, by Chene Street on the west and by Dubois on the east. The estimated cost of the project is $30 million.

Federal funding for the projects is expected to be from U.S. Department of Housing and Urban Development (HUD) UDAG and Community Development Block Grants. Other funding sources may include the U.S. Department of Transportation (FAUS and UMTA), the U.S. Department of Commerce (EDA), the Department of Interior (Land and Water Conservation Fund) and FHA.

Need: A decision to prepare an EIS has been based upon the large-scale nature of the projects in a dense urban setting and the possible impacts on river hydrology and biology and cultural and historical resources.

Alternatives: Alternatives being considered include for Site 1:

a. The preferred alternative (residential with some recreation and commercial use);
b. A smaller site alternative;
c. A different mixed-use alternative;
d. A re-use alternative; and
e. The "no-action" alternative.

Site 2:

a. The preferred alternative (commercial and residential adaptive reuse with some new development);
b. A different mixed-use alternative;
c. Site clearance and all new development; and
d. The "no-action" alternative.

Site 3:

a. The preferred alternative (residential use);
b. A larger site alternative;
c. A different use alternative;
d. A re-use alternative; and
e. The "no-action" alternative.

Scoping: Responses to this Notice will be used to:

1. Help determine significant environmental issues;

2. Identify data that will be used in the EIS;

3. Identify agencies, groups and individuals that will participate in the EIS process.

A public scoping meeting will be held as follows: 1:00 p.m., Tuesday, July 6, 1982, Veterans Memorial Building, 151 West Jefferson Avenue, Room 610, Detroit, Michigan 48226.

Comments: Submission of comments and information prior to the public meeting on July 6, 1982, either in writing or by telephone, should be directed to: City of Detroit, Planning Department, Attention: Mr. Thomas P. Andrews, 3400 Cadillac Tower, Detroit, Michigan 48226, (313) 224-3468.

[FR Doc. 82-16864 Filed 6-22-82; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. NI-97]

Shenandoah New Community, Coweta County, Ga.; Finding of No Significant Impact and Intent Not To File a Supplement to the Environmental Impact Statement

The Department of Housing and Urban Development (HUD) gives notice that a Finding of No Significant Impact (FONSI) has been made subsequent to the completion of an Environmental Assessment (EA) for the following project under HUD programs as described in the appendix to this Notice: Shenandoah New Community, Coweta County, Georgia. This Notice is required by the Council on Environmental Quality (CEQ) under its rules (40 CFR Parts 1500–1508) and implementing HUD regulations.

The lead agency, the New Community Development Corporation (NCDC) of HUD, with the cooperation of the Regional Interdisciplinary Environmental Assessment Team (RIEAT) of the HUD Region IV Office in Atlanta, Georgia, published in the **Federal Register** last July 30, 1981 a Notice of Intent to Prepare a Supplement to the EIS for this Project. Subsequently, it has been determined that there would be no significant environmental impact from the proposed action. Therefore, HUD also gives notice that it does not intend to file a Supplement Environmental Impact Statement (SEIS) for the proposed action. Interested individuals, governmental agencies, and private organizations are invited to comment on the FONSI. Pursuant to 40 CFR 1501.4(e)(2) of the CEQ regulations, the FONSI will be available for public review and comment for a thirty (30) day period, commencing with the appearance of this Notice in the **Federal Register**, before NCDC makes its final determination whether to prepare a SEIS and before NCDC may begin the proposed action.

The proposed action is the disposition of the Shenandoah New Community's assets now owned by HUD as a result of the project developer's inability to service the interest debt on the HUD guaranteed loan. This action is expected to reduce the environmental impacts associated with the original development plan of the project.

Issued at Washington, D.C. June 11, 1982.

Richard Brown,

Director, Office of Environment and Energy.

Appendix

Finding of No Significant Impact for Shenandoah New Community, Coweta County, Georgia

The New Community Development Corporation (NCDC) of the Department of Housing and Urban Development (HUD) gives notice that it has prepared a Finding of No Significant Impact as a result of an Environmental Assessment (EA) completed in May, 1982. A Notice of Intent to prepare a Supplement to the EIS was published in the **Federal Register** on July 30, 1981. The EA will not be circulated as is normally the case for EIS's or SEIS's. It will remain available at NCDC, Room 7137, U.S. Department of HUD, Washington, D.C. 20410. Comments on the FONSI are invited for a 30 day period from interested agencies, organizations, and the public.

Description: Shenandoah is a new community project approved in 1974 by the Department of Housing and Urban Development (HUD) under Title VII of the Housing and Urban Development Act of 1970 (the "Act"). It is located in Coweta County, Georgia, approximately 35 miles southwest of downtown Atlanta and adjacent to Newnan, the county seat of Coweta County. As originally conceived in 1974, the project was to create a new town of approximately 70,000 people housed in 46,000 newly constructed dwelling units. Associated and integrated commercial, industrial, institutional, and recreational land use areas were also to be contained within the project. Build-out for this 7,200 acre development was to occur in the 1995–2000 period.

In March, 1980 HUD made a Decision to Acquire the project based on Shenandoah, Ltd.'s inability to meet mortgage payments to the original landowners. Current development at the site consists of a limited number of housing units constructed in price ranges to fit a variety of income levels, a large community center, swimming pool, a new sewage treatment plant, and an industrial park.

HUD, which has already sustained substantial losses from its involvement in the project, has evaluated several alternative actions for dealing with the Shenandoah new community project. The evaluations have resulted in the proposal presented here. The other most likely actions are also discussed as alternatives to the proposed action.

HUD proposed to terminate the New Community status of the project and dispose of the unsold property by sale to public or private interests to develop the undeveloped portions of the property to the highest and best use. HUD does intend to require limited land use controls to provide protection to the residential "core community" character of the existing development.

Need: The environmental clearance procedures for this proposed action were initiated with the publication in the **Federal Register** last July 30, 1981 of a Notice of Intent to Prepare a Supplement to the EIS. Since that time, it has been determined that a SEIS is not necessary because of the nature of the proposed action and the diminutive degree to which the environment is affected. Therefore, subsequent to the conclusion of the environmental assessment, a Finding of No Significant Impact has been prepared by the lead agency. This Notice will be sent to the appropriate A–95 clearinghouse in accordance with HUD's environmental regulations, there will be a thirty (30) day comment period before NCDC makes its final determination whether to prepare an SEIS and before it begins the proposed action.

Alternatives Discussed and Considered: Since NCDC has been charged with the responsibility to divest itself of involvement with the currently approved Title VII project, the alternatives considered in the assessment were limited. The alternatives, including the proposed action, are:

A. Sale to a private developer for continued construction as a planned community without further HUD financial assistance.

B. Sale to more than one private developer for continued construction as a planned community without further HUD financial assistance.

C. Sale to one or more private developers to develop the undeveloped portions of the property to the highest and best use with limited land use controls required by HUD to protect the core community. There would be no

further HUD financial assistance. (This is the proposed action)

D. Sale to more than one private developer to develop the undeveloped portions of the property to its highest and best use. There would be no further HUD financial assistance.

Comments: Comments should be sent to: Mr. Edwin Baker, Environmental Clearance Officer, New Community Development Corporation, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Commercial telephone number: (202) 755–6170. Comments should be received on or before July 23, 1982.

[FR Doc. 82–16865 Filed 6–22–82; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–19155–3]

Alaska Native Claims Selection; Publication

On March 31, 1975, Doyon, Limited, filed selection application F–19155–3, as amended, under the provisions of sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611(c) (1976)) (ANCSA), as amended, for the surface and subsurface estates of certain lands withdrawn pursuant to sec. 11(a)(1) in the vicinity of Stevens Village. The application excluded several water bodies as being navigable. As these are considered nonnavigable and as sec. 12(c)(3) and 43 CFR 2652.3(c) require the region to select all available lands within the township the beds of these water bodies are considered selected.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act, as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to sec. 12(c) of ANCSA, aggregating approximately 166,563 acres, are considered proper for acquisition by Doyon, Limited, and are hereby approved for conveyance pursuant to sec. 14(e) of ANCSA.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 13 N., R. 5 W.,
Secs. 1 to 36, inclusive.
Containing approximately 23,002 acres.

T. 15 N., R. 5 W.,
Sec. 13;
Secs. 24 to 27, inclusive;
Secs. 33 to 36, inclusive.
Containing approximately 5,725 acres.

T. 12 N., R. 6 W.,
Secs. 1 to 36, inclusive.
Containing approximately 22,771 acres.

T. 14 N., R. 6 W.,
Secs. 19 to 20, and 21;
Secs. 25 to 36, inclusive.
Containing approximately 9,552 acres.

T. 16 N., R. 6 W.,
Secs. 1 to 5, inclusive;
Sec. 6, excluding Native allotments F–13832 Parcel B and F–13346 Parcel A;
Secs. 7 to 21, inclusive;
Sec. 22, excluding Native allotment F–026049 Parcel B;
Secs. 23 to 36, inclusive.
Containing approximately 22,502 acres.

T. 13 N., R. 7 W.,
Secs. 13 to 28, inclusive;
Sec. 29, excluding Native allotment F–13843 Parcel B;
Secs. 30 to 36, inclusive.
Containing approximately 15,304 acres.

T. 15 N., R. 7 W.,
Secs. 1 to 12, inclusive.
Containing approximately 7,606 acres.

T. 12 N., R. 8 W.,
Secs. 1 and 2;
Secs. 11 to 15, inclusive;
Secs. 21 to 36, inclusive.
Containing approximately 14,639 acres.

T. 16 N., R. 8 W.,
Sec. 1, excluding Native allotment F–13842;
Secs. 2 to 11, inclusive;
Sec. 12, excluding Native allotment F–13842;
Secs. 13 to 36, inclusive.
Containing approximately 22,617 acres.

T. 15 N., R. 9 W.,
Secs. 1 to 36, inclusive.
Containing approximately 22,845 acres.
Aggregating approximately 166,563 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–21779–3.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for the following reason: Lands are under applications pending further adjudication. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain the following reservation to the United States:

Pursuant to sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–21779–3, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: Travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

a. (EIN 45 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 1, T. 13 N., R. 6 W., Fairbanks Meridian, northeasterly to public land and resources. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

b. (EIN 46 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 36, T. 13 N., R. 6 W., Fairbanks Meridian, southeasterly to public land and resources. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

c. (EIN 48 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 6, T. 12 N., R. 7 W., Fairbanks Meridian, northwesterly to public land and resources. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

d. (EIN 52 C5) An easement twenty-five (25) feet in width for a proposed access trail from public land in Sec. 1, T. 15 N., R. 8 W., Fairbanks Meridian, northeasterly to public land and resources. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby

granted to him. Further, pursuant to sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

To date, approximately 3,101,650 acres of land, selected pursuant to sec. 12(c) of ANCSA, as amended, have been approved for conveyance to Doyon, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeals Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982*, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982*, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 23, 1982, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7-005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA, Adjudication.

[FR Doc. 82-16917 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; San Juan Management Framework Plan; Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Initial Decision on the Amendment of the San Juan Planning Unit Management Framework Plan.

SUMMARY: This notice is to advise the public that the District Manager, Albuquerque District, Bureau of Land Management, has issued an initial decision on the amendment of the San Juan Management Framework Plan (MFP). The amendment decision identifies 2,928.61 acres of public land as suitable for consideration for exchange out of Federal ownership in order to accommodate the proposed Elena Gallegos Exchange. The State Director of New Mexico has concurred with the initial decision.

SUPPLEMENTARY INFORMATION: The initial decision of the Albuquerque District Manager to amend the San Juan Management Framework Plan is in response to a land exchange proposal initiated by the United States Forest Service, known as the Elena Gallegos Exchange. The amendment identifies 2,928.61 acres of public land in the Farmington, New Mexico area as suitable for consideration for exchange out of Federal ownership, to be used, if necessary, in the exchange action. The amendment lands are located in San Juan County, New Mexico and include portions of the following described townships:

New Mexico Principal Meridian

T. 29 N., R. 12 W.
T. 30 N., R. 13 W.

Copies of the Initial Decision Document and Preliminary Final Environmental Assessment are available for public review in the New Mexico State Office, U.S. Post Office and Federal Building, Santa Fe, New Mexico; at the Albuquerque District Office, 3550 Pan American Freeway, NE, Albuquerque, New Mexico; or at the Farmington Resource Area Office, 900 La Plata Highway, Farmington, New Mexico, during regular office hours. Individual copies of the document are available from the Farmington Area Office, address above, telephone (505) 325-3581.

Comments and protests will be accepted concurrently for 30 days from the date of this notice. They should be filed with the State Director, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87501. Replies will be made by mail.

Any person who participated in the planning process and who has an interest which may be adversely affected by approval of the MFP amendment may file a protest. The protest shall contain the name, mailing address, telephone number and interest of the person filing the protest; a statement of the issue or issues being protested; a statement of the part of the amendment being protested; a copy of all documents addressing the issue or issues that were submitted during the amendment process by the protesting party or an indication of the date of the issue or issues were discussed for the record; and a short, concise statement explaining why the District Manager's decision was wrong.

The initial decision will become final upon resolution of any protest.

Dated: June 16, 1982.

L. Paul Applegate,

District Manager.

[FR Doc. 82-17004 Filed 6-22-82; 8:45 am]

BILLING CODE 4310-84-M

[M 53205-A(SD)]

South Dakota; Classification of Public Lands for State Indemnity Selection; Partial Termination of Segregation

June 14, 1982.

Notice of a proposal to classify certain public lands in Brule, Buffalo, Campbell, Charles Mix, Codington, Gregory,

Hughes, Jones, Lincoln, Marshall, Potter, Roberts and Sully Counties, South Dakota for State Indemnity Selection pursuant to an application filed by the State's Commissioner of School and Public Lands was published in the Federal Register as FR Doc. 82-6701 appearing on pages 10915 and 10916 in the issue of Friday, March 12, 1982.

The lands identified in the notice were examined and those found suitable for transfer to the state are being classified for that purpose. The segregative effect of the filing of the application is being lifted from the remaining lands which were not suitable for transfer due to location or outstanding rights and claims.

The proposal drew several comments and some objections. The objections have been resolved and the action on the proposal is as follows:

1. The following described lot is opened to selection under the provisions of Sections 2275 and 2276 of the Revised Statutes as amended, 43 U.S.C. 851 & 852 (1976):

Fifth Principal Meridian

T. 122 N., R. 46 W.,
Sec. 31, Lot 5.
Containing 0.59 acres.

A notice proposing to open this lot for state selection was published in the Federal Register as FR Doc. 82-13037 appearing on page 20677 in the issue of Thursday, May 13, 1982.

2. The lands listed below are hereby classified for disposal through State Indemnity Selection, R.S. 2275 and 2276, as amended, 43 U.S.C. 851 and 852, pursuant to Sec. 7 of the Act of June 28, 1934 as amended, 43 U.S.C. 315(f) (1976):

Black Hills Meridian

T. 2 N., R. 29 E.
Sec. 18, W½SE¼.
Total—80 acres.

Fifth Principal Meridian

T. 122 N., R. 46 W.,
Sec. 31, Lot 5.
T. 117 N., R. 54 W.,
Sec. 11, Lot 6.
T. 125 N., R. 56 W.,
Sec. 30, Lot 2.
T. 95 N., R. 65 W.,
Sec. 20, NE¼SW¼.
T. 96 N., R. 66 W.,
Sec. 11, SE¼SE¼.
T. 97 N., R. 66 W.,
Sec. 30, Lot 2.
T. 97 N., R. 67 W.,
Sec. 33, SE¼SE¼.
T. 96 N., R. 68 W.,
Sec. 7, SW¼SE¼.
T. 105 N., R. 68 W.,
Sec. 6, Lots 8 and 9;
Sec. 7, S½ of Lot 6.
T. 97 N., R. 69 W.,
Sec. 23, NW¼NE¼.
T. 100 N., R. 71 W.,
Sec. 26, NW¼NW¼.
T. 109 N., R. 75 W.,
Sec. 8, SE¼SE¼.
T. 120 N., R. 78 W.,
Sec. 2, SE¼SW¼.
T. 125 N., R. 79 W.,
Sec. 14, SW¼NE¼ and NE¼SE¼.
T. 128 N., R. 79 W.,
Sec. 24, W½NW¼.
T. 114 N., R. 81 W.,
Sec. 3, Lot 1;
Sec. 10, Lots 1 and 2;
Sec. 22, Lot 1.
Total—577.27 acres.
Total M 53205-A—657.27 acres.

(a) This classification meets the disposal criteria set forth in Title 43 of the Code of Federal Regulations, Part 2400. The lands are difficult and uneconomic to manage as part of the Public lands. They are not essential to any Bureau of Land Management project and are not required by any other Federal Agency except as to rights that will be reserved in the disposal. Transfer of these lands to the State will help fulfill the Federal Government's common school land grant to the State and constitute a public purpose use of the land.

(b) Right-of-way reservations will be made for the benefit of the Corps of Engineers and the Department of Energy or their successors when the NE¼SW¼ of Sec. 20, T. 95 N., R. 65 W., is certified to the State.

(c) A right-of-way for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945, will be reserved in the lands located in T. 120 N., R. 78 W.; T's. 125 and 128 N., R. 79 W; and T. 114 N., R. 81 W.

(d) The lands encumbered by grazing leases will not be certified to the State until 2 years has lapsed after the grazing lessee is notified that the lease will be canceled unless the lessee unconditionally waives the prior notification.

(e) The land in T. 122 N., R. 46 W., has no mineral value. The remaining lands are prospectively valuable for oil and gas and those mineral interests will be reserved to the United States in accordance with the provisions and limitations of the Act of July 17, 1914, 38 Stat. 509, as supplemented; 30 U.S.C. 121-124. Oil and gas leases in effect on the lands at the time of transfer will remain in full force and effect for the term of the leases. Lessees shall have the right to use so much of the surface of said lands as is required for operations under said leases without compensation to the State or its assignees for damages resulting from proper operations for the duration, and any authorized extension of the leases in accordance with Sec. 29 of the Act of February 25, 1920, 41 Stat. 347, 30 U.S.C. 186 and the Act of March 4, 1933, 47 Stat. 1570, 30 U.S.C. 124.

(f) The grant of lands which will be made to the State is subject to the following terms and limitations required by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-5.

1. The grantee or its successor in interest shall comply with the terms and provisions of Title VI and requirements of the rules of the Secretary of the Interior (43 CFR Part 17, as modified or amended), for the period that the lands conveyed are used for the purpose granted, or for another purpose involving the provisions of similar services or benefits.

2. In the event of a violation by the grantee or successor in interest, the United States has the right to seek enforcement of the requirements of Title VI and the terms of the rules of the Secretary pursuant to Title VI.

3. Upon request of the Secretary, the grantee agrees to post and maintain, on the property conveyed by this document, signs or posters bearing information concerning the applicability of Title VI to the area or facility granted. The posting on conveyed property is limited to areas of general visibility by the public.

4. The terms and limitations contained in paragraphs (1) through (3) shall constitute a convenant running with the land, binding on the grantee and its successor in interest, for the period for which the land described in this list is used for the purpose intended by the grant, or for another purpose involving the provision of similar services or benefits.

(g) The State of South Dakota shall inventory selected lands for archeological and historical sites prior to disposal or authorization of surface disturbing activities. Significant sites shall be protected or mitigated as determined by the South Dakota State Historic Preservation Officer.

3. The following described lands are not suitable for classification due to prior valid rights and other constraints as indicated by footnotes:

Fifth Principal Meridian

T. 100 N., R. 49 W.,
Sec. 26, Lots 2 and 3.[1]
T. 125 N., R. 52 W.,
Sec. 21, SE¼SW¼. (Lot 8)[2]
T. 106 N., R. 68 W.,
Sec. 31, Lot 6.[3]

[1] Lands do not exist as they were lost through erosion.
[2] The United States does not own these lands.
[3] Color-of-title claims encumber these lands but no validity determination has been made.

T. 110 N., R. 77 W.,
Sec. 11, Lot 7.[3]
T. 116 N., R. 79 W.,
Sec. 5, Lot 3.[2]
Total 175.46 acres.

4. The segregation caused by the State's application is terminated as to the lands described in paragraph 3 upon June 23, 1982.

5. Information concerning this classification may be obtained from the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, telephone 406–657–6291.

For a period of 30 days from the date of publication in the **Federal Register**, this classification shall be subject to exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2461.3 and 2462.3. Interested parties may submit comments to the Secretary of the Interior, LLM 320, Washington, D.C. 20240.

Michael J. Penfold,
State Director.

[FR Doc. 82-17003 Filed 6-22-82; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 28, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 12.

Sally G. Oldham,
Acting Keeper of the National Register.

SOUTH CAROLINA

Lexington County

Batesburg, *Hartley House (Batesburg-Leesville Multiple Resource Area)*, 305 E. Columbia Ave.

[FR Doc. 82-16919 Filed 6-22-82; 8:45 am]
BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: 30 CFR 785 Permit Requirements for Special Categories of Mining.
Bureau Form Number: None
Frequency: 5 years
Description of Respondents: Coal Mine Operators
Annual Responses: 9,540
Annual Burden Hours: 97,960
Bureau Clearance Officer: Darlene Grose, (202) 343–5447

June 11, 1982.

John G. Prior, Jr.,
Staff Assistant, Management and Budget.

[FR Doc. 82-16913 Filed 6-22-82; 8:45 am]
BILLING CODE 4310-05-M

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: 30 CFR 780, Surface Mining Permit Applications
Bureau Form Number: None
Frequency: 5 years
Description of Respondents: Surface Coal Mine Operators
Annual Responses: 52,197
Annual Burden Hours: 901,122
Bureau Clearance Officer: Darlene Grose, (202) 343–5447

John G. Prior, Jr.,
Staff Assistant, Management and Budget.

June 11, 1982.

[FR Doc. 82-16914 Filed 6-22-82; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: June 18, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Albert Farms Shippers' Association, Inc.
(2) P.O. Box 265, Worthington, MA 01098
(3) Albert Farms, Huntington Rd., Worthington, MA 01098
(4) Ronald A. Kievitt, P.O. Box 265, Worthington, MA 01098

(1) B.C. Transportation, Inc.
(2) P.O. Box 2041, Coeurd'Alene, ID 83814
(3) 1814 N. 4th Coeurd'Alene, ID 83814
(4) Robert Ashburn, 2104 N. 13th St., Coeurd'Alene, Idaho 83814

(1) Cornucopia Lines, Inc.
(2) P.O. Box 2217 Fullerton, CA 92633
(3) 4880 N. Cedar, Suite 102, Fresno, CA 93726
(4) Jose Zuniga, 4880 N. Cedar, Suite 102, Fresno, CA 93726

(1) Declaration Express, Inc.
(2) P.O. Box 2217, Fullerton, CA 92633
(3) 4880 N. Cedar, Suite 102, Fresno, CA 93726
(4) Jose Zuniga, 4880 N. Cedar, Suite 102, Fresno, CA 93726

(1) Independent Express, Ltd.
(2) P.O. Box 2217, Fullerton, CA 92633
(3) 4880 N. Cedar Suite 102, Fresno, CA 93726

(4) Jose Zuniga, 4880 N. Cedar, Suite 102, Fresno, CA 93726
(1) Lewiston Grain Growers, Inc.
(2) P.O. Box 467, Lewiston, Idaho 83501
(3) 1200 Snake River Ave., Lewiston, ID 83501
(4) Allan R. Peterson, P.O. Box 467, Lewiston, ID 83501
(1) Liberty Lines, Inc.
(2) 2736 W. Orangethorpe, Suite #16, P.O. Box 2217, Fullerton, CA 92633
(3) 2736 W. Orangethorpe, Suite #16, Fullerton, CA 92633
(4) Abelardo Salazar, 2736 W. Orangethorpe, Suite #16, Fullerton, CA 92633
(1) North Pacific Canners & Packers, Inc.
(2) P.O. Box 1800, Lake Oswego, OR 97034
(3) 18053 S.W. Lower Boones Ferry Rd., Durham Oregon 97062
(4) Bill Chaplin, P.O. 1800, Lake Oswego, OR 97034
(1) Pioneer Transportation Systems, Inc.
(2) Calle Jose Antonio Torres #1456, Colonia Independencia, Mexicali Baja, Calif. Mexico
(3) Calle Jose Antonio Torres #1456, Mexicali Baja, Calif. Mexico
(4) Oscar Reina Bustamante, Calle Jose Antonio Torres #1456, Colonia Independencia, Mexicali Baja Cal. Mexico
(1) Sawyer Fruit and Vegetable Cooperative Corporation
(2) P.O. Box 268, Bear Lake, MI 49614
(3) 502 Connie, Fremont, MI 49412
(4) Carl Gregg, P.O. Box 268, Bear Lake, MI 49614
(1) Sun Grain Farm Lines Inc.
(2) 4750 Sunrise Hwy., Sayville, NY 11782
(3) 4750 Sunrise Hwy., Sayville, NY 11782
(4) James Dooley, P.O. Box 63, Islip Terrace, NY 11730
(1) Western Growers Inc.
(2) P.O. Box 63, East Islip, NY 11730
(3) 4175 Vets Hwy., Ronkonkoma, NY 11779
(4) Michael Flou, P.O. Box 63, East Islip, NY 11730

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-16883 Filed 6-22-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 234N)]

Rail Carriers; Conrail Abandonment Between Erie and Warren, Pa; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between (1) mileposts 3.9 and 24, and (2) mileposts 27 and 36 in the Counties of Erie and Warren, Pa, a total distance of 29.1 miles effective on March 15, 1982.

The net liquidation value of line (1) between mileposts 3.9 and 24 is $1,230,193 and (2) between mileposts 27 and 36 is $441,837. If, within 120 days from the date of this publication, Conrail receives bona fide offers for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable decision of joint rates for through routes over such lines.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-16885 Filed 6-22-82; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice; Finance Applications

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: June 10, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

Agatha L. Mergenovich,
Secretary.

MC-F-14860, filed May 24, 1982. TRANSYSTEMS INC. (Transystems) (1627 Third Street, NW, Great Falls, MT 59404)—Purchase—BOYCHUKS' TRANSPORT LTD. (Boychuk) (P.O. Box 6298, Postal Station C, Edmonton, Alberta, Canada T5B 4K6). Representative: Patrick W. Rice, 1627 Third Street, NW, Great Falls, MT 59404. Transystems seeks authority to purchase all of the interstate operating rights of Boychuk. J. Michael Rice, John S. Rice, M. Kathleen Rice, Patrick W.

Rice and Rosemary A. Waters, who own all of the issued and outstanding shares of Transystems, seek concurrent authority to acquire control of said rights through the transaction. Transystems is purchasing those rights contained in Boychuks' certificate in MC 146840 (Subs 1F, 3F, 5F, 6F, 7F & 8), which authorize the transportation, as a common carrier, over irregular routes, of (A) general commodities (with the usual exceptions) between points in Cascade and Toole Counties, MT on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and Canada in MT; (B) lime and limestone products, in containers, from ports of entry on the international boundary line between the U.S. and Canada in WA, ID, and MT, to points in ID, MT, OR, and WA, restricted to traffic moving in foreign commerce; (C) new furniture and materials, equipment and supplies used in the manufacture and distribution of new furniture (except commodities in bulk), from ports of entry on the international boundary line between the U.S. and Canada at points in IL, WI, MN, ND, MT, ID, and WA, to those points in the U.S. in and west of WI, IL, MO, AR, and LA (except AK and HI); (D) (1) rugs, carpets, and floor coverings, and (2) materials and supplies used in the installation and maintenance of the commodities in (1) above, (except commodities in bulk), from the ports of entry on the international boundary line between the U.S. and Canada to those points in the U.S. in and west of WI, IL, MO, AR, and LA (except AK and HI); (E) fiberboard, from points in Flathead County, MT to ports of entry on the international boundary line between the U.S. and Canada; (F) explosives, between the port of entry on the U.S. Canada Boundary line at Sweetgrass, MT, on the one hand, and, on the other, Sweetgrass, MT.

Notes.—(1) Transystems and Boychuk are now commonly controlled under Commission approval in MC–F–14391. (2) Applicant has not requested temporary authority. (3) No directly related application has been filed. (4) Transferor has an application pending before the Commission in No. MC–146840 (Sub-No. 9X) to remove restrictions in No. MC–146840 (Sub-Nos. 1F, 3F, 5F, 6F, and 7F). Since a certificate granted in such a proceeding will supercede the underlying certificate, it must be held by the carrier holding the underlying authority. Consequently, upon issuance of certificate No. MC–146840 (Sub-No. 9X) to transferor, transferee will be required to seek modification of this transaction to include to new Sub-No. 9X certificate.

MC–F–14861, filed May 25, 1982. John J. Hudson, 306 Greenwood Road, Linthicum, MD 210890. Continuance in Control of Protective Food Services, Inc., 8242B Sandy Court, Jessup, MD 20794. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814, (301) 657–2636. John J. Hudson seeks authority to continue in control of Protective Food Services, Inc. upon institution by Protective of operations in interstate or foreign commerce as a motor common carrier. Mr. Hudson controls Protective and also is President and a member of the Board of Directors of Kane Transfer Company, a motor common and contract carrier operating under certificates issued in No. MC–9859 and subnumbers thereunder and permits issued in No. MC–67583 and subnumbers thereunder. Kane holds common carrier certificates to transport general commodities between points in Maryland east of the Frederick-Washington County Line, points in Delaware south of the Chesapeake & Delaware Canal, D.C. and points in the six northern counties of Virginia. Kane has been granted common carrier authority to transport general commodities (except Classes A and B explosives and commodities in bulk) between Baltimore, MD, points in Prince Georges County, MD, and the District of Columbia, on the one hand, and, on the other, points in DE, MD, NJ, OH, PA, VA, WV, and DC. Kane holds contract carrier authority to serve Proctor & Gamble Company in the transportation of commodities dealt in by food business houses between points in the United States. Kane also holds contract carrier permits to serve Grand Union Company between various point in VA, WV, and MD. Protective filed an application in No. MC–157652 to transport such commodities as are dealt in by grocery food business houses and drug houses between Jessup, MD, on the one hand, and, on the other, points in DE, MD, NJ, PA, VA, and DC. The application was published in the **Federal Register** of February 10, 1982, and was granted by decision served April 7, 1982, subject to the filing of an application under 49 U.S.C. 11343(a) or submitting an affidavit indicating why such approval is unnecessary.

MC–F–14863, filed May 26, 1982. TRIMAC TRANSPORTATION, INC. (Trimac) (306 South State Street, Dover, DE 19901)—CONTROL—QUALITY SERVICE TANK LINES, INC. (13550 Toepperwein Road, San Antonio, TX 78233). Representative: Leonard A. Jaskiewicz, 1730 M Street, NW, Washington, DC 20036; and C. Tom Clowe, 13550 Toepperwein Rd., San Antonio, TX 78233. Trimac seeks authority to acquire control of Quality through the purchase by Trimac of all the issued and outstanding stock of Davcel Inc., a non-carrier which controls Quality. Trimac Holding, Inc., and in turn, Trimac, Inc., and in turn, Trimac Limited, and in turn, John R. McCaig, McDevco Holdings Limited, Maurice W. McCaig, Mo-Mac Investment Ltd., and Estate of Rogert W. McCaig, seek authority to acquire control of Davcel of Quality through this transaction. The operating rights sought to be controlled by Trimac are contained in Quality's certificates under No. MC–145317, which authorize the transportation of (1) *cement*, between points in TX, LA, AR, OK, and NM; (2) *fly ash*, between points in TX, AR, LA, OK, NM, MS, TN, MO, KS, CO, KY, and AL; and (3) *commodities in bulk*, between points in the U.S. Trimac, a non-carrier is either in control of or an affiliate of the following carriers: Liquid Transporters, Inc. (MC–112617); Russ Transport, Inc. (MC–116459); Producers Transport Company (MC–124835); H.M. Trimble & Sons LTD (MC–123329); Oil & Industry Suppliers Ltd (MC–119555); Mercury Tanklines Limited (MC–125420 and MC–133383), Transport Soulanges, Inc. (MC–125360); Municipal Tank Lines Limited (MC–138762); and Tank Lines Limited (MC–144762). Condition: Trimac Transportation, Inc., shall continue to be considered a carrier under 49 U.S.C. 11348, subject to filing any special reports that may be required by the Commission under 49 U.S.C. 11145.

MC–F–14864, filed May 26, 1982. C & E TRANSPORT, INC. d/b/a C.E. ZUMSTEIN CO. (C & E) (P.O. Box 27, Lewisburg, OH 45338)—PURCHASE (PORTION)—TRANSHIELD TRUCKING, INC. (Transhield) (1000 N. Harvester Road, W. Chicago, IL 60185). Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006. C & E seeks authority to purchase a portion of the interstate operating rights and property of Transhield. The rights to be purchased by C & E are contained in Certificate No. MC–145950 (Sub-Nos. 69 and paragrpah 4 of Sub-No. 97X), which rights were awarded to C & E in MC–F–14731, and which authorize the transportation of (1) *chemicals and related products*, between points in Harris, Brazoria, Galveston, Chambers, Liberty, Fort Bend and Montgomery Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *rubber and plastic products and chemicals*, between the facilities of BASF Wyandotte in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). C & E is a motor common and contract carrier operating under MC–146890 and MC–134183. Transhield is a motor

common and contract carrier operating under MC–148600 and MC–142830. Condition: Charles E. Zumstein must submit an affidavit stating that he is the sole stockholder of C & E and that he joins in this application as a party in control, prior to issuance of an Effective Notice. Condition: Approval and authorization of this transaction is conditioned upon the prior consummation of the decision in MC–F–14731, which authorized transhield to purchase Certificate No. MC–145950 (Sub-No. 97)X from Baywood Transport, Inc.

Note.—Since the transaction involves the sale and retention of duplicating rights, applicants elected to submit evidence showing a public need for the competitive services.

MF–F–14865, filed May 27, 1982. PERRY MOTOR FREIGHT, INC. (Perry) (304 State National Plaza, Odessa, TX 79763)—PURCHASE—PARIS MOTOR FREIGHT, INC. (Paris) (P.O. Box 1787, Fort Smith, AR 72902). Representative: G. William Fowler, 115 West Fifth Street, Odessa, TX 79761). Perry seeks to purchase all the operating rights of Paris in certificates No. MC–128709 (and Sub-Nos. thereunder) Paris operates as a regular route common carrier transporting *general commodities* (with the usual restrictions and certain route restrictions) generally in AR, OK, TX, LA, TN, and MS; it also operates as an irregular route carrier transporting generally *general commodities* throughout the U.S. for the government, and *household appliances, television sets and other items* from Little Rock, AR to OK, and *food and related products* from Memphis, TN to AR, OK and TX. Impediment: The application is signed, on behalf of Perry Motor Freight, Inc., by its president Travis L. Dyer; however, the party or parties who control Perry have not joined in the application. Charles R. Perry, Chairman of the Board of Directors and Nancy Jo Perry, Secretary and Vice-President of Perry and a director, jointly own 32 percent of the stock. Mr. Dyer, Kenneth R. Perry, and James R. Perry, each own 9 percent and are directors. Jimmie B. Todd, a director, and Michael F. George, a director and also Treasurer and Vice-president, each own 4.5 percent. The remaining 32 perent of Perry stock is owned by Perry Investment, Inc., whose composition, officers, and relationship to any of the above-named persons is not described. Although we could make assumptions as to the control of Perry and order joinder, in view of the nature of the record here, we do not believe it appropriate. Accordingly, the party or parties who control Perry Motor Freight, Inc., will be required to so advise us, through an affidavit, of that status and to file an appropriate request for joinder in the application.

MC–F–14868, filed May 28, 1982. DONCO CARRIERS, INC. (Donco) (1703 Embarcadero Road, Palo Alto, CA 94303)—PURCHASE—DONCO CARRIERS, INC. (Carriers) (4720 SW 20th St., Oklahoma City, OK 73147). Representatives: Joseph P. Ficurelli, P.O. Box 10280, Palo Alto, CA 94303 and Vern Hill, Suite 1301, 1600 Wilson Blvd., Arlington, VA). Donco seeks authority to purchase the interstate operating rights and property of Carriers. Embarcadero Investments, a non-carrier and sole stockholder of Donco, and David P. Roush, Trustee, and Diane G. Roush, Trustee, who are partners of Embarcadero, seek authority to acquire control of said rights and property through the transaction. Donco is purchasing those rights contained in Carriers Certificate No. MC–136469 and sub-numbers thereunder and Certificate No. 136375 (Sub-No. 11) which authorize the transportation as a motor common carrier of *general and specified commodities* in such as but not limited to: *bicycles, bicycle parts and motor vehicle parts, such commodities as are dealt in or used by confectioners, food and related products, chemicals, rubber and plastic products, metal products, furniture and fixtures, machinery, pulp and paper, such commodities as are dealt in or used by Distillers of Alcoholic Beverages, and building materials,* between various points in the United states. Donco holds no authority from the Commission. David P. Roush and Diane Roush control ROCOR International, a non carrier holding company, which in turns controls and Western Freightways, a motor carrier pursuant to certificates issued in MC–71459. Altruk Freight Systems, Inc. a motor carrier pursuant to certificates issued in MC–116544, who in turn controls Pacific Carriers, a motor carrier pursuant to certificates issued in MC–157284.

Notes.—(1) Applicants must file a petition for substitution of applicant for any pending applications. (2) An application for temporary authority has been filed.

[FR Doc. 82–16881 Filed 6–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79648. By decision of June 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to Jim L. Langenfeld, d.b.a. D&J Enterprises, of Dow City, IA of Permit No. MC–141597 Subs 1, 3, 12 issued to Riverside Truck Line, Inc., of Talent, OR, authorizing: printed religious matter, (1) from points in various States to Iowa Falls, IA and from Iowa Falls, IA to points in Florida, under continuing

contracts with Riverside Book and Bible House, and (2) between points in the United States, under contract with World Bible Publishers, Inc. Applicant's representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. TA lease is not sought. Transferee is a carrier.

MC–FC–79767. By decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to WILLIAM B. ALTMAN, INC., of Fenelton, PA, of Permit No. MC–157881, issued to EVERFRESH TRANSPORT, INC., of Derby, NY, which authorizes the transportation of *food and related products*, between points in the United States, under continuing contract(s) with Castle and Cooke Foods, Inc., of Hauppauge, NY. Representative: Saul J. Bernstein, #2 Reiber Bldg., Butler, PA 16001.

Note.—Transferee is not a carrier.

MC–FC–79801 (Supplemental publication). By decision of 6–3–82, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to ALBERT FORTUNER of Certificate No. MC–95211 (Sub-No. 3)X issued to JOE FORTUNER authorizing the transportation of (1) *household goods and furniture and fixtures*, between points in Lackawanna, Susquehanna and Wayne Counties, PA, on the one hand, and, on the other, points in NJ and NY, and (2) *race and show horses*, between points in Lackawanna, Susquehanna and Wayne Counties, PA, on the one hand, and, on the other, points in NY. Representative: Joseph A. Keating, Jr., 121 South Main Street, Taylor, PA 18517.

Note: The purpose of this supplemental publication is to show the transfer of MC–95211 (Sub-No. 3)X. This certificate was issued after the application was filed. The original application transferred MC–95211. The (Sub-No. 3)X superseded MC–95211.

MC–FC–79808. By decision of June 3, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to EAGLE BUS, INC. of Certificate No. MC–84728 (Sub. No. 49), issued September 17, 1985, to Safeway Trails, Inc., d/b/a Trailways, Inc., authorizing transportation of passengers and their baggage, and express and newspapers in the same vehicles with passengers, between Elizabeth, NJ and New York, NY serving all intermediate points from Elizabeth over NJ Hwy 439 and Goethals Bridge, to New York and return over the same route, and that portion of MC–84728, Sub-No. 57, issued December 1, 1975, authorizing transportation over irregular routes of passengers and their baggage in special operations, in round-trip sightseeing or pleasure tours, beginning and ending at (1) all points on the presently authorized route of Safeway, Inc. in Docket No. MC–84728, Sub-No. 49 being purchased by the Transferee. Temporary authority lease is not sought. Transferee is not a carrier. Applicant's representative, Edward F. Bowes, Esq., Seven Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068.

MC–FC–79842. By decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GARDNER TRUCKING, INC., of Pittsville, WI, of Certificate Nos. MC–146982 (Sub-Nos. 3 and 4), issued to D. J. LEE CO., INC., of Vesper, WI, which authorize the transportation of such commodities as are dealt in or used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), (1) from the facilities of Consolidated Papers, Inc., at or near Wisconsin Rapids, Biron, and Stevens Point, WI, to points in FL, GA, and TN, and (2) from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, OR, MT, NV, NM, TX, UT, WA and WY. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703.

Note.—TA has been filed. Transferee is not a carrier.

MC–FC–79844. By the decision of June 1, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to S.M.S. EXPRESS CORP. of Certificate No. MC–56170 and (Sub-No. 3) issued to HENDERSON TRUCKING, INC. authorizing the transportation of (1) *toilet goods* and *cosmetics*, and *raw materials, supplies*, and *equipment* used in the manufacture and sale thereof, *machinery, office furniture, printed material*, and *premium* incidental to the sale of toilet goods and cosmetics, between Suffern, NY, on the one hand, and on the other, points in Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties, NJ, and those in Nassau, Rockland, Suffolk, and Westchester Counties, NY and (2) *toilet goods* and *cosmetics* and materials *supplies* and equipment used in the manufacture and sale of toilet goods and cosmetics, *printed materials* and *premiums* incidental to the sale of toilet goods and cosmetics (except commodities in bulk, in tank vehicles, from south Keerny and North Bergen, NJ, to the West Nyack and Rye, NY.

Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528.

Note(s).—Transferee is a non-carrier.

No. MC–FC–79845. By decision of June 3, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved a 1-year lease to THE GATEWAY DELIVERY, INC., of Elmsford, NY, of Permit Nos. MC–143499 and MC–143499 (Sub-Nos. 1, 3, 5, and 9), issued to DOUBLE NICKEL TRANSPORT LTD., also of Elmsford, NY, which authorize the transportation, as a contract carrier, of specified commodities, between various points in the United States, under continuing contracts with (1) Ampacet Corp., of Mount Vernon, NY; (2) Mini Grip, Inc., of Orangeburg, NY; (3) Becton-Dickinson Division of Becton, Dickinson and Company, of Rutherford, NJ; and (4) SCM Corporation, of Englewood, NJ. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528.

Notes.—Transferee holds authority under MC–15456 and is affiliated with Eddy Messenger Service, Inc., a motor carrier under MC–94901. Transferor is affiliated with GTG Trucking Corp., dba Fehsal's Express, a motor carrier under MC–109035 and MC–106542.

MC–FC–79853. By decision of June 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to McGrath Transport Limited of Toronto, Ontario, Canada of Certificate No. MC–142045 (Sub-No. 1) issued to McNeil Transport Limited of Brockville, Ontario, Canada authorizing: General commodities (usual exceptions) between Ogdensburg, NY, on the one hand, and, on the other, the port of entry on the U.S.–Canada Boundary at or near Ogdensburg, NY. Applicant's representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202. TA lease is not sought. Transferee is not a carrier.

MC–FC–79854. By decision of June 9, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to FRY'S HORSE TRANSPORTATION, INC., of Grove City, OH, of Certificate No. MC–14903 (Sub-No. 5), issued to FRY's HORSE TRANSPORTATION, INC., also of Grove City, OH, which authorizes the transportation of horses, other than ordinary horses, and in the same vehicle therewith, *mascots, personal effects of attendants, and supplies and equipment* used in the care and exhibition of horses, between points in the U.S. Representative: A. Charles Tell Suite 1800, 100 East Broad Street, Columbus, OH 43215.

Note.—In MC-FC-79223, the transfer or Transferor's authority in MC-14903 and MC-14902 (Sub-No. 3) to Transferee was approved. Approval of the transfer of the Sub-No. 5 authority is to complete a corporate reorganization.

MC-FC-79858. By decision of June 10, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to TRANSPORTATION MANAGEMENT, INC., of Milldale, CT, of certificate Nos. MC-149579 and MC-149579 (Sub-Nos. 2 and 3) and Permit Nos. MC-149579 (Sub-No. 1)X and MC-140379 (Sub-No. 13), issued to TRANSPORT SERVICE, INC., of Providence, RI, which authorize the following: To operate as a common carrier by motor vehicle, over irregular routes, transportating (a) *general commodities*, with exceptions, for the United States Government, between points in the U.S., (b) *lumber and wood products*, between Charles City and New Kent Counties, VA, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, and (c) *metal products, machinery, building materials, and building supplies*, between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (a) *brass articles, copper articles, and aluminum articles*, between points in the U.S., under continuing contract(s) with United Wire & Supply Corp., of Cranston, RI, and (b) *metal products*, between points in the U.S., under continuing contract(s) with Washburn Wire Company, of Phillipsdale, RI, Newman-Crosby Steel, Inc., of Pawtucket, RI, Syro Steel Company, of Girard, OH, Bridgeport Brass Company, of Indianpolis, IN, and Penn-Dixie Steel Corporation, of Kokomo, IN. CONDITION: Prior to issuance of an Effective Notice in this proceeding, tranferor must request in writing cancellation of Permit Nos. MC-140379 (Sub-Nos. 10, 11, and 12), which duplicate authority being transferred. Representative: Jeffrey A. Vogelman, 123 South Royal Street, Alexandria, VA 22314.

Notes.—TA has been concurrently filed. Transferee is a non-carrier.

MC-FC-79862. By decision of June 10, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to Nebraska Bulk transports, Inc., of Bennet, NE, of Certificate No. MC-93078 (Sub-2)X issued to Fitch Trucking, Inc., of Bennet, NE, authorizing the transportation over regular routes, *general commodities* (except household goods and classes A and B explosives), between Ponca, NE and Sioux City, IA, serving all intermediate points and serving the off-route points in Cedar, Dixon and Dakota Counties, NE, from Ponca over NE Hwy 12 to Willis, NE, then over U.S. Hwy 20 to Sioux City, and return over the same route; livestock and farm products between Ponca, NE and Yankton, SD, serving all intermediate points and serving off-route points in Cedar, Dixon and Dakota Counties, NE, from Ponca over NE Hwy 12 to junction NE Hwy 15, then over NE Hwy 15 to junction U.S. Hwy 81, then over U.S. Hwy 81 to Yankton, and return over the same route; and, over irregular routes, of *general commodities*, from Sioux City, IA, on the one hand, and, on the other, points in Dixon County, NE; and *household goods*, as defined by the Commission, between points in Dixon County, NE, on the one hand, and, on the other, points in IA. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501.

Notes.—Transferee is a carrier. Transferee does not seek temporary authority to lease the right involved.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16862 Filed 6-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutues and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-123

Decided: June 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162012, filed May 17, 1982. Applicant: THOMAS GRIFFITH, 904 North Luett, Indianapolis, IN 46222. Representative: James T. Darby, 1021

Irving Ave., Colonial Beach, VA 22443, (804) 224–0773. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162022, filed May 17, 1982. Applicant: ALLIED LEASING CORPORATION, 393 Turnpike Rd., South River, NJ 08882. Representative: Alan Kahn, Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. As a broker of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162173, filed May 25, 1982. Applicant: ROBERT R. LANPHIER, Rte. 2, Box 2697, Prosser, WA 99350. Representative: Robert R. Lanphier (same address as applicant), 509–973–2462. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162233, filed May 27, 1982. Applicant: AMERICAN TRUCK BROKERAGE, INC., 8090–B N.W. 13th St., P.O. Box 4337, Margate, FL 33063. Representative: Robert W. Gerson, 127 Peachtree St. NE, Atlanta, GA 30043, 404–658–8000. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–220

Decided: June 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 144757 (Sub-21), filed May 21, 1982. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 3104 E. St. Patrick, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting *general commodities* (except used household goods), between (a) Arnaudville, Bryant, Bushville, Cecelia, Coteau Holmes, Gondron, Grand Point, Isle Labbe, Jefferson Island, Loreauville, New Iberia Connection, Oubre, Parks, Patin, Pecaniere, Summerall, Ulysse, Vida, and Walet, LA; (b) Fairfax and Tarkio, MO; (c) Buckley and Enumclaw, WA; (d) Huntley and Ragan, NE; (e) Bender, Breckenridge, Eddy, Erie, Grainville, Hunter, Lamont, Middleton, Peckham, Salt Fork and Steen, OK; (f) Simpson, OK; (g) Weir City, KS; (h) Bartlett, Cartago, Coso, Inyokern, Linnie, Little Lake, Olancha, and Sykes, CA; (i) Corrall and Hill City, ID; (j) Cipsco Park, Carbon Lake, Leo Rock and Sand Ridge, IL; (k) Viola, KS; (l) Edgar, Johnson, Keuka, Newby and Oak Crest, FL; (m) Pactolus, Stokes and Whitehard, NC; (n) Ehrhardt, SC; (o) Dundee, Lake Hamilton and Waverly, FL; (p) Greenwood, Loyal and Spokeville, WI; (q) Oakdale, MN; (r) Pencilwood, CA; (s) Berwick, OH; (t) Mt. Hope, NJ; (u) Buchanan, Carlton, Cochranton and Utica, PA; (v) Dimeling and Madera, PA; (w) Dimeling, PA; (x) Lilly, PA; (y) Lansdown, NJ; (z) Aqueduct, NY; (aa) Alexandria, PA; (b) Atlasburg, PA; (ac) St. Clair, PA; (ad) Kentmore, DE, (ae) La Otto and Huntertown, IN; (af) Picatinny Arsenal, NJ; (ag) Hudson, NJ; (ah) Whitehall, OH; (ai) Levans Mill, PA; (aj) Hepburnville, PA; (ak) Randolph, MA; (al) Hughesville and Warren Glen, NJ; (am) Gadsden, IN; (an) Newton Highlands, MA; (ao) Toms River, NJ; (ap) East View and Elmsford, NY; (aq) Wodbine, NY; (ar) Cadiz, OH; (as) Grants, McVittys and Patterson, OH; (at) Bowersville, PA; (au) Little Virginia, PA; (av) New Providence, PA, (aw) Milton, DE; (ax) Olivers, San Pierre, Rupel, Tefft, Toto and Wheatfield, IN; (ay) Colon, Concord, Haires, Homer, Spring Arbor, Union City and Tekonsha, MI; (az) Merchantville and Pavonia, NJ; (ba) Branchport, East Longbranch and Ft. Monmouth, NJ; (bb) Frankfort, Harbor and Ilion, NY; and (bc) McConnellsville, NJ; (bd) Pittsford, NY; (be) Cheming Junction, Elmira Heights and Horseheads, NY; (bf) Coleman, Columbiana Mine and Lisbon, OH; (bg) De Cliff, Hepburn, Swan Creek and W. Marion, OH; (bh) N. Cherokee, OH; (bi) Ironsides, PA; (bj) Glasgow and Irvona, PA; (bk) Ludlow, MA; (bl) Heilwood, PA; (bm) Honeoye Falls and Lima, NY; (bn) Ft. George G. Meade, MD; (bo) Charlottesville, Cumberland, Gem and Greenfield, IN; and (bp) Garettsville, Hiram, Leavittsburg and Phalanx, OH; (bq) Amsterdam, Ann Mine, Bergholz, Hopedale, Industrial Mine, K & R 1 Mine, Mechanicstown, Piney Fork and Route 43 Washer, OH; (br) Durbin, IN; (bs) Aylesworth, Hebron, Kouts, Le Roy, North Judson and Winamac, IN; (bt) Bayard and Fairhope, OH; (bu) Betzwood and Port Indian, PA; (bv) Spring Mill, PA; (bw) Harding and Ontario, OH; (bx) Harrods, OH; (by) Malden, NJ; (bz) Greason, Lees Cross Roads, Longsdorf and Newville, PA; (ca) Eclipse, PA; (cb) Arlington Siding, Fishkill Plains and Manchester Bridge, NY; (cc) Centerville and Germantown, IN; and Eldorado, New Paris and Stillwater, OH; (cd) Clintondale, East Walden and Modena, NY; (ce) Amo, Clayton, Coatesville and Plainfield, IN; (cf) Cornwall, PA; (cg) Highstown, NJ; (ch) Covington, Hillsboro, Range Road and Waynetown, IN; (ci) Mt. Carmel, PA; (cj) Birmingham, Ft. Dix and Pemberton, NJ; (ck) Cunningham, Milton, Semora, NC and Baskerville, Boydton, Buffalo Jct., Finchley, Mayo, Nelson, Union Level and Virgilina, VA; (cl) Carthage and Key West, MN; and (cm) Lake Kapowsin, WA, on the one hand, and, on the other, points in the U.S. (except AK and HI). CONDITION: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, DC 20423.

MC 162326, filed June 3, 1982. Applicant: MACHECA TRANSPORT CO., 4400 Geraldine, St. Louis, MO 63115. Representative: B.W. LaTourette, Jr., 11 S. Meramac, Suite 1400, St. Louis, MO 63105, (314) 727–0777. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162366, filed June 7, 1982. Applicant: R. L. SWEARER CO., INC., 717 Liberty Ave., 2301 Clark Bldg., Pittsburgh, PA 15222. Representative: Charles M. Watson (same address as applicant), (412) 261–0131. As a *broker of general commodities* (except household goods), between points in the U.S. (including AK and HI).

MC 162386, filed June 8, 1982. Applicant: ANGELL AND SON TRANSPORTATION, 6920 Willis Lane, Beaumont, TX 77706. Representative: Thomas R. Angell, Jr. (same address as applicant), (713) 899–1965. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in Jefferson and Orange Counties, TX, and Calcasieu Parish, LA.

Volume No. OP5–133

Decided: June 14, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 142059 (Sub-187), filed April 22, 1982. Initially published in the Federal Register on May 13, 1982. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Drive, Channahon, IL 60410. Representative: Jack Riley (same address as applicant), (815) 729–3808. Transporting *general commodities* (except household goods and commodities in bulk), between Blanche and Blue Pond, Al, Bartlett, Cartago, Coso, Inyokern, Little Lake, Lone Pine, Olancha, Pencilwood, and Swanston, CA, Dundee, Lake Hamilton, and Waverly, FL, Chelsea and Menlo, GA,

Corral and Hill City, ID, Addison, Grand Tower, Mooseheart, and Sand Ridge, IL, LaOtta, IN, Orange City, IA, Viola and Wier, KS, Benton and Hardin, KY, Amesbury and Salisbury, MA, Alden, Bellaire, Bendon, Central Lake, Chief Lake, Ellisworth, Interlochen, Kaleva, Norwalk, and Rapid City, MI, Key West, MN, Fairfax and Tarkio, MO, Huntley and Ragan, NE, Pactolus, Stokes, and Whichard, NC, Dunseith, ND, Ehrhardt and Lodge, SC, and Ralston and Terrell, TN, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for completely abandoned rail service. This application is republished to include Bartlett, CA.

MC 162138, filed May 21, 1982. Applicant: AMOS D. WILLIAMS, d.b.a. WILLIAMS PICK-UP AND DELIVERY SERVICE, 3517 Iroquois, Detroit, MI 48214. Representative: Robert E. McFarland, 2855 Coolidge Rd., Suite 201A, Troy, MI 48084, (313) 649–6650. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, (3) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, and (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 162328, filed June 3, 1982. Applicant: DELIVERY EXCHANGE SERVICE, INC., 922 North Industrial Blvd., Dallas, TX 75207. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, 214–741–6263. As a *broker of general commodities* (except household goods), between points in the U.S. (except HI).

MC 162379, filed June 8, 1982. Applicant: CIRCLE J FARM PRODUCTS, INC., 3001 Douglas St., Omaha, NE 68131. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–16805 Filed 6–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are govered by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application including all supporting evidence, can be obtained form applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficent opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems), and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–122

Decided: June 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 8713 (Sub-5), filed June 8, 1982. Applicant: BRAUN'S EXPRESS, INC., 1494 Main Street (Rear), Millis, MA 02054. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, D.C. 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in the U.S. (except AK and HI), under continuing contract(s) with Digital Equipment Corp. of Northborough, MA.

MC 121793 (Sub-4), filed May 17, 1982. Applicant: JESSE EASLEY, d.b.a. VAL VERDE CARTAGE AND STORAGE, P.O. Box 302, Socorro, NM 87801. Representative: James E. Sneed, P.O. Box 2228, Santa Fe, NM 87501, (505) 982–2691. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in Cibola, Valencia, Carton, Sierra, Grant, Hidalgo, Luna, Dona Ana, Otero, Socorro, and Lincoln Counties, NM, and El Paso Counties, TX.

MC 136432 (Sub-8), filed May 17, 1982. Applicant: D & M EXPRESS, INC., Rte. 19, R. D. 1, Evans City, PA 16033. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281–0494. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Fox Grocery Company, of Belle Vernon, PA.

MC 146222 (Sub-9), filed May 27, 1982. Applicant: ILCO TRUCKING, INC., P.O. Box 528, Leeds, AL 35094. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, 205–254–3880. Transporting (1) *forest products*, (2) *lumber and wood products*, (3) *metal and metal products*, (4) *machinery*, (5) *building products*, and (6) *clay, concrete, glass or stone products, and refractory products*, between points in the U.S. (except AK and HI).

MC 148873 (Sub-6), filed May 27, 1982. Applicant: ROAD–CON SYSTEMS, INC., 2500 83rd St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201–435–7140. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk, between points in the U.S) (except AK and HI), under continuing contract(s) with Arrow Fastener Company, Inc., of Saddle Brook, NJ.

MC 159352 (Sub-1), filed May 27, 1982. Applicant: MOVER'S INTERNATIONAL, INC., 18800 Highway 99, Lynnwood, WA 98036. Representative: Robert H. Johnson, P.O. Box 1294, Lynwood, WA 98036, 206–775–3888. Transporting *household goods and unaccompanied baggage*, between points in DE, NJ, NY, MD, PA, VA, WV, and NC.

MC 159542, filed May 10, 1982. Applicant: ADKINS CONSTRUCTION CO., INC., 1301 Portland Ave., Louisville, KY 40203. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956, (414) 722–2848. Transporting *furniture and fixtures, lumber and wood products, machinery, metal products, and those commodities which because of their size or weight require the use of special handling or equipment* between points in Floyd County, IN, Jefferson County, KY and Sumter County, SC, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MD, MI, MS, MO, NJ, NC, OH, PA, SC, TN, TX, VA, WV and WI.

MC 162032, filed May 17, 1982. Applicant: CLASSIC LIMO LTD., INC., d.b.a. CLASSIC LIMO, 715 N. Burghley Avenue, Ventnor, NJ 08406. Representative: James F. Portock, 439 Roosevelt Avenue, Northfield, NJ 08225, (609) 646–0006. Transporting *passengers and their baggage, in the same vehicle with passengers*, between Atlantic City, NJ, and points in NY, CT, DE, MD, NJ, and DC.

MC 162072, filed May 17, 1982. Applicant: RALLY TRANSIT, INC., 714 Wheeler Street, Griffith, IN 46319. Representative: Martin J. Leavitt, P.O. Box 400, 22375 Haggerty Road, Northville, MI 48167, (313) 349–3980. Transporting *commodities in bulk*, between points in IN, IL and MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162093, filed May 19, 1982. Applicant: RAL–SAN TRANSPORT CO., INC., P.O. Box 121, Caroga Lake, NY 12032. Representative: Ralph Acquilla (same address as applicant), 518–725–5596. Transporting *beer*, between points in NY and PA, under continuing contract(s) with DeCrescente Distributing Co., Inc., of Mechanicville, NY.

MC 162222, filed May 27, 1982. Applicant: VARIETY BUS TOURS, INC., 7622 Margate Blvd., Margate, FL 33063. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd., St., Miami, FL 33166, 305–592–0036. As a *broker*, at Margate, FL, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, between points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162252, filed May 28, 1982. Applicant: J. K. WHITE TRUCKING, INC., 62 Concord St., North Reading, MA 01864. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617–235–5571. Transporting *metal products*, between points in MA, on the one hand, and, on the other, points, in CT, ME, NH, RI, and VT.

Volume No. OP2–124

Decided: June 16, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 139182 (Sub-5), filed May 19, 1982. Applicant: ATLAS DELIVERY SERVICE, INC., P.O. Box 1154, Athens, TX 75751. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S. (except AK and HI) under continuing contract(s) with (1) Nichols-Kusan, Inc. of Jacksonville, TX; (2) ARA Manufacturing Company of Grand Prairie, TX and (3) Dometic, Inc. of Bloomington, IL and its subsidiaries and divisions as follows: Viking Sewing Machine Company; Emerson Quiet Kook; The Eureka Company; Napco Plastics Company; Envirovac, Inc.; Facit, Inc.; Flymo Company; Getinge International, Inc., Husqvarna Co., Partner Pacific, Inc., Tecfor, Inc., Pioneer of Canada, Dometic Sales Corp., National Union Electric Corp., and Tappan Company, and Quaker Maid Kitchens, J-Wood, Kemper Cabinets, Schrock Cabinets, and Anaheim Manufacturing and Marblecast, Inc., its divisions.

MC 142873 (Sub-18), filed May 25, 1982. Applicant: D & W TRUCK LINES, INC., 200 1st St. (Box 427), Parsons, WV 26287. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave. NW, Suite 500, Washington, DC 20006, 202–828–5015. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Carter Footwear, Inc., and Parsons Footwear, Inc., of Wilkes Barre, PA.

MC 150783 (Sub-24), filed April 27, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, 501–456–2453. Transporting *such commodities* as are dealt in or used by chain grocery stores and food business houses, department stores, and variety stores, between Phoenix, AZ, Little Rock, AR, Los Angeles, Oakland, Richmond, Sacramento, and San Francisco, CA, Denver, CO, Bonner Springs, Kansas City, and Wichita, KS, Capitol Heights, MD, Kansas City and Joplin, MO, Butte, MT, Clovis, NM, Oklahoma City and Tulsa, OK, Portland, OR, Dallas and Houston, TX, Salt Lake City, UT, Hampton and Richmond, VA, Bellview, Grandview, Seattle, and Spokane, WA, Durand and La Crosse, WI, and DC, and points in Maricopa County, AZ, White, Alameda, Kings, Los Angeles, San Diego, and San Joaquin Counties, CA, Lyon County, KS, Prince Georges County, MD, Nobles County, MN, Jasper County, MO, Clackmas and Coos Counties, OR, and Grayson, El Paso, and Dallas Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151173 (Sub-15), filed June 3, 1982. Applicant: HAR–BET, INC., 7209 Tara Blvd., P.O. Box 855, Jonesboro, GA 30237. Representative: O. L. Godfrey, Jr. (same address as applicant), 404–478–4115. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kitchens of Sara Lee, of Deerfield, IL.

MC 151193 (Sub-27), filed June 1, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same address as applicant), 201–499–3869. Transporting *toys*, between points in the U.S., under

continuing contract(s) with Knickerbocker Toy Co., Inc., of Edison, NJ.

MC 151422 (Sub-8), filed May 24, 1982. Applicant: MINN–DAK TRANSPORT, INC., P.O. Box N — 40–1st Ave. NW, Pelican Rapids, MN 56572. Representative: Thomas J. Van Osdel, 15 Broadway-Suite 502, Fargo, ND 58102, 701–235–4487. Transporting (1) *rubber and plastic products,* between points in MN and ND, on the one hand, and, on the other, points in CO, IA, MN, NY, and OH, (2) *metal proudcts and electrical machinery and supplies* (a) between points in MN, MT, ND, and SD, on the one hand, and, on the other, points in IA, IL, MI, NJ, NY, PA, OH, SD, and WI, and (b) between points in MN and ND, on the one hand, and, on the other, points in IN, MO, MT, and NE, and (3) *chemicals and related products* (a) between points in IN and NJ, on the one hand, and, on the other, those points in the U.S., in and east of MN, WI, IL, KY, TN, MS, and LA, and (b) between points in KS, on the one hand, and, on the other, points in AZ, CA, CO, IL, IA, MN, MO, NE, NM, OK, OR, SD, TX, and UT.

MC 157923 (Sub-1), filed June 1, 1982. Applicant: TAYLOR TRUCKING, INC., 4080 Lancer Circle, Manitowoc, WI 54220. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *such commodities* as are dealt in or used by manufacturers and distrbutors of cement and cement products, between points in the U.S. (except AK and HI), under continuing contract(s) with Illinois Cement Company, of LaSalle, IL, and Wisconsin Cement Company, of Hartland, WI.

MC 158932 (Sub-1), filed May 18, 1982. Applicant: SMITH TOURS, INC., P.O. Box 1460, 3033 U.S. 41 North, Henderson, KY 42420. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, D.C. 20005, (202) 783–7900. Transporting *passengers and their baggage* in charter and special operations, between points in KY, IN, IL and TN, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 160612, filed May 19, 1982. Applicant: SCHEALL DRIVEAWAY SYSTEM, Suite 100, 9485 Colfax Avenue, Lakewood, CO 80215. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Avenue, NW., Washington, D.C. 20036, (202) 785–0048. Transporting *transportation equipment,* between points in ND, SD, NE, KS, TX, OK, CA, OR, WA, MT, ID, NV, AZ, UT, WY, CO, NM, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160803 (Sub-1), filed May 24, 1982. Applicant: CONTINENTAL MOTOR FREIGHT, INC., 11650 Court House Blvd., Inver Grove Heights, MN 55075. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *general commodities* (except household goods and commodities in bulk), between points in the U.S. (except AK and HI). Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 162132, filed May 28, 1982. Applicant: MARTHA D. WEEKS, d.b.a. M.D. WEEKS TRUCKING CO., P.O. Box 538, Hamilton, AL 35570. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, D.C. 20006, 202–828–5015. Transporting *lumber and wood products, machinery, and metal products,* between points in Marion and Winston Counties, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–214

Decided: June 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 105367 (Sub-7), Filed June 8, 1982. Applicant: THE HALL TRUCK LINE, INC., P.O. Box 188, Olathe, KS 66061. Representative: Everett J. Sellers (same address as applicant), (913) 782–0850. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NE, IA, KS, MO, OK, AR and CO.

MC 129987 (Sub-3), filed June 8, 1982. Applicant: TERRA COTTA TRUCK SERVICE, INC., 4712 Amway Dr., Crystal Lake, IL 60014. Representative: Donald S. Mullins, 1033 Graceland Ave., (312) 298–1094. Transporting *petroleum, natural gas and products, coal products, and chemical and related products,* between points in the U.S. (except AK and HI), under the continuing contract(s) with Ashland Oil, Inc., of Ashland, KY, and Torco Oil Company, of Chicago, IL.

MC 141136 (Sub-8), filed June 9, 1982. Applicant: TRIANGLE TRANSPORTATION AND WAREHOUSING SYSTEMS, INC., 1930 Sixth Ave., South #404, Seattle, WA 98134. Representative: Henry C. Winters, 12600 SE 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between the ports of entry on the International Boundary line between the U.S. and Canada in ID, MT, and WA, on the one hand, and, on the other, points in AR, IA, IL, IN, KS, LA, MI, MN, MO, ND, NE, OK, SD, TX, and WI.

MC 143127 (Sub-85), filed June 9, 1982. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Catherine Jablonski (same address as applicant), (716) 924–9951. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Super Food Services, Inc., of Orlando, FL.

MC 148697 (Sub-2), filed June 9, 1982. Applicant: TRINITY, INC., P.O. Box 327, Lenoir, NC 28645. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *furniture and fixtures,* between points in Cleveland, Iredell, and Caldwell Counties, NC, on the one hand, and, on the other, points in WA, OR, CA, NV, UT, and AZ.

MC 153167 (Sub-1), filed June 9, 1982. Applicant: ANGELICA ENTERPRISES, INC., Park Circle, Angelica, NY 14709. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *such commodities* as are used by manufacturers and distributors of dairy products, between points in the U.S., under continuing contract(s) with Friendship Dairies, Inc., of Friendship, NY.

MC 154716 (Sub-2), filed June 9, 1982. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Rd., Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352–7220. Transporting *paper and related products,* between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Bogalusa, LA.

MC 161057, filed June 9, 1982. Applicant: RIGA TRUCK LINES, INC., P.O. Box 729, Baker, OR 97814. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *lumber and wood products, building materials, and metal and metal products,* between points in AZ, AR, CA, CO, ID, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY.

MC 162357, filed June 7, 1982. Applicant: DIVERSIFIED COMMERCIAL SERVICES, INC., 5636 Lisette, St. Louis, MO 63109. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A

and B explosives, household goods and commodities in bulk), between St. Louis, MO, on the one hand, and, on the other, points in MO, IL, IN, OH, AR, IA, TN, MS and KY.

MC 162387, filed June 7, 1982. Applicant: AAA CHARTER BUS, INC., d.b.a. A AND A CHARTER LINES, 5136 W. 106th St., Lennox, CA 90304. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702, (714) 667-8108. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Los Angeles and Orange Counties, CA, and extending to points in AZ, NV, UT, NM, WA, CO, ID, MT, WY, SD, TN, NY and DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16880 Filed 6-22-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

Important Notice

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-179

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, NE., Atlanta, GA 30309.

MC 159048 (Sub-3-2TA), filed June 15, 1982. Applicant: BLUEGRASS TOURS, INC., 410 W. Vine, Suite 100, Lexington, KY 40507. Representative: William L. Willis, 702 McClure Building, Frankfort, KY 40601. *Pasengers in one-way and round-trip special and charter operations*, between points in Fayette County, KY, on the one hand, and, on the other, points in Knox County, TN. Supporting shippers: There are six statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 151789 (Sub-3-2TA), filed June 15, 1982. Applicant: EASTERN CARRIERS, INC., P.O. Box 8492, Station A, Greenville, SC 29604. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract;* irregular. *General commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)*, between points in the U.S. (except AK and HI), under continuing contract(s) with GK Technologies, Inc. and its subsidiaries, Hydrotherm, Inc., Sprague Electric Company, Automation Industries, Inc. and its General Cable Company Division. Supporting shipper(s): GK Technologies, Inc., 500 West Putnam Avenue, Greenwich, CT 06830.

MC 162443 (Sub-3-1TA), filed June 15, 1982. Applicant: HOLLAND BROS. INC., Short Street, Box 87, Wingo, KY 42088. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. (1) *Carbon electrodes* between Hickman, KY and Rockdale, TX. (2) *Clothing and related apparel* between Wingo, KY and points in the U.S. except AK and HI. Supporting shippers: 1. Sigri Carbon Corporation, Cory Road, Hickman, KY 42050, 2. Harris Mfg. Co., Rt. 2, Box 333, Adamsville, TN 38310.

MC 162188 (Sub-3-1TA), filed June 14, 1982. Applicant: LAND OCEAN TRANSPORT, INC., 2035 N. Miami Avenue, Miami, FL 33127. Representative: Bernard C. Pestcoe, Esq., 201 Alhambra Circle, Suite 511, Coral Gables, FL 33134. *General Commodities, except hazardous materials, between points in Dade, Broward, Palm Beach, Orange, Duval, Hillsborough, Pinellas, Marion, Monroe, Collier and Lee Counties, FL, restricted to transport having a prior or subsequent movement by water.* There are five (5) supporting shippers' statements, which can be examined at the ICC's Regional Office in Atlanta, GA.

The following applications were filed in Region 6. Send Protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 162473 (Sub-6-1TA), filed June 14, 1982. Applicant: S. Archibald Transport Company, P.O.B. 497, Rigby, ID 83442. Representative: Scott S. Archibald (same as Applicant). (1) *Title, Masonry products and related building materials* from OH, TN, NY, TX, AL, PA to CO, UT, WA, MT, WY, ID: (2) *Grocery products* from Chicago IL to UT, CO, NM, AZ, WA, OR; and (3) *Retail department store products* from IL, IN, IA, AL, GA, TX, TN, OH, NY, PA to Salt Lake City, UT for 270 days. Supporting shipper: Suenaga Masonry, 555 Warren Ave., Pocatello, ID 83201.

MC 52793 (Sub-6-21TA), filed June 15, 1982. Applicant: BEKINS VAN LINES CO., 3090 Via Mondo, Compton, CA 90221. Representative: David P. Christianson, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017. *Contract carrier.* Irregular routes: *Items dealt in or utilized by furniture stores and department stores*, between points in WA, OR, CA, NV, ID, MT, WY, UT, CO, NM, AZ, TX & OK, for the account of Levitz Furniture Corporation, for 270 days. Supporting shipper: Levitz Furniture Corporation, 1317 N.W. 167th Street, Miami, FL 33169.

MC 140633 (Sub-6-4TA), filed June 11, 1982. Applicant: CAPIAL DELIVERY SYSTEMS, INC., P.O.B. 161115, Sacramento, CA 95816. Representative: John F. Parks, III (same as applicant). *Conract carrier,* Irregular Route: *Such commodities as are dealt with or used by retail department stores and catalog mail-order houses* between San Leandro, CA & Reno, NV, and all points within a 50 air-mile radius of Reno, NV for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Montgomery Ward & Co., 3000 Alvarado, St., San Leandro, CA 94577.

MC 152000 (Sub-6-1TA), filed June 14, 1982. Applicant: WILLIAM G. TUTTLE, d.b.a. CUSTOM MOBILE HOMES, N. 2650 Corbin Rd., Post Falls, ID 83854. Representative: William G. Tuttle, P.O.B. 1321, Post Falls, ID 83854. *Mobile and Modular Homes* in Primary and

Secondary Movements between points in OR, WA, CA, NV, AZ, UT, MT, WY, CO, NM, NE, SD, ND, KS, OK, and TX for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Powder Basin Home Sales, 5341 Hwy 59 South, Gillett, WY 82761.

MC 128685 (Sub-6-7TA), filed June 14, 1982. Applicant: DIXON BROS., INC., P.O.D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern I, Billings, MT 59101. *Lumber and wood products,* between points in Lawrence County, SD, on the one hand, and, on the other, points in MT, CO, ND, SD, NE, KS, MN, IA, MO, WI, IN, IL, MI, OK and TX, for 270 days. Supporting shipper: Pope & Talbot, Inc., 1500 S.W. First Ave., Portland, OR 97201.

MC 150982 (Sub-6-2TA), filed June 14, 1982. Applicant: DUTRA TRUCKING CO., INC., P.O.B. 277, Arcata, CA 95221. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579. *Contract carrier;* Irregular Routes: *Food and related products, flour and such commodities, materials and supplies used in the manufacturing and processing of food products* between Humboldt County CA, on the one hand, and Grants Pass, Eugene, Salem, and Portland, OR; South Lake Tahoe and Reno, NV; and Seattle, Tacoma and Spokane, WA on the other; *Lumber and wood products; ground bark and wood chips, in bulk,* between Humboldt and Del Norte Counties CA on the one hand, and Douglas, Jackson, Josephine, Curry, Coos, Lane, Multnomah, Washington, Yamhill, Polk, Marion, Linn, Lincoln, Clackamas, Hood River, Tillamook, Clatsop, Columbia and Benton Counties OR on the other for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Bien Padre, Sixth & C Sts., Eureka, CA 95501; Miller Redwood Company, P.O.B. 247, Crescent City, CA 95531.

MC 159103 (Sub-6-3TA), filed June 11, 1982. Applicant: KEN GEBERT, d.b.a. KEN GEBERT TRUCKING, Mill Creek Rd., Frenchtown, MT 59834. Representative: Ken Gebert (same as applicant). *Lumber products,* from points in CA, ID, MT, OR, and WA to points in AZ, CA, CO, IA, ID, IL, IN, KS, MI, MN, MO, MT, ND, NE, NM, NV, OH, OK, OR, SD, TX, UT, VA, WA, WI, and WY; and from points in KY, TN, and WV to points in MT for 270 days. Supporting shippers: Superior Hardwoods, 1900 Grant St., Missoula, MT 59801; Sunrise Forest Products Co., P.O.B. 25060, Portland, OR 97225; Western Bee Supplies, P.O.B. 171, Polson, MT 59860; North Santiam Lumber Co. of Ohio, 2533 Fisher Rd., Columbus, OH 43204.

MC 153813 (Sub-6-3TA), filed June 15, 1982. Applicant: MIDWEST PACIFIC TRANSPORT, INC., 1351 S. 351st St., Federal Way, WA 98003. Representative: Bruce A. Wolf, 2120 Pacific Building, Third & Columbia St., Seattle, WA 98104. *Contract carrier;* Irregular routes: *Building Materials,* between points in WA, OR, ID and MT on the one hand and points in MI, OH and NY on the other hand, for 270 days. Supporting shipper: Metropolitan Lumber Company, 900 Jorie Blvd., Oak Brook, IL 60521.

MC 148404 (Sub-6-7TA), filed June 14, 1982. Applicant: UNITED CARRIERS, INC., 10584 Redwood Ave., Fontana, CA 92335. Representative: Robert Fuller, 13215 E. Penn St., Ste 310, Whittier, CA 90602. *Produce, Food and Related Products, Printed Matter, and Pulp, Paper and Related Products and Chemicals and Related Products* between the facilities of WAPLES-PLATTER COMPANIES at points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, KS, LA, MS, OR, UT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: WAPLES-PLATTER COMPANIES, P.O. B 1350, Fort Worth, TX, 76101.

MC 157596 (Sub-6-2TA), filed June 14, 1982. Applicant: VANGUARD CONTRACT CARRIER, INC., P.O. B 9285, Walnut Creek, CA 94596. Representative: Alfred G. Krebs, (same address as applicant). *Contract carrier;* Irregular Routes: *General Commodities* (except Classes A and B explosives and household goods as defined by the Commission) between points in the US (except AK and HI) under a continuing contract with Global Lift & Equipment Co., Inc. for 270 days. Supporting shipper: Global Lift & Equipment Co., Inc., 1758 Empire Central, Dallas, TX 75235.

MC 162475 (Sub-6-1TA), filed June 14, 1982. Applicant: "Z" EQUIPMENT, LTD., P.O. B 15302, Rio Rancho, NM 87174. Representative: Ronald L. Bishop, 5645 E. Paradise Blvd. N.W., Albuquerque, NM 87114. *Contract carrier;* Irregular routes: *Steel water tanks, tractor drawn and truck mounted; equipment, materials and supplies used in the construction and installation of water tanks; which because of size or weight require the use of special equipment,* between Bernalillo County, NM on the one hand and on the other points in the U.S. for the account of Magnum Industries, Inc., for 270 days. for 270 days. Supporting shipper: Magnum Industries, Inc., 700 Osuna Rd., N.E., Albuquerque, NM 87125.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-16884 Filed 6-22-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Book and Library Advisory Committee; Meeting

The meeting of the Book and Library Advisory Committee originally scheduled for June 24 (47 FR 25429, June 11, 1982) has been postponed until Tuesday, July 13. It will be held in conference room 600-1750 Pennsylvania Avenue NW., Washington, D.C. from 1:30 pm to 5:00 pm. The Committee will be briefed on Agency activities with primary focus on the book and library programs at posts overseas.

Dated June 18, 1982.

Mary Jane Winnett,

Management Assistant.

[FR Doc. 82-17024 Filed 6-22-82; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-94 (Preliminary)]

Bicycle Tires and Tubes From Taiwan

Determination

On the basis of the record [1] developed in investigation No. 731-TA-94 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury,[2 3 4] by reason of imports of bicycle tires and tubes from Taiwan, as provided for in items 772.48 and 772.57, respectively, of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV).

[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, February 10, 1982).

[2] The vote of Vice-Chairman Calhoun reflects the statutory language which provides for a finding of "material injury or threat of material injury."

[3] Commissioner Frank determined that there is a reasonable indication that an industry in the United States is materially injured.

[4] Chairman Alberger determined that there is no reasonable indication that a domestic industry is materially injured or threatened with material injury.

Background

On April 30, 1982, a petition was filed on behalf of Carlisle Tire & Rubber Co., Carlisle, Pa., with the U.S. International Trade Commission and with the Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Taiwan of bicycle tires and tubes which are allegedly being sold at less than fair value. Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded,[5] by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission investigation and of the conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on May 12, 1982 (47 FR 20395). The conference was held in Washington, D.C. on May 27, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on this case in public session on June 8, 1982.

Views of Vice-Chairman Michael J. Calhoun, Commissioners Paula Stern, Alfred E. Eckes, and Veronica A. Haggart

We determine that there is a reasonable indication that an industry in the United States is threatened [6] with material injury, by reason of imports of bicycle tires and tubes from Taiwan allegedly being sold at less than fair value (LTFV).

The Domestic Industry

In order to analyze the effect of alleged LTFV imports on the domestic industry, the relevant domestic industry must first be defined. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 19 U.S.C. 1677(4)(A). Section 771(10) in turn defines "like product" as "(A) product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." 19 U.S.C. 1677(10).

Thus, we must first determine the domestic product that is "like, or in the absence of like, most similar in characteristics and uses, with" the imported product under investigation. Then, we must determine who are the domestic producers of that "like product."

The imports in this investigation are bicycle tires and tubes, which enter either separately or as sets. Each set includes one bicycle tire, one tube, one valve cap, and one rimstrip. [7] The two products under investigation, bicycle tires and bicycle tubes, are distinct. Tires are made of rubber, nylon and thread, whereas tubes are made simply from rubber. Tires are made by wrapping layers of the various materials used around rubberized metal wires, whereas tubes are fed into extruders and formed into a hose. Beyond the mixing of the rubber, the equipment used in the production of tires and tubes is different, and cannot be converted to alternative uses. Similarly, the production staff for tires and tubes is separate. The main function of a tire is traction, whereas the function of a tube is a contain the air within the tire.

Two main types of bicycle tires are imported: Pneumatic clincher-type tires and tubular tires. Clincher-type tires are designed for normal bicycle use and are intended for use with tubes that can be replaced. They account for virtually all of the bicycle tire imports and 100 percent of domestic bicycle tire production. Tubular tires are pneumatic tires in which tubes are permanently encased. They are used primarily on competitive amateur or professional racing bicycles and are not considered by the industry to be competitive with the clincher-type tires.[8] Tubular tires differ significantly from clincher-type tires in their method of manufacture, retail cost to the consumer, and the type of bicycles to which they are fitted. Tubular tires account for a relatively insignificant proportion of the alleged LTFV imports.

Most shipments of bicycle tires, both imported and domestic, are in the 20-inch, 26-inch, and 27-inch diameter categories.[9] The are characterized by two main features: (1) The color of the sidewalls which imparts a styling or cosmetic effect, and (2) the tread design. In addition to blackwalled tires, there are gumwalled tires which incorporate light or tan sidewalls or raised white lettering on the sidewalls. Tread designs include rib-type treads, and stud-type or knobby treads. Tires with rib-type treads account for the bulk of sales of both the domestic and imported products; however, the stud-type or knobby tread tires, which are generally heavier in construction and more expensive, are sold in significant quantities in the United States.

Both imported and domestic inner tubes used in bicycle tires fit the diameter and cross-sectional measurements of the tires with which they will be used. As with tires, most sales occur in the 20-, 26-, and 27-inch categories.

The manufacturing techniques for producing bicycle tires and tubes respectively are basically the same throughout the world. In the manufacture of bicycle tires, layers of fabric (usually nylon) combined with layers of tread are wrapped around two rubberized metal wires (beads) to form the tire carcass. Vulcanization completes the process. Virtually all bicycle tires are designed for use with tubes. In the manufacture of tubes, rubber is fed into extruders and formed into a hose, which is then cut to length, spliced, fitted with an air valve, and vulcanized. Most equipment used in the manufacture of bicycle tires or tubes cannot be converted to alternative uses.

Pneumatic clincher-type tires produced by Carlisle are virtually identical in characteristics and uses to imported clincher-type tires of the same size, and are made by essentially the same process. (The domestic industry does not produce tubular tires.) Similarly, bicycle tubes produced by Carlisle are virtually identical to those of the same size that are imported, and

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[5] Material retardation of the establishment of an industry was not raised as an issue in this investigation.

[6] The vote of Vice Chairman Calhoun reflects the statutory language which provides for a finding of "material injury *or* threat of material injury." (emphasis added) 19 U.S.C. 1673b(a).

[7] Each major component of an imported set is classified under a different TSUS item, with the exception of the valve caps which enter as integral components of the tubes with which they are imported. Tires and tubes entered on imported bicycles are not classified separately and are not included in the import statistics for bicycle tires and tubes. The largest volume of domestic sales of bicycle tires and tubes consists of the sale of sets. However, we do not as yet have data on the percentage of allegedly LTFV imports that are sold as sets. We hope to obtain such information if the case should return for a final investigation.

[8] Report at A–1.

[9] Both bicycle tires and tubes are available in approximately 20 sizes. Sizes are measured in terms of diameter and cross-section of the tire, e.g., a 20 by 1.75 tire is 20 inches in diameter measured from tread to tread and 1.75 inches in cross section measured from sidewall to sidewall.

are made by essentially the same process. They serve precisely the same end use.

Thus, for purposes of this preliminary investigation, we find that there is a like product corresponding to each article being imported: pneumatic clincher-type tires and bicycle tubes.[10] [11]

Section 771(4)(D) provides:

> Product Lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or producer's profits. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided. 19 U.S.C. 1677(4)(D).

Separate profit and loss data on bicycle tires and bicycle tubes are not currently available to the Commission. It is our understanding that separate profit and loss data for bicycle tires and bicycle tubes could be made available to the Commission in a final investigation.[12] Therefore, for the purposes of this preliminary investigation, we have assessed the effects of the alleged LTFV imports on the combined United States production of bicycle tires and tubes.

Reasonable Indication of Threat of Material Injury

In making its preliminary determination, the Commission is directed by Title VII of the Tariff Act of 1930 to determine, based upon the best information available at the time of the determination, whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury,[13] by reason of alleged LTFV imports of bicycle tires and tubes from Taiwan. 19 U.S.C. 1671b, 1673b. In making its determination of a reasonable indication of threat of material injury in this investigation, the Commission has considered, among other factors, (1) the rate of increase of the allegedly dumped imports, (2) the condition of the domestic industry, (3) the capacity of producers in the exporting country to generate exports, and (4) the likelihood that such exports will be directed to the United States.[14]

Our assessment of the impact of imports is focused on the increase in import levels during the first quarter of 1982 while economic indicators showed declines in the performance of the domestic producer. The data for January–April 1982 indicates a marked reversal of the decline in the volume of imports of bicycle tires and tubes from Taiwan from 1979 to 1981. The number of bicycle tires imported from Taiwan was more than 40 percent higher in the first 4 months of 1982 than the number imported in the first 4 months of 1981. During the same period of 1982, the average unit value of bicycle tires dropped approximately 20 percent.[15] The number of tubes imported increased by over 23 percent during the same time period.[16]

Market share data for 1982 reflect similar changes in trends. The share of the U.S. market for bicycle tires held by imports from Taiwan remained relatively stable from 1979 to 1981. However, in January–March 1982, as consumption continued to decline, the Taiwan market share was nearly 20 percentage points higher than it was in the same period of 1981, and more than 10 percentage points higher than the annual figures for 1979 to 1981. Similarly, the share of the market held by bicycle tubes from Taiwan in the first quarter of 1982 was well above the figure for early 1981, or for any of the annual figures for the period under investigation.[17]

At the same time that imports increased, the domestic industry's production, capacity utilization, shipments, employment and profitability declined. During January–April 1982, U.S. production of bicycle tires and tubes declined by nearly 15 percent compared to January–April 1982.[18] Capacity utilization in the production of tires and tubes dropped significantly below 1979 levels in 1981, and remained at or below those levels in the first quarter of 1982.[19] U.S. producer's shipments of bicycle tires and tubes declined by nearly one-third in January–March 1982 over the comparable period of 1981.[20] Domestic shipments of bicycle tires and tubes sold as sets were down by almost one half.[21]

The number of production and related workers producing bicycle tires and tubes in 1981 was approximately the same as the number working in 1979. However, the employment level of production and related workers in the first quarter of 1982 was more than 10 percent below the comparable period of 1981.[22] At the same time, the total number of hours worked by those employees dropped by nearly 20 percent.[23]

Carlisle's operations on bicycle tires and tubes are profitable. However, its net sales dropped significantly in the first quarter of 1982. In addition, its ratio of operating income to net sales in January–March 1982, dropped markedly below the figure for the first quarter of 1981, and was below any of the figures for the prior three years.[24] The cash flow on Carlisle's bicycle tire and tube operations in January–March 1982 dropped to less than half of the comparable 1981 level.

Capacity utilization in the production of bicycle tires in Taiwan[25] declined annually from 1979 to 1981. Capacity utilization in the production of tubes rose from 1979 to 1980, but sharply declined in 1981 and is projected to fall again in 1982.[26] Taiwan production of bicycle tires and tubes in 1981 was approximately 14 million units or 16 percent below capacity.[27] The United States is a major market for Taiwan tires and tubes. Thus, there is an indication of a present ability to increase exports to the United States by either increasing total production or shifting its exports.[28]

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[10] According to the record in this investigation, the nature of the alleged LTFV imports is not clear. Specifically, tires and tubes enter into the United States from Taiwan both separately and in sets. The petition alleges LTFV sales of tires and tubes sold separately as well as in sets. In any final investigation, development of further data regarding imported sets may alter the analysis of the appropriate like product, and ultimately the definition of the domestic industry against which we assess the impact of these imports.

[11] See Additional Views of Vice-Chairman Calhoun, infra.

[12] Carlisle keeps separate profit and loss data for bicycle tires and bicycle tubes for use as a management tool. In addition, Carlisle provided profit and loss data to the Commission in the section 201 (escape clause) investigation conducted in 1978.

[13] Material retardation of the establishment of a domestic industry is not an issue in this case.

[14] Cf. 19 CFR § 207.26(d).

[15] Report at Table 8.

[16] Report at Table 9.

[17] Report at Table 17.

[18] Report at Table 1, Table 3.

[19] Report at Table 1.

[20] Report at Table 5.

[21] Report at Table 6.

[22] Report at Table 10

[23] Report at Table 10

[24] Report at Table 12.

[25] We currently have incomplete information on the capacity and capacity utilization of the Taiwan producers. We hope to obtain additional information on this factor if the case should return for a final investigation.

[26] Report at A–29.

[27] Report at A–30.

[28] A number of questions relating to Taiwan's potential role in the United States market were unanswered in this investigation. In any final investigation, we hope to have more data such as the number of producers in Taiwan, the facility with

In light of the recent increase in imports of bicycle tires and tubes from Taiwan, and the most recent performance of the domestic producer, we conclude that there is a reasonable indication that there is a threat of material injury to a domestic industry by reason of the alleged LTFV imports.

Additional Views of Vice Chairman Michael J. Calhoun

In its industry analysis, the majority opinion discussed various aspects of production of tubes and tires by the domestic industry, but it makes no explicit industry finding. Rather, the majority recites the requirements of section 771(4)(D) and announces that "for purposes of this preliminary investigation, we have assessed the effects of the alleged LTFV imports on the combined United States production of bicycle tires and tubes." This failure by the majority to make an explicit industry finding is a departure from established Commission practice under the Trade Agreements Act of 1979.

I am aware of certain reasoning and analysis underlying section 771(4) construction which might well support the finding of material injury without making a specific industry finding. I am not aware, however, of any principle or rationale which supports such an abrupt departure from consistent administrative practice absent explicit and reasoned explanation. Such explicit and reasoned discussion affords parties an understanding of how Commission decisionmaking proceeds and how it might be impacted. To me, this is an essential requirement to be met in avoiding arbitrary and capricious decisionmaking. Without an open and plain discussion of why such a departure from our usual practice is taken in this case, whether such a departure might be taken again in the future and, if so, under what circumstances, I am compelled to disassociate myself from the majority's view and make an industry analysis consistent with well established Commission practice.

In this regard, it is my view, consistent with the majority rationale in the Korean Nails investigation (Inv. No. 731–TA–45), that there are two products being imported and that for each imported product there is a domestic like product. Furthermore, based upon information available thus far it seems reasonable to conclude that bicycle tires and tubes are almost exclusively interdependent products and that the majority of bicycle tires and tubes are produced and sold as sets. Based on these factors, I find that there is one domestic industry consisting of the producers of bicycle tires and bicycle tubes.

Views of Commissioner Eugene J. Frank

One the basis of the record of Investigation No. 731–TA–94 (Prel.) I determine that there is a reasonable indication that an industry in the United States is being materially injured by reason of imports from Taiwan of bicycle tires and tubes allegedly sold at less than fair value.

At this point I would reiterate my position that the statute and legislation history in Title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available that the facts reasonably indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[29]

Domestic Industry

Section 771(4) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[30]

The term "like product" is defined in section 771(10) of the Act as, "a product which is like, or in the absence of like, most similar in characteristics and uses with the article subject to an investigation."[31]

The bicycle tires and tubes that are imported into the United States from Taiwan are like the bicycle tires and tubes produced by petitioner the Carlisle Tire and Rubber Co., which is the only manufacturer of pneumatic clincher-type bicycle tires and tubes in the United States. The other firms which produced these bicycle tires and tubes in the United States ceased production in the 1970's. In reaching this preliminary determination, I concluded that there is one domestic industry because the largest volume of their sales consists of the sale of sets of tires and tubes. It is common for a bicycle tire manufacturer to also produce bicycle tire tubes. They are sold through same sales channels and the products are complementary. Domestic producer manufactures both the tires and tubes in a single intergrated plant, and the two products are inventoried and sold as an intergrated product line. The profit and loss data available to the ITC at this time pertains to the bicycle tire and tube product line of the petitioner.

Reasonable Indication of Material Injury by Reason of Less Than Fair Value Imports

The statute requires the Commission to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports of the products which is the subject of the investigation by the administering authority.[32] It is my opinion in this case that the record demonstrates that there is a reasonable indication that the imports of bicycle tires and tubes from Taiwan allegedly sold in the United States at less than fair value are a cause of material injury to the domestic industry.

In making its determination the Commission must consider, among other factors, the volume of imports, the effect these imports have on prices in the United States of the domestically produced like product, and the impact these imports of like merchandise have on the sole domestic producer left in this case.

U.S. production declined substantially in 1981 from the 1980 production levels and was lower than production in 1979 resulting also in a corresponding decline in capacity utilization.[33] Although part of the decline in U.S. production and shipments can be attributed to the corresponding decline in consumption of bicycles between 1979 and 1981, it appears that the share supplied by the alleged LTFV imports to U.S. consumption has increased in both tires and tubes in the January through March 1982 period reaching the highest level of penetration * * * in the years covered by this investigation in the case of tires.[34] U.S. producers' shipments of tires for this quarter dropped precipitously from the corresponding quarter back in 1981 and which continued to go down through the second half of 1981. In the bicycle tubes area, penetration by imports from Taiwan to U.S.

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which new firms can enter into production in Taiwan, Taiwan's other foreign markets and import restrictions in those markets.

[29] H.R. Report No. 96–317 96th Cong. 1st Sess., p. 52 (1979)

[30] 19 U.S.C. 1677(4)(A).

[31] 19 U.S.C. 1677(10).

[32] Material retardation of the establishment of a domestic industry is not an issue in this case.

[33] The U.S. industry consists of only one remaining U.S. producer, therefore only general trends will be discussed.

[34] Table 15, Staff Report. For some reason there was no table in the Staff Report which covered ratio of imports to U.S. consumption and U.S. producers' shipments in one table of both bicycle tires and tubes.

consumption reached a very high level in the first quarter of 1982 of * * * compared to * * * for the same period in 1981.[35] U.S. producers shipments were lower in 1981 than in 1979, and for bicycle tires they were lower than in 1980. Shipments of both tires and tubes during January-March 1982 for the the sole domestic producer left were substantially below shipments during the same period of 1981. Also, U.S. producer's year-end inventories of bicycles tires and tubes went up sharply from 1979 to 1980, came down somewhat in 1981, but at the end of the first quarter of 1982 had gone up higher than at comparable end of similar quarter of 1981. Employment since 1980, reported by the U.S. producer, has been going down in bicycle tires and tubes, as well as hours worked by production and related workers. These employment trends continued for the January through April period of 1982.

Domestic producer's bicycle tire and tube operation reported profits during the period covered by the investigation, although bicycle tire and tube income margins were substantially less than those of their total operation. Also, in 1981, the ratio of income before taxes to net sales on bicycle tire and tube operations declined by nearly half from the ratio of net income to net sales in 1980, and during the first quarter of 1982 this trend of net income before taxes continued to deteriorate, declining sharply from comparable first quarter of 1981.

In this area of prices Staff Report says that although response on each item requested from the domestic producer was obtained, response from importers was poor.[36] Price data were collected for the largest shipments by quarters for January 1979 through March 1982. The margins of underselling of bicycle tires were substantial throughout the period for which data was collected averaging * * * percent.[37] For 20-inch blackwalled, ribbed tires, the margins of underselling ranged during the period from a low of * * * percent to a high of * * * percent, and averaged * * * percent.[38] For the 26-inch blackwalled, ribbed tires, importers margins of underselling ranged from * * * percent to * * * percent, averaging * * * percent during the period for which data was available. Lost sales to imports of bicycle tires and tubes from Taiwan since 1979 were confirmed by the Staff.[39]

[35] Staff Report, Table 17, p. A-23.
[36] Staff Report, p. A-24.
[37] Staff Report, p. A-26.
[38] Staff Report, p. A-27.
[39] Staff Report, p. A-28.

Causation

The record indicates that, although imports from Taiwan of both bicycle tires and tubes declined between 1979 and 1981, Taiwan's market share increased markedly in the second half of 1981 over the 1979 level while the average unit value of bicycle tires from Taiwan declined substantially, more than doubling the margin of underselling of domestic producer. In the first quarter of of 1982, margins of underselling became larger as imports from Taiwan surged and the sole domestic producer's shipments dropped sharply. The record shows that the domestic producer was unable to increase prices to a level where they could offset higher unit costs related to less than anticipated production because of the substanital underselling of bicycle tires and tubes from Taiwan. Taiwan exports to the United States can increase quickly in bicycle tires and tubes, and together with price and other market penetration levels already reached could, if continued, cause further injury in the operations of the sole domestic producer left; but having found material injury, I do not reach the issue of threat of material injury in this determination.

Conclusion

Based on the information available to the Commission at this time, I find that there is a reasonable indication of material injury to the domestic industry, and therefore, that this investigation should be continued.

Views of Chairman Bill Alberger

I determine that there is no reasonable indication of material injury or threat of material injury, and that the establishment of an industry in the United States is not materially retarded by reason of imports of bicycle tires and tubes from Taiwan, alleged to be sold at less than fair value. My judgment is based primarily on the high level of profitability of the only domestic producer of bicycle tires and tubes, the Carlisle Tire and Rubber Company (Carlisle).

While it is common to begin opinions under Title VII of the Tariff Act of 1930 (Title VII) by defining the imported product, the like product and the domestic industry, I see no need to give that matter extensive treatment. As is apparent from the report,[40] Carlisle produces bicycle tires and tubes which are clearly "like" the imported tires and tubes under investigation from Taiwan. In my view, it makes no difference whether there is one like product or two like products or even more like products. My analysis focuses on the productive facilities of Carlisle devoted to producing bicycle tires and tubes. No other domestic company produces either bicycle tires or tubes. No allocation has been made by Carlisle between profits derived from tires and from tubes. My major concern here is the high profits, and thus the definition of the like product is superfluous.

[40] Report at A-1.

For three full years, 1979-1981, the ratio of operating income to net sales for the bicycle tire and tube operation of Carlisle shows levels significantly in excess of the return on sales ratios for related industries.[41] In the first quarter of 1982, the last period for which profit data is available, profits have declined, but are more than * * * the average for rubber manufacturers.[42] Clearly, production, shipments, capacity utilization, and employment have all declined in the first quarter of 1982. It concerns me that declines in only one calendar quarter are relied upon so heavily by my colleagues in reaching an affirmative decision in this situation. But it disturbs me even more when the industry in question remains as profitable as this one. To find a reasonable indication of threat of material injury, you should have an industry whose profits have at least dropped below average levels. It was my view that such a standard generally prevailed in Commission decisions under Title VII prior to this case.[43] Here we have an industry that has shown the ability to be extremely profitable in the face of quite high import penetration.

From 1979 to 1981, imports of bicycle tires and tubes declined by as much as 22 percent. There is no trend that would show that the one quarter increase in 1982 will continue. Price levels for Carlisle do not seem to be adversely impacted, as they have generally increased. Further, there is no evidence of lost sales.

It is difficult to comprehend an injury finding, even at a preliminary stage, when the domestic industry is this profitable. Industries with much lower profits, and even some with losses, have been denied relief in prior cases. Such a

[41] Fortune, May 3, 1982, p. 281.
[42] Report at A-18, Table 12.
[43] See Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany, USITC Pub. 1221, Feb. 1982, pp. 80-92. Note particularly the following sentence on page 82 from the majority views: "Although production, shipments, and net sales are all down significantly from the peak years of 1978 and 1979, the industry has maintained a healthy profit picture throughout the four year span investigated." So has the bicycle tire and tube operations of Carlisle.

clear sign of health should not be ignored.

Issued: June 14, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16979 Filed 6-22-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-113]

Certain Log Splitting Pivoted Lever Axes; Amendment of Notice of Investigation To Add Additional Counts

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add five additional unfair acts or methods of competition.

SUMMARY: On June 11, 1982, the Commission granted a motion (Motion No. 113-5) to amend the notice of this investigation to add the following unfair acts or methods of competition: (1) Misappropriation of trade dress; (2) false designation of origin; (3) false representation; (4) common-law-trademark infringement with respect to an illustrative trademark; (5) false and misleading advertising; and (6) product disparagement.

SUPPLEMENTARY INFORMATION: On February 8, 1982, complainant Chopper Industries, Inc., moved (Motion No. 113-5) to amend the complaint and the notice of investigation to add the following counts: (1) Misappropriation of trade dress; (2) false designation of origin; (3) false representation; (4) common-law-trademark infringement; (5) copyright infringement; (6) false and misleading advertising; (7) trade libel; (8) product disparagement; and (9) predatory pricing.

On April 12, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 14) with respect to all but the following counts: (1) False designation of origin; (2) false representation; and (3) predatory pricing. After consideration of Motion No. 113-5, the ALJ's recommended determination, and the record in this case, the Commission determined to amend its notice of investigation pursuant to § 210.22(a) of its Rules of Practice and Procedure (19 CFR 210.22(a)) to include the following unfair acts or methods of competition: (1) Misappropriation of trade dress; (2) false designation of origin; (3) false representation; (4) common-law-trademark infringement; (5) false and misleading advertising; and (6) product disparagement.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-9161.

FOR FURTHER INFORMATION CONTACT: Sheila J. Landers, Esq., Office of the General Counsel, telephone 202-523-0421.

By order of the Commission.

Issued: June 15, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16978 Filed 6-22-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-111]

Certain Vacuum Cleaner Brush Rollers; Settlement Agreement, Recommended Termination, and Request for Public Comments

AGENCY: International Trade Commission.

ACTION: Request for public comments on the recommended termination of the above-captioned investigation with respect to Vacuum Parts Unlimited, Inc. (Vacuum Parts), based on a settlement agreement.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has recommended that the Commission grant the joint motion of complainant Scott & Fetzer Co. and respondent Vacuum Parts that this investigation be terminated as to Vacuum Parts on the basis of a settlement agreement. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before July 23, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-111 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into, the United States of certain vacuum cleaner brush rollers, or the sale in, which are alleged to infringe claims 1 and 2 of U.S. Letters Patent 3,367,728.

On April 7, 1982, complainant Scott & Fetzer Co. and respondent Vacuum Parts filed a joint motion seeking termination of the investigation as to Vacuum Parts based on a settlement agreement. The Commission investigative attorney has also recommended that Vacuum Parts be terminated as a respondent. The presiding officer concurs. The settlement agreement and the proposed termination are now before the Commission for final action.

Under the settlement agreement, Vacuum Parts has warranted that it has ceased to import brush rollers from respondent Hornleon Co., Ltd. Furthermore, Vacuum Parts agrees to destroy any such brush rollers currently in its possession and not to infringe U.S. Letters Patent 3,367,728 owned by Scott & Fetzer. In return, Scott & Fetzer has agreed not to institute proceedings in any other forum against Vacuum Parts in connection with that firm's previous importation of brush rollers and has waived all rights against Vacuum Parts with respect to any alleged infringement of U.S. Letters Patent 3,367,728.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 210.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Lairold M. Street, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0124.

By order of the Commission.

Issued: June 15, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16977 Filed 6-22-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-118]

Certain Sneakers With Fabric Uppers and Rubber Soles; Amendment of Notice of Investigation To Add 10 Respondents

AGENCY: International Trade Commission.

ACTION: Amendment of notice of investigation to add 10 new respondents pursuant to § 210.22(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.22(a)).

SUMMARY: On June 16, 1982, the Commission granted a motion (Motion No. 118-3) to amend the notice of this investigation to add Stride Rite Corporation, Stride Rite International, Ltd., San Shoe Trading Corp., Poong Young (H.S. Corporation), Melville Corp., Mei Gl Footwear Co., Ltd., Dae Yang Rubber Ind. Co., Tae Hwa Co.,

Ltd., Hongson Group, and Tung Kunang Rubber Factory Co., Ltd., as additional respondents.

SUPPLEMENTARY INFORMATION: On May 13, 1982, complainant Van Doren Rubber Co., Inc., moved (Motion No. 118–3) to amend the complaint and the notice of investigation to add ten new respondents. The respondents are alleged by complainant to be engaged in unfair competition, common-law trademark infringement, false designation of source, and passing off with respect to the sneakers in controversy. Respondent Thom McAn opposes the motion. On May 19, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 6), but that the names of three respondents which supply Stride Rite Corporation be held in confidence. After consideration of Motion No. 118–3, the opposition thereto, and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add the 10 respondents named in Motion No. 118–3 and to publish their names in the **Federal Register.**

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, telephone 202–523–0079.

By order of the Commission.

Issued: June 17, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–16978 Filed 6–22–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–93 (Preliminary)]

Frozen French Fried Potatoes From Canada

Determination

On the basis of the record [1] developed in investigation No. 731–TA–93 (Preliminary), the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury,[2][3][4] by reason of imports from Canada of frozen french fried potatoes, as provided for in item 141.86, of the Tariff Schedules of the United States (TSUS), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 30, and May 3, 1982, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce, respectively, by counsel on behalf of McCain Foods, Inc., Washburn, Maine. The petition alleged that frozen french fried potatoes imported from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV). Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded [5] by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission investigation and of the conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on May 12, 1982 (47 FR 20396). The conference was held in Washington, D.C. on May 25, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on this case in public session on June 8, 1982.

Views of Chairman Alfred E. Eckes, and Commissioners Paula Stern, Michael J. Calhoun, and Veronica A. Haggart

We have found that there is no reasonable indication that a domestic industry is materially injured or is threatened with material injury [6][7] by reason of imports of frozen french fried potatoes from Canada which are allegedly being sold or likely to be sold at less that fair value (LTFV). Our determination in the present case is based on the considerations set forth below.

Domestic industry

In order to make a determination as to whether there is a reasonable indication that a domestic industry is materially injured or is threatened with material injury, we must first define the domestic industry.[8] The domestic industry consists of the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. A like product is defined as a product which is like or, in the absence of like, most similar in characteristics and uses with the article under investigation.[9]

The imported product which is the subject of this investigation is frozen french fried potatoes (hereinafter referred to as frozen french fries) from Canada. The vast majority of frozen french fries imported from Canada are produced by Cavendish Farms, Moncton, New Brunswick. Cavendish informed the Commission that it produces and exports two grades of frozen french fries to the United States, the Cavendish Brand, Canada fancy grade (similar to U.S. Grade A, long) and the Scotch Maid Brand, Canada choice grade (similar to U.S. Grade B).[10] Both the Cavendish grades are produced from potatoes from the same fields are processed by the same people. There is testimony on the record that they are interchangeable.[11]

Frozen french fries produced in the United States are sold in three different grades: U.S. Grade A, extra long; U.S. Grade A, long; and, U.S. Grade B.[12] The petitioner, McCain Foods, Inc., Washburn, Maine, (hereinafter referred

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[1] The "record" is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Commissioner Michael J. Calhoun determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of frozen french fried potatoes which are allegedly sold or likely to be sold at less than fair value.

[3] Commissioner Frank determined that there is a reasonable indication that an industry in the United States is materially injured.

[4] Commissionur Alberger did not participate.

[5] Material retardation of the establishment of an industry was not raised as an issue in this investigation.

[6] Inasmuch as there is a domestic industry producing frozen french fries, the material retardation of the establishment of an industry is not an issue in this investigation.

[7] Former Chairman Alberger whose term expired on June 16, 1982, did not participate in the determination.

[8] Section 771(4)(A) of the Tariff Act of 1930.

[9] *Id.*

[10] Report p. A–2.

[11] Transcript of Public Conference, May 25, 1982 (hereinafter Tr.) at p. 68.

[12] Report A–2.

to as McCain),[13] has requested that the Commission define the like product narrowly, i.e., to include only the french fries sold to food service distributors, excluding those sold to fast food chains and to retail supermarket chain stores. McCain claims that french fries which are suitable for sale to the food service market and retail supermarket chain stores do not meet the specifications for the fast food chains. McCain also alleges that there are different types of products based upon length, color, and texture.[14] McCain also claims that the imported french fries are in direct competition with its Snowflake label, and distinguishes the Snowflake french fries from its other french fries based upon both market destination and the size of its packaging.[15]

McCain processes frozen french fries and potato byproducts and considers the frozen french fry market to be made up of three different submarkets.[16] These submarkets consist of the retail market; the restaurant and fast food chains; and, the food service distributors (which supply corner diners, sub-shops, hotels and restaurants). The petitioner describes the potatoes sold to the three submarkets in the following terms:

a) *Retail market:* potatoes sliced in narrow sizes and types ranging from nine ounces to a five-pound bag with cooking instructions.

b) *Restaurant fast food chain:* a very sophisticated operation with specifications which usually exceed USDA standards. Petitioner claims that this production differs completely from the retail market.

c) *Food service distributor*—This market requires a five-pound bag and several different cuts made to specifications which are less stringent than those for fast food operators.

The imports which are the subject of this investigation are sold to distributors who sell both grades of imported french fries to the three submarkets delineated by petitioner.[17] AKF does sell its french fries to the retail market as well as to food service distributors.[18] These facts are but McCain's argument that there are distinct types of potatoes sold to the three submarkets described by petitioner.

The information Petitioner has presented is not a relevant basis upon which to find a distinction between the imported and domestic french fries for the purpose of defining the like product. The Petitioner's assertion that french fries sold to fast food chains and supermarkets should be eliminated from this investigation is based on a classification of the petitioner's customers rather than the characteristics and uses of the imported product. Minor differences in physical characteristics do not support the conclusion that there is more than one like product. Therefore, the like product consists of all frozen french fries produced in the United States.

Regional industry

McCain has requested that the Commission base its finding on a regional industry analysis. McCain argues that the region consists of the following northeastern states: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, and Pennsylvania.[19] The statute, Section 771(4)(C) of the Tariff Act of 1930, does not require the Commission to conduct a regional analysis. Therefore, any such analysis is discretionary.[20]

The statutory criteria for such a finding of regional industry are:

(1) The producers within such market must sell all or almost all of their production of the like product in such market.

(2) The demand in such market is not to a substantial degree supplied by producers located elsewhere in the United States.

(3) The dumped imports are concentrated in the regional market.[21]

Section 771 (4)(C) requires that the producers within a regional industry must sell all or nearly all of their products within the region. Responses to the Commission's questionnaires indicate that the producers in the northeast are shipping the product under investigation outside the region. Approximately one third of the total domestic shipments of the two largest producers in the northeast region were shipped outside the region in 1981.[22] One of these two regional producers shipped approximately half of its domestic shipments outside of the region in 1981.[23]

With respect to the second criterion to be considered, there is information on the record that a substantial portion of the demand in the northeastern region for frozen french fried potatoes is served by producers outside the region. Combined shipments of AKF, McCain, and Interstate amounted to only a modest proportion of estimated apparent consumption in the northeast region in 1981.[24] The record also indicates that reporting U.S. producers outside the northeast region shipped more frozen french fries into the region during the 1979–81 period than McCain shipped in the region during the same period. In fact, reporting U.S. producers outside the northeast region accounted for over 30 percent of reported domestic shipments in the northeast region in 1981 and January–March of 1982.

Because the imposition of anti-dumping duties would affect imports of frozen french fried potatoes from Canada throughout the U.S., the statute requires that there must be a concentration of the alleged LTFV imports in the region. There is information on the record that a concentration of imports does enter the region, but that the imports are shipped directly to consignees outside the region[25] and, therefore, do not compete for sales within the region.

For the foregoing reasons we find that there is no regional industry in this investigation. Consequently, we must examine the condition of the entire domestic industry.

National industry

Since there is no regional industry, our analysis focuses on all the domestic producers of the like product. There are approximately 20 producers of frozen french fries in the United States, with a concentration of facilities in Idaho, Oregon, and Washington.[26] Although the Commission did send questionnaires to all known U.S. producers of frozen french fries, the response was

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[13] The petitioner is McCain Foods, Inc., Washburn, Maine and is a wholly owned subsidiary of McCain Foods, Ltd., of Florenceville, N.B., Canada. Report at A–6.

[14] Tr. 88.

[15] Report A–2.

[16] Tr. 86.

[17] Report A–2.

[18] Tr. 82.

[19] The regional industry would consist, therefore, of the four producers located in the northeast region: AKF Foods Inc., d/b/a Potatoe Service Inc.; McCain Foods Inc., Interstate Food Processing Corp., and L. & S. Sales, Inc.

[20] In cases where the Commission finds that there is a regional industry, Section 771(4)(C) provides that "In appropriate circumstances * * * the producers within each market *may* be treated as if they were a separate industry * * *" (emphasis added). Commissioner Stern notes that the Commission exercises discretion in making a regional industry determination even in cases where the literal statutory elements for such a determination have been demonstrated. See *Sugars and Sirups from Canada*, Inv. No. 731–TA–3 (Final), Views of Commission Paula Stern, at p. 18.

[21] In those cases in which the Commission has made a finding of regional industry, Commissioners have outlined factors constituting appropriate circumstances for exercising the discretionary finding. See views of Chairman Alberger, Vice Chairman Calhoun and Commissioner Stern in Certain Steel Wire Nails from the Republic of Korea, Inv. No. 731–TA–36.

[22] Report table 3.

[23] Report A–10.

[24] Report A–14.

[25] Report A–14.

[26] Report at p. A–3.

negligible.[27] Therefore, the Commission was forced to rely on published data for information regarding the national industry. The lack of response of the national industry despite numerous requests from the Commission seems to indicate that it is not being materially injured or threatened with material injury by reason of imports from Canada.

No reasonable indication of material injury

On a national basis, market penetration of these imports from Canada remained stable in 1979 and 1980 and then rose slightly in 1981. It has remained below one percent each year during the period under investigation.[28] The ratio of imports to consumption was less than half of one percent during the period 1979 through 1981. Production of frozen french fries declined from 3.5 billion pounds in 1979 to 3.2 billion pounds in 1980, and then increased to nearly 3.6 billion pounds in 1981.[29] Although the response to the Commission's questionnaires was not sufficient for a pricing comparison, we note that the U.S. Bureau of Labor Statistics Producers' Price Index for French Fried Potatoes and Frozen Vegetables for the period 1978 to March 1982 demonstrates a steady rise in the price of french fried potatoes each year.

While the Commission has already disposed of the regional industry contention, there are several factors which indicate that were the northeast region to be considered separately, imports of frozen french fries from Canada are neither causing material injury nor threatening the producers in this region with material injury. Cavendish's exports of frozen french fries to the northeast market declined during the 1979–81 period.[30] The estimated market penetration in the northeast market of the alleged LTFV imports declined by nearly half from 1979 to 1981.

McCain indicated in its petition that only the alleged LTFV imports from Cavendish Farms were causing injury to U.S. producers.[31] In the northeast region, AKF and McCain accounted for the largest percentage of frozen french fried potatoes production. They have experienced irregular increases in production since 1979.

McCain alleged that it lost sales at six firms to Cavendish during 1979–81.[32] The Commission contacted five of these purchasers, but was able to confirm a lost sale on the basis of price in one instance. The other purchasers contacted indicated that the imported french fries were superior to the domestic product.[33] AKF also claimed lost sales to six purchasers. The Commission contacted four of those firms. It shold be noted that one of the firms contacted indicated that it buys from McCain (Maine) because of its low prices.[34] That firm did not purchase Canadian potatoes. The three remaining purchasers stated that they do not buy any imported products.

No reasonable indication of threat of material injury

In examining threat of material injury, the Commission is directed to look at the likelihood of a particular situation developing into actual material injury.[35] In this regard, "the rate of increase of the * * * dumped exports to the U.S. market, capacity in the exporting counry to generate exports, [and] the likelihood that such imports will be directed to the U.S. market taking into account the availability of other export markets," are important factors for the Commission to examine.[36]

During the 1979–81 period, Cavendish's production of and capacity to produce frozen french fries declined.[37] Its capacity has decreased since the Commission's 1980 investigation of frozen potato products, from Canada.[38] In the prior investigation on frozen potato products, the Commission found that McCain Food, Ltd., Canada's largest potato proceesor, accounted for almost half of Canadian capacity to produce frozen french fries in 1978.[39] This company does not export to the United States. Information obtained during the current investigation indicates that Cavandish will increase its percentage of exports to countries other than the United States.[40]

Conclusion

For all of the above reasons, we find that there is no reasonable indication of material injury or threat of material injury to the domestic industry.

Views of Commissioner Eugene J. Frank

Affirmative—Material Injury

On the basis of the record in investigation No. 731–TA–93 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

Overview

First, I would like to note that the statute and legislative history in title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[41]

The 45-day preliminary injury determination compressed time period was, in my view, intended by Congress to screen out those petitions where it was readily apparent, albeit based on a necessarily incomplete record, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record, and comprehensive hearing before the Commission. As Chairman Alberger stated in testimony on November 12, 1981, before the House Ways and means Trade Subcommittee:

> The "reasonable indication of material injury" standard is low enough that it does not force domestic industries to present more than a *prima facie* case before there is a full adjudication.

Such a standard applies equally to antidumping and countervailing duty investigations inasmuch as the statutory language is the same and given the intent of Congress for the ITC to follow the same general practices in both the antidumping and subsidy cases.

Of course, it is important to keep in mind that the Tariff Act of 1930 and its legislative history are quite clear that the "material injury" to be ascertained in these investigations is defined to mean harm which is "not inconsequential, immaterial, or unimportant".[42] Section 771(7)(B) of the Act provides factors the Commission shall consider, among other factors:

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[27] Report at A–11. Of the 23 questionnaires sent, only 6 domestic producers responded. These producers account for an estimated 19 percent of total U.S. production in 1981.

[28] Report at p. A–19.

[29] Report at p. A–12. A shortage of raw potatoes was given by industry sources as the reason for the decline in production in 1980.

[30] *Id.* at p. 21.

[31] Report at p. A–24.

[32] Report at 24.

[33] Report at p. 28.

[34] *Id.*

[35] Senate Report No. 96–249, 96th Cong., 1st Sess. (86–89) 1979.

[36] *Id.* at 47.

[37] Report at 27.

[38] *Id.*

[39] Inv. No. 701–TA–3 at p. 14.

[40] Cavendish Brief at p. 29.

[41] H.R. Report No. 96–317, 96th Cong., 1st Sess., p. 52 (1979).

[42] Report on H.R. 4537 of the Senate Committee on Finance, p.88.

(i) The volume of imports of the merchandise which is the subject of the investigation,

(ii) The effect of imports of that merchandise on prices in the United States for like products, and

(iii) The impact of imports of such merchandise on domestic producers of like products.[43]

Within the context of evaluating the volume of imports of the merchandise which is subject to the investigation and its effect on prices, in assessing impact in the effected industry, the language of the statute maakes it clear that economic factors cited therein are not all-inclusive to wit: "* * * the Commission should evaluate all relevant economic factors which have a bearing on the state of the industry, including but not limited to * * *"[44] Legislative history on this point is also quite clear:

> In determining whether an industry is materially injured, as that phrase is used in the bill, the ITC will consider, to the extent premitted by information submitted to it in a timely manner, the factors set forth in section 771(7)(C) and (D) together with any other factors it deems relevant.[45]

There is also recognition in the Statute and legislative history that discretion necessarily must be given to the Commission to determine the significance to be assigned to a particular factor within the framework of other facts of each specific case.

> Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide.[46]
>
> It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned.[47]

A word on the issue of causation is pertinent, because I feel there is some misunderstanding about just what is required by law in this crucial area in these prelminary investigations. The causation element is that material injury must be "by reason of" the subsidized or less-than-fair-value imports: the linkage language "by reason of" directing an examination of the effects of such imports on the domestic industry. Legislative history makes it clear that Congress did not intend for the Commission, in examining whether a causal link exists, to weigh the injury which might be incurred from such imports against other factors which may be contributing to the overall injury to an industry, although the Commission should take into account evidence alleging that such harm which was attributed to such imports was attributable to other factors. Moreover, the petitioner is not required to "bear the burden of proving the negative" that material injury is in fact *not caused* by such other factors. Further, the Commission is not required to make any precise mathematical calculations with respect to the harm associated by other factors.[48] Finally, to quote directly from the House Report:

> In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions.[49]

I would like to emphasize an important point, namely, that the Commission's charge in these *preliminary investigations* in evaluating the impact of alleged unfair imports, within the framework of the aforementioned discretion accorded it in analyzing relevant factors and establishing a causation link, must be undertaken within the less rigorous standard that the facts on the record and information available to it *reasonably indicate* that the affected domestic industry could *possibly be suffering material injury, threat thereof, or material retardation.*[50]

This less rigorous standard which was, as I have said earlier, intended by Congress in my view to be applied in a 45-day compressed time frame to screen petitions devoid of any merit where there was no indication of possibly establishing injury even with adequate time, must be applied with caution and equity, not in an aribtrary or capricious fashion, with the reasons set forth adequately documented.

Reasons for Affirmative Determination of Material Injury

The basic reasons for my determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value are the following:

1. Potatoes are generally "generic" and can be considered essentially to have "one overall demand" despite the fact that one segment of the potato market may be growing faster than other segments of the potato market, and prices for different types or styles of potatoes may vary significantly. The price of potatoes depends upon many factors such as: supply, weather, transportation costs, substitute non-potato foods, consumer diet or purchasing patterns, economic conditions, plant efficiencies, promotional costs and efforts, new uses, research and development achievements, productivity in plants or fields or yields, fertilizer costs, energy costs, packaging costs, U.S. or State governments' or foreign governments' agricultural-economic-social and other programs, buyer strength and purchasing power, marketing structures, alternative or opportunity cost beliefs or analyses, availability and utilization of transportation or other equipment and rates or price of other flexibilities of non-governmental sectors, financing or credits terms availabilities, ownership relationships within the industry. These are some of the factors which must be considered. What penetration or market shares or economies of scale or plant location criteria are to be applied is another matter. What market tactics or targets are chosen is important. What knowledge is there of what prices are offered or accepted and what does this do to the price frozen french fried potato processors are able to obtain from various types of customers or in certain markets? Frozen french fried potato processing plants operate based on certain breakeven or marginal unit levels. These levels vary from processor to processor and plant to plant of the same processor. Volume changes, even though slight, impact different processors differently, and this U.S. frozen french fried potatoes industry can be harmed significantly when one or several of these U.S. processors are materially harmed by imports of frozen french fried potatoes from Canada which are alleged to be sold at less than fair value.

Based upon the U.S. Department of Commerce determination of sufficiency of the petitioner's application, my own review of the best available price data in this 45-day preliminary investigation, opinions in previous investigations,[51] the

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[43] 19 U.S.C. 1677(7)(B).

[44] 19 U.S.C. 1677(7)(C).

[45] Report on H.R. 4537 of the Senate Committee on Finance, p.88.

[46] Id., and 19 U.S.C. 1677(7)(E).

[47] Senate report, p. 88.

[48] Report of the House Ways and Means Committee on H.R. 4537, p. 47.

[49] Id.

[50] Having found a reasonable indication of material injury by reason of these imports in this investigation, I did not reach the issue of threat.

[51] Based in part on portions of the analysis as expressed in "Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Alfred Eckes", "Sugars and Sirups from Canada," Second Redetermination of Material Injury in Investigation No. 731-TA-3 (Final) under the Tariff Act of 1930, May 1982, pp. 5-7, and "Views of Commissioner Eugene J. Frank" "Chlorine from Canada" Determination of the Commission in Investigation No. 731-TA-90 (Preliminary) under the Tariff Act of 1930, May 1982, pp. 19-20.

above mentioned and related factors, product quality considerations and price relationships, regional market analyses and criteria [52] cumulative impacts, and other factors which when combined or cumulated render reasons to find a reasonable indication that an industry is materially injured from alleged less than fair value U.S. imports of Canadian frozen french fried potatoes. I believe this investigation is not frivolous, and should be allowed to continue in the form of a final investigation.

My following statements represent major portions of my preliminary investigation conclusions which I include in this opinion:

a. A low-threshold criteria should apply to this preliminary investigation.

b. I do not find a regional industry based on criteria which I believe apply to regional industries.[53]

c. I find a relatively inelastic demand for potatoes in general and a cyclical demand for frozen french fried potatoes. I find incremental changes downward in production can influence profits, especially when other costs are rising and national demand levels are static or declining or rising only slowly.

d. I do not reach the issues of threat or retardation of an industry as shown in footnotes[54] following the second from last paragraph of my *Overview* section above.

e. I find concentration of imports of Canadian frozen french fried potatoes price impacts and volume increases reflected in the first quarter of 1982 in particular and to a lesser extent in other quarters or years. I do not find it necessary that a protracted number of quarters or years be observed to determine in this preliminary investigation that there is a reasonable indication of material injury by reason of imports from Canada of frozen french fried potatoes which are allegedly sold at less than fair value.

f. I find other factors besides Canadian exports of frozen french fried potatoes are responsible for a decline in price, production or profits in this industry in the United States. These include the cyclical changes and other changes referred to in this point number 1. Some of these changes may relate to forward contracts to purchase potatoes from farmers or others, or to spot prices, and the timing and prices paid as reflected in these contract and processor management decisions.

g. I find that certain frozen french fried potatoes were being shipped into the United States in a large measure by Cavendish Farms, but the staff of the U.S. International Trade Commission which handled the research in this preliminary investigation advised me and my involved staff that they could not identify what quality of Canadian frozen french fried potatoes relative to U.S. frozen fried potatoes actually entered primarily into the Northeastern United States area. These unknown quality Canvendish frozen french fried potatoes competed with this local area and Northwestern U.S. area processed frozen french fried potatoes. I certainly contend: How can a low threshold not be applied in this preliminary investigation when the quality is unknown? Hence, the proper price is really unknown. Hence, there could be either a justified or an alleged less than fair value price charged. Certainly this preliminary investigation should not be aborted by such lack of data and action on incomplete data. The burden of such proofs or evidence should not rest upon the petitioner. The petitioner has already indicated several lost sales which were confirmed by Commission staff as a reasonable indicator of being one of the factors causing price suppression or price depression. On page A–28 in the Lost Sales section of the Report, it states: * * * purchasing companies advised that imported frozen french fries from Cavendish are superior to the domestic product." On the same page, it was stated that * * * was losing a customer (firm) to McCain Foods because of McCain's lower prices.[55]

h. There is evidence in the report that AKF Food prices were higher than those of McCain Foods, Inc. and Cavendish Farms, Ltd. Some of this price reaction may have been caused by efforts of McCain to meet or compete with the prices for the quality offered or sold by Cavendish. Hence, there was an indirect effect on AKF from Cavendish's export efforts to the United States in its frozen french fried potatoes sales and competition with McCain. The U.S.-based McCain Foods, Inc. is a wholly-owned subsidiary of McCain Foods, Ltd. of Canada which is one of the largest producers of frozen french fried potatoes in Canada, and competes in Canada and the U.S. with Cavendish Farms which recently has been one of the largest Canadian exporters of frozen french fried potatoes to the U.S. McCain Foods, Ltd. bought its two U.S. frozen french fried potatoes processing facilities in 1975 and 1976. Reportedly this was also in part to avoid potential future anti-dumping litigations. McCain Foods, Ltd. reportedly does not export Canadian frozen french fried potatoes to the United States. However, Cavendish Farms does compete vigorously in Canada and the U.S. with McCain Foods, Ltd. and McCain Foods, Inc.

i. I find that there is about 80% of the frozen french fried potatoes going into the food service trades. I do not draw the separate chain fast food service versus other food service or retail frozen french fried potato distinctions which are drawn by the petitioner, McCain, in this investigation. I do not distinguish between these markets, but I do realize prices are different and that there are accommodative sales to chains' distribution points in regions other than the Northeastern states. I do not find a regional market, but in this preliminary investigation the Commission did not have full costing and profit data on sales by states or regions and this in part reflects transportation to destination cost differentials.

j. I am not vitally concerned in this preliminary investigation with United States-Canadian trade balances in frozen french fried potatoes, but rather with reviewing the available data and governing, existing statutes or rules that apply to alleged less that fair value sales. I am not applying anlaysis of any subsidies as may exist on either side of the United States-Canadian border. This is an analysis of "dumping" allegations brought by the petitioner. The petitioner alleges the amount of "underselling" exceeds even the amount of decline in the value of the Canadian dollar versus the United States dollar. Recenlty, this amount for the first time in the post-World War II era declined to where less than 80 U.S. cents equaled one Canadian dollar. However, in the fourth quarter of 1981 and the first quarter of 1982, the rate of exchange was in the 80 to 85 U.S. cents equaling one Canadian dollar range. I find the rate of exchange factor and the impact does not diminish the reasonable indication in this preliminary investigation that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

k. I find there is probability that chain and other food service purchasing agents or distributors or others involved in the entire frozen french fried potatoes distribution "network" are aware of prices offered and act quickly based upon this awareness to obtain whatever

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[52] "Statement of Reasons of Vice Chairman Bill Alberger and Commissioner Calhoun " "Sugars and Sirups from Canada" Determination of Material Injury in Investigation No. 731–TA–3 (Final) under the Tariff Act of 1930, March 1980, pp. 3–5 and other sources.

[54] *Ibid.* and other sources.

[55] * * * indicates confidential. Much of the material on which my opinion is based relies upon the confidential data supplied by a small number of companies.

price or quality benefits they can for their distribution or sales organization or corporation. Hence, even price quotations or offers, besides actual sales, can have a rapid impact on prices, financial conditions, operating levels, and other factors which influence the viability of corporations or particular plants. The shutting of a plant in turn has an impact on the community and state in which the plant is located. For example, the planned closing of the McCain Foods, Inc. frozen french fried potatoes plant at Washburn, Maine, will idle over 100 workers according to public newspaper reports. More than just 111 direct jobs, which are extremely important, is at stake in any alleged dumping case. "Life-blood" of communities and indirect jobs, ability to supply and process food or other articles locally with reasonally assured supplies that are not "shiphoned-off" to "the highest-bidding" country during food or product shortage periods are the "factors" that the Commission must realize are involved in our opinions and decisions in such *preliminary* cases where low-threshold criteria should apply, especially in the absence of adequate data and comparisons. The Members of Congress from Maine in their May 27, 1982, letter to Mr. Mason provided information and identified their concerns. Their expressed points are cognizable comments to me.

l. I do not draw the conclusion that the shutting of the McCain Foods, Inc. food plant at Washburn, Maine did not involve the potential impacts of imports of frozen french fried potatoes from Canada for which there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value. No matter what public or phone comments may be stated or omitted by the U.S. or Canadian parent company, the fact remains and the record clearly shows that that McCain Foods, Inc. was a petitioner in this investigation.

m. I find there is no need in a dumping case to find a sole cause or "majority" cause factor, but rather it is sufficient to find that imports are a significant factor. This significance is evaluated not by just measuring of the market penetration level of the entire United States frozen french fried potatoes market, but by the impact of pricing by those who engage in trying to increase their market share and have an increase in quantities shipped in 1982 or change the prices offered in specific markets or distribution channels they target within the national U.S. market. Knowledge of offers or sales prices is widespread in the food industry, especially since companies want to "advertise or advise" to obtain business. If there were higher quality products shipped than was paid for, even assuming there was not a less than fair value issue relative to the earlier "assumed" or "stated" products, then this could be a form of unintentional or intentional "underbilling" on the shipment(s) and it could be a form of less than fair value import if all Canadian costs were not included for some reason or if different, unjustified pricing took place in the U.S. than in Canada or if other conditions applied.

n. I am not relying on capacity changes or capacity utilization rates except as these influence price possibilities and profits of U.S. producers and are related to research and development and capital spending opportunities and are influenced by imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

o. I understand that U.S. Producer Price Indexes as related to this and other investigations do not necessarily consider all discounts offered by food processors or other corporations.

p. I realize that in a "rushed" 45-day preliminary investigation there is a potential for sampling or research bias in selecting companies to be contacted or sources and information to be researched or presented. I do not state such a bias definitely existed in this case, either intentionally or unintentionally, but in my opinion it is more possible in a preliminary investigation for such biases to exist.

q. In my opinion, there is evidence that indicates Cavendish Farms has recently and frequently been a "price leader" and conditions in Canada and other Canadian export marketing areas—other than the United States—caused the respondent to seek markets in the United States on a sustained marketing effort and in areas which may represent new target areas for increased efforts. A final investigation, if it was carried out, could confirm such evidence and whether my opinion is well-founded and if there is merit in any charges regarding the less than fair value imports of frozen french fried potatoes from Canada.

r. I realize there has been testimony and other information indicating there are some whole or partial ownership relationships and potential antagonisms between different, outside the Commission, groups involved in this investigation. These outside groups were either in support of or against the petition. This has not altered my opinion.

2. Although, the volume of imports of frozen french fried potatoes from Canada has been and is small in percentage terms, I conclude there is a reasonable indication that such a volume of imports because of the nature of the market is not insignificant or *de minimus* in its impact on the national U.S. frozen french fried potato industry. I determine that there is a reasonable indication that this industry is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

3. Point number 1 above has discussed my opinion of the impacts of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value relative to the effect of such imports of that merchandise on prices in the United States for like products. It is sufficient to add at this point that frozen french fried potatoes are considered as like product despite different quality standards that apply in the United States and Canada and this investigation failed reasonably to assure just what quality of frozen french fried potatoes were and are being imported from Canada. The impacts of these imports from Canada of such frozen french fried potatoes has not been insignificant, inconsequential, immaterial or unimportant on domestic producers of like product—in some significant portion of the industry—in such measured areas as: profits, cash flow, capital spending, research and development spending capabilities, capacity utilization rates, employment and wage matters (including hours worked) or other areas which I conclude are important.

I conclude that this preliminary investigation is not based on *de minimus* levels of imports and impacts of frozen french fried potatoes from Canada. A low-threshold test should apply and a final investigation should result. Such a final investigation will allow clarification and resolution of important omission of data and other factors which I believe should be resolved. I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen french fried potatoes from Canada which are allegedly sold at less than fair value.

By order of the Commission.

Issued: June 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16980 Filed 6-22-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-92 (Preliminary)]

Stainless Steel Sheet and Strip From West Germany

Determination

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from West Germany of stainless steel sheet and strip, provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated, which are alleged to be sold, or likely to be sold, in the United States at less than fair value (LTFV).[2]

Background

On April 20, 1982, petitions were filed with the Commission and the Department of Commerce by members of the Tool and Stainless Steel Industry Committee[3] and the United Steelworkers of America alleging that imports of stainless steel sheet and strip from West Germany are being, or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). Accordingly, effective April 26, 1982, the Commission instituted preliminary antidumping investigations under section 733(a) of the Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise from West Germany.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of May 5, 1982 (47 FR 19488). The conference was held in Washington, D.C. on May 17, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Introduction

After considering the record in this investigation, we determine, pursuant to section 733(a) of the Tariff Act of 1930, that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury [4] by reason of imports of stainless steel sheet and strip from the Federal Republic of Germany which are allegedly being sold or are likely to be sold at less than fair value. Our determination is based primarily upon the deteriorating condition of the domestic industry, the growing market share of imports of West German sheet and strip, and the preliminary indications of underselling by these imports.[5]

In the following analysis, we first define the domestic industry, then examine the state of the domestic industry in terms of the relevant economic indicators. Finally, we consider the causal relationship between the state of the domestic industry and the allegedly dumped imports from West Germany.

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [6] Section 771(10) defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with" the article under investigation.[7]

The products being imported are stainless steel [8] sheet and strip. These are flat-rolled stainless steel products produced by passing slabs or sheet bars through a series of reducing rolls on continuous or hand mills. They are principally used in applications requiring resistance to oxidation and/or corrosion and are produced with a wide range of tolerances and finishes, depending on application. Stainless sheet and strip are generally considered to be finished products.

Stainless steel sheet and strip products imported from West Germany and domestic products of the same grades and specifications are essentially identical in metallurgical composition, sizes, and quality. There are generally no stainless steel products that are imported from West Germany that are not produced by domestic producers.[9] Nor generally are there stainless steel products that are imported from West Germany that are not produced in sufficient quantity by domestic producers to satisfy consumer demand within the United States.[10]

Stainless steel sheet is often fabricated into food processing equipment, chemical fertilizer tanks, liquid gas storage tanks, hospital equipment, and various defense applications. Stainless steel strip is used in automobiles, appliances, industrial equipment and various defense applications.[11]

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Alberger and Commissioner Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[3] Member firms included Allegheny Ludlum Steel Corp., Armco Inc., Carpenter Technology Corp., Colt Industries, Inc. (Crucible Materials Group), Eastern Stainless Steel Co., Guterl Special Steel Corp., Jones & Laughlin Steel, Inc., Republic Steel Corp., Universal-Cyclops Specialty Steel Division, Cyclops Corp., and Washington Steel Corp.

[4] Chairman Alberger and Commissioner Haggart, having found material injury, do not reach the issue of threat of material injury.

[5] Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st sess., 52 (1979).

[6] 19 U.S.C. 1677(4)(A).

[7] 19 U.S.C. 1677(10).

[8] Stainless steel is an alloy steel containing by weight less than 1 percent of carbon and over 11.5 percent of chromium. Although the alloy mix generally includes nickel, molybdenum, and manganese, which improve its performance under chemical or temperature stress, it is primarily the addition of chromium which makes the product corrosion resistant.

[9] Respondent Krupp Specialty Steel Corp. maintains that the production program of the largest stainless steel producers (Allegheny, Jones & Laughlin and Republic) does not show items thinner than .015" in a width over 36" wide, whereas the West German mills produce and export these items. (Respondents' Post-Conference brief, Appendix B at 1.) The Commission does not, at this time, have sufficient information upon which to evaluate this argument. However, if this case returns for a final determination, we will explore this assertion further.

[10] Respondent Krupp Specialty Steel Corporation (Krupp) maintains that only one U.S. producer, Republic, can produce 60" cold-rolled sheet, which is used exclusively in the production of holding tanks. Krupp characterizes the demand for this product as "ever-expanding," and states that it is "questionable" whether this one domestic producer could meet this demand. Krupp also maintains that its customers for the 60" cold-rolled sheet buy a percentage of their requirements from foreign mills as a hedge against strikes and "Acts of God." Respondents' Post-Conference Brief, Appendix B at 3. The Commission does not have sufficient information upon which to evaluate this claim at this time. However, if this case returns for a final determination, the Commission will explore this assertion further.

[11] Staff Report at A-7.

Sheet and strip[12] are metallurgically identical, and both are under 0.1875 of an inch in thickness. The only difference between sheet and strip is width. Sheet is 24 inches or wider, whereas strip is less than 24 inches in width.[13]

Strip is often produced by "slitting," or slicing sheet at one of the last stages in the production process. Although certain producers manufacture both sheet and strip on the same mill equipment,[14] other mills produce only strip. Many service center customers purchase sheet which they themselves slit into strip. Most of the petitioners produce both sheet and strip.[15]

Sheet and strip can be further differentiated. Both can be produced as hot-rolled or cold-rolled products. Hot-rolled sheet and strip are primarily an intermediate product that is used to produce cold-rolled sheet and strip. Cold-rolled sheet or strip is hot-rolled sheet or strip that is subjected to the additional steps of pickling, high pressure rolling, and annealing to attain more uniform dimensions and a smoother surface.

Stainless steel sheet and strip are predominantly cold-rolled. Hot-rolled stainless steel sheet and strip as a finished product accounts for only approximately 5 percent of total domestic production of stainless steel sheet and strip and the same percentage of imports from West Germany. The information available to the Commission indicates that the uses for hot-rolled and cold-rolled sheet and strip overlap.[16] Moreover, some of the hot-rolled sheet and strip which is sold as a finished product is purchased for subsequent re-rolling, including cold-rolling.

Based on the data presently available, no meaningful distinctions are evident between the characteristics and uses of the finished hot-rolled product and the cold-rolled product.[17] Therefore, for the purposes of this preliminary determination, we determine that the like product is all stainless steel sheet and strip, whether hot-rolled or cold-rolled, and that the domestic industry is composed of the producers of stainless steel sheet and strip.[18]

Cumulation[19 20]

Petitioners alleged that imports of West German stainless sheet and strip alone are the cause of material injury to the domestic industry. However, petitioners have also taken the position that the Commission should: (1) Cumulate the allegedly less than fair value imports of French stainless steel sheet and strip which are subject to a preliminary investigation currently pending before the Commission; and (2) cumulate all allegedly unfair like product imports from those countries under investigation by the Office of U.S. Trade Representatives under section 301 of the Trade Act of 1974, as amended.[21]

We have not cumulated in making an affirmative determination in this investigation.[22] However, we believe that the cumulation issues petitioners have raised should be addressed, particularly because the same arguments may otherwise be raised in future proceedings before the Commission.

(1) *Cumulation of allegedly LTFV imports from France prior to Commission consideration of the French case.* Petitioners filed an antidumping petiton against French stainless steel sheet and strip producers on May 10, 1982. The preliminary conference took place June 7, with the Commission vote scheduled on June 17. Petitioner's suggestion that we cumulate the imports from France with the imports from West Germany presents not only procedural and administrative problems, but risks running afoul of the basic statutory framework within which the Commission must operate. First, we note that Title VII of the Tariff Act of 1930 imposes upon the Commission a very strict statutory deadline of 45 days in preliminary investigations. Given this deadline, petitioner's filing of the French case two weeks after the West German case has made it impossible for us to make a determination on the two preliminary investigations concurrently. Second, we are required to base our determinations on the information on the record of the investigation. In this connection, the Commission voted on the West German investigation before the respondents in the French case had an opportunity to present their views to the Commission staff, and before the Commission staff was able to provide the Commission with its report on the French investigation. If, in this preliminary investigation, we were to take into account the imports from France in assessing the impact of the imports from West Germany, we would be basing our decision largely on the unevaluated and unrebutted allegations of the petitioners. Under these circumstances, any cumulation of imports from France with those from West Germany would be contrary to basic principles of administrative fairness regarding notice, hearing and record requirements.[23]

(2) *Cumulation of stainless steel sheet and strip imports from countries designated in a section 301 investigation.* Upon petitioners' request, the U.S. Trade Representative's office has initiated an investigation pursuant to section 301 of the Trade Act of 1974[24] to determine whether certain countries (France, Italy, Austria, Sweden and the United Kingdom) have bestowed domestic subsidies upon their specialty steel industries. Petitioners maintain that they have no immediate plans to file countervailing duty petitions with the Commission regarding these cases, but reserve their right to do so in the future.

Petitioners supplied figures to use on imports of stainless steel sheet and strip from each of the countries subject to the

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[12] Hereinafter, the terms "sheet" or "strip" refer to stainless steel sheet and strip.

[13] This is the American Iron and Steel Institute (AISI) standard. The TSUSA defines sheet as having a minimum width over 12 inches, and strip as having a maximum width under 12 inches. The West German standard for strip is equivalent to less than 9 inches. Report at A–5.

[14] The term "mill" refers to one piece of equipment or series of pieces of equipment that produce a certain product. Within one stainless steel plant, there may be several mills, each producing a different product or products.

[15] Report at A–9. Gateri and Jessop produce sheet but not strip. Carpenter Technology Corp. produces strip but not sheet. Petition at 6.

[16] Conference Transcript at 50.

[17] In the carbon steel investigations, hot-rolled and cold-rolled sheet and strip were treated for the purposes of our preliminary determinations as two industries. (*Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany*, USITC Publications 1221 and 1226, February 1982.) For the reasons mentioned above in this stainless steel investigation such as differentiation does not appear to be appropriate.

[18] We emphasize that the definition of the domestic industry in this preliminary investigation is based on the information now available. Based on the record developed in any final investigation, a different definition of the domestic industry is not precluded.

[19] Commissioners Eckes and Haggart made their determination regarding the impact of the alleged LTFV imports from West Germany on a case-by-case basis, and do not reach the further issues of cumulation raised for discussion in this opinion.

[20] Commissioner Frank did not reach either of the cumulation issues raised by petitioners in making his determination in this preliminary investigation. However, he does not join in this discussion and determinations therein on these cumulation issues inasmuch as in his view these issues have not been completely resolved at this time. He would invite further arguments on these issues from pertinent parties to this investigation should they wish to prefer them in the event this case returns for final investigation.

[21] Petitioners' Post-Conference Brief at 12–17.

[22] Chairman Alberger agrees with the conclusions reached but does not join the following discussions. Commissioner Stern further notes that, in any case, the practice of cumulation is discretionary and is only appropriate when it has been demonstrated that "the factors and conditions of trade in the particular case show its relevance to the determination of injury." (See Views of Chairman Alberger, Vice Chairman Calhoun and Commissioners Stern and Eckes in the investigations of Certain Steel Products, USITC Pub. 1221, February 1982.)

[23] 19 U.S.C. 2411.

section 301 investigation. They also asked the Commission to consider these allegedly subsidized imports in assessing injury in this antidumping investigation. We note that petitioners have also requested the Commission to cumulate these imports in assessing injury in *Stainless Steel Hot-rolled Bar, Stainless Steel Cold-formed Bar, and Stainless Steel Wire Rode from Spain,* Inv. Nos. 701–TA–176 through 178 (Preliminary), subsidy investigations.

Of course, the Commission may consider all relevant factors and conditions of trade in making a determination. As petitioners point out, information regarding other imports of the products under investigation is relavent to the evaluation of the strength of the domestic industry. However, there is no material injury requirement in a section 301 case and the practice complained of need not necessarily fall within the purview of title VII. Therefore we believe that it is inappropriate to make a determination in an antidumping or a countervailing duty investigation based upon the cumulation of imports from countries designated in a section 301 proceeding.

Reasonable Indication of Material Injury

Section 733(a) of the Tariff Act of 1930 provides that the Commission shall make a determination based on the best information available to it. Section 771(7) directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) the effect of imports of that merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.

The domestic stainless steel sheet and strip industry is experiencing difficulties. The industry's production, shipments, capacity utilization, and employment have declined since 1979. The production of firms that submitted usable data[25] fell from 728,000 short tons in 1979 to 671,000 tons in 1981. Production for the first quarter of 1982 declined to 130,000 tons as compared with 188,000 tons in the first quarter of 1981.[26] Similarly, net shipments declined by 13 percent from 874,000 tons in 1979 to 759,000 tons in 1981. Shipments in the first quarter of 1982 were 148,000 tons as compared with 207,000 tons for the same period in 1981.

Capacity utilization rates fell from 83.8 percent in 1979 to 70.6 percent in 1981. In the first quarter of 1982, the capacity utilization rate fell to 51.6 percent, as compared to a rate of 81.7 percent for the first quarter of 1981.[27] Although capacity to manufacture increased by 9 percent form 1979 to 1981, the increase does not fully account for a decline in utilization.[28] Utilization of melting capacity for stainless steel has also steadily declined from 83 percent in 1979 to 64 percent in 1981. It was 53 percent for the first quarter of 1982 as compared with 77 percent for the first quarter of 1981.[29]

Employment figures also declined during this period. The average number of production and related workers engaged in producing stainless steel sheet and strip declined from 7,965 in 1979 to 7,288 in 1981. Other relevant factors, including the average number of workers employed and the average number of hours paid for production and related workers, also registered declines during this period.

Financial indicators for sheet and strip production also presented a negative trend. Gross profits, operating profits, net profits before taxes, and cash flow all declined steadily—if not precipitously—between 1979 and 1981.[30] Operating profits fell from $175 million in 1979 to $19 million in 1981 and interim 1982 figures show a loss. Aggregate net sales [31] declined by 13 percent between 1979 and 1980, increased by 10 percent between 1980 and 1981, and fell by 27 percent in the first quarter of 1982 compared with the corresponding period in 1981.[32] The ratio of operating profit to net sales fell from 13.7 percent in 1979 to 1.6 percent in 1981.[33] The ratio of net operating profit to net sales declined from a profit of 1.5 percent in the first quarter of 1981 to a loss of 13.8 percent in the first quarter of 1982.[34]

Volume of Imports

As the condition of the domestic industry deteriorated and its share of the U.S. market declined, the volume of imports of stainless steel sheet and strip from West Germany rose during 1979–1981 both in absolute and relative terms.[35] West Germany became the largest foreign supplier of stainless steel sheet and strip to the U.S. market in 1981 and in 1982 it maintained this position.

Imports from West Germany fell from 3,844 tons in 1979 to 305 tons in 1980,[36] then increased to 15,489 tons in 1981. Imports in January–March 1982 amounted to 7,001 tons compared to 1,173 tons for the first quarter of 1981, a 500 percent increase. The ratio of imports from West Germany to apparent U.S. consumption was 0.4 percent in 1979, 0.1 percent in 1980, 2.0 percent in 1981, and 4.1 percent in the first quarter of 1982, as compared with 0.6 percent in the first quarter of 1981.

Effect of Imports on Prices

The information currently available to the Commission on prices is limited. There are, however, indications that imports from West Germany undersold the domestic product. The Commission investigation revealed margins of underselling for certain imports from West Germany during the period under investigation ranging from 5 percent to 30 percent.[37] Contacts with purchasers revealed an instance, in the last quarter of 1981, in which the price of stainless sheet was 30 to 35 percent lower than that available from domestic mills.[38]

There are some indications of sales lost by domestic producers to imports from West Germany. It was confirmed that four sales totalling 850 tons were lost to imports from West Germany on the basis of price.[39]

Reasonable Indication of a Threat of Material Injury [40]

The issue of whether there is a reasonable indication of a threat of material injury turns on the "likelihood of a particular situation developing into actual material injury."[41] The threat must be real and the injury imminent, not a mere possibility based on supposition and conjecture. In examining threat of material injury, the Commission looks for, among other factors, demonstrable trends in the

[25] Report at A–12. These firms accounted for about 90 percent of the total shipments of stainless steel sheet and strip in 1981 as reported by the American Iron and Steel Institute.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.* at A–13.

[30] *Id.* at A–18.

[31] Financial data was received from 8 U.S. producers on their stainless steel sheet and strip operations. These producers accounted for 85 percent of U.S. production in 1981. Report at A–16.

[32] Id. at A–19.

[33] *Id.*

[34] *Id. at A–18.*

[35] *Id.* at A–25.

[36] Imports of stainless steel sheet and strip, as well as other stainless steel products, were subject to quantitative restrictions from June 1976 to February 1980. Although 1979 was the last full year that the quota was in effect, the practice of entering as much material as possible at the beginning of the quota year forced foreign producers to find other markets after the quota was filled. This practice, in conjunction with declining U.S. demand and strong foreign demand, is believed to account for the decline in imports in 1980. Report, at A–25.

[37] *Id.* at A–38.

[38] *Id.* at A–41.

[39] *Id.* at A–40.

[40] *See* note 1.

[41] H.R. Rep. No. 96–317, 96th Cong., 1st Sess. 47 (1979).

following areas: (1) Rates of increase of the allegedly dumped exports to the U.S. market; (2) importers' inventories; (3) capacity in the exporting country to generate exports; and (4) the likelihood that such imports will be directed to the U.S. market taking into account the availability of other markets.[42]

The steadily increasing rate of West German imports, both in absolute terms and in terms of the ratio of West German imports to domestic consumption, has already been noted. This is seen even more clearly in an examination of quarterly imports penetration data for 1981 and 1982. In nearly every quarter, imports penetration by the alleged LTFV imports has increased.[43]

Importers' inventories of stainless steel sheet and strip imported from West Germany were well above 1,000 tons in December 1981 and were sustantially higher than inventories reported in previous years. In addition, inventories reported in March 1982 were almost double those reported in Decmeber 1981 and nearly eleven times greater than those reported in March 1981.

Importers alleged that the "Buy American" procurement provisions of the Department of Defense Appropriations Act [44] and the Urban Mass Transportation Act of 1978 [45] substantially restrict further exports from West Germany to the U.S. market.[46] Preliminary research indicates that the Department of Defense (DOD) during the years 1977–82 has had substantial authority to waive such provisions with respect to NATO allies. DOD estimates that in 1980, a year in which the waiver provisions were in effect, DOD and U.S. defense contractors used only 2 to 4 percent of the total U.S. specialty metals industry output, of which sheet and strip are just a part.[47] Thus, it appears that, whatever restrictions are placed on the market share for imports from West Germany by these provisions, they are not substantial. Although less information is known regarding the impact of the Urban Mass Transportation Act, it, too, is not a blanket restriction on foreign imports. It includes several exemptions, including one that exempts projects if the cost overrun resulting from the use of domestic products exceeds 10 percent.[48] Thus, the Urban Mass Transportation Act, also, does not appear to be a substantial bar to the ability of imports from West Germany to increase market shares in these markets.

Conclusion

Therefore, on the basis of the best available information, we determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of stainless steel sheet and strip from West Germany.

By order of the Commission.

Issued: June 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16875 Filed 6-22-82; 8:45 am]

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[Investigations Nos. 701-TA-176 through 178 (Preliminary)]

Hot Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod From Spain

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Government of Spain:

Hot-rolled stainless steel bar [2] (investigation No. 701–TA–176 (Preliminary)), [3]

Cold-formed stainless steel bar [4] (investigation No. 701–TA–177 (Preliminary)); [3], and

Stainless steel wire rod [5] (investigation No. 701–TA–178 (Preliminary)).[6]

Background

On February 17, 1982, petitions were filed with the Department of Commerce by counsel for Al Tech Specialty Steel Corp., Armco Stainless Steel Division, Carpenter Technology Corp., Colt Industries (Crucible Materials Group), Cyclops Corp., Guterl Special Steel Corp., Joslyn Stainless Steels, and Republic Steel Corp. alleging that producers, manufacturers, or exporters in Spain of hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Although Commerce subsequently initiated countervailing duty investigations on such merchandise under section 303, Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)), and there was no requirement for the Commission to conduct preliminary injury investigations pursuant to section 703(a).

On April 14, 1982, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 FR 16697). On April 26, 1982, Commerce notified the Commission that it was terminating its investigations under section 303 and commencing investigations under section 702. Accordingly, effective April 26, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), instituted preliminary countervailing duty investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of the merchandise which is the subject of the investigations by the Department of Commerce.

Notice of the institution of the Commission's investigations and of a conference to be held in connection

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[42] Should this case return for a final investigation, we hope to obtain information concerning West German capacity to generate exports and the likelihood that such exports will be directed to the United States.

[43] Report at A–11.

[44] 22 CFR Para. 6–900–303 (xi) DAC No. 76–25.

[45] 26 U.S.C. 1602.

[46] Commissioner Eckes did not consider the impact of "Buy America" policies in his analysis of future import levels. See generally the Views of Commissioners Eckes, Frank and Haggart in *Sugar From The European Community*, Inv. No. 104–TAA–7 (May 1982).

[47] 128 Cong. Rec. S5180 (May 13–14), remarks of Senator Tower.

[48] See note 40.

[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

[2] For purposes of these investigations, hot-rolled stainless steel bar is provided for in item 606.9005 of the Tariff Schedules of the United States Annotated (TSUSA).

[3] Chairman Alberger and Commissioners Eckes and Haggart determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports. Commissioner Frank determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[4] For purposes of these investigations, cold-rolled stainless steel bar is provided for in item 606.9010 of the TSUSA.

[5] For purposes of these investigations, stainless steel wire rod is provided for in items 607.2600 and 607.4300 of the TSUSA.

[6] Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject improts.

therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of May 5, 1982 (47 FR 19487). The conference was held in Washington, D.C., on May 19, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

Introduction

After considering the record in these investigations, we determine, pursuant to section 703(a) of the Tariff Act of 1930, that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of stainless steel hot-rolled bar, cold-formed bar,[7] and wire rod [8] from Spain which are alleged to be subsidized by the Government of Spain.[9] [10]

Standards for Determination

In making a determination as to whether there is material injury, the Commission is required to consider, among other factors: (1) The volume of imports; (2) the effect of imports on domestic prices for like products; and (3) the impact of imports on the domestic industry.[11]

In making a determination as to whether there is a threat of material injury, the Commission considers, among other factors: (1) The rate of increases of subsidized or dumped imports into the U.S. market, (2) the capacity in the exporting country to generate exports, and (3) the availability of other export markets.[12] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[13]

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [14] Section 771(10) defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses" with the article under investigation." [15]

The imported articles under investigation are stainless steel hot-rolled bar, stainless steel cold-formed bar, and stainless steel wire rod. Stainless steel bars [16] are semifinished products that have numerous applications in the manufacture of such items as pump shafts, ball bearings, automotive parts, and medical instruments.[17]

Hot-rolled stainless steel bar is produced from stainless steel billets in a rolling mill. Unlike hot-rolled stainless steel sheet, a significant amount of hot-rolled bar is sold as a finished product.[18] In comparison to cold-formed bar, much hot-rolled bar is a flat bar product. The principal applications of hot-rolled bar are in the manufacture of turbines, and industrial equipment.[19]

Cold-formed bar is a refinement of the hot-rolled product that is of higher quality, both in terms of finish and tolerances.[20] Therefore, cold-formed bar has several applications that hot-rolled bar is not suitable for, such as airplane landing gears and boat propeller shafts.[21] As a refinement of the hot-rolled product, cold-formed bar is more expensive.[22]

Stainless wire rod is a semifinished, hot-rolled product that is round in cross section, between 0.20 inch and 0.74 inch in diameter, and, unlike the bar products, is produced in coils.[23] The manufacture of stainless rod requires specialized equipment and manufacturing processes that are different from those used to produce bar.[24] Wire rod is used primarily in the manufacture of stainless steel wire and fasteners.[25]

On the basis of the information available, we have determined that there are three domestic products like the imported products that are subject to these investigations. Each of the three stainless steel products under investigation is fungible with the corresponding product of the domestic manufacturers. Separate data are available for each of the three products, allowing the Commission to examine the impact of imports on each group separately. Accordingly, we determine that there are three separate domestic industries consisting of the domestic producers of each like product.

We emphasize that the definitions of the industries in these preliminary investigations are based on the best information now available. We do not preclude the possibility of defining the domestic industries differently in any final investigation.

Hot-Rolled Stainless Steel Bar

Condition of the Domestic Industry

The condition of the domestic stainless steel hot-rolled bar industry has been deteriorating since 1979, and

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[7] Chairman Alberger and Commissioners Eckes and Haggart determine that there is a reasonable indication of threat of material injury, and Commissioner Frank determines that there is a reasonable indication of material injury by reason of imports of stainless steel hot-rolled bar and cold-formed bar from Spain which are alleged to be subsidized by the Government of Spain. Commissioner Frank did not reach the issue of threat of material injury.

Commissioner Stern notes that her vote language of "material injury or threatened with material injury" repeats the statutory language of sec. 703(a). Her analysis that the domestic hot-rolled and cold-formed stainless steel bar industries are threatened with material injury differs in no significant respect from that of her colleagues, Chairman Alberger and Commissioners Eckes and Haggart.

[8] Chairman Alberger and Commissioners Frank and Haggart determine that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

Commissioner Stern notes that her vote language of "material injury or threatened with material injury" repeats the statutory language of sec. 703(a). Her analysis that the domestic stainless steel wire rod industry is materially injured differs in no significant respect from that of her colleagues, Chairman Alberger and Commissioners Frank and Haggart.

[9] Petitioners argue that, in determining whether a reasonable indication of injury or threat of injury exists, the Commission may cumulate allegedly subsidized imports from other countries which are currently the subject of an investigation under section 301 of the Trade Act of 1974. Chairman Alberger, Vice Chairman Calhoun and Commissioner Stern do not find it appropriate to cumulate imports that are not subject to an antidumping or countervailing duty investigation as provided under the Trade Act of 1930.

Commissioners Eckes, Frank and Haggart made their determinations regarding the impact of the alleged subsidized imports from Spain on a case-by-case basis, and do not reach the issue of cumulation.

Commissioner Frank's view is that this issue has not been completely resolved. He would invite further arguments on this issue from the pertinent parties to these investigations should they wish to proffer them in the event these cases return for final investigation.

[10] Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination which reasonably indicates that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st sess., 52. (1979).

[11] 19 U.S.C. 1677(7)(B).

[12] 19 CFR 207.26(d).

[13] S. Rep. No. 96-249, 96th Cong., 1st Sess. 86-90 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[14] 19 U.S.C. 1677(4)(A).

[15] 19 U.S.C. 1677(10).

[16] For the definition of stainless steel bars, see Report at A-6.

[17] *Id.* at A-9.

[18] Transcript of conference, pp. 55-56.

[19] *Id.*

[20] Report at A-7.

[21] *Id.* at A-6, A-7.

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] *Id.* at A-11.

this downward trend quickened in the first quarter of 1982. Domestic production of hot-rolled bar declined by 13 percent between 1979 and 1981,[26] a drop considerably greater than the 8 percent decline in U.S. consumption for this period.[27] The first quarter of 1982 resulted in a decline of over 25 percent from the comparable 1981 quarter.[28] Domestic shipments also declined during this period,[29] and end-of-period inventories reached a level in 1981 equivalent to 25 percent of producers' 1981 shipments.[30]

Utilization of hot-rolled bar capacity also declined steadily, from 67 percent in 1979 to 57.1 percent in 1981. It plummeted to 43 percent for the first quarter of 1982, as compared with 57.6 percent for the first quarter of 1981.[31]

Employment patterns also evidenced a steadily negative trend. The average number of production and related workers producing hot-rolled bar declined 6 percent between 1979 and 1981, and fell 18 percent in the first quarter of 1982 compared with the first quarter of 1981.[32] The number of hours paid—a more accurate indicator of loss of employment in an industry with reduced hours and furloughs—fell by 14 percent between 1979 and 1981, and by 23 percent during the first quarter of 1982 as compared to the first quarter of 1981.[33]

The ratio of operating profit to net sales was relatively stable, moving from 9.1 percent in 1979 to 9.6 percent in 1981.[34] However, the figures for the first quarter of 1982 indicate a rapidly deteriorating position. All financial indicators, including sales, gross profits, the ratio of operating profit to net sales, net profits before taxes, and cash flow, fell dramatically compared with figures for the first quarter of 1981.[35] For example, the ratio of operating profit to net sales declined to 5.9 percent from 7.6 percent.[36]

The aggregate figures mask significant losses that have been experienced on an individual producer basis. Two of the domestic producers reported operating losses in 1980 and 1981. In the first quarter of 1982, the number rose to four.[37] Thus, half of the industry is currently experiencing losses.

Material Injury or Threat of Material Injury [38]

Imports of hot-rolled bar from Spain totalled 766 tons in 1981.[39] Quarterly data indicate that imports of hot-rolled bar from Spain have increased steadily since the first quarter of that year.[40] Imports for the first quarter of 1982 jumped to 314 tons, as compared with 15 tons for the same quarter in 1981.[41]

In addition, the ratio of imports from Spain to domestic consumption increased from 1.2 percent in 1980 to 1.7 percent in 1981, and in first quarter of 1982, the ratio jumped to 2.4 percent as compared with 0.1 percent in the first quarter of 1981.[42] Quarterly figures also reveal an upward trend for import penetration ratios starting from the first quarter of 1981.[43] In contrast, domestic producers' market share has dropped 6.2 percentage points from 1980 through the first quarter of 1982. Furthermore, during the first quarter of 1982, inventory levels of hot-rolled bar from Spain almost doubled as compared with the first quarter of 1981.[44]

Spain's export orientation is also very strong. The United States is Spain's second largest export market for stainless steel bar.[45] In 1981, 56 percent of Spanish stainless steel bar [46] production was exported, 22.3 percent of it to the United States.[47]

In addition, there are indications that the United States has become an increasingly attractive market for Spanish exports of stainless steel bar. Stainless steel bar exports to the United States increased from 3,600 tons in 1979 to 3,700 tons in 1980, then jumped to 6,500 tons in 1981.[48] Spain's production of bar products increased by 21 percent between 1980 and 1981.[49] Spain's exports of bar to the EC, its largest export market, decreased by 30 percent, and its exports of bar to all other countries (except the United States) decreased by 43 percent in this period.[50] Spain's exports of bar to the United States, however, increased by 43 percent.[51] Thus, an increasing share of Spanish exports of bar is being exported to the United States.

Furthermore, responses by purchasers indicate that the margins by which Spanish hot-rolled bar undersells the domestic product are large.[52] However, as importers did not provide price data for Spanish imports of this product, the Commission could not make specific price comparisons at this time. We anticipate developing more information on underselling and lost sales should we conduct a final investigation.[53]

Conslusion

Our investigation reveals a recent dramatic increase in imports of hot-rolled bar from Spain, indications that the domestic stainless steel hot-rolled bar industry is experiencing serious economic problems, and information confirming that hot-rolled bars from Spain are underselling the domestic product by wide margins. Therefore, we find that there is a reasonable indication that the domestic stainless steel hot-rolled bar industry is materially injured or threatened with material injury [54] by reason of allegedly subsidized imports of hot-rolled stainless steel bar from Spain.

Cold-Formed Stainless Steel Bar

Condition of the Domestic Industry

The condition of the domestic stainless steel cold-formed bar industry is rapidly deteriorating. Domestic production of cold-formed bar declined by 19 percent between 1979 and 1981.[55] Domestic shipments also declined by 21 percent during this period,[56] with end-of-period inventories increasing from a level equivalent to 27 percent of

[26] Report at A–16 (Table 8).
[27] *Id.* at A–13.
[28] *Id.* at A–16.
[29] *Id.* at A–17.
[30] *Id.* at A–19.
[31] *Id.* at A–16.
[32] *Id.* at A–21 (Table 11).
[33] *Id.*
[34] *Id.* at A–23 (Table 13).
[35] *Id.*
[36] These figures are based on the ratio of operating profit to net sales figures provided in Table 13 of the Staff Report as adjusted in the confidential memorandum from the Director, Office of Investigations, to the Commission dated June 3, 1982, at 2 (INV–F–073).
[37] Report at A–23.
[38] *See* footnote 1.
[39] *Id.* at A–38 (Table 25).
[40] *Id.* at A–42 (Table 30).
[41] *Id.* at A–38 (Table 25).
[42] *Id.* at A–41 (Table 29).
[43] *Id.* at A–42 (Table 30).
[44] *Id.* at A–34.
[45] *Id.* at A–35 (Table 22).
[46] We do not, at this time, have data on exports from Spain of bars broken out between hot-rolled and cold-formed. However, in 1981, of the total stainless steel bars imported into the United States, 11.3 percent was hot-rolled bar, and 88.7 percent was cold-formed bar.
[47] Report at A–35.
[48] Report at A–35 (Table 22).
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *Id.* at A–51.
[53] Commissioner Frank notes that petitioners experessed concern during the public conference (transcript, pp. 46–50) that representative pricing items had not been selected for use in the Commission's questionnaires. The items chosen for use in the pricing sections of the questionnaires reflected the product specifications most often imported from Spain. However, further consultations will be held with both domestic producers and importers to select comparable pricing items should a final investigation be conducted.
[54] *See* footnote 1.
[55] Report at A–16 (Table 8).
[56] *Id.* at A–17.

shipments in 1979 to 44 percent of shipments in 1981.[57]

Utilization of cold-formed capacity also declined steadily, from 79.4 percent in 1979 to 64.7 percent in 1981, then fell to 55.1 percent for the first quarter of 1982, as compared with 60.6 percent in the first quarter of 1981.[58]

Employment patterns also declined steadily. The average number of production and related workers producing cold-formed bar decreased by 14 percent between 1979 and 1981, then fell by 11 percent in the first quarter of 1982 compared with the first quarter of 1981.[59] The number of hours paid fell by 21 percent between 1979 and 1981, and by 15 percent during the first quarter of 1982, as compared with the first quarter of 1981.[60]

Although the ratio of operating profit to net sales increased slightly during this period, from 9.3 percent in 1979 to 10.5 percent in 1981,[61] the figures for the first quarter of 1982 indicate a markedly deteriorated position. In the first quarter of 1982, sales, cash flow, the ratio of operating profit to net sales, and other profit margins all fell dramatically compared with the indicators for the first quarter of 1981.[62] For example, in the first quarter of 1982, the ratio of operating profit to net sales declined to 1.6 percent as compared with 7.7 percent in the first quarter of 1981.[63]

Furthermore, the aggregate figures mask a trend toward significant losses that have been experienced on an individual producer basis. Whereas one firm sustained operating losses for each of the years 1979 to 1981, during the first quarter of 1982, five domestic producers sustained operating losses compared with four firms in the first quarter of 1981.[64] Thus, more than half of the industry is currently experiencing operating losses.

Material Injury or Threat of Material Injury [65]

While the market share of the domestic industry has declined 7.5 percentage points between 1979 and 1981, the market share of imported cold-formed bar from Spain increased by 3.7 percentage points from 1.7 to 5.4 percent.[66]

Imports of cold-formed bar from Spain increased from 2,185 tons in 1979 to 6,010 tons in 1981. Imports for the first quarter of 1982 increased to 971 tons, as compared with 858 tons for the same quarter in 1981.[67] Furthermore, inventory levels of cold-formed bar from Spain in the first quarter of 1982 were 11 percent greater than in the first quarter of 1981.[68]

As already discussed in relation to hot-rolled bar, the United States is receiving an increasing share of exports of stainless steel bar from Spain.[69]

Pricing information received from purchasers indicates that for at least one geographical area during 1981, Spanish stainless cold-formed bar undersold the domestic product by margins of 10 to 17 percent for one item and 14 percent for another item.[70] In additon, preliminary price data indicate that Spanish prices declined between 1980 and 1981, and that domestic prices generally began to decline in the first quarter of 1982.[71] Therefore, there are preliminary indications of possible price suppression. We anticipate developing more information on underselling and lost sales should a final investigation be conducted.[72]

Conclusion

Our investigation reveals a recent dramatic increase in imports of stainless steel cold-formed bar from Spain, indications that the domestic stainless steel cold-formed bar industry is experiencing serious economic problems, and preliminary information confirming that cold-formed bars are underselling the domestic product by wide margins. Therefore, we find that there is a reasonable indication that the domestic cold-formed stainless steel bar industry is materially injured or threatened with material injury [73] by reason of allegedly subsidized imports of cold-formed stainless steel bar from Spain.

Stainless Steel Wire Rod

Condition of the Domestic Industry

The condition of the domestic stainless steel wire rod industry has already substantially declined, and continues to deteriorate at an alarming rate. Domestic production of wire rod dropped by 18 percent between 1979 and 1981.[74] This drop in production was considerably greater than the 4.2 percent decline in U.S. consumption of wire rod for the period.[75] Domestic shipments also fell by 24 percent during this period.

Utilization of wire rod capacity also declined steadily, from 67.7 percent in 1979 to 56.8 percent in 1981, and dropped to 42.7 percent for the first quarter of 1982, as compared with 57.4 percent in the first quarter of 1981.[76]

Employment patterns also evidence a sharply negative trend. The average number of production and related workers producing wire rod declined 7 percent between 1979 and 1981, and fell 19 percent in the first quarter of 1982. The number of hours paid dropped by 14 percent between 1979 and 1981, and by 24 percent during the first quarter of 1982 as compared with the first quarter of 1981.[77]

Operating profit plunged by 93 percent from $4.9 million in 1979 to $336,000 in 1980, and turned into an operating loss of $1.4 million in 1981. In the same period, the ratio of operating profit to net sales dropped from 6.6 percent in 1979 to 0.5 percent in 1980, to a negative 2.3 percent in 1981. Similarly, cash flow from operations declined from $5.1 million in 1979 to a deficit of $922,000 in 1981.[78] This negative trend substantially worsened during the first quarter of 1982, with the margins of operating loss to net sales increasing to 14.8 percent as compared with 2.7 percent in the first quarter of 1981.[79] Furthermore, the number of firms reporting operating and net losses increased from 2 in 1979 to 3 in 1980 and 1981, and rose to 4—or 80 percent of the domestic industry—in the first quarter of 1982.[80] In fact, one of the domestic producers, Crucible, announced in April, 1982, that it was permanently discontinuing its wire rod operation.[81]

Material Injury or Threat of Material Injury [82]

While the share of the domestic stainless steel wire rod market held by

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[57] *Id.* at A–19.
[58] *Id.* at A–16.
[59] *Id.* at A–21 (Table 11).
[60] *Id.*
[61] *Id.* at A–26 (Table 15).
[62] *Id.*
[63] These figures are based on the ratio of operating profit to net sales figures provided in Table 13 of the Staff Report as adjusted in the confidential memorandum from the Director, Office of Investigations, to the Commission dated June 3, 1982) INV–F–073 at 3.
[64] Report at A–26.
[65] See footnote 1.
[66] *Id.* at A–41 (Table 29).
[67] *Id.* at A–38 (Table 25).
[68] *Id.* at A–34.
[69] *See* discussion at pp. 11–12.
[70] *Id.* at A–50 (Table 35).
[71] *Id.* at A–47 through A–48 (Tables 32–33).
[72] *See* footnote 47.
[73] *See* footnote 1.
[74] *Id.* at A–14 (Table 8).
[75] *Id.* at A–13.
[76] *Id.* at A–16.
[77] *Id.* at A–21 (Table 11).
[78] *Id.* at A–28 (Table 17).
[79] These figures are based on the ratio of operating profit to net sales figures provided in Table of the Staff Report as adjusted in INV–F–073 (Memorandum from Director, Office of Investigations, to the Commission dated June 3, 1982) at 4.
[80] Report at A–28.
[81] Statement of Dr. Adolph J. Lena, Transcript of Preliminary Conference at 4 (May 19, 1982).
[82] *See* footnote 2.

the domestic industry decreased from 68 percent in 1979 to 55 percent in 1981, and to 46 percent in the first quarter of 1982, as compared with 63 percent in the first quarter of 1981,[83] the market share held by imports of stainless steel wire rod from Spain has increased steadily.

Imports of stainless steel wire rod from Spain increased from zero tons in 1979 to 1,674 tons in 1980 to 2,763 tons in 1981. In addition, imports for the first quarter of 1982 increased to 685 tons, as compared with 524 tons for the same quarter in 1981.[84] Quarterly data indicate that imports of wire rod from Spain have increased steadily since the first quarter of 1981.[85]

The ratio of Spanish wire rod imports to comsumption also increased from 2.9 percent in 1980 to 4.9 percent in 1981, and rose in the first quarter of 1982 to 5.2 percent, as compared with 4.1 percent in the first quarter of 1981.[86] In fact, quarterly figures reveal an upward trend starting in the first quarter of 1981, when the import penetration ratio was 4.1 percent, and continuing through the last quarter of 1981, when it reached 6 percent.[87] Furthermore, although inventory levels of imports of stainless steel wire rod from Spain were miniscule for 1980 and 1981, inventory levels began to grow during the first quarter of 1982.[88]

The United States is Spain's largest export market for stainless steel wire rod. In 1981, 25 percent of Spanish stainless steel wire rod production was exported, 96.2 percent of it to the United States.[89] In addition, there are indications that the United States has become an increasingly attractive market for Spanish exports of stainless steel wire rod. Spain's production of stainless steel wire rod remained at the same level for 1980 and 1981.[90] Spain's exports of wire rod to the EC, its second largest export market, decreased by 80 percent between 1980 and 1981, and its exports of wire rod to all other countries (except the United States) decreased by 83 percent. Spain's exports of wire rod to the United States, however, increased by 24 percent during the same period.[91] Thus an increasing share of total Spanish exports or wire rod has been exported to the United States.

Furthermore, responses by purchasers indicate that wire rod from Spain has been offered at prices 20 to 40 percent lower than those offered by domestic producers.[92] We anticipate developing more information on underselling and on lost sales should a final investigation be conducted.[93]

Conclusion

We find that there is a reasonable indication that the domestic stainless steel wire rod industry is materially injured or threatened with material injury [94] by reason of imports of stainless steel wire rod from Spain. Our conclusion is based upon significant increases in imports of stainless steel wire rod from Spain, clear indications that the domestic stainless steel wire rod industry has experienced and is continuing to experience serious economic problems, and indications that Spanish wire rod is underselling the domestic product by wide margins.

By order of the Commission.

Issued: June 10, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-16974 Filed 6-22-82; 8:45 am]

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[83] Report at A-41 (Table 29).
[84] *Id.* at A-38 (Table 25).
[85] *Id.* at A-40 (Table 28).
[86] *Id.* at A-41.
[87] *Id.*
[88] *Id.* at A-34.
[89] *Id.* at A-35 (Table 23).
[90] *Id.* at A-35.
[91] *Id.*
[92] *Id.* at A-52.
[93] *See* footnote 47.
[94] *See* footnote 3.

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. ARA Services, Inc.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Consent Decree and Competitive Impact Statement ("CIS") as set out below have been filed with the United States District Court for the Southern District of Ohio, Eastern Division, in *United States v. ARA Services, Inc., et al.*, Civil Action Number C–2–82–436. Also set forth below is a *Stipulation and Amended Order* of April 29, 1982.

The complaint in this case alleged that the proposed acquisition of and merger with Means by ARA would substantially lessen competition in the sale of textile rental services in the Cleveland-Akron-Lorian, Ohio area, the Columbus, Ohio area, and the Southern West Virginia-Eastern Kentucky area in violation of Section 7 of the Clayton Act.

The proposed Judgment would require Means to divest certain assets in each of these three geographic areas.

Public comment on the proposed Judgment is invited within the statutory 60-day comment period. Comments should be directed to John A. Weedon, Chief, Great Lakes Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199 (telephone: 216–522–4070).

Joseph H. Widmar,

Director of Operations.

United States District Court, Southern District of Ohio, Eastern Division

United States of America, Plaintiff v. ARA Services, Inc. and Means Services, Inc., Defendants

Civil No. C–2–82–436.

Filed: April 29, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 US.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at an time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceding.

Dated:

For the Plaintiff: William F. Baxter, *Assistant Attorney General;* Joseph H. Widmar, John A. Weedon, *Attorneys, Antitrust Division, United States Department of Justice.*

Richard E. Reed, Donald S. Scherzer, Theresa M. Majkrzak, *Attorneys, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, (216) 522–4080*

For the Defendants: Arnold M. Lerman, *Wilmer, Cutler & Pickering, 1666 K Street, NW., Washington, D.C. 20006, Attorneys for ARA Services, Inc.*

Sidney Sosin, *Arvey, Hodes, Costello & Burman, 180 North LaSalle Street, Chicago, Illinois 60601, Attorneys for Means Services, Inc.*

United States District Court, Southern District of Ohio, Eastern Division

United States of America, Plaintiff v. ARA Services, Inc. and Means Services, Inc., Defendants.

Civil No. C–2–82–436.

Filed: April 29, 1982.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on April 26, 1982, and plaintiff and defendants, by their

respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against, or any admission by, any party with respect to any issue of fact or law herein;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

Definitions

As used in this Final Judgment:

A. "ARA" means ARA Services, Inc., each division, subsidiary or affiliate thereof, each successor or assign, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them, but shall not include Means.

B. "Means" means Means Services, Inc., each division, subsidiary or affiliate thereof, each successor or assign, and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them, but shall not include ARA.

C. "Textile rental" means the rental and laundering or dry cleaning of a variety of textile products, including but not limited to, work garments, wiping cloths, dust control items, continuous roll towels, fender and seat covers, bed linen, table linen, and face and hand towels.

D. "Person" shall mean any individual, partnership, firm, corporation, association, or any other business or legal entity.

III

The provisions of this Final Judgment shall apply to the defendants and to each of their subsidiaries, successors and assigns, and to each of their officers, directors, agents, employees, and attorneys, and to all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

The defendants shall divest themselves of the Means textile rental operations conducted or formerly conducted from the Means facilities in Akron, Ohio; Columbus, Ohio; and Huntington, West Virginia. The textile rental operations to be divested are described in the following Agreements for Sale:

1. An Agreement (attached hereto as Exhibit A and incorporated by reference herein) with Uniwear, Inc. dated March 31, 1982 with respect to the Akron, Ohio textile rental operations;

2. An Agreement (attached hereto as Exhibit B and incorporated by reference herein)[1] with United Services Company dated April 23, 1982 with respect to the Columbus, Ohio textile rental operations; and

3. An Agreement (attached hereto as Exhibit C and incorporated by reference herein) with Mid-West Towel & Linen Service, Inc. dated April 28, 1982 with respect to the Huntington, West Virginia textile rental operations which include lands, buildings, and rights and obligations with respect to leases of real property.

V

The divestiture required by Paragraph IV is absolute and unconditional. ARA or Means may, however, retain security interests in the aforesaid textile rental operations in connection with the sales thereof. If, subsequent to the date of entry of this Final Judgment, either ARA or Means reacquires pursuant to any such security interest any of the assets as described in the aforementioned agreements referred to in Paragraph IV, ARA shall immediately provide written notice of such reacquisition to plaintiff and shall immediately transfer the reaquired assets to an independent trustee who shall have the power and authority to sell the assets. The trustee shall sell the assets on the best available terms. If the trustee does not find a purchaser for such assets within six months after he receives them, they shall be sold at auction at the best available price. The defendants are prohibited from purchasing or bidding for the assets to be sold by the trustee.

VI

Should ARA or Means retain any of the assets as described in the aforementioned agreements referred to in Paragraph IV beyond August 6, 1982, or the effective date of this Final Judgment, whichever shall be later, ARA shall immediately provide written notice of such retention to plaintiff and shall immediately transfer the retained assets to an independent trustee who shall have the power and authority to sell the assets. The trustee shall sell the assets on the best available terms. If the trustee does not find a purchaser for such assets within six months after he receives them, they shall be sold at auction at the best available price. The defendants are prohibited from purchasing or bidding for the assets to be sold by the trustee.

VII

If necessary, the Court shall appoint a trustee to accomplish the divestiture of any assets reacquired or retained by ARA or Means. The defendants shall provide to the trustee such information, capital, personnel, or other assistance as the trustee may request. The trustee shall serve at the cost and expense of the defendants on such terms and conditions as the Court may set. The trustee shall account to the Court for all monies derived from the sale of any assets and all expenses incurred. All monies derived by the trustee from the sale of assets, after expenses, shall be turned over to the defendants.

VIII

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

1. Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

IX

This Final Judgment will expire on the tenth anniversary of its date of entry or upon motion by plaintiff.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith and for the punishment of any violation hereof.

[1] Exhibit B filed as part of the original document.

XI

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

United States District Court, Southern District of Ohio, Eastern Division

United States of America, Plaintiff v. ARA Services, Inc. and Means Services, Inc., Defendants.

Civil No. C-2-82-436.

Filed: April 26, 1982.

Competitive Impact Statment

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment against the defendants in this civil antitrust proceeding.

I

Nature and Purpose of the Proceedings

On April 26, 1982 the United States filed a civil antitrust Compliant under Section 15 of the Clayton Act, 15 U.S.C. § 25, challenging the acquisition of and merger with Means Services, Inc. ("Means") by ARA Services, Inc. ("ARA") as a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that the effect of the acquisition may be substantially to lessen competition in the sale of textile rental services in the Cleveland-Akron-Lorain, Ohio area, the Columbus, Ohio area, and the Southern West Virginia-Eastern Kentucky area.

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Judgment and to punish violations of the proposed Judgment.

II

Events Giving Rise to the Alleged Violation

The textile rental services business involves the rental of various textile items to industrial, institutional, and commercial establishments. Some of the textile items which are rented are work garments, wiping cloths, dust control items, continuous roll towels, bed linen, table linen, and face and hand towels. A textile rental services firm delivers clean items to a customer on a regular basis. At each delivery of clean items, the company picks up the soiled items and transports them to a processing plant for cleaning (and finishing and repair, if needed). Textile rental services firms generally own the textile items and provide the items and their services on a contract basis. Contracts for textile rental services are typically for a term of one to three years.

ARA is the second largest textile rental services firm in the United States. ARA operates 39 textile rental processing plants throughout the United States. Since mid-1977 ARA has made 15 acquisitions of textile rental services firms. In the fiscal year ending October 2, 1981, ARA's sales of textile rental services in the United States were approximately $166 million. In the Cleveland-Akron-Lorian, Ohio area, ARA was the second largest seller of textile rental services in 1981 with sales of approximately $7.5 million, accounting for approximately 16.6% of total sales in that market. In the Columbus, Ohio area, ARA was the second largest seller of textile rental services in 1981 with sales of approximately $2.9 million, accounting for approximately 15.5% of total sales in that market. In the Southern West Virginia-Eastern Kentucky area, ARA was the second largest seller of textile rental services in 1981 with sales of approximately $3.5 million, accounting for approximately 18.2% of total sales in that market.

Means is the largest textile rental services firm in that Midwest. The company operates 27 processing plants in 18 states. Its sales of textile rental services in 1981 were approximately $115.5 million. In the Cleveland-Akron-Lorain, Ohio area, Means was the seventh largest seller of textile rental services in 1981 with sales of approximately $2.7 million, accounting for approximately 6.6% of total sales in that market. In the Columbus, Ohio area, Means was the third largest seller of textile rental services in 1981 with sales of approximately $1.7 million, accounting for approximately 9.3% of total sales in that market. In the Southern West Virginia-Eastern Kentucky area, ARA was the largest seller of textile rental services in 1981 with sales of approximately $5.8 million, accounting for approximately 30.2% of total sales in that market.

ARA and Means are direct competitors in the sale of textile rental services in the Cleveland-Akron-Lorain area, the Columbus area and the Southern West Virginia-Eastern Kentucky area. In 1981, the four largest firms in the Cleveland-Akron-Lorain area accounting for more than 59% of the total sales, in the Columbus area they accounted for more than 60% of the total sales, and in the Southern West Virginia-Eastern Kentucky area they accounted for more than 68% of total sales. Based upon the foregoing facts, the Complaint alleges that the effect of the acquisition may be to substantially lessen competition in the sale of textile rental services in the Cleveland-Akron-Lorain area, the Columbus area, and the Southern West Virginia-Eastern Kentucky area in violation of Section 7 of the Clayton Act.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Judgment constitutes no admission by either party as to any issue of fact or law. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment orders the divestiture of certain assets by Means in Akron and Columbus, Ohio, and Huntington, West Virginia. The proposed Final Judgment permits Means to retain security interests in the assets which have been or will be sold. If these assets are not sold before the entry of the proposed Final Judgment, or if, subsequent to the date of entry of the Final Judgment, either ARA or Means reacquires, pursuant to Means' security interest, the assets transferred in the sale of such operations, ARA shall immediately provide written notice of such retention or reacquisition to the United States and shall promptly thereafter transfer the retained or reacquired assets to an independent trustee who shall have the power and authority to sell the trust assets as soon as possible and in no event later than six months after the trustee receives the assets. If the trustee does not find a purchaser for such assets within six months after he receives them, they will be sold at auction at the best possible price.

In accordance with the provisions of the Final Judgment, Means entered into a contract on March 31, 1982 with Uniwear, Inc. of Akron, Ohio to sell its Akron business. Uniwear, or its assignee, now services all of Means former Akron customers and Means is no longer in the textile rental services business in the Cleveland-Akron-Lorain area. On April 23, 1982, Means entered into a contract with United Services Company of Youngstown, Ohio to sell its Columbus business. The scheduled consummation date of that agreement is July 12, 1982. On April 26, 1982 Means entered into a contract with Mid-West Towel and Linen Service, Inc. of Muncie, Indiana to sell its business and facilities in Huntington, West Virginia. The consummation date of this sale is June 1, 1982.

Until the sale of Means' assets in Columbus, Ohio and Huntington, West Virginia are accomplished, ARA and Means have agreed that ARA is precluded from exercising control over the conduct of Means. As a result ARA is precluded from voting the shares of Means stock which it will acquire; A majority of Means' Board of Directors shall consist of persons who are demonstrably independent of ARA's control; ARA will take all steps necessary to assure that Means is operated as a separate entity; and communications and exchanges of information between ARA and Means are limited.

IV

Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V

Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The Act conditions entry upon the Court's determination that the proposed Judgment is in the public interest.

The Act provides a period of at least sixty (60) days preceeding the effective date of the proposed Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wants to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: John A Weedon, Chief, Great Lakes Office, Antitrust Division, United States Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199.

VI

Alternatives to the Proposed Final Judgment

As an alterantive to a consent decree, the United States had considered seeking a preliminary injuction to block ARA's acquisition of and merger with Means. The United States filed motions for a Temporary Restraining Order and a Preliminary Injuction, but its Motion for a Temporary Restraining Order was denied on April 28, 1982. The United States decided to accept the proposed Final Judgment rather than continuing to seek to enjoin the acquisition because (1) Means had contracted to sell the assets which gave rise to the alleged violation, and the United States was satisfied that the contracts were binding and would be executed; (2) the proposed Final Judgment and an agreed upon hold separate order provided adequate assurances of divestiture in the event that the contracts were not executed or were defaulted upon; and (3) in the government's judgment the chances of obtaining a preliminary injunction were not good.

The relief obtained in the proposed Final Judgment, together with the agreement of ARA and Means to hold their operations separate, substantially eliminate the anticompetitive effects of the acquisition. The relief is therefore substantially similar to the relief the United States would expect to obtain after trial on the merits, assuming that no preliminary injunction had been initially obtained.

Although most provisions of the proposed Judgment were revised and refined in the course of negotiations, no other relief substantially different in kind was considered by the United States.

VII

Determinative Documents

There are no materials or documents which the United States considered determinative in formulating this proposed Final Judgment. Therefore, none are being filed along with this Competitive Impact Statement.

Respectively submitted,

John A. Weedon, *Attorney, Antitrust Division, Department of Justice.*

Richard E. Reed, Donald S. Scherzer, Theresa M. Majkrzak, *Attorneys, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, (216) 522-4080.*

Exhibit A

Agreement

Agreement made this 31st day of March, 1982 by and between MEANS SERVICES, INC., an Illinois corporation (hereinafter "Means") and UNIWEAR, INC., an Ohio corporation (hereinafter "Uniwear").

Witnesseth

Whereas, Means has been operating a textile service business in the State of Ohio from offices in Akron, Ohio; and

Whereas, Means wishes to sell and Uniwear wishes to purchase that business and certain inventory used in the conduct of that business;

Now therefore, in consideration of the mutual promises and covenants contained herein,

It is hereby agreed as follows:

1. Means hereby agrees to sell and Uniwear hereby agrees to purchase the following assets of Means relating to the business presently being conducted by Means from the said locations:

a. All right, title and interest of Means after March 31, 1982 in and to contracts between Means and its customers which contracts require Means to furnish Rental Services to those locations in the States of Ohio and Pennsylvania currently being serviced through the Akron Market Center, but not including any accounts receivable arising from sales prior to April 1, 1982. Such locations are hereinafter referred to as the "Territory".

b. All inventory of Means necessary to service customer locations within the Territory, including:

1. Merchandise located on the premises of such customers;

2. Merchandise in transit to such customers;

3. Merchandise picked up prior to the closing for delivery subsequent to the closing;

4. Merchandise on location at both Akron Production Plants of Means.

Means guarantees that the inventory shall be at least 2.3 times current average weekly usage.

c. All Means equipment, such as cabinets, dispensers, containers, lockers, mop equipment, dust tools, and the like situated at customer locations within the Territory as of the closing and on location at both Akron plants.

d. An adequate number of good, serviceable vehicles to service the routes being sold, but not to exceed 16 vehicles.

2. Except as set forth in Paragraph 9 hereof with respect to certain accounts receivable, only the assets listed in Paragraph 1 hereof are being sold and purchased hereunder. It is expressly understood and agreed that the following assets are not being sold hereunder:

a. Real estate, leases or plant equipment;

b. The name "F.W. Means", "Means Services", or any other trademark, service mark, trade name, copyright or similar intangible property belonging to Means.

3. Purposely omitted.

4. From and after April 1, 1982, Uniwear shall service all customer locations within the Territory and shall perform in a prudent manner and in accordance with good business practices, pursuant to all of the terms and conditions of all customer contracts being assigned to Uniwear pursuant to this Agreement. The total purchase price for all assets being sold pursuant to the provisions of Paragraph 1 hereof shall be determined in accordance with the following formula:

$$P = \frac{S}{23} \times 5 \times 25$$

Where:

P=Purchase price.

S=Gross rental sales during the month of March, 1982 to all Means' customers in the Territory.

The parties anticipate that the total purchase price based on the above formula will be approximately $1,625,000. The purchase price will be paid in installments as follows:

a. $250,000 on March 31, 1982; plus

b. $250,000 on August 1, 1982; plus

c. The balance of the purchase price in 12 equal quarterly installments, plus interest from August 1, 1982 on the balance from time to time remaining unpaid at the rate of 13% per annum, computed quarterly on the unpaid balance, such installments to commence on November 1, 1982, and on the 1st days of each February, May, August and November thereafter until fully paid.

The balance due may be prepaid in whole or in part at any time without penalty. All payments shall be applied first to accrued interest and the balance to principal. For purposes of this Agreement, sales shall be considered to be made at the time that clean linen and other merchandise is returned or delivered to a customer.

5. In determining the purchase price pursuant to Paragraph 4 hereof, the parties have assumed and projected that normal and customary business conditions will prevail during March, 1982 ("formula month"). Means warrants and represents to Uniwear that, consistent with the terms and obligations of this Agreement, it will use its best efforts and assistance to assure continued sales and service to all customers during the formula month, and will not act in such a manner as might tend to distort sales to customers in the ordinary course of business during the formula month; nor will Means do

anything that will cause said sales not to be normal or fairly representative of past sales. If, due to strike, work stoppage, act of God, disaster, or other similar unusual or unforeseen event, the sales results to customers for the formula month would be substantially abnormal, then the parties shall substitute for the purposes of this Agreement, the next succeeding month, where relevant conditions are substantially normal, as the formula month for purposes of determining the purchase price pursuant to Paragraph 4 hereof; and the parties shall make all other equitable mathematical adjustments as relate to the substituted formula month.

6. The parties recognize that the accounting systems and methods of doing business employed by the respective parties may not be identical and that in order for the business of Means to be transferred to Uniwear the parties must cooperate in the orderly transition of said business so as to accommodate the varying systems and known needs of each of the parties. To that end each of the parties agrees to cooperate with the other in whatever reasonable means are required to the end that Uniwear may be able to integrate into its system the business being acquired from Means. At closing Means will furnish to Uniwear a complete list of all of Mean's customers in the Territory for the month of March, 1982. The list will include the following information with respect to each customer: name, address, type of service and amount of sales to such customer. This information will be furnished on Means computer report No. A–018–1, provided that such report is amended to include the address of each customer. During the month of April, 1982, Means shall continue its Management Information System with respect to such customers. Such system creates reports and documents for deliveries to customers and for invoicing purposes. For purposes of applicatin of the formula to determine the purchase price of the assets being sold pursuant to this Agreement, the sales figures shall be taken from Means computer report No. A–018–2, but Uniwear shall be permitted to check out and verify the accuracy of said report. Final sales figures shall be agreed to by June 30, 1982. Sales for application of the formula shall be the gross rental sales shown on that report less applicable sales taxes. In the event that Uniwear deems it necessary to continue Means Management Information System beyond April, 1982, Means shall furnish such services for up to six (6) months at a charge of $4,000 per month. In addition to the reports specifically mentioned above, Means shall provide Uniwear with any and all other data, records and such other information as may be reasonably required and requested by Uniwear and which is readily available to Means, all to the end of effectuating an orderly transition.

7. During the month of April, 1982, Means will exercise its best efforts to train and orient the personnel of Uniwear and to assist them in servicing the customers.

8. Means, at its expense, shall process all merchandise allocated to the customers in the Territory through April 16, 1982. At Uniwear's request, Means shall continue to process such merchandise at Uniwear's expense, but not beyond August 1, 1982.

9. All counts receivable from customers resulting from sales made prior to April 1, 1982 shall remain the sole and exclusive property of Means. Such receivables, as represented by an aging of accounts as of March 31, 1982 shall be collected by Means. Uniwear shall have the option of purchasing from Means all such receivables not collected prior to August 1, 1982. The purchase price for each receivable shall be negotiated. Means retains the right to turn the receivables over to a collection agency or directly sue the customer for payment, after 15 days notice to Uniwear.

10. The tangible assets being sold to Uniwear shall be transferred by appropriate bill of sale with warranties of title free of all liens, security interests and encumbrences. All such assets are being sold and shall be delivered "as is" as of the closing. ALL WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXCLUDED. The various customer contracts shall be assigned to Uniwear by a blanket assignment, and the actual contracts shall be delivered to Uniwear at closing. The specific assets being sold shall be taken from Means' records and computer printouts of such assets shall be delivered to Uniwear at closing. Said assets shall be maintained in a normal fashion prior to closing.

11. The closing shall be held on March 31, 1982 commencing at 10:00 a.m. at the Means' office in Akron, Ohio, or at such other time and place as the parties may subsequently mutually agree.

12. Means warrants and represents to Uniwear as follows:

a. Means is a corporation duly organized and existing under the laws of the State of Illinois;

b. All taxes with respect to the assets being sold hereunder, including sales and use taxes and property taxes, assessed by federal, state or local governments have been and will be paid as the same have matured, and that there are no claims pending against Means for any of such taxes as of the date hereof and as of the closing;

c. To the best of its knowledge and belief all of the contracts to be assigned by Means to Uniwear have been validly executed and will be in full force and effect free and clear of any liens or encumbrances as of the closing, and that no such contracts have a duration of more than two years from the date hereof unless there is a provision therein for price changes;

d. To the best of its knowledge and belief there are no agreements or promises or obligations to customers other than those contained in the contracts being assigned, and that the best of Means' knowledge and belief Uniwear will be under no obligation to do or perform anything other or different than that which is specifically set forth in the contracts being assigned;

e. It has full power and authority to enter into this Agreement and that the signing of this Agreement by its president and secretary will fully bind and obligate Means to this Agreement;

f. The customer contracts herein can be assigned to Uniwear by Means, and there are no prohibitions against such assignments in said contracts.

g. With respect to the business and assets being sold to Uniwear, Means has complied with all laws, rules and regulations of state and federal governments, and there are no judgements, liens, actions or proceedings pending in any court.

13. Means shall indemnify and hold Uniwear harmless from any and all claims for federal or state income or withholding taxes or any claims for sales and use taxes from federal, state or local governments that may be asserted subsequent to the closing for transactions prior to April 1, 1982, it being intended that any and all taxes due and owing by Means or which may have accured heretofore as a result of the business conducted by Means prior to April 1, 1982, shall be the sole responsibility of Means.

14. Uniwear warrants and represents to Means as follows:

a. It is a corporation duly organized and existing under the laws of the State of Ohio;

b. It has full power and authority to enter into this Agreement and that the signing of this Agreement by its president and secretary will fully bind and obligate Uniwear to this Agreement;

c. It will fully and faithfully comply with all of Means' obligations under the contracts to be assigned to Uniwear.

Uniwear shall indemnify, save and hold Means harmless from all liability, damage, loss, claims, costs (including reasonable attorneys' fees), demands and actions of any nature whatsoever which arise out of or are connected with, or which are claimed to araise out of or be connected with, subsequent to March 31, 1982 any of the following:

a. The tangible assets being sold to Uniwear;

b. The customer contracts being assigned to Uniwear;

c. Relations with customers subsequent to March 31, 1982;

provided that said actions do not relate to any activity or conduct by Means, its agents or employees.

15. Means shall indemnify, save and hold Uniwear harmless from all liability, damage, loss, claims, costs (including reasonable attorneys' fees), demands and actions of any nature whatsoever which arise out of or are connected with, or which are claimed to arise out of or be connected with, prior to April 1, 1982 any of the following:

a. The tangible assets being sold to Uniwear;

b. The customer contracts being assigned to Uniwear;

c. Relations with customers prior to April 1, 1982;

d. Labor union contracts;

e. Pension, profit sharing and/or health and welfare plans;

f. Claims of Means' employees;

provided that said actions do not relate to any activity or conduct by Uniwear, its agents or employees.

16. In order to secure payment of all obligations of Uniwear to Means pursuant to this Agreement, Uniwear shall grant to Means a security interest in all of the assets being sold by Means to Uniwear. While the parties acknowledge that accounts receiveable are not presently being sold by Means to Uniwear, yet, for Means' better security, such accounts receiveable shall be listed in the security agreement and financing statement.

16A. Means understands that Uniwear plans to sell to United Service Co. (United) a portion of the business and assets being purchased from Means and that Uniwear would not have entered into this agreement unless it first had such a purchase agreement with United. In consideration of Uniwear's purchase from Means, and in consideration of United's consummating its purchase agreement with Uniwear, Means agrees that the warranties, representations, gurantees and indemnities contained herein shall inure to the benefit of United.

17. All notices required or permitted to be given under the terms of this Agreement shall be deemed given when served personally or when deposited in the United States mail with proper postage affixed, certified mail, return receipt requested. Notices shall be given to the respective parties at the following addresses:

To Means: Means Services, Inc., 35 East Wacker Drive, Chicago, Illinois 60601, Attention: Robert A. Fried, Chairman.

With a copy to: Sherwin D. Abrams, 30 North La Salle Street, Suite 2700, Chicago, Illinois 60602.

To Uniwear: Uniwear, Inc., 825 East Tallmadge Avenue, Akron, Ohio, Attention: David Lockshin, President.

With a copy to: Harry Stein, Buckingham, Doolittle and Burroughs, LPA Attorneys, Box 1500, 1 Cascade Plaza, Akron, Ohio 44309.

18. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns, except that Uniwear may not, prior to payment to Means of all sums to become due hereunder assign any of its obligations hereunder. This Agreement may be executed in several counterparts, each of which shall be deemed a duplicate original. This Agreement sets forth the entire understanding of the parties.

19. Anything herein to the contrary notwithstanding, the purchase price shall be adjusted and recomputed on August 1, 1982 by deducting from gross sales the March, 1982 sales to customers who terminate their service prior to August 1, 1982 through normal attrition. The formula set forth in Paragraph 4 shall then be applied to the revised gross sales figure in order to determine the adjusted purchase price. The quarterly payment due beinning November 1, 1982 shall be adjusted accordingly. If a customer terminates service because of a rate increase that is in excess of 8%, such termination shall not be deemed to have been through normal attrition, and no deduction shall be made with respect to such customer.

21. Anything herein contained to the contrary notwithstanding, customer contract with, and sales to, Republic Steel Co. and Jones & Laughlin Steel Co. shall be treated as hereinafter set forth:

a. Effective april 1, 1982, Uniwear shall service each customer pursuant to Means' contractural obligations to each. During such time as Uniwear services either such customer, Uniwear shall be entitled to the proceeds of sales made to each respectively;

b. Uniwear shall have the option of discontinuing service to either such customer. Such options shall be exercised by Uniwear's giving written notice to means at least 15 days prior to the proposed date of discontinuance of service. Notice of the exercise of each option must be given by Uniwear no later than June 15, 1982;

c. If Uniwear exercises its option to discontinue service, then the customer contract shall be reassigned to Means and March, 1982 sales to the customer will be excluded from gross rental sales in computing the adjusted purchase price.

d. If Uniwear fails to exercise its option with respect to either customer, or if having exercised its option Uniwear commences service to such customer on or before August 1, 1982, then March, 1982 sales to such customer shall be included in gross rental sales in computing the adjusted purchase price.

22. Anything contained herein or in the security agreement to the contrary notwithstanding, Uniwear shall have the right to sell the linen business, customers outside of Uniwear's market area, and associated assets which it is purchasing from Means free and clear of Means' security interest. Means will execute and deliver any and all documents reasonably necessary to effectuate the provisions of this Paragraph. No such sale shall relieve Uniwear of its obligations hereunder.

23. Means and its successors covenant and agree not to induce any custmer whose contract is being assigned to Uniwear to breach such contract. Means will not solicit any such customer for a period of two years from such closing.

In witness whereof, the parties hereto have signed this Agreement as of the day and year first above written.

Attest: B. J. Smith, *Secretary.*
Attest: Carl Osherow.
Means Services, Inc., By: James E. Stefoff, *President.*
Uniwear, Inc., By: David Lockshin, *President.*

Agreement

Exhibit B

Agreement made this 23rd day of April, 1982 by and between MEANS SERVICES, INC., an Illinois corporation (hereinafter "Means") and UNITED SERVICES COMPANY, an Ohio corporation (hereinafter "Buyer")

Witnesseth

Whereas, means has been operating a textile service business in the Columbus, Ohio area; and

Whereas, Means wishes to sell and Buyer wishes to purchase that business and certain inventory used in the conduct of that business;

Now therefore, in consideration of the mutual promises and convenants contained herein,

It is hereby agreed as follows:

1. Means hereby agrees to sell and Buyer hereby agrees to purchase the following assets of Means relating to the business presently being conducted by Means from the said locations:

a. All right, title and interest of means after the Closing Date in and to contracts between Means and its customers which contracts require Means to furnish Rental Services to those locations in the Columbus, Ohio area currently being serviced through Mean's Columbus Market Center. Such locations are hereinafter referred to as the "Territory". On the Closing Date, Means shall, to the extent reasonably available, deliver copies of customer lists and price lists with respect to customers in the Territory for the prior six (6) months.

b. All in-service merchandise inventory of Means necessary to service customer locations within the Territory, including:

(1) Merchandise located on the premises of such customers;

(2) Merchandise in transit to such customers;

(3) Merchandise picked up prior to the closing for delivery subsequent to the Closing Date;

(4) Merchandise on location at both Columbus and Chillicothe Production Plants of Means required to service the rental accounts.

c. All Means equipment, including but not limited to cabinets, dispensers, containers, lockers, mop equipment, dust tools, and the like situated at customer locations within the Territory as of the Closing Date and on location at both the Columbus and Chillicothe Production Plants of Means.

d. An adequate number of good, serviceable vehicles (including one 18 basket van) presently used to service the routes in the Territory as of April 23, 1982 but not to exceed 19 vehicles.

e. Means telephone numbers and listings, advertising contracts and post office boxes in the Territory, to the extent transferable.

2. Except as set forth in Paragraph 9 hereof with respect to certain accounts receivable, only the assets listed in Paragraph 1 hereof are being sold and purchased hereunder. It is expressly understood and agreed that the following assets are not being sold hereunder:

a. Real estate, leases or plant equipment;

b. The name "F.W. Means", "Means Services", or any other trademark, service mark, trade name, copyright or similar intangible property belonging to Means.

From and after the Closing Date, Buyer shall service all customer locations within the Territory and shall perform in a prudent manner and in accordance with good

business practices, pursuant to all of the terms and conditions of all customer contracts being assigned to Buyer pursuant to this Agreement.

3. The total purchase price for all assets being sold pursuant to the provisions of Paragraph 1 hereof shall be determined in accordance with the following formula:

$$P = \frac{S}{23} \times 5 \times 23$$

Where:
P=Purchase price.
S=Gross rental sales during the month of March, 1982 to all Means' customers in the Territory.

The parties anticipate that the total purchase price based on the above formula will be approximately $1,180,000. The purchase price will be paid in installments as follows:

a. $50,000 on the execution hereof receipt of which is hereby acknowledged; plus

b. $127,000 on the Closing Date; plus

c. The balance of the purchase price in 32 substantially equal quarterly installments of principal and interest at the rate of 13% per annum until July 12, 1986 when the interest rate shall then become the rate of interest charged by the Chemical Bank, New York, N.Y. to its preferred corporate customers (the "Prime Rate") but no more than 15% per annum, such installments to commence on October 12, 1982, and on the 12th day of each January, April, July and October thereafter until fully paid.

The obligation created hereby shall be evidenced by a promissory note, substantially in the form attached hereto as Exhibit "A". The balance due may be prepaid in whole or in part at any time without penalty. All payments shall be applied first to accrued interest and the balance to principal. For purposes of this Agreement, sales shall be considered to be made at the time that clean linen and other merchandise is returned or delivered to a customer.

4. Buyer shall have the right to purchase from Means such new unused merchandise at the Columbus and Chillicothe Production Centers as it desires and shall pay to Means for any such purchases Means' cost of such merchandise as evidenced by invoices covering such inventory, payment to be in full in cash at closing.

5. The purchase price shall be allocated as follows with the understanding that in-service merchandise and customer contracts shall be adjusted in proportion to each other as indicated to account the full purchase price:

In Service Merchandise	475,000
Cabinets and lockers	132,000
Haul baskets	13,000
Autos and Trucks	76,000
Customer Contracts	454,000
Goodwill	50,000

6. The parties recognize that the accounting systems and methods of doing business employed by the respective parties may not be identical and that in order for the business of Means to be transferred to Buyer the parties must cooperate in the orderly transition of said business so as to accommodate the varying systems and known needs of each of the parties. To that end each of the parties agrees to cooperate with the other in whatever reasonable means are required to the end that Buyer may be able to integrate into its system the business being acquired from Means. At closing Means will furnish to Buyer a complete list of all of Means' customers in the Territory for the month of March, 1982. The list will include the following information with respect to each customer: name, address, type of service and amount of sales to such customer. This information has been furnished on Means computer report No. A-018-1 which Means represents to be true and correct. The address of each customer will be furnished to Buyer on or prior to the Closing Date. During the month of July, 1982, Means shall continue its Management Information System with respect to such customers. Such system creates reports and documents for deliveries to customers and for invoicing purposes. For purposes of application of the formula to determine the purchase price of the assets being sold pursuant to this Agreement, the sales figures shall be taken from Means computer report No. A-018-2A, but Buyer shall be permitted to check out and verify the accuracy of said report. Final sales figures shall be agreed to by June 30, 1982. Sales for application of the formula shall be the gross rental sales shown on that report less applicable sales taxes. In the event that Buyer deems it necessary to continue Means Management Information System beyond July, 1982, Means shall furnish such services for up to six (6) months at a charge of $4,000 per month. In addition to the reports specifically mentioned above, Means shall provide Buyer with any and all other data, records and such other information as may be reasonably required and requested by Buyer and which is readily available to Means, all to the end of effectuating an orderly transition.

7. During the month of July, 1982, Means will exercise its best efforts to train and orient the personnel of Buyer and to assist them in servicing the customers.

8. Means, at its expense, shall process all merchandise allocated to the customers in the Territory through July 23, 1982.

9. All accounts receivable from customers resulting from sales made prior to the Closing Date shall remain the sole and exclusive property of Means. Such receivables, as represented by an aging of accounts as of the Closing Date shall be collected on Means' behalf by Buyer on a first in, first out basis unless the payments is otherwise designated by the customer with such collections being remitted to Means monthly. Buyer shall have the option of purchasing from Means all such receivables not collected prior to October 1, 1982, for a purchase price for each receivable as mutually agreed upon by the parties. Means retains the right to turn the receivables over to a collection agency or directly sue the customer for payment, after giving 15 days prior notice to Buyer.

10. The tangible assets being sold to Buyer shall be transferred by appropriate bill of sale with warranties of title free of all liens, security interests and encumbrances. All such assets are being sold and shall be delivered "as is" as of the closing. *All warranties, including the implied warranties of merchantability and fitness for a particular purpose are hereby excluded.* The various customer contracts shall be assigned to Buyer by a blanket assignment, and the actual contracts shall be delivered to Buyer at closing.

The specific assets being sold shall be taken from Means' records, and computer printouts of such assets shall be delivered to Buyer at closing. Said assets shall be maintained in a normal fashion prior to closing.

11. The closing shall be held on July 12, 1982 commencing at 10:00 a.m. at the Means' office in Columbus, Ohio (the "Closing Date").

12. In addition to the representations and warranties elsewhere contained in this Agreement, Means hereby makes the following representations and warranties, all of which are made to Buyer for the purpose of inducing it to purchase the assets and business included in this sale, and upon which representations and warranties Buyer has and does rely:

(A) That Means is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and qualified to do business in the State of Ohio.

(B) That Means has good, legal and marketable title to all of the properties and assets, tangible and intangible, sold and/or assigned hereunder and that same are free and clear of all liens, mortgages, pledges, charges, encumbrances and claims of every kind and description whatsoever and that Means has full right to sell same in the manner herein provided and upon the closing hereof, Buyer shall obtain absolute title thereto free and clear of all liens, mortgages, pledges, charges, claims and encumbrances of every kind and description.

(C) That Means has the right to unilaterally assign its customer contracts and purchase orders without causing a breach or default under any such contract or purchase order, and has no notice or knowledge of default under any customer contracts or purchase orders provided hereunder. Means has no notice nor knowledge that any customer will be terminating service.

(D) That no prepayment for services of any kind to be rendered or furnished following the closing date to any customer or accounts being purchased hereunder has been received by Means. Means shall turn over to Buyer such prepayment hereinafter received.

(E) That Means has made no commitments to customers for free service, loans, gratuities, credits, rebates or allowances which will be in effect after the closing date, and Means agrees to indemnify and hold the Buyer harmless against any and all such commitments or claims.

(F) That Means has full corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. The execution, delivery and performance by Means of this Agreement and all over other acts required hereunder to be done by Means have been duly authorized by all requisite corporate action, and the

consummation of the transactions contemplated hereby will not violate any provisions of the Articles of Incorporation or Code of Regulations of Means.

(G) That the Board of Directors of Means have duly approved and authorized the execution and delivery of this Agreement; and Means shall deliver to Buyer at the closing a true and complete copy of resolutions duly adopted by its Board of Directors, certified by its Secretary approving and authorizing such actions and designate Sidney Sosin to execute any and all agreements necessary to consummate this transaction.

(H) That there are no outstanding orders or contracts for the purchase of any inventory, machinery, equipment or supplies being sold hereunder which cannot be cancelled or terminated by Means or Buyer without liability.

(I) That Means will conduct and operate the business to the Closing Date in its usual and orderly manner; that it will use its best efforts to preserve and protect the business, quality and patronage of all of its cusomers; and will generally conduct, maintain and operate its business, assets and property the same as if no sale thereof was contemplated except with respect to renewal of accounts which require the purchase of new Goods.

(J) That Means has timely filed all federal, state and local tax returns and reports (collectively "Reports") and will forthwith file any and all Reports which may be required for the periods prior to Closing Date and shall pay any and all taxes, charges, penalties and interest which may be required to be paid.

(K) That Means will pay all wages and fringe benefits to its employees through the Closing Date including wage and fringe benefits under Means' labor agreement.

(L) That no more than fifteen percent (15%) of the aggregate value of its customer accounts are more than sixty (60) days in arrears.

(M) That no representation or warranty by Buyer in this Agreement nor any statement, exhibit or schedule furnished or to be furnished to the Buyer pursuant hereto, or in connection with the transactions contemplated hereby contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements contained therein not misleading.

(N) With respect to the business and assets being sold to Buyer, Means has reasonably complied with all laws, rules and regulations of State and Federal governments, and there are no judgments, liens, actions or proceedings pending in any court.

13. Means shall indemnify and hold Buyer harmless from any and all claims or liabilities for federal or state income, property, real or personal or withholding taxes or any claims or liabilities for sales or use taxes from federal, state of local governments that may be asserted subsequent to the closing for transactions prior to the Closing Date, including any and all liability, loss, costs and expenses arising out of or in connection with the failure of Means to comply with applicable "Bulk Sales Laws" relating to the transfer of assets herein conveyed, it being intended that any and all taxes due and owing by Means or which may have accrued heretofore as a result of the business conducted by Means prior to the Closing Date, shall be the sole responsibility of Means.

14. Buyer warrants and represents to Means as follows:

a. It is a corporation duly organized and existing under the laws of the State of Ohio;

b. It has full power and authority to enter into this Agreement and that the signing of this Agreement by its president and secretary will fully bind and obligate Buyer to this Agreement;

c. It will fully and faithfully comply with all of Means' obligations under the contracts to be assigned to Buyer.

15. Each party shall indemnify, save and hold the other harmless from all liability, damage, loss, claims, costs (including reasonable attorneys' fees), demands and actions of any nature whatsoever which arise out of or be connected with respect to Means prior to July 12, 1982 and with respect to Buyer after July 12, 1982, any of the following:

a. The tangible assets being sold to Buyer;

b. The customer contracts being assigned to Buyer;

c. Relations with customers, with respect to Means prior to the Closing Date, and, with respect to Buyer on and after the Closing Date;

d. The respective labor union contracts of the parites;

e. The respective pension, profit sharing and/or health and welfare plans of the parties; or

f. Claims of the employees of the respective parties.

16A. Notwithstanding any other provision in this Agreement to the contrary, Buyer shall have the right to assign by written assignment (the "Assignment") any and all of its right, title and interest in this Agreement to Cintas (the "Purchaser") without recourse as to any of the representations, warranties and covenants Buyer has made hereunder or under any other agreement or instrument it is required to execute in order to consummate this Agreement, which Assignment shall be on such terms and conditions satisfactory to Buyer. In such event, Means shall consent to such assignment in writing, accept Purchaser's consideration upon the same terms and conditions provided in this Agreement as a credit against Buyer's purchase price, adjust the terms of payment thereof, and look to Purchaser for payment. In consideration of the foregoing, and in consideration of Buyer's consummating this Agreement, Means agrees that the warranties, representations, guarantees and indemnities contained in this Agreement shall inure to the benefit of the Purchaser. All of the representation, warranties, and covenants in this Agreement shall survive the closing date hereof for a period of eight (8) years.

16B. Anything herein to the contrary notwithstanding, the purchase price shall be adjusted and recomputed on November 12, 1982 by (a) deducting from gross rental sales the March, 1982 sales to customers who terminate their service prior to November 12, 1982 through normal attrition and (b) adding to such gross rental sales the gross rental sales made to new customers after March 31, 1982 to and including July 11, 1982; provided, that such adjustment shall not increase the purchase price. The formula set forth in Paragraph 4 shall then be applied to any such revised gross rental sales figure in order to determine the adjusted purchase price. The quarterly payment due beginning January 12, 1983 shall be adjusted accordingly. If a customer terminates service because of a rate increase that is in excess of 8%, such termination shall not be deemed to have been through normal attrition, and no deduction shall be made with respect to such customer.

17. Means guarantees that the in-service inventory shall be 2.3 times current average weekly usage.

18. All notices required or permitted to be given under the terms of this Agreement shall be deemed given when served personally or when deposited in the United States mail with proper postage affixed, certified mail, return receipt requested. Notices shall be given to the respective parties at the following addresses:

To Means: Means Services, Inc., 35 East Wacker Drive, Chicago, Illinois 60601, Attention: Robert A. Fried, Chairman

With a copy to: Sidney Sosin, Esq., Arvey, Hodes, Costello & Burman, One Eighty North LaSalle Street, Chicago, Ill. 60001

To Buyer: United Service Company, 350 North Ave., Youngstown, Ohio 44502

19. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement may be executed in several counterparts, each of which shall be deemed a duplicate original. This Agreement sets forth the entire understanding of the parties.

20. Means and its successors covenant and agree not to induce any customer whose contract is being assigned to Buyer to breach such contract. Means will not solicit any such customer for a period of two (2) years from the Closing Date.

In witness whereof, the parties hereto have signed this Agreement as of the day and year first above written.

Means Services, Inc, by Sidney Sosin, *Authorized Representative.*

United Services Company, by Leslie W. Spero, *President.*

Deed

This deed made this 20th day of June, 1964 by and between Standard Overall Service Co. (formerly "Standard Industrial Laundries, Inc."), a Kentucky corporation duly authorized to transact business in the State of West Virginia, party of the first part, and F. W. MEANS & COMPANY, an Illinois corporation duly authorized to transact business in the State of West Virginia and having its principal office at 35 East Wacker Drive, Chicago, Illinois, 60601, party of the second part.

Witnesseth: That, for the consideration hereinafter stated and the sum of One Dollar ($1.00) in hand paid, the receipt whereof is hereby acknowledged, the said party of the first part hereby grants and conveys unto the party of the second part all of those certain

lots or parcels of land, together with the improvements thereon and the appurtenances thereunto belonging, situate in the City of Charleston, Kanawha County, West Virginia, and being all of Lot Nos. One (1), Two (2), Three (3) and Four (4) in Block "I" of Fitzgerald's Addition to the said City of Charleston, as shown upon that certain map entitled "Map of Fitzgerald's Addition to the City of Charleston, West Virginia", which map is recorded in the office of the Clerk of the County Court of Kanawha County, West Virginia, in Map Book 2, at page 152, and being the same property conveyed to the party of the first part herein by Standard Overall Service, Inc., a Kentucky corporation, by deed dated November 11, 1961 and recorded in the aforesaid Clerk's office in Deed Book 1350 at page 249, to which said map and deed reference is hereby made for a more particular description of the property hereby conveyed.

Subject to real property taxes for the year 1964, the party of the first part warrants generally the property hereby conveyed.

Declaration of consideration or value: Party of the first part hereby declares that the property transferred by this document is not subject to State Excise Tax on privilege of transferring real property, for the reason that it is a transfer made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the stock of the subsidiary.

In witness whereof, Standard Overall Service Co., (formerly Standard Industrial Laundries, Inc."), a corporation, has caused its corporate name to be signed and its corporate seal to be hereunto affixed by its President and attested by its Secretary this 20th day of June, 1964.

Standard Overall Service Co.;
J. A. Quigley, *President.*
John H. Bishop, *Assistant Secretary.*

Exhibit B-2

Mill Creek Road, Peaks Mill, West Virginia, Dated April 6, 1979
Harper Park, I-77 and West Virginia Route 3, Beckley, West Virginia, Dated March 15, 1977.
Betsy Lane, Floyd, Kentucky, Dated June 6, 1980.
Unit #1, Congress Park, U.S. Route No. 50 and Congress Road, Belpre, Ohio, Dated March 5, 1977.
Building No. 59, Armco Steel, Ashland Works, Ashland, Kentucky, Dated May 1, 1974.
3882 Gallia Street, New Boston, Ohio, Dated July 29, 1977.

Exhibit "C"

$5,000,000—June 1, 1982

Negotiable Promissory Note

For value received, Mid-West Towel & Linen Services, Inc., an Indiana corporation ("Maker") promises to pay to the order of Means Services, Inc., an Illinois corporation, its successors or assigns, ("Payee") the principal amount of Five Million ($5,000,000.00) Dollars, in lawful money of the United States of America, together with interest at the rate of 12% until June 1, 1987 and thereafter with interest at the prime rate of interest charged from time to time by the Chemical Bank, New York, N.Y., (the "Prime Rate"), but not to exceed the rate of 13% per annum.

This note shall be payable in 20 equal quarterly installments of principal and accrued interest of $216,311.89 each and 8 equal quarterly installments of principal and accrued interest at the Prime Rate (not to exceed 13%) on the basis of a ten (10) year amortization schedule, with the then balance of principal being due and payable seven (7) years after date. Such payments shall commence on September 1, 1982 and shall be payable on the first day of December, March, June and September thereafter, until the final payment date, 7 years after date.

Prepayments of principal may be made by Maker at any time in any amount not less than $10,000, but any such prepayment shall not preclude the obligation to timely make all scheduled subsequent payments when due.

All payments of principal and interest shall be made to Payee in care of ARA Services, Inc., Independence Square West, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Attention: Treasury Department, or at such other place as the holder hereof shall hereafter designate and shall be applied first to accrued interest and the remainder, if any, to the payment on the principal balance hereof.

This Promissory Note is secured by and entitled to the benefit of a certain Security Agreement of even date therewith between Maker and Payee, (the "Security Agreement") which Security Agreement is attached hereto as Exhibit "A" and made a part hereof. The Security Agreement, among other things, contains provisions for acceleration of the maturity hereof upon the happening of certain stated events.

This Promissory Note shall be governed by and construed in accordance with, the law of the Commonwealth of Pennsylvania.

In witness whereof, Maker, intending to be legally bound, has duly executed this Not this 1st day of June 1982.

Attest:

Secretary.

Mid-West Towel & Linen Services, Inc.
By: A. Jack Hertz, *President.*

Exhibit "D"

Security Agreement

Security agreement made and entered into as of the 1st day of June, 1982, by and between Means Services, Inc. and Illinois corporation, its successors or assigns (hereinafter referred to as "Secured Party") and Mid-West Towel & Linen Service, Inc., an Indiana corporation, (hereinafter referred to as "Debtor").

Witnesseth

Whereas, Secured Party and Debtor are parties to a certain Agreement for the Purchase and Sale of Certain Assets of Means Service, Inc. and dated April 27, 1982 (hereinafter referred to as the "Agreement"), whereby Debtor has agreed to purchase from the Secured Party certain assets described in Section 1.1 of the Agreement; and

Whereas, as security for payment of Debtor's obligations under the Agreement and an installment note dated of even date herewith in the principal amount of $5,000,000.00 given to Secured Party under the Agreement (hereinafter referred to as the "Note") whether such obligations are direct or indirect, absolute or contingent, due or to become due, whether at maturity or by acceleration upon default, now existing or hereafter arising, Debtor desires to mortgage, pledge and grant to Secured Party a general lien upon and a continuing security interest under the Uniform Commercial Code, as amended in certain collateral hereinafter described;

Now, therefore, for and in consideration of the promises herein contained and the sum of One Dollar ($1.00) paid to Debtor by Secured Party, and for other good and valuable considerations, receipt and sufficiency of which are hereby acknowledged, Secured Party and Debtor hereby agree as follows:

1. *Collateral.* Debtor hereby grants to Secured Party a security interest in the following property of Debtor (hereinafter referred to as the "Collateral"):

(a) All of the assets listed and described in Section 1.1 of the Agreement;

(b) All intangible assets of the Business, including, without limitation, all notes and accounts receivable, unbilled receivables, all contract rights, leasehold interest, licenses, registered trade name rights, consulting agreements, trade secrets and customer lists used in conjunction with such assets; and

(c) All property, goods and chattels of the same classes as those listed in subparagraphs 1(a) and 1(b) hereof acquired for use in the Business (as that term is defined in the Agreement) by the Debtor subsequent to the execution of this Security Agreement and prior to its termination, proceeds of such assets and all increases, substitutions, replacements, additions and accretions to such assets.

2. *Obligations Secured by this security Agreement.* The Security interest provided for is to secure the payment and performance of the obligations evidenced by the Note.

3. *Ownership of Collateral.* The Debtor is, or is to become, the owner of the Collateral, and has, or will have when the Collateral is acquired, the right to convey a first and prior security interest in the Collateral to Secured Party.

4. *Use of Collateral.* The Collateral has been acquired and is used by the Debtor, or will be acquired and will be used, in connection with the Business.

5. *Title.* This Security Agreement is not intended to affect the title to the Collateral, which is, or will become, vested in the Debtor.

6. *Acts to be Performed by Debtor.* The Debtor agrees as follows:

(a) *Payment and Performances.* The Debtor shall pay and perform all of the obligations secured by this Security Agreement according to their terms.

(b) *Further Assurances.* The Debtor shall defend the title to the Collateral against all persons. On demand by the Secured Party, the Debtor shall execute any written instruments or do any other acts reasonably necessary to make effective the purposes and provisions of this Security Agreement.

(c) *Possession.* The Debtor shall remain in possession of the Collateral during the term of this Security Agreement.

(d) *Sale and Exchange.* The Debtor may sell or exchange the Collateral in the ordinary course of business without the written consent of the Secured Party, but the proceeds of such sale or exchange and all increases, substitutions, replacements, additions and accretions thereto shall be subject to the lien of this Security Agreement. Debtor may otherwise sell the Collateral with the consent of Secured Party, which consent shall not be unreasonably withheld.

(e) *Certain Acts Required:* At all times prior to the final payment of all balances due under the Note, Debtor shall and Debtor shall cause any company to which the assets and Business transferred hereunder may be transferred to:

(i) Use reasonable care in the custody and preservation of the Collateral and shall keep the same free from any adverse lien, security interest or encumbrance. The Secured Party may enter upon the premises where the Collateral is located and examine it;

(ii) Keep the Collateral insured for the benefit of the Secured Party against loss by fire and other casualties or risks, in such form and amount as is commonly maintained by companies similarly situated;

(iii) Furnish to Secured Party within 45 days after the end of each fiscal quarter of Debtor and 120 days after the end of each fiscal year of Debtor, a copy of the Debtor's individual division balance sheet as at the close of such period and from time to time, such other information as Secured Party may reasonably request;

(iv) Permit reasonable access by Secured Party and its agents and representatives to the books and records of the Debtor relating to the operations of the Business (excluding information regarding customer accounts) however such operations are constituted after Time of Closing;

(v) Maintain all of the properties and assets of the Business in good condition, order and repair, reasonable wear and use excepted, and maintain insurance to such extent and against such hazards and liabilities as is commonly maintained by companies similarly situated;

(vi) Pay when due all taxes, assessments, and other liabilities, except and so long as contested in good faith and provided that adequate reserves have been established therefore;

(vii) Operate the Business only in the ordinary course so as to maintain the goodwill it presently enjoys, and to the extent of and consistent with such operation, use its best efforts to preserve intact the present Business;

(viii) Promptly advise Secured Party in writing of facts or events which could have a material adverse impact on Debtor's ability to make payments of principal and interest under the Note;

(ix) Not declare or pay any dividends on the stock of Debtor, reacquire or repurchase the shares of Debtor or make any other distributions to Debtor's respective shareholders;

(x) Not permit total capital expenditures of Debtor and all of its subsidiaries, to be in excess of 125% of the depreciation expensed for financial reporting purposes per annum, on a cumulative basis, if such capital expenditures are encumbered in any manner, without written permission of Secured Party, which permission shall not be unreasonably withheld;

(xi) Not permit the sale or transfer of any asset of Debtor, other than in the ordinary course of business, unless like assets are purchased for use by Debtor or the proceeds are paid to the Company as a prepayment of principal of the Note without the consent of Secured Party, which consent shall not be unreasonably withheld;

(xii) Deliver to Secured Party the certificate of an officer of Debtor within 90 days from the end of its fiscal year certifying that it is in compliance with the covenants set forth in this Section 6(e).

(f) *Failure to Perform Required Acts:*

(i) *Performance by Secured Party.* Upon failure by the Debtor to perform the acts described in subparagraph (e) of this paragraph 6, the Secured Party is authorized and has the option to perform any of said acts in any manner deemed proper by the Secured Party, without waiving any rights to enforce this Security Agreement.

(ii) *Advances Secured.* The reasonable expenses, including the cost of any insurance and payment of taxes or other charges, paid by the Secured Party in respect to the preservation of the Collateral shall be deemed advanced to the Debtor by the Secured Party, shall be payable on demand and shall bear interest at the rate provided for in the Note and shall be secured by this Security Agreement.

7. *When Obligations Become Due.* At the option of the Secured Party, the obligations secured by this Security Agreement may be declared immediately due and payable upon the happening of one or more of the following events:

(a) *Default in Obligation.* If the Debtor shall fail to perform any of the obligations described in the Note and secured by this Security Agreement, and such failure is not remedied within thirty (30) days following receipt by Debtor of written notice from Secured Party.

(b) *Default in Security Agreement.* If the Debtor shall fail to perform any covenant, condition or provision of this Security Agreement, and such failure is not remedied within thirty (30) days following receipt by Debtor of written notice from Secured Party.

8. *Remedies upon Default.*

(a) *General.* In the event of default under this Security Agreement, the Debtor and Secured Party shall have the rights and remedies provided in Article 9 of the Uniform Commercial Code, and in addition, those provided in this Security Agreement.

(b) *Disposition of Collateral.* If any notification of intended disposition of any of the Collateral is required by law, such notification, if mailed shall be deemed properly given if mailed at least fifteen (15) days before such disposition, postage prepaid, addressed to the Debtor as provided for in subparagraph 10(e) hereof. Any proceeds of any disposition of any of the Collateral may be applied by the Secured Party to the payment of expenses in connection with the Collateral, including reasonably attorneys' fees and legal expenses, and any balance of such proceeds may be applied by the Secured Party toward the payment of the Note.

9. *Convenant to Pay Deficiency.* Upon default, if the sale or other disposition of the Collateral fails to satisfy the obligations secured by this Security Agreement and the reasonable expenses of retaking, holding, preparing for sale, selling and the like, including reasonable attorneys' fees and legal expenses incurred by the Secured Party in connection with this Security Agreement or the obligations of Secured Party, the Debtor shall be liable for any deficiency.

10. *Miscellaneous.* The Debtor and Secured Party agree as follows:

(a) *No Discharge.* No party to this Security Agreement shall be discharged by any extension of time, additional advance and notes, renewals and extensions of the Note, the taking of further security, releasing security, extinguishment of the security as to all or any part of the Collateral or any other act, except a release or discharge of the security interest upon full payment of the obligations secured by this Security Agreement, including charges, expenses, fees, costs and interest.

(b) *No Waiver or Estoppel.* Any failure by the Secured Party to exercise any right set forth in this Security Agreement shall not constitute a waiver thereof. Nothing in this Security Agreement or in the obligations secured by it shall preclude any other remedy by action or otherwise for the enforcement of this Security Agreement or the payment in full of the obligations secured by it.

(c) *Succession.* This Security Agreement shall bind the respective successors and assigns of the Debtor and the Secured Party.

(d) *Governing Law.* The rights and duties of the parties hereto shall be governed by the laws of the State of Pennsylvania.

(e) All communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first class, postage prepaid, registered or certified, addressed as follows:

If to Secured Party: Means Services, Inc., c/o ARA Services, Inc., Independence Square, West, Philadelphia, Pennsylvania 19106, Attention: W. J. O'Kane, Esquire.

If to Debtor: Mid-West Towel & Linen Service, Inc., 601 E. Main Street, Muncie, Indiana 47305.

In witness whereof, the parties hereto, intending to be legally bound hereby, have duly executed this Agreement as of the date and year first above written.

Attest:

Secretary.

Attest:

Secretary

Mid-West Towel & Linen Service, Inc., A. Jack Hertz, *President.*

Means Services, Inc., James E. Stefoff, *president.*

Exhibit E

Guaranty (Unlimited)

To: MEANS SERVICES, INC., an Illinois Corporation ("MEANS").

1. *Guaranty of Payment and Performance of Obligations.* In consideration of Means' extending credit to Mid-West Towel & Linen Service, Inc., an Indiana Corporation ("Purchaser"), in the amount of Five Million Dollars ($5,000,000) in connection with the sale to Purchaser of certain assets owned by Means pursuant to a certain Agreement for Purchase and Sale of certain assets of Means between Means and Purchaser dated April 26, 1982 ("Purchase and Sale Agreement"), the undersigned (the "Guarantors"), hereby unconditionally guarantee to Means that (a) the Purchaser shall duly and punctually pay, when due, at the expiration of the grace period set forth in paragraph 4 (a) and (b) of the Security Agreement delivered pursuant to the Purchase and Sale Agreement and attached to the Note, at the place specified therefor, or if no place is specified, to Means c/o ARA Services, Inc., Independence Square West, Sixth at Walnut Street, Philadelphia, Pennsylvania 19106, (Attention: Treasurer) all indebtedness when due, at maturity, or by acceleration upon default (after the lapse of the cure period, if any, applicable to any default), and shall timely perform all obligations and liabilities, direct or indirect, matured or unmatured, primary or secondary, certain or contingent, of the Purchaser to Means now or hereafter owing or incurred (including without limitation costs and expenses incurred by Means in attempting to collect or enforce any of the foregoing) which are chargeable to the Purchaser either by law or under the terms of Means' agreements with the Purchaser or under the Purchase and Sale Agreement, accrued in each case to the date of payment hereunder (collectively the "Obligations" and individually an "Obligation"); and (b) if there is an agreement evidencing or executed and delivered in connection with any Obligation, the Purchaser shall perform in all other respects strictly in accordance with the terms thereof. This Guaranty is an absolute, unconditional and continuing guaranty of the full and punctual payment and performance by the Purchaser of the Obligations and not of their collectibility only, and is in no way conditioned upon any requirement that Means first attempt to collect any of the Obligations which Means now has or may acquire after the date hereof, or that Means pursue any other remedies available to it, or upon any other contingency whatsoever. Upon any default by the Purchaser in the full and punctual payment and performance of the Obligations and the failure by Purchaser to cure such default within the applicable cure period, if any, the liabilities and obligations of the Guarantors hereunder shall, at the option of Means, become forthwith due and payable to Means without further demand or notice to the Guarantors, all of which are expressly waived by the Guarantors. Payments by the Guarantors hereunder may be required by Means on any number of occasions, and Means may at its discretion enforce this Guaranty against either or both of the Guarantors.

2. *Guarantors' Further Agreements to Pay.* The Guarantors further agree, as the principal obligors and not as guarantors only, to pay to Means forthwith upon demand, in funds immediately available to Means, all costs and expenses (including court costs and reasonable legal expenses) incurred or expended by Means in connection with this Guaranty and the enforcement hereof, together with interest on amounts recoverable under this Guaranty from the time such amounts become due until payment at the usual rate changed by Means in similar circumstances, but in no event less than twelve percent (12%) per annum.

3. *Unlimited Liability of Guarantors.* The liability of the Guarantors hereunder shall be unlimited. Although referred to as a Guaranty, this instrument is intended as well to be a contract of suretyship by which the undersigned intend to be legally bound.

4. *Security; Set-Off.* (a) If a default exists in any of the Obligations under the Security Agreement, the Guarantors grant to Means, as security for the full and punctual payment and performance of the Guarantors' liabilities and Obligations hereunder, a continuing lien on and security interest in all property of the Guarantors, and in the proceeds therefrom.

(b) The Guarantors shall have no right of set-off, subrogation, reimbursement or indemnity whatsoever and no right of recourse to any assets or property of Purchaser or to any collateral for the liabilities of Purchaser until all liabilities of Purchaser to Means have been paid in full.

5. *Subordination by Guarantors.* The Guarantors, and each of them, subordinate to the payment in full of the Obligations any claim to payment now or hereafter held by such Guarantor or either of them, against the Purchaser or against any other person or entity directly or indirectly liable for the Obligations.

6. *Means' Freedom to Deal with Purchaser and Other Parties.* Means shall be at liberty, without giving notice to or obtaining the assent of the Guarantors and without relieving the Guarantors of any liability or obligation hereunder, to deal with the Purchaser and with each other party who now is or after the date hereof becomes liable in any manner for any of the Obligations, in such manner as Means in its sole discretion deems fit, and to this end the Guarantors give to Means full authority in its sole discretion to do any or all of the following: (a) extend credit, make loans and accord other financial accommodations to the Purchaser at such times, in such amounts and on such terms as Means may approve, (b) vary the terms and grant extensions or renewals of the Obligations on any present of future indebtedness or obligation to Means of the Purchaser or of any such other party, (c) grant time, waivers and other indulgences in respect thereto, (d) vary, exchange, release or discharge, wholly or partially, or delay in or abstain from perfecting and enforcing any security or guaranty or other means of obtaining payment of any of the Obligations which Means now has or acquires after the date hereof, (e) accept partial payments from the Purchaser or any such other party, (f) release or discharge, wholly or partially, any endorser or guarantor, (g) compromise or make any settlement or other arrangement with the Purchaser of any such other party, (h) sell, collect or otherwise dispose of any collateral now or hereafter held by Means as security for the Obligations at public or private transaction, and become the Purchaser thereof, free and clear of any interest therein on the part of the Guarantors, and apply the net proceeds of any such sale or disposition to the Obligations or any indebtedness of the Purchaser to Means in the order selected by Means, it being understood that Means shall not be under any obligation to hold any such Collateral in favor of any Guarantor or with respect to the Obligations, (i) subordinate the payment of the Obligations, or any part thereof, to the payment of any indebtedness of the Purchaser, and (j) take or refrain from taking any action deemed to be in Means' best interest with respect to the Obligations, the Purchaser, any Collateral or with respect to any person or entity liable for the Obligations.

7. *Unenforceability of Obligations Against Purchaser; Invalidity of Security or Other Guaranties.* If for any reason the Purchaser has no legal existence or is under no legal obligation to discharge any of the Obligations undertaken or purported to be undertaken by it or on its behalf, or if any of the monies included in the Obligations are not recoverable from the Purchaser by operation of law or for any other reason, this Guaranty shall nevertheless be binding on the Guarantors to the same extent as if the Guarantors at all times had been the principal debtor on all such Obligations. This Guaranty shall be independent of and in addition to any other guaranty or other security for the Obligations, and it shall not be prejudiced or rendered unenforceable by the invalidity of any such other guaranty or security.

8. *Waivers by Guarantors.* The Guarantors waive: Notice of acceptance hereof, notice to the Guarantors of the occurrence of an event of default under the Purchase and Sale Agreement or under any agreement between, or instrument executed by, Means and/or Purchaser, notice of any action taken or omitted by Means in reliance hereon, and any requirement that Means be diligent or prompt in making demands hereunder, giving notice of any default by the Purchaser or asserting any other right of Means hereunder. The Guarantors also irrevocably waive, to the fullest extent permitted by law, all defenses which at any time may be available in respect of the Guarantors' liabilities and obligations hereunder by virtue of any homestead exemption, statute of limitations, valuation, stay, moratorium law or other similar law now or hereafter in effect.

9. *No Contest with Means.* So long as any obligation remains upaid or undischarged, the Guarantors will not, by paying any sum recoverable hereunder (whether or not demanded by Means) or by any means or any other ground, claim any set-off of counterclaim against the Purchaser in respect of any liability of the Guarantors to the Purchaser or, in proceedings under the Bankruptcy Code or insolvency proceedings of any nature, prove in competition with

Means in respect of any payment hereunder or be entitled to have the benefit of any counterclaim or proof of claim or dividend or payment against, by or on behalf of the Purchaser or the benefit of any other security for any obligation which, now or hereafter, Means may hold or in which it may have any share.

10. *Demands and Notices.* Any demand on or notice to any of the Guarantors shall be in writing and shall be effective when handed to such Guarantor or left at or mailed to such Guarantor's usual or last-known address.

11. *Amendments, Waivers, Etc.* Guarantors and each of them acknowledge that no promises, representation, agreements, conditions or covenants have been made relating to this Guaranty other than those contained herein, and agree that no provision of this Guaranty can be changed, waived, discharged or terminated except by an instrument in writing signed by Means and the Guarantors expressly referring to the provision of this Guaranty to which such instrument relates; and no such waiver shall extend to affect or impair any right with respect to any Obligation which is not expressly dealt with therein. No course of dealing or delay or omission on the part of Means in exercising any right shall operate as a waiver thereof or otherwise be prejudicial thereto.

12. *Miscellaneous Provisions.* This Guaranty is intended to take effect as a sealed instrument, to be governed by an construed in accordance with the laws of the Commonwealth of Pennsylvania, and shall inure to the benefit of Means and its successors and assigns, and shall be binding on the Guarantors and their respective heirs, personal representatives and assigns.

In witness whereof, the Guarantors have executed this on the 1st day of June 1982.

Witness:

A. Jack Hertz, c/o Mid-West Towel & Linen Service, Inc., 601 East Main St., Muncie, Indiana 47305.

Marc I. Hertz, c/o Mid-West Towel & Linen Service, Inc., 601 East Main St., Muncie, Indiana 47305.

Memorandum of Additional Understandings

Means Services, Inc. (the "Company"), ARA Services, Inc. ("ARA") and Mid-West Towel & Linen Service, Inc. ("Buyer") entered into a certain agreement for purchase and sale of certain assets of the Company in the Huntington, West Virginia area (the "Business") as of the 28th day of April, 1982. Defined terms in the Agreement shall have the same meaning in this Memorandum.

The parties have reached the following additional specific understandings in addition to those set forth in the above referred to Agreegment:

1. The Company will deliver to the Buyer at the Time of Closing as one of the vehicles referred to in the Agreement, a 40 foot trailer.

2. The Company and ARA agree that the Buyer may sell routes in the Wheeling and Morgantown, West Virginia market areas and retain the proceeds of such sale in its business notwithstanding anything which may appear to be to the contrary in the Security Agreement.

3. The Company will provide the Buyer with data processing services free of charge for one month following the Time of Closing and will continue to provide such services if requested by the Buyer for up to an additional 5 months at the Company's cost of providing such services estimated to be approximately $4,000.00 per month.

4. The present manager of the Company's business, Randall Hamby, has tentatively agreed, with the consent of the Company and ARA, to enter into an employment agreement with the Buyer at the Time of Closing and for a periord of 10 years following the Time of Closing. The Company and ARA agree that neither will employ Hamby for a period of two years following the Time of Closing, neither will solicit Hamby to leave employment with the Buyer and, if at the request of Hamby without any such solicitation, either the Company or ARA should employ Hamby during the 10 years following the Time of Closing, each agrees that Hamby will be assigned to an area that does not include any part of the area of the Business.

5. The parties agree that they will work together to make reasonable adjustments required in connection with the sale contemplated by the Agreement such as the adjustment of consideration to reflect the accounts receivable delivered at the Time of Closing, adjustments relating to vacation pay and sick pay, if any, accruals for employees who are employed by the Buyer, and will work together to provide such computer software services and the like as may be necessary for the conduct of the Business in order to make meaningful those agreements set forth in the Agreement.

6. Notwithstanding the provisions in the Agreement relating to the sale of computer hardware, Buyer has the option of returning any or all of such hardware and on such return Buyer shall be relieved of its obligations for future payments on such equipment and Buyer shall be given a credit equal to the net book value of such equipment on the Company's books.

Dated: April 27, 1982.

Means Services, Inc., By: Kenneth L. Koski, *Vice President.*

ARA Services, Inc., By: William J. O'Kane, *Vice President.*

Mid-West Towel & Linen Service, Inc., By: A. Jack Hertz, *President.*

Exhibit A

To be provided to Buyer within 72 hours of the purchase or acquisition by ARA of at least 51 percent of the outstanding shares of the Company.

Exhibit A–1

MAJOR ACCOUNTS

	Daily	
Ashland Synthetic Fuel	2,500	3 yr.—expires 1982.
Raleigh General Hospital	1,500	6 yr.—expires 1983.
Armco	800	40 yr.
Ashland Oil	600	40 yr.
Monsanto	575	20–30 yr.
Ashland Solvay	400	6 yr.
Union Carbide	300	20–30 yr.
DuPont—Charleston	400	20–30 yr.

MAJOR ACCOUNTS—Continued

	Daily	
DuPont—Parkersburg	200	20–30 yr.
Huntington Hospital	500	3 yr.—1983.
Logan General Hospital	1,000	5 yr.
FMC Corporation	250	20–30 yr.
New Boston Coke	200	1 yr. c.o.d.
Allied Chemical Tar Plant	150	3–4 yr.

Exhibit B–1

Certificate of Title

To: F. W. Means & Company.

I certify that I have made an examination of the title to real estate situated in Wayne County, West Virginia, described as follows:

Beginning at the point of intersection of the south line of the right of way of the Chesapeake & Ohio Railway Company, said point being 33 feet south of the Center line of said right of way, with the west line of Vernon Street, as shown on a map of Westmoreland Subdivision No. 2, a copy of which map is of record in said Clerk's Office in Deed Book 79 at Page 85, if said street line were produced southerly to its point of intersection of said south right of way line; thence with the said line of Vernon Street, produced, S. 20° 24′ E., 209 feet to a point in the north right of way line of the James River and Kanawha Turnpike as now located and being 20 20 feet northerly from the center line thereof; thence with the north right of way of the Turnpike, S. 81°19′ W., 102 feet; thences S. 77°49′ W., 102 feet; thence S. 75°59′ W, S. 75°32′ W., 452 feet; thence S. 84°18′ W., 156.28 feet; thence N. 88°35′ W., 122.5 feet; thence N. 88°47′ W., 105.49 feet to a point in the easterly end of a parcel of land being a part of the above mentioned Lots 10, 11, 12, 13, 14 and 15 of Bowman Realty Company's Addition which was conveyed by the Gould-National Batteries, Inc., to the State Road Commission of West Virginia, a corporation, as part of the right of way acquired by the said Commission for Project No. I–64–1(31)0; thence with the easterly end of said parcel, N. 3°48′ E., 17.98 feet; thence with the north line of said parcel, it being now the north line of the relocated James River and Kanawha Turnpike, N. 86°12′ W., 362 feet; thence S. 77°58′ W., 41.61 feet to a point in the line between Lots 9 and 10 of said Bowman Addition; thence with the line between said lots, N. 11°12′ W., 59.04 feet to a point in the said south right of way line of the Chesapeake & Ohio Railway Company; thence with the north line of all of the above named lots, crossing Vinson Street and continuing with said right of way line, N. 78°48′ E., a total distance of 1,491.88 feet to the point of Beginning and containing a total of 6.25 acres, more or less; excepting and reserving from this conveyance however that part of Vinson Street as shown on a map of the said Bowman Addition which lies within the boundary of the land herein described.

I certify that my examination covers the period from a date prior to 1900 to December 10, 1971, and that in my opinion:

1. Good and marketable title in fee simple is vested in F. W. Means & Company, a corporation, by virtue of a deed from Gould-National Batteries, Inc., a corporation dated

December 1, 1971, and recorded December 10, 1971, in the office of the Clerk of the County Court of Wayne County, West Virginia, in Deed Book 406, at Page 237.

Exhibit C

Agreement for Purchase and Sale of Certain Assets of Means Services, Inc.

This agreement is made as of this 26th day of April, 1982, by and among Means Services, Inc., an Illinois corporation (the "Company"), ARA Services, Inc., a Delaware corporation ("ARA") and Mid-West Towel & Linen Service, Inc., an Indiana Corporation ("Buyer").

Recitals

The Company, is engaged in the rental, cleaning and servicing of uniforms, garments, linen items, dust control items, towels, mops and mats in the Huntington, West Virginia area (the "Business"). ARA has made an offer to purchase from the Company's shareholders, all of the issued and outstanding stock of the Company. In the event that ARA purchases at least 51% of the issued and outstanding stock of the Company, the Company will be desirous of selling to Buyer and Buyer wil be desirous of purchasing from the Company all the tangible personal and real property used in the Business, including, without limitation, the accounts, contracts, in-service inventory, goodwill, real estate, and vehicles for the consideration and on the terms hereinafter set forth.

Agreement

The parties agree as follows:

Article I

Purchase and Sale: Closing

Section 1.1 Purchase and Sale: On the basis of the representations and warranties contained herein and subject to the terms and conditions set forth in this Agreement and subject to the purchase by ARA of at least 51% of the issued and outstanding common stock of the Company prior to Time of Closing, the Company agrees to sell to Buyer and Buyer agrees to purchase from the Company all of the Company's assets (except as otherwise excluded herein) used in conjunction with the Business including, but not necessarily limited to the following:

(a) The Company's entire useable in-service inventory of garments, uniforms, linen, towels, mops, mats and other dust control items used in conjunction with the Business, whether located on the Company's premises, in the possession of Company's customers, or in transit;

(b) All of the Company's contracts or agreements (whether oral or written) between the Company and its customers; all customer lists, daily delivery lists, records and other similar data relating to the customers of the Business serviced by the Company, including names, addresses, price lists, and type and frequency of service; a complete list of the Company's customers serviced by the Business is attached hereto and made a part hereof as Exhibit "A";

(c) All of the Company's machinery and equipment, office equipment, vehicles, cabinets, dispensers, haul baskets and other assets used by the Company in the Business as more fully described on Exhibit "B" attached hereto and made a part hereof;

(d) The land and buildings owned by the Company and employed in the Business, as more fully described in Exhibit "B-1" attached hereto (the "Real Estate"), and the Company's rights and obligations with respect to leases of property described in Exhibit "B-2" attached hereto (the "Leased Property"), being all of the real estate used in conjunction with the Business;

(e) The accounts receivable with respect to the Business at Time of Closing; and

(f) The goodwill associated with respect to the Business.

subject to no liabilities of the Company except for continuing obligations under leases for computers, computer terminals, and all other computer equipment and copy equipment or conditional sales contracts covering such equipment, but specifically excluding all cash of the Business and computer programs and software.

Section 1.2 Purchase Price: Buyer agrees to pay to the Company, in exchange for the assets, accounts and Business described in Section 1.1, a Purchase Price of $8,250,000, plus (or minus) the amounts by which the collectable accounts receivable exceed (or are less than) $648,000. The total purchase price, shall be allocated among the assets as follows:

Inventory	$290,000
In-Service Merchandise	1,500,000
Accounts Receivable	650,000
Land and Building	1,300,000
Machinery and Equipment	800,000
Haul Baskets	90,000
Office Equipment	90,000
Vehicles	200,000
Cabinets and Dispensers	70,000
Goodwill	150,000
Customer Lists	1,150,000

Section 1.3 Payment of Purchase Price: The Purchase Price shall be paid by Buyer to the Company as follows:

(a) $100,000 at the time of Execution of this Agreement; and

(b) Delivery at Time of Closing of Buyer's check in the sum of $1,150,000; and

(c) Delivery at Time of Closing of Buyer's seven (7) year promissory note in the principal sum of the balance of the Purchase Price, payable in equal quarterly installments of principal together with accrued interest at 12% per annum until the fifth (5th) anniversary date of the Time of Closing and thereafter at the prime interest rate charged from time to time by Chemical Bank, New York, N.Y. (the "Prime Rate") but not in excess of 13% per annum. Payments of principal and interest shall be made on the basis of a ten (10) year amortization schedule with the balance of principal being due and payable on the seventh (7th) anniversary of the date of the Time of Closing. (ARA shall use its best efforts to help Buyer to re-finance said balance with commercial banking institutions for an additional three (3) year period at then commercially available rates of interest. In the event Buyer is unable to obtain such financing at a rate of interest equal to or better than the rate of interest charged to ARA by its primary lending institutions, then ARA will refinance the said balance of the Note at rates of interest equal from time to time to those then paid by ARA, provided that at the time of such refinancing, Buyer is not in default under the terms of the Note or the Security Agreement.) The promissory note shall be in the form of the note attached hereto as Exhibit "C" (the "Note"). The Note shall be secured by the assets, contracts, accounts, accounts receivable, goodwill and inventory of the Business in accordance with the Security agreement attached hereto as Exhibit "D" (the "Security Agreement") and shall be guaranteed by A. Jack Hertz and Marc I. Hertz in accordance with the form of Guaranty attached hereto as Exhibit "E" (the "Guaranty").

(d) The Real Estate shall be secured by a mortgage in a form acceptable to counsel for ARA and the Company and counsel for the Buyer, which acceptance shall not be unreasonably withheld (the "Mortgage").

Section 1.4 Closing: The closing under this Agreement will take place as of 10:00 AM Local Time June 1, 1982, or such other date as the parties hereto may agree upon (such time and date being hereinafter referred to as the "Time of Closing"), at the office of Hoffberg, Rabin & Engler, 29 West 57th Street, New York, New York 10019 (or at such other place as the parties hereto may agree upon).

Section 1.5 Closing Actions: Subject to the terms and conditions set forth in this Agreement, the following steps will be taken concurrently by the Company and Buyer, respectively, at the Time of Closing and thereafter:

(a) The Company shall transfer, assign and deliver to Buyer all assets to be sold or assigned to Buyer pursuant to this Agreement. Such transfer and assignment shall be made by bills of sale, assignments, special warranty deeds and other instruments containing full warranties consistent with this Agreement and sufficient to vest in Buyer title to the assets being sold, subject to no mortgage, lien, encumbrance, or other security arrangement, except as created herein; and

(b) Buyer shall deliver to Company at Time of Closing its certified check in the sum of $1,150,000; and

(c) Buyer shall deliver the Note, the Security Agreement, the Guaranties and the Mortgage.

Article II

Representations and Warranties of the Company and the ARA

The Company and ARA represent and warrant to Buyer that:

Section 2.1 Business Organization; Authority: The Company and ARA are corporations duly organized and legally existing in good standing under the laws of the states of Illinois and Delaware, respectively, each with full power and authority to own its respective properties and conduct its respective business as now being conducted. Each has by proper corporate proceedings duly authorized the execution, delivery and performance of this Agreement.

Section 2.2 Title: The Company has and will transfer to Buyer at the Time of Closing title to all of the assets, accounts, and rights

which are to be sold to Buyer pursuant to this Agreement, free and clear of any mortgage, lien, encumbrance, charge or other security interest or arrangement or liability of any kind or nature, except as otherwise created hereunder. Such assets are being sold and delivered in an "as is" condition, wherever such assets are located, AND NO WARRANTY AS TO THEIR CONDITION, EXPRESS OR IMPLIED, INCLUDING MERCHANTIBILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE BY THE COMPANY OR ARA, except as otherwise provided herein.

Section 2.3 Legal Proceedings: There is no suit, proceeding or investigation pending or threatened against the Company or the Business which might result in any material adverse change in the assets of the Company or the business being sold hereunder, or which would question the validity of this agreement or of any action taken in accordance with or in connection with this Agreement, except for a suit filed by the Justice Department of the United States of America on April 26, 1982 against ARA seeking to enjoin its acquisition of the Company (the "Justice Department Action").

Section 2.4 Employee Relations: There is no pending or threatened dispute between the Company and any of the employees of the Business which might materially and adversely affect the continuance of the Business.

Secion 2.5 Brokers or Finders: No agent, broker or other person acting pursuant to the authority of the Company is entitled to any commission or finder's fee in connection with the transaction contemplatd by this Agreement.

Section 2.6 Material Agreements: The Company shall provide Buyer, at least 10 days prior to the Time of Closing, with copies of all customer contracts currently in effect together with any amendments thereto; all employment contracts; all agreements with collective bargaining representatives of its employees, if any; all agreements, notices, memoranda or reports covering or describing fringe benefits for its employees including, without limitation, life insurance or death benefits, hospitalization or surgical coverage, pensions, bonuses or profit sharing, if any. The Company is not in material default under any such contracts or agreements, and there has occurred no event which, with the passing of time or giving or notice, would constitute such a default.

Section 2.7 Customer Contracts: All customer contracts listed in Exhibit "A" hereof are currently in full force and effect.

Section 2.8 Inventory: The in-service inventory of merchandise is sufficient to service the customers and clients of the business at present levels of demand and normal levels of operations in the ordinary course of the Business as of the Time of Closing in accordance with the following formula:

1 delivery per week = 2.3 times average weekly usage
2 deliveries per week = 1.8 times average weekly usage
3 deliveries per week = 1.6 times average weekly usage
4 deliveries per week = 1.5 times average weekly usage
5 deliveries per week = 1.4 times average weekly usage

The inventory of new, unused merchandise of textiles, soaps, other items usually sold in the course of the Business and laundry processing supplies shall be at least $290,000.00 at the Time of Closing. To the extent said merchandise inventory is less than $290,000.00 at Time of Closing, the Company shall provide enough useable merchandise inventory to bring the said merchandise inventory levels to $290,000.00.

Section 2.9 Real Estate: In connection with the sale by the Company to the Buyer of the Real Estate, the Company hereby covenants with the Buyer and warrants to the Buyer as follows:

(a) This sale includes all right, title and interest, if any, of the Company in and to any land lying in the bed of any street, road or avenue opened or proposed, in front of or adjoining said premises, to the center line thereof, and all right, title and interest of the Seller in and to any award made in lieu thereof and in and to any unpaid award for damages to said premises by reason of change of grade of any street; and the Company will execute and deliver to the Buyer, at the Time of Closing, or thereafter, on demand, all proper instruments for the conveyance of such title and the assignment and collection of any such award.

(b) The Real Estate is to be conveyed subject to:

(i) Zoning regulations and ordinances of the city or subdivision in which the premises lie, which are not violated by existing structures.

(ii) Consents by the Company or any former owner of premises for the erection of any structure or structures on, under or above any street or streets on which said premises may abut.

(iii) Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway.d

(c) All notes or notices of violations of law or municipal ordinances, orders or requirements noted in or issued by the Departments of Housing and Buildings, Fire, Labor, Health, or other State, County or Municipal Departments having jurisidiction, against or affecting the premises at the date hereof, shall be complied with by the Company and the premises shall be conveyed free of the same. The Company shall, upon request, furnish the Buyer with an authorization to make the necessary searches therefor.

(d) If, at the time of the delivery of the deed, the premises or any part thereof shall be or shall have been affected by an assessment or assessments which are or may become payable in annual installments, of which the first installment is then a charge or lien, or has been paid, then for the purposes of this contract all the unpaid installments of any such assessment, including those which are to become due and payable after the delivery of the deed, shall be deemed to be due and payable and to be liens upon the premises affected thereby and shall be paid and discharged by the Buyer, upon the delivery of the deed. This provision shall not apply to any charge, fee or assessment for municipal services such as police or fire protection.

(e) The following are to be apportioned:

(i) Rents as and when collected if there are any third party tenants in the demised premises.

(ii) Premiums on existing transferable insurance policies or renewals of those expiring prior to the closing.

(iii) Taxes and sewer rents, if any, on the basis of the fiscal year for which assessed.

(iv) Fuel, if any, to be adjusted regardless of the provision above set forth.

(f) If the closing of title shall occur before the tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

(g) If there be a water meter on the premises, the Buyer shall furnish a reading as of the date of Time of Closing and an apportionment shall be made for any water or sewer rates accrued to date of Time of Closing.

(h) A bargain and sale (special warranty) deed with covenants against grantor's acts or such similar deed in use in West Virginia in proper statutory form of record shall be duly executed and acknowledged so as to convey to Buyer good and marketable title to the Real Estate, free of all encumbrances, except as herein stated and such as shall be insured by a requtable title company at normal rates.

(i) The Company will deliver to the Buyer at the time of the delivery of the deed hereunder a resolution of its Board of Directors authorizing the sale and delivery of the deed, and a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the conveyance is in conformity with the requirements of the law in West Virginia. The deed in such case shall contain a recital sufficient to establish compliance with said statutes.

(j) At the Time of Closing of the title the Company shall deliver to the Buyer a certified check to the order of the recording officer of the county in which the deed is to be recorded for one half the amount of the documentary stamps, if any, to be affixed thereto in accordance with West Virginia Law, and a certified check to the order of the appropriate county officer for any other tax payable by reason of the delivery of the deed, and a tax return, if any be required, duly signed and sworn to by the Company; and the Buyer also agrees to sign and swear to the return and to cause the check and the return to be delivered to the appropriate county officer promptly after the Time of Closing.

Section 2.10 Equipment: From and after the date hereof until the Time of Closing the Company shall maintain the machinery and equipment of the business in good order and repair.

Section 2.11 Financial Records: The Company has provided Buyer with profit and loss statements for the three years ended December 31, 1981; Stage II Management Information Quarterly Branch Sales Analysis for the reporting period covered by the third month in 1982 (Means report #M-029-1) and accounts receivable aging recap as of March 31, 1982. Such statements and reports are accurate in all material respects as and for the dates indicated consistent with the

accounting practices employed by the Company in prior periods.

Section 2.12 Continuation of Representations: All of the representations and warranties hereinabove contained in this Article will be true and correct at and as of the Time of Closing, with the same force and effect as though made at and as of the Time of Closing, except for changes specifically provided for in this Agreement.

Article III

Representations and Warranties of Buyer

Buyer represents and warrants to the Company and ARA the following:

Section 3.1 Good Standing: Buyer is a corporation duly organized and legally existing in good standing under the laws of the State of Indiana.

Section 3.2 Corporate Authority: Buyer has full corporate power and authority to enter into this Agreement and has, by proper corporate proceedings, duly authorized the execution, delivery and performance of this Agreement on behalf of Buyer.

Section 3.3 Brokers of Finders: No agent, broker or other person acting pursuant to Buyer's authority will be entitled to make any claim against the Company for any commission or finder's fee in connection with the transactions specifically provided for in this Agreement.

Section 3.4 Financial Condition: Buyer has delivered to ARA and the Company its financial statements for the year ended June 27, 1981 and for the 34 weeks ended February 20, 1982 and the personal financial statements of the Guarantors. Such statements are accurate in all material respects as of and for the dates indicated.

Article IV

Additional Agreements of the Company and the Shareholders

Section 4.1 Continuation of Business: The Company shall, until the Time of Closing, preserve its business organization intact, keep available to Buyer its present key employees, and preserve for Buyer its relationships with suppliers, customers, and others, all to the end that the Business will be unimpaired at the Time of Closing.

Section 4.2 Post Closing Actions: The Company will, from time to time, at the request of Buyer and without further consideration, execute and deliver such further instruments of transfer and take such other action as may be reasonably necessary in order to more effectively transfer and assign all of the assets, accounts, and rights intended to be sold or tranferred by the Company pursuant to this Agreement.

Section 4.3 Restrictive Covenant: The Company and ARA covenant and agree that they will not directly or indirectly, as principal, agent, employer, partner, financial backer, employee, stockholder, or in any other representative capacity whatsoever, solicit, sell, serve, cater to the industrial laundry and the linen supply and industrial garment rental service requirements of any of the Company's present customers described in Exhibit "A" for a period of 3 years and with respect to the customers described in Exhibit "A-1", for a period of 5 years, or attempt to do any of the foregoing, to or with any of the customers of Seller, nor will they, or either of them, do anything, directly or indirectly, to divert said customers' patronage to others and/or to prejudice the existing good will of the business to be acquired by the Buyer, pursuant to the terms of this Agreement, or to prejudice, alter or influence the relationship between the Buyer and any of the customers of said business on and after the date hereof for the periods indicated.

Section 4.4 Liabilities; Indemnity: Except as otherwise provided for herein, Buyer is not assuming any liability or other obligation of any kind or nature of the Company and the Company and ARA agrees to indemnify Buyer, its successors and assigns against, and to save each of them harmless of and from all liabilities from or arising out of claims which may be asserted against them or the assets, accounts, or rights acquired by it pursuant to this Agreement. ARA and the Company shall also indemnify and hold Buyer harmless for its reasonable legal fees incurred in defense of the Justice Department Action, in the event Buyer is joined as a party therein or if an action is brought against Buyer by an independent third party action against the Buyer with respect to the transaction contemplated by this Agreement. Buyer shall give the Company notice of any such liability, claim or action and the Company shall either defend such action at its own cost and expense or shall promptly pay such claim or liability. In the event the Company fails to either pay or defend against such claim or liability, then the Company or ARA shall also reimburse Buyer for its reasonable costs and expenses (including legal fees) of the defense of any such claim or liability or action, and the Company or ARA shall promptly satisfy any judgment rendered against Buyer for any matter covered by this Section 4.4.

This indemnity agreement of the Company and ARA shall survive the completion of the transaction described in this Agreement for a period of 3 years.

Section 4.5 Books and Records; Audit: The Company will give Buyer and its representatives from and after the date of execution hereof full access during normal business hours to all of the properties, books, contracts, documents and records of the Business relating to the assets and accounts being sold hereunder and will furnish to Buyer and its representatives all additional financial statements of and other information with respect to the assets, accounts, and rights sold hereunder which Buyer may reasonably request.

For purposes of verifying the rental volume of the Business as set forth in the profit and loss statement referred to in Section 2.11, and complying with the warranties and agreements herein contained, and verifying the condition of the assets and equipment, Buyer may cause an examination of the books and records of the Company with respect to the Business to be made prior to the Time of Closing by a person or persons selected by Buyer at its expense.

Section 4.6 Expenses of Negotiation: The Company and ARA will pay all expenses incurred by them in connection with the negotiation, execution and performance of this Agreement, whether or not the transaction contemplated hereby is consummated, including the fees and expenses of their counsel.

Section 4.7 Insurance: The Company will continue in force, until Time of Closing, its existing liability, fire and other casualty insurance, with respect to the Business. The Real Estate is fully and adequately insured against casualties.

Section 4.8 Use of Name: The Company hereby grants to Buyer at Time of Closing the right to use the name "Means" (but not "F. W. Means" or "Means Services") in conjunction with the accounts of the Business for a period of 3 years after Time of Closing. For a period of 10 years after Time of Closing neither the Company nor ARA will use the name "Means" in the geographic area in which the Company is currently conducting its Business, but this limitation shall not apply to national advertising by the Company or ARA's distribution of financial information or other uses of the name "Means Services" which is made to the public generally.

Article V

Additional Agreements of Buyer

Section 5.1 Expenses of Negotiation: Buyer will pay all expenses incurred by it in connection with the negotiation, execution and performance of this Agreement, whether or not the transaction contemplated hereby is consummated, including the fees and expenses of Buyer's counsel.

Section 5.2 Confidentiality: Buyer agrees that the information provided to Buyer relating to the Business and accounts of the Company is an important asset of the Company and unless and until the transaction contemplated by this Agreement is consummated, Buyer and its respective agents shall keep all such information and all documents relating to the Business confidential. If the transaction contemplated by this Agreement is not consummated for any reason, Buyer will return all such information and will not use or disclose any such information, documents or disclosures to the competitive disadvantage of the Company for a period of one year from the date hereof.

Section 5.3 Pension Plans: Buyer hereby agrees that notwithstanding the sale of certain assets and Business of the Company to Buyer hereunder, thereby constituting the Company's withdrawal from various multi-employer pension plans with respect to the Company's employees employed in the Business under the Multi-employer Pension Plan Amendments Act of 1980 (the "Act"), the Company and the Buyer intend that the Business shall be continued by Buyer and that such sale shall not cause or be deemed a "complete withdrawal" under Sections 4203 and 4204(a) (1) of the Act. Buyer hereby agrees that: (i) it hereby shall at Time of Closing assume all obligations of the Company with respect to all of the aforesaid multi-employer pension plans in which the Company has heretofore joined as a participating employer prior to the Time of Closing, so that Buyer will be responsible for all obligations, including but not necessarily limited to any obligations for unfunded

vested benefits, of the Company thereto arising during the five years following the Time of Closing (except for any payments that the Company has failed to make thereto prior to the Time of Closing pursuant to applicable collective bargaining agreements); (ii) Buyer will furnish a bond or escrow sufficient to reasonably cover such liability in accordance with Section 4204(a)(1) of the Act; and, (iii) Buyer will apply to the Pension Benefit Guaranty Corporation pursuant to Section 4204(c) of the Act for an exemption from the requirement to obtain such bond, and pursuant to which the Company will join with Buyer and make every commercially reasonable effort with Buyer to obtain such exemption for the benefit of Buyer so that such bond will not be required. Notwithstanding the above, ARA and the Company shall indemnify and hold Buyer harmless for a period of 5 years after the Time of Closing for any unfunded liabilities as of the Time of Closing under any multi-employee pension fund to which the Company is a party and which obligation is assumed by Buyer hereunder, and to reimburse Buyer for the cost of a bond which may be required pursuant to Section 5.3(ii) hereof. For the period beginning with the fifth anniversary of the Time of Closing until the tenth anniversary of the Time of Closing ARA or the Company shall indemify and hold Buyer harmless for one half the amount of any unfunded multi-pension plan liability which was in existence at Time of Closing with respect to the Company's Plans at Time of Closing in the event Buyer is required under the Act to pay such unfunded liability during such period.

Section 5.4 Company's Obligation: Buyer shall after the Time of Closing assume and perform the Company's obligations under the contracts and agreements described in Section 1.1(b), under the leases for the Leased Property under the agreements and contracts described in Section 2.7 and under leases or conditional sales agreements for computer equipment and copy machines.

Article VI

Conditions of Obligation of the Company

The obligation of the Company to complete the sale of the assets, rights, and accounts in accordance with this Agreement is subject to the fulfillment at or prior to Time of Closing of each of the following conditions:

Section 6.1 Correctness of Representations and Warranties: All of the representations and warranties of Buyer contained in this Agreement or otherwise made in writing pursuant to this Agreement, shall be true and correct at and as of the Time of Closing, except for changes contemplated or permitted by this Agreement.

Section 6.2 Performance of Obligations: Buyer shall have performed and compiled with all of the obligations and conditions required by this Agreement to be performed or complied with by or at Time of Closing.

Section 6.3 Closing Certificate: Buyer shall have delivered to the Company its certificate dated the day on which the Time of Closing occurs, as to the fulfillment of the conditions set forth in the two preceding sections.

Section 6.4 Purchase of Company Shares: ARA shall have consumated the purchase or acquisition of at least 51% of the issued and outstanding common stock of the Company prior to the consumation of this transaction.

Article VII

Conditions of Obligation of Buyer

The obligation of Buyer to complete the purchase of the aforesaid assets, rights and accounts in accordance with this Agreement is subject to the fulfillment at or prior to Time of Closing of each of the following conditions:

Section 7.1 Correctness of Representations and Warranties: All of the representations and warranties of the Company and ARA contained in this Agreement or otherwise made in writing pursuant to this Agreement, shall be true and correct at and as of the Time of Closing, except for changes contemplated or permitted by this Agreement.

Section 7.2 Performance of Obligations: The Company and ARA shall have performed and complied with all of the obligations and conditions required by this Agreement to be performed or complied with by or at Time of Closing.

Section 7.3 Closing Certificate: The Company and ARA shall have delivered to Buyer their certificate dated the day on which the Time of Closing occurs, as to the fulfillment of the conditions set forth in the two preceding sections.

Section 7.4 No Material Changes: There shall have been no material breach of any representation or warranty contained in this Agreement, nor any material adverse change in the Business. There shall have been no material adverse change in the condition of the Real Estate from the condition of the Real Estate on the date hereof, reasonable wear and tear excepted, which would prevent the Buyer from regularly serving the customers of the Business.

Article VIII

Other Provisions

Section 8.1 Survival of Representations and Warranties: All of the respective representations and warranties of the Company, ARA and Buyer to this Agreement shall survive the consummation of the transaction contemplated herein until the applicable statute of limitations can be successfully pleaded and proven by the party asserting same as a defense.

Section 8.2 Entire Agreement of Parties: This Agreement represents the entire agreement of the parties; there are no other agreements of the parties except as contained herein, and all previous agreements or understandings of the parties are superseded by this Agreement.

Section 8.3 Notices: Any notice to a party hereto pursuant to this Agreement shall be given by registered or certified mail addressed, return receipt requested, if to the Company or ARA, to Means Services, Inc., 35 East Wacker Drive, Chicago, Illinois, Attention: Secretary, and to ARA Services, Inc., Independence Square West, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106, Attention: William J. O'Kane, Secretary, or if to Buyer, to Mid-West Towel & Linen Service, Inc., 801 E. Main St., Muncie, Indiana 47305, Attention: President, and shall be deemed delivered when placed in the mail so addressed, with postage prepaid, or at any other address designated in writing by a party hereto to the other parties.

Section 8.4 Extension or Waiver of Performance: The Company and ARA or Buyer may extend the time from or waive the performance of any of the obligations of the other, or waive compliance by the other with any of the covenants or conditions in this Agreement. Any such extension or waiver shall be in writing and signed by the President or a Vice President or the Treasurer of the Company and ARA or Buyer, as the case may be.

Section 8.5 Representations and Warranties: Each and every representation, warranty and covenant set forth in this Agreement is a material one (except as otherwise set forth therein) and is made by the party bound thereby for the purpose of inducing the other parties to enter into and to consummate the transaction contemplated by this Agreement.

Section 8.6 Succession and Assignment: This Agreement shall inure to the benefit of and be binding on and enforceable against the successors or assigns of Buyer, the Company and ARA. Any party hereto shall have the right to assign this Agreement to a wholly owned subsidiary, provided, however, that any such assignment shall not relieve such party from its obligations hereunder.

Section 8.7 Headings: The paragraph headings in this Agreement are for the convenience of reference only and shall not be deemed to constitute a part of the provisions hereof nor affect the meaning or construction of any provision, condition or covenant hereof.

In witness whereof, the parties hereto, intending to be legally bound hereby, have executed this Agreement as of the date first above written.

Means Services, Inc., By: Kenneth L. Koski, *Vice President.*

ARA Services, Inc., By: William J. O'Kane, *Vice President.*

Mid-West Towel & Linen Service, Inc., By: A. Jack Hertz, *President.*

U.S. District Court, Southern District of Ohio, Eastern Division

United States of America, Plaintiff v. *ARA Services, Inc. and Means Services, Inc.*, Defendants.

Civil No. C-2-82-436.

Filed: April 29, 1982.

Stipulation and Amended Order

Until the consummation of the sales of the assets of Means Services, Inc. ("Means") as described in an Agreement with United Services, Inc. dated April 23, 1982 and an Agreement with Mid-West Towel & Linen Service, Inc., dated April 26, 1982, ARA Services, Inc. ("ARA") and Means hereby agree that:

1. ARA shall not vote any shares of Means common stock except upon twenty (20) days written notice to the Antitrust Division and upon having obtained the prior approval of the Antitrust Division or, failing such

approval by the Antitrust Division, of the Court.

2. Except with respect to the current service on the Means Board of Directors by Robert Fried and James E. Stefoff, ARA and Means shall maintain persons on the Means Board of Directors who are all demonstrably independent of ARA's control. The directors will not be officers, directors or employees of ARA nor will they be relatives of any officers or have any other substantial business relationship with ARA. Such directors will be chosen on the basis of their business reputation and judgment. The Board of Directors will have the same authority and reponsibilities as the board of directors of any independent corporation.

3. ARA shall exercise no control over the conduct of Means' business except as otherwise provided in this Order. Each member of Means' Board of Directors and each officer of Means shall be given copies of this Order, and shall submit to plaintiff within fifteen (15) days of the entry of such Order affidavits that they will comply with the terms of this Order. In furtherance of these commitments, ARA will not (1) share personnel with Means; or (2) engage in financial or other transactions with Means except those already entered into in the ordinary course of Means' business.

4. ARA shall take all steps necessary to assure that Means will be maintained as a separate entity with its assets and operations separate and distinct from those of ARA and any of its other subsidiaries.

5. ARA shall take all steps necessary to continue the normal business operations of Means, and maintain its personnel, assets and working capital at a level commensurate with its business activity.

6. Means and/or ARA shall perform their obligations under the contracts for sale of the Akron, Ohio operations; Columbus, Ohio operations; and Huntington, West Virginia operations. Neither ARA nor Means shall dispose of any of the other assets of Means, except in the ordinary course of Means' business, without the prior approval of the Antitrust Division or, failing such approval by the Antitrust Division, of the Court.

7. ARA is ordered and directed not to influence or attempt to influence directly or indirectly any operational or financial decisions or actions of Means except as is necessary (a) to comply with federal, state, or local laws or regulations or (b) to act in accordance with the terms of this Order.

8. Neither ARA nor Means shall communicate to the other, directly or indirectly, trade secrets, customer lists, or other confidential competitive or proprietary information, except for information that is necessary for the other party (a) to comply with tax or reporting requirements or with federal, state or local laws or regulations, or (b) to act in accordance with the terms of this order.

9. ARA may apply to the Antitrust Division or to this Court at any time for permission to take action otherwise prohibited by this Order to prevent Means from materially altering its operations or materially encumbering its assets.

Stipulated and Agreed: Aherrae McVern, Counsel for ARA Services, Inc.; Sidney Sosin, Counsel for Means Services, Inc.

Date: April 29, 1982.

So Ordered: ————.

Date: ————.

John A. Weedon, Richard E. Read, Donald S. Scherzer, Theresa M. Majkrzak, *Attorneys, Antitrust Division, Department of Justice, 995 Celebrezze Federal Building, Cleveland, Ohio 44199, (216) 522-4080.*

Joseph P. Kenneary, *U.S. District Judge.*

[FR Doc. 82-16997 Filed 6-22-82; 8:45 am]

BILLING CODE 4410-01-M

U.S. v. Ashland-Warren, Inc.

Pursuant to the Antitrust Procedures and Penalties Act 15 U.S.C. 16, the Antitrust Division publishes, as set forth below, a comment which it received on the proposed Final Judgment filed in the case of *United States v. Ashland-Warren, Inc.*, Civil Action No. 82-338 Civ.-5 (E.D.N.C. 1982). Also published is the Division's response to such comment.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

June 16, 1982.

James H. Bratton, Jr., Esquire
Gambrell & Russell, 400 First Atlanta Tower, Atlanta, Georgia 30383

Re: United States v. Ashland-Warren, Inc.
Civil Action No. 82-338-CIV-5 (E.D.N.C. 1982)

Dear Mr. Bratton: This will acknowledge your letter of June 7, 1982, in which you assert that the proposed Final Judgment in the above-captioned case is deficient in three areas and suggest certain modifications.

Your first comment states that the proposed judgment "provides no assistance to private plaintiffs or potential private plaintiffs who have been injured by Ashland-Warren, Inc.'s ('Ashland') antitrust violations." You note that plaintiffs have benefitted from government enforcement actions in the past, the Department of Justice has expended considerable resources to prosecute these bid-rigging conspiracies and that the legislative history of the Antitrust Penalties and Procedures Act encourages the assistance of private plaintiffs. You then seek public disclosure of all information and evidence obtained by the government in its investigation of Ashland's bid-rigging activity to assist private plaintiffs and potential private plaintiffs in the prosecution of their claims.

Due to your present involvement as Liaison Counsel for Plaintiffs in *City of Atlanta et al. v. Ashland-Warren, Inc., Ashland Oil, Inc. et al.*, Civil Action No. 81-106A (N.D. Ga.), you are undoubtedly aware that potential private plaintiffs who believe they have been injured in their business and property by antitrust violations have a legal remedy to redress that injury under Section 4 of the Clayton Act. This provision allows persons with the requisite standing to file private civil suits to prove alleged antitrust violations and, if successful, to recover treble damages for any injury sustained. *See Illinois Brick Co. v. Illinois et al.*, 431 U.S. 720 (1977).

Many private cases are filed pursuant to Section 4 of the Clayton Act after government enforcement actions. If the government enforcement cases are tried, private plaintiffs derive substantial assistance from the information disclosed during the public trials. But most government enforcement cases are not tried and as history records, until recently, most cases were concluded with pleas of *nolo contendere*. *See* Clabault, J. and Block, M., *Sherman Act Indictments 1955-1980*, Vol. 2, Part 5 (1981). In these untried cases, private plaintiffs have had to pursue traditional discovery to obtain most of their information. Nevertheless, most enforcement actions have had the salutary effect of pointing private plaintiffs in the right direction. When private plaintiffs have been stymied in their efforts to conduct discovery or to obtain relevant information, however, courts have been willing to order disclosure of certain evidence gathered during grand jury proceedings, on a limited basis, if private plaintiffs could show a particularized need for the information.

The proposed Final Judgment in this case imposes no legal barrier to any private plaintiff or potential private plaintiff who wishes to pursue any legal claim against Ashland. The Congressional remedy provided by Section 4 of the Clayton Act remains open; and access to grant jury evidence remains unimpaired, provided a plaintiff can demonstrate a particularized need for the information as defined by the Supreme Court of the United States. *See Douglas Oil Company of California et al. v. Petrol Stops Northwest*, 441 U.S. 211 (1979); *United States v. Procter & Gamble Co.*, 356 U.S. 677 (1958).

Unlike many other enforcement actions, the disposition of the companion criminal cases here [1] and and other prosecutions against Ashland and its employees have resulted in guilty pleas or convictions. Consequently, private plaintiffs and potential plaintiffs in North Carolina and other jurisdictions where Ashland or its employees have been convicted will have an easier time prosecuting their claims. This will be true because Section 5(a) of the Clayton Act, as amended, allows a court, in appropriate civil cases, to give collateral estoppel or prima facie effect to a guilty verdict or judgment arising out of a government enforcement action involving the same violations. The direct benefit of this provision can be illustrated here by the fact that the violations alleged in the civil complaint are identical to those which Ashland pleaded guilty to in the North Carolina criminal cases. Thus, private plaintiffs or potential plaintiffs will not be legally disadvantage because this civil complaint was settled by a consent decree.

Neither the Antitrust Procedures and Penalties Act, nor judicial precedent, authorize the "bill of particulars" that you seek. The Act is quite specific about the manner in which a court may determine whether a potential decree is in the public interest under section 2(f). The legislative

[1] United States v, Ashland-Warren, Inc., Crim. No. 82-10-CR (E.D.N.C. 1982); United States v. Ashland-Warren, Inc., Crim. No. 82-11-CR-5 (E.D.N.C. 1982); United States v. Ashland-Warren, Inc., Crim. No. 82-12-CR-5 (E.D.N.C. 1982).

history is equally clear in stating tha it was not Congress' intention to authorize courts to make this inquiry or determination by techniques not authorized by law, which your proposal suggests. *See* H.R. Rep. No. 93-1463, 93d Cong., 2d Sess. 9 (1974).

Finally, you have noted that no determinative materials or documents were filed concerning the formulation of the proposed Final Judgment. The three criminal prosecutions against Ashland in North Carolina were concluded on April 8, 1982. The civil complaint and the proposed Final Judgment were filed the same day. Both the complaint and the Final Judgment arose out of the plea agreement between the United States and Ashland by which Ashland agreed to plead guilty in North Carolina to certain counts of each indictment. Paragraph 8 of the plea agreement specificaly stated that Ashland agreed to enter into a civil consent decree to be filed in the Eastern District of North Carolina. This provision did not define the scope of the consent decree or its terms. Because this civil action followed the criminal prosecutions and the defendant was required to enter into a consent decree, no civil discovery was taken. This civil action was based upon evidence adduced during the grand jury investigation which led to the criminal indictments of Ashland, which is protected from disclosure under Rule 6(e) Fed. R. Crim. P. The injunctions to which Ashland has acquiesced are predicated upon the company's conduct to which it pleaded guilty in the criminal cases. Identical violations were simply realleged in the civil complaint.

The information which is protected from disclosure under Rule 6(e) is available to private plaintiffs and others who meet the legal requirements outlined above. We do not believe the legislative history of the Act authorizes the wholesale discovery of grand jury evidence as "determinative materials" where the net effect would be to supplant Rule 6(e). The legal procedures that exist for obtaining such evidence and the objectives the Act was designed to foster are not diminished by harmonizing Rule 6(e) and the provisions of the Act. If this were not the case, Congress would have amended Rule 6(e) to permit the kind of disclosure you seek or would have specifically included a provision in the Act superceding the secrecy provisions of Rule 6(e).

In summary, it is our belief that the proposed Final Judgment is in the public interest and is consistent with the spirit and letter of the Act. It preserves all legal remedies and procedures available to private plaintiffs and potential plaintiffs to prosecute their claims and still preserves grand jury secrecy.

Your second comment concerns Section VIII. of the proposed Final Judgment. This Section requires that an acquiring party of "all, or substantially all, of the stock or assets [2] of any *division* or *subsidiary* which has sold any form of construction material or performed paving or construction work * * *" of Ashland, be bound by the provisions of the Final Judgment (emphasis added). You contend that this section fails to impose the terms of the Final Judgment upon subsequent acquirers beyond the initial sale of Ashland stock or assets, as defined. In support of your view, you provide an example in which Ashland sells its paving and construction operations to another Ashland wholly-owned subsidiary, which in turn, sells to another separate, Ashland-owned corporation. The end result, you contend, is that the second transaction escapes the provisions of the Final Judgment.

We respectfully disagree. If Ashland sells all or substantially all of the stock or assets of any division or subsidiary subject to this Section to another Ashland subsidiary, in the first instance, the acquiring subsidiary would be bound by the Final Judgment not only by the language of Section VIII., but also because the acquiring subsidiary is within the definition of Ashland in Section II.B. of the Final Judgment. Independent of Section VIII., as long as the acquiring entity remains within the Ashland corporate family as defined in Section II., any division or subsidiary holding the stock or assets of another Ashland division or subsidiary that engaged in or was committed to the performance of paving or construction work, etc., would, by definition, remain subject to the Final Judgment. In other words, each acquiring division or subsidiary owned by Ashland, itself, becomes a division or subsidiary whose stock or assets make it subject to the provisions of Section VIII.

In your letter, you omitted critical language in your quote on page five which describes the nature of the division or subsidiary being sold as well as the definition of "assets." We are satisfied that when Sections VIII. and II. are read together, they address the issue raised by your hypothetical example. Nevertheless, if we have reason to believe that this or any other term of the Final Judgment is being deliberately disregarded or manipulated, we will not hesitate to take appropriate action under Section X. of the Final Judgment or to pursue other legal remedies that may be available, *e.g.*, a contempt action.

Your third comment concerns Section X. of the Final Judgment. It is your view that the Department will not be able to monitor the Final Judgment because of the extensive scope of Ashland's paving and construction work and because bid rigging is so pervasive. Therefore, you suggest that the Final Judgment be modified to permit "members of the public" to "apply to the Court for enforcement of the consent decree and to seek punishment for its violation."

Your suggested modification is unlikely to be as effective as the proposed Final Judgment. It will encourage circumvention of more traditional legal means to pursue violations of the Final Judgment and it has the potential for misuse of judicial resources.

The Antitrust Division has seven field offices throughout the United States which can monitor this Final Judgment as well as a Judgment Enforcement Section with the expertise to enforce it should violations occur. The Antitrust Division also has many attorneys in the field conducting investigations of the construction industry who are familiar with Ashland's prior conduct. We have every confidence that our own efforts aided by citizen complaints and the referral of complaints of illegal conduct from local U.S. Attorneys' Offices and other federal agencies, will enable us to monitor this Final Judgment more effectively than members of the public-at-large.

Your proposal also raises other potential problems. By allowing "members of the public" to apply to the Court to enforce the Final Judgment and to impose punishment for its violation, you are encouraging the circumvention of more appropriate legal remedies available to citizens who may be injured as a result of antitrust violations by Ashland. The potential result of your proposal is that the Court may be besieged by citizens with complaints that the Antitrust Division is in a better position to evaluate and screen, namely, complaints that give rise to private causes of action, but not a violation of the Final Judgment or requests to "impose punishment" which should be prosecuted as a contempt or enforcement action by the Department. Your proposal would require the Court to expend inordinate judicial resources to screen these "applications."

In addition, there is a substantial likelihood that your proposed modification will create a forum for the advancement of "private interests" by parties who could apply to the Court at any time for some vague relief whenever it seemed necessary or convenient. Such proceedings could be endless as long as they alleged a "judgment violation," yet would require the expenditure of substantial private and judicial resources to evaluate. Such litigation, in our view, would encourage misuse of the judicial process and allow allegedly aggrieved parties to air their dissatisfaction, but not pursue the traditional course of filing a lawsuit to vindicate their injuries. We believe any proposal which encourages these results is not in the public interest.

We have carefully considered your criticisms of and proposed modifications to the proposed Final Judgment. We appreciate your expression of concern and interest in this matter. For all of the foregoing reasons, however, we believe the proposed Final Judgment does provide comprehensive relief against future antitrust violations by Ashland and is in the public interest.

Very truly yours,

Robert E. Bloch,

Assistant Chief, Trial Section, Antitrust Division.

June 7, 1982.

By Hand

Mr. Anthony V. Nanni,
Chief, Trial Section, Department of Justice, Antitrust Division, 10th and Constitution Avenue, NW., Washington, D.C. 20530

RE: *United States of America v. Ashland-Warren, Inc.*, Case No. 83-336-CIV-5

Dear Sir: This is a public comment proposing some modifications to the proposed consent decree agreed to between the Justice Department and Ashland Oil Company and its subsidiaries engaged in

[2] "'Assets' shall mean assets committed to the performance of paving or construction work or the sale of construction materials." Section VIII. at 6.

either selling construction material or performing paving or construction work (hereinafter referred to as "Ashland").[1 2]

The terms of the proposed judgment are inadequate and insufficient to protect the public interest. The proposed Final Judgment is fatally flawed in three fundamental respects:

(1) The proposed Final Judgment provides no assistance to private plaintiffs or potential private plaintiffs who have been injured by Ashland's antitrust violations in connection with paving or construction work;

(2) The proposed Final Judgment does not adequately protect against the possibility that Ashland may circumvent the consent decree through corporate reorganizations; and

(3) The proposed Final Judgment does not provide that members of the public may apply to the court for enforcement of the consent decree.

Section 2(e) of The Antitrust Procedures and Penalties Act provides that "before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest." The public interest requires the Court to reject the proposed consent decree unless appropriate modifications are made. If the parties refuse to accept the proposed modifications, the Court should not enter the proposed Final Judgment and order a trial.

Historically private antitrust plaintiffs have benefitted from government enforcement of the antitrust laws. However, the proposed consent decree denies private plaintiffs any fruits of the investigation conducted by the Justice Department at great expense to the taxpayers. The Justice Department has expended enormous resources in an effort to expose and eliminate price-fixing and fraud from the bidding on major construction projects. The Justice Department's investigation has involved: "nearly 30 lawyers . . . working full time on the bid-rigging inquiry, aided by FBI agents and investigators from the Department of Transportation."[3] Mr. Sanford M. Litvack, former assistant attorney general in charge of the Justice Department's antitrust division, has stated: "I can't think of any other antitrust investigation with anything like those resources."[4]

However, the proposed Final Judgment states that: "No materials and documents of the type described in Section 2(b) of The Antitrust Procedures and Penalties Act, 25 U.S.C. § 16(b), were considered in formulating the proposed Final Judgment." (Proposed Judgment, page 9.)

The Justice Department, after expending such enormous resources, should not enter into a consent decree which denies private plaintiffs the benefit of the Justice Department's investigation. The legislative history of The Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) indicates that the Court may condition approval of a consent decree on the Justice Department making available to private plaintiffs, or potential private plaintiffs, information and evidence obtained by the government which will assist in the effective prosecution of their claims. (*See*, Senate Report #93–298 quoted with approval in House Report No. 93–1463 (U.S. Code Cong. and Admin. News 1974, 93 Cong. 2nd Sess., pp. 6538–39.))

In light of the fact that by entering into the consent decree the Justice Department is settling all actions against Ashland for bid-rigging on paving or construction projects throughout the United States,[5] the Court should require the public disclosure of the information and evidence obtained by the government in its investigation of Ashland's bid-rigging activity on paving or construction projects, as follows:

(1) The information and evidence which the government has gathered in connection with Ashland's conduct in regard to entering into any contract, agreement, understanding, plan, program, combination or conspiracy with any person to:

A. Raise, fix, establish, maintain, or adhere to a price, a discount or any other term or condition of sale of any form of construction material or of paving or construction work;

B. Refrain from bidding to supply any form of construction material or paving or construction work;

C. Submit a collusive, noncompetitive or rigged bid to supply any form of construction material or paving or construction work; or

D. Allocate a job or customer, or to divide a market or a territory, with respect to any form of construction material or paving or construction work.

(2) In particular, the Justice Department should set forth:

A. All of the paving or construction projects on which the Justice Department has evidence and information that Ashland submitted collusive, non-competitive and rigged bids or collusively withheld bids; and

B. The involvement of Ashland and the directors, officers, agents, servants, employees of any Ashland entity, and those persons in active concert or participation with them in the activities set forth in paragraph (1) above.

Furthermore, serious questions exist as to the effectiveness of limitations placed on Ashland's conduct under the proposed Final Judgment. The proposed Final Judgment states that Ashland "shall require, as a condition of the sale or other disposition of all, or substantially all, of the stock or assets of any division or subsidiary . . . , that the acquiring party agree to be bound by the provisions of this Final Judgment." (Proposed Final Judgment, page 6.)

Ashland may be able to circumvent the intended effectiveness of the proposed consent order. The lack of any explicit provision that the consent decree applies to subsequent dispositions by acquiring parties poses an impediment to the effectiveness of the proposed judgment. For instance, Ashland could incorporate a wholly-owned subsidiary and sell its paving or construction operations to that corporation and then have that corporation make a disposition of the paving or construction operations to another corporation controlled by Ashland. The Justice Department and the Court should be aware of the fact that reorganization is a corporate way of life for Ashland's paving or construction operations. Thus, the proposed Final Judgment should be modified to apply to subsequent dispositions by acquiring parties.

The proposed Final Judgment also does not provide that anyone other than the parties may apply to the Court for enforcement of the consent decree. the proposed Final Judgment as drafted, in regard to enforcing compliance with its terms, reads as follows: "Jurisdiction is retained by this court for the purpose of enabling either of the parties to apply to this court . . . for the enforcement of compliance with (the proposed Final Judgment) or for the punishment of any violation of it." (Page 8 of proposed Final Judgment.)

The wide scope of Ashland's paving or construction work, coupled with the pervasiveness of bid-rigging in the paving construction industry, makes it unlikely that the Justice Department will be able adequately to monitor the consent decree. Therefore, the proposed Final Judgment should be modified to provide that members of the public may apply to the Court for enforcement of the consent decree and seek punishment for its violation. We propose that the words "any member of the public" be inserted after the phrase "either of the parties" quoted in the foregoing paragraph.

We respectfully urge the Department of Justice and the Court to consider the public interest factors set forth hereinabove, and to modify the proposed Final Judgment accordingly. The proposed Final Judgment, unless modified, will have an adverse effect on the public, which expects to be protected by adequate enforcement of the antitrust laws.

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[1] The proposed consent decree states that as used in the Final Judgment in this action " 'Ashland-Warren' means Ashland-Warren, Inc., and Ashland Oil, Inc., and each direct or indirect subsidiary, division and joint venture, which has sold any form of construction material or performed paving or construction work, and each predecessor, successor and assign to each of the foregoing." (Page 2 of proposed Final Judgment.) "Ashland" is used in this comment to include all such persons.

[2] The proposed Final Judgment defines paving or construction work as "the building, rebuilding, surfacing, resurfacing and maintenance or repair of roads, bridges, culverts, ramps, grade separation structures, interchanges, parking structures and lots, airports, transit facilities, power plants, water and waste treatment plants, flood and erosion facilities, underground utilities, excavation, drainage, stripping, soil stabilization, pile driving, foundation and other site preparation, base work, recycling and reclamation work, as well as all materials and services, rented or supplied, in connection with this work". (Page 2 of proposed Final Judgment.)

[3] "Highway Robbery: The War on Bid Riggers", U.S. News & World Report, February 16, 1981, page 40.

[4] *Id.*

[5] Department of Justice, April 8, 1982 news release (attached hereto as Appendix A) states that: "As part of the agreement the Justice Department has agreed not to criminally prosecute Ashland-Warren, Ashland Oil or their subsidiaries for any conduct which was part of any bid-rigging scheme in paving or construction work before the date of the agreement anywhere in the United States."

Respectfully,
Gambrell & Russell
By: James H. Bratton, Jr., Liaison Counsel for Plaintiffs in City of Atlanta *et al.* v. Ashland-Warren, Inc., Ashland Oil, Inc. *et al.* Civil Action File No. 81-106A (N.D. Ga.)

Appendix A

Department of Justice

Ashland-Warren, Inc., a highway construction company headquartered in Atlanta, Georgia, today pleaded guilty to six violations of the federal antitrust laws arising out of indictments of the company in North Carolina and Tennessee and was fined a total of $6 million. The fines were the largest ever imposed against a corporation for criminal violations of the federal antitrust laws.

Attorney General William French Smith said the six guilty pleas were entered in U.S. District Court in Raleigh, North Carolina. The remaining counts and indictments against Ashland-Warren, Inc., and Ashland Oil, Inc., were dismissed after the pleas were accepted by the court.

In addition a civil suit—together with a consent decree—was filed against Ashland-Warren covering the same allegations as the North Carolina indictments.

On February 24, 1982, Ashland-Warren, Inc., was charged in three indictments in Raleigh, with violations of Section 1 of the Sherman Act and mail fraud for several conspiracies to rig bids and allocate highway construction work in North Carolina. The company today pleaded guilty to four violations and was fined $1 million for each violation.

Between February 11 and February 19, 1981, Ashland-Warren, Inc., was indicted four times and its parent corporation, Ashland Oil, Inc., was indicted once, in Nashville, Tennessee, for several conspiracies to eliminate competition on various highway construction projects and for mail fraud violations. The company today pleaded guilty to two violations and was fined $1 million for each violation.

William F. Baxter, Assistant Attorney General in charge of the Antitrust Division, said that the disposition of the criminal cases was the result of plea agreements between Ashland-Warren, Inc., Ashland Oil, Inc., and the government. The plea agreements, once accepted by the court, terminated the criminal prosecution of Ashland-Warren, Inc., and Ashland Oil, Inc.

As part of the agreement the Justice Department has agreed not to criminally prosecute Ashland-Warren, *Ashland Oil or their subsidiaries* for any conduct which was part of any bid-rigging scheme in paving or construction work before the date of the agreement *anywhere in the United States.* That agreement does not cover tax or securities violations or any possible criminal charges of any kind against individuals.

The $6 million in fines brought the total amount of fines to be paid by Ashland-Warren, Inc., to $7,500,000. The company paid $1,500,000 in 1980, in connection with the company's prosecution for conspiring to rig bids on Byrd Airport in Richmond, Virginia, and other highway construction projects elsewhere in Virginia.

The four-count civil suit alleged that Ashland-Warren, Inc., through three North Carolina divisions, conspired to rig bids on highway construction projects in North Carolina in violation of Section 1 of the Sherman Act. It was filed in U.S. District Court in Raleigh.

After filing the civil antitrust suit, the Department filed a proposed consent decree that would terminate the suit against Ashland-Warren, Inc.

The proposed decree, which will become final upon approval by the court, would enjoin Ashland-Warren from fixing prices, rigging bids, or allocating customers or territories on contracts for paving and construction projects or the sale of construction materials.

In accordance with the Antitrust Procedures and Penalties Act of 1974, a competitive impact statement regarding the proposed final judgment has been filed with the court. Copies of this statement and of the proposed decree are available on request in the Legal Procedure Unit, Room 7416, Department of Justice, Washington, D.C. 20530. They are also available for inspection in the Office of the Clerk of the United States District Court for the Eastern District of North Carolina in Raleigh, North Carolina.

Comments to the Department and to the court regarding the decree are invited from members of the public within the statutory 60-day time period. They should be directed to Anthony V. Nanni, Chief, Trial Section, Room 3266, Antitrust Division, Department of Justice, Washington, D.C. 20530.

[FR Doc. 82-16002 Filed 6-22-82; 8:45 am]
BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1982, Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Meperidine (9230).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 23, 1982.

Dated: June 17, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16007 Filed 6-22-82; 8:45 am]
BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 29, 1982, M.D. Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manuacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Diphenoxylate (9170)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 23, 1982.

Dated: June 17, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16008 Filed 6-22-82; 8:45 am]
BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 4, 1982, Smith Kline & French Laboratories, Division of Smithkline Beckman Corporation, 1530 Spring Garden Street, Philadelphia, Pennsylvania 19101, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Amphetamine (1100)	II
Phenylacetone (8501)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Acting Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 23, 1982.

Dated: June 17, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-16880 Filed 6-22-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-36)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made the submission. The proposed forms under review are listed below. Two are new requirements and the other is a revision.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by July 6, 1982. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Christine Cabell, NASA Agency Clearance Officer, Code NSM-12, NASA Headquarters, Washington, DC 20546.

Edward Clarke, Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Christine Cabell, NASA Agency Clearance Officer, (202) 755-3219 or Edward Clarke, OMB Reviewer, (202) 395-4814.

Reports

Title: Allotment for NASA Scientific and Technical Information Products and Services
Type of Request: New
Frequency of Report: One time
Type of Respondent: NASA Contractors
Annual Responses: 150
Annual Reporting Hours: 75
Federal Cost: $2,000.00
Number of forms: One
Abstract-Needs/Uses: to try to simulate marketplace judgments, we are enlisting the assistance of NASA R&D contractors to evaluate NASA scientific and technical information products and services which they use to help NASA achieve its mission. The simple one-page list of questions require supplying only an estimated percentage number, and the numbers must add up to 100%

Title: Contract Settlement Cost Data
Type of Request: New
Frequency of Report: On occasion
Type of Respondent: NASA Contractors (Industrial)
Annual Responses: 53
Annual Reporting Hours: 27
Federal Cost: $24,500.00
Number of Forms: One
Abstract-Needs/Uses: Each agency contractor located on-site at a NASA facility at the conclusion of negotiations resulting in a new collective bargaining agreement, furnishes the agency a one page report governing the wage and fringe benefit economic costs. Such cost data assists in procurement budgeting and provides the basis to conduct contractor direct labor cost studies as well as to initiate agency legal action (Variance Hearings) under Service Contract provisions, if required.

Title: NASA Patent License Report
Type of Request: Revision
Frequency of Report: Annual
Type of Respondent: Business which manufacture products
Annual Responses: 600
Annual Reporting Hours: 300
Federal Cost: $22,000.00
Number of Forms: One
Abstract-Needs/Uses: NASA grants licenses to commercial firms for commercial use of NASA inventions. This report is obained annually from the licensee to determine what commercial use is being made of the inventions.

June 17, 1982.

Walter B. Olstad,

Associate Administrator for Management.

[FR Doc. 82-16871 Filed 6-22-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted to OMB for Review In Accordance With the Paperwork Reduction Act and OMB Guidelines, NSF is Posting This Notice of Recordkeeping Requirements That Will Affect the Public

Agency Clearance Officer: Herman G. Fleming, (202) 357-7560.

OMB Officer: Gwendolyn Pla, (202) 395-6880.

I. Title: Nominations for Alan T. Waterman, National Medal of Science and Vannevar Bush Awards.

Affected Public: Individuals and institutions.

Number of responses: 600; Total number of hours: 1200.

The request is amended to include the Vannevar Bush Award. This award is presented to a person who, through public service and technology, has made an outstanding contribution toward the welfare of mankind and the nation.

II. Title: Industrial panel on Science and Technology.

Affected Public: Businesses or other institutions.

Number of responses: 700; Total number of hours: 700.

Information, especially of a qualitative nature, is needed to supplement and explain the quantitative data on science and technology employment and funding which is obtained from other Foundation sources. OMB, the Office of Science and Technology Policy and Congress, who are often unable to await the results of our annual surveys, use the immediate panel information to make decisions on science and technology policy.

Information from the Panel will be collected from July 1982 to June 1984.

Herman G. Fleming,

Clearance Officer.

[FR Doc. 82-16916 Filed 6-22-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Company, et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 85 and 84 to Facility Operating Licenses Nos. DPR-44 and DPR-56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments become effective within 3 months after the date of issuance.

These amendments make changes to the TSs related to the facility's Fire Protection Program to reflect improvements in the Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated February 18, 1982, (2) Amendment No. 85 to License No. DPR-44 and Amendment No. 84 to License No. DPR-56 and (3) the Commission's letter to Philadelphia Electric Company dated June 16, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-17019 Filed 6-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-280 and 50-281]

Virginia Electric & Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 78 to Facility Operating License No. DPR-32 and Amendment No. 79 to Facility Operating License No. DPR-37 issued to Virginia Electric and Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Station, Unit Nos. 1 and 2, respectively (the facilities), located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments revise the Technical Specifications to limit control rod misalignment to no more than −12 steps indicated positions. This change is consistent with the Standard Technical Specifications for Westinghouse plants.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environment impact and that pursuant to 10 CFR 51.5(d)(4) and environment impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 10, 1982, (2) Amendment Nos. 78 and 79 to License Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of Williamsburg, Virginia 23185. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 17015 Filed 6-22-82; 8:45 a.m.]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Meeting

The Small Business Investment Incentive Act of 1980 (Pub. L. No. 96-477 (October 21, 1980)) requires the Securities and Exchange Commission to conduct an annual Government-Business Forum to review the current status of problems and programs relating to small business capital formation. The Executive Committee, comprised of appointees from several federal agencies and private sector organizations, will hold its second meeting on June 28, 1982 at 10:00 a.m., for purposes of planning the Forum. The Forum is scheduled for September 1982. The meeting is to be held at the Securities and Exchange Commission, Room 776, 500 North Capitol Street, Washington, D.C. 20549 and will be open to the public.

For further information contact Daniel Abdun-Nabi at (202) 272-2644.

George A. Fitzsimmons,

Secretary.

June 17, 1982.

[FR Doc. 82-16879 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 16, 1982.

The above named national securities exchange has filed applications with the

Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Matsushita Electric Industrial Co., Ltd. American Depositary Receipts, 50 Yen Par Value (File No. 7-6232).

Hitachi, Ltd., American Depositary Receipts (File No. 7-6233).

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 8, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16872 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18813; File No. SR-OCC-82-9]

Filing and Order Granting Accelerated, Approval of Proposed Rule Change by Options Clearing Corporation

June 17, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 23, 1982, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would amend OCC's financial responsibility rules to conform to several of the recent amendments to SEC Rule 15c3-1 (17 CFR 240.15c3-1), the "Net Capital Rule," and SEC Rule 17a-11 (17 CFR 240.17a-11). Those rule amendments were announced by the Commission in Securities Exchange Act Release No. 18417 (January 13, 1982), 47 FR 3512 (January 25, 1982) and, in general, reduced the financial responsibility standards for certain registered broker-dealers. Briefly, the Commission's most significant revision was the reduction, from four percent to two percent, of the minimum net capital that broker-dealers are required to maintain under the alternative method of computing net capital (*see* Rule 15c3-1(f)). Moreover, the Commission amended its "early warning" rule, Rule 17a-11, to require broker-dealers to notify their designated examining authorities, the Commission and, in certain cases, the Commodities Futures Trading Commission, when the broker-dealers' net capital, as calculated under the alterantive method, falls below five percent. The Commission's previous level was six percent.

OCC's minimum net capital rule, Rule 302, currently prohibits OCC clearing members that operate under the alternative method from clearing opening options transactions if their net capital falls below the greater of $100,000 or four percent of their aggregate debit items computed in accordance with Schedule A of SEC Rule 15c3-3 (17 CFR 240.15c3-3). Pursuant to the proposed rule change and consistent with the Commission's amendments to Rule 15c3-1(f), those clearing members would be prohibited from clearing opening transactions if their net capital level falls below the greater of $100,000 or two percent of their aggregate debit items.

To reflect the two percent reduction in Rule 15c3-1(f) and to conform with the Commission's amendments to Rule 17a-11, OCC's early warning rule, Rule 303, would also be amended under the proposed rule change. First, it would be changed to require clearing members operating under the alternative method to notify OCC in the event that their net capital falls below the greater of $150,000 or five percent of their aggregate debit items. OCC Rule 303 currently requires OCC members to notify OCC if their net capital falls below the greater of $150,000 or seven percent of aggregate debit items. Second, OCC Rule 303 would be amended by adding new paragraph (c). That paragraph would conform Rule 303 to SEC Rule 15c3-1(c)(2)(v)(C) by granting a clearing member relief from complying with OCC's net capital rule if that clearing member is given an extension of time to resolve short securities positions by its examining authority.

In addition, pursuant to the proposed rule change, an interpretation under OCC Rule 305 would be amended. OCC Rule 305, in general, authorizes OCC, to impose certain restrictions on a clearing member if OCC, through its President or Chairman, determines that the clearing member is operationally or financially unsound.[1] Interpretation Two under the Rule is one of eight Interpretations that illustrate when Rule 305's prohibitions or limitations may be applicable. That Interpretation provides that restrictions may be imposed if a clearing member's net capital remains below six percent of its aggregate debit items for three consecutive months. Under the proposed rule change and consistent with the Commission's two percent reduction in minimum net capital under the alternative method, the percentage would be reduced to four percent.

Finally, OCC Rule 301, which requires higher net capital requirements for newly-registered or newly-admitted members that use the alterative method, would be amended in a manner consistent with the two percent reduction in SEC Rule 15c3-1(f). Pursuant to the proposed rule change, Rule 301 would require a clearing member operating under the alternative method of computing net capital to maintain net capital levels of the greater of $150,000 or five percent of the aggregate debit items. Previously, a clearing member was required to maintain net capital levels of the greater of $150,000 or seven percent.

OCC believes that the proposed rule change is consistent with section 17A(b)(3) of the Act because it enhances the ability of brokers and dealers to become and to remain participants in OCC by liberalizing OCC's financial responsibility standards in conformity with the Commission's amendments to Rules 15c3-1 and 17a-11. At the same time, OCC's financial responsibility standards, consistent with OCC's traditional net capital treatment continue to maintain protective cushions identical to, or greater than, those stated in the Commission's Rules.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change on or before July 14, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington,

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[1] Under the Rule, OCC's President or Chairman is authorized, after determining that a clearing member's fiancial or operational condition threatens OCC's collective membership or the general public, to prohibit or to limit OCC from clearing that member's opening options transactions and to reduce or to eliminate the member's existing short positions for which securities have not been deposited with OCC.

D.C. 20549. Reference should be made to File No. SR-OCC-82-9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L. Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of section 17A of the Act and the rules and regulations thereunder.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Approval of the proposed rule change will enable OCC to harmonize its financial responsibility rules with the Commission's requirements, thereby avoiding the unintended anomaly of imposing inconsistent regulatory policies on broker-dealer members of OCC.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16875 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 16, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Bow Valley Industries Limited—Common Stock, No Par Value (File No. 7-6234)

Enstar Corporation—Common Stock, $1 Par Value (File No. 7-6235)

Informatics General Corporation—Common Stock, $.15 Par Value (File No. 7-6236)

Norfolk Southern Corporation—Common Stock, $1 Par Value (File No. 7-6237)

Regal International Incorporated—Common Stock, $.10 Par Value (File No. 7-6238)

Raychem Corporation—Common Stock, No Par Value (File No. 7-6239)

Whitehall Corporation—Common Stock, $.10 Par Value (File No. 7-6240)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 8, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16873 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc., Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 17, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Informatics, Inc.—Common Stock, $.15 Par Value (File No. 7-6242)

Murphy Oil Corp.—Common Stock, $1 Par Value (File No. 7-6243)

Parker Drilling Company—Common Stock, $1 Par Value (File No. 7-6244)

Raychem Corp.—Common Stock, No Par Value (File No. 7-6245)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 9, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-16874 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 6410; (18-91)]

The Equitable Life Assurance Society of the United States and Separate Account No. 2A (Pooled) of the Equitable Life Assurance Society of the United States; Filing of Application

June 17, 1982.

Notice is hereby given that The Equitable Life Assurance Society of the United States ("Equitable"), 1285 Avenue of the Americas, New York, N.Y. 10019, a mutual life insurance company organized under the laws of the State of New York which is registered as an investment adviser under the Investment Advisers Act of 1940 and as a broker-dealer under the Securities Exchange Act of 1934, on July 24, 1981 filed an application for an order exempting from the registration requirements of the Securities Act of 1933 ("1933 Act"), certain interests in Equitable's proposed Separate Account No. 2A (Pooled) (the "Account") attributed to contributions derived under certain association sponsored plans designed to comply with the Self-Employed Individuals Tax Retirement Act of 1962, as amended ("H.R. 10"), as described below. All interested persons are referred to that application which is on file with the Commission for the facts

and representations contained therein, which are summarized below.

Background

The Account will be established and maintained by Equitable as a "pooled" separate account pursuant to section 227 of the New York Insurance Law. Amounts allocated to the Account will be derived under group annuity contracts issued by Equitable in connection with pension and profit-sharing plans qualified under section 401 of the Internal Revenue Code of 1954, as amended ("Code"), annuity plans meeting the requirements for deduction of the employer's contribution under section 404(a)(2) of the Code, and governmental plans as defined in section 414(d) of the Code and as specified in section 3(a)(2) of the 1933 Act. The portfolio of the Account will consist of high quality money market securities with remaining maturities of 60 days or less, including certificates of deposit, commercial paper, repurchase agreements, corporate notes and U.S. Government issues, principally Treasury bills and notes.

The Account will be made available to (a) Equitable's other separate accounts which are maintained without registration under the Investment Company Act of 1940 ("the 1940 Act") in reliance upon the exemption provided by section 3(c)(11) of the 1940 Act, and the interests of which are maintained without registration under the 1933 Act in reliance upon the exemption provided by section 3(a)(2) of that Act, (collectively, the "fully exempt separate accounts"), and (b) its Separate Account Nos. 4 and 100, which fund (i) H.R. 10 plans sponsored by various associations (collectively, the "association H.R. 10 plans"), and (ii) corporate plans under the exemptions provided by sections 3(a)(2) and 3(c)(11). While the interests in Separate Account Nos. 4 and 100 attributed to contributions under the association H.R. 10 plans are registered under the 1933 Act, Separate Account Nos. 4 and 100 themselves are exempt from 1940 Act registration under section 3(c)(11) of the 1940 Act. Under Equitable's proposal, the fully exempt separate accounts and Separate Account Nos. 4 and 100 (collectively, the "eligible separate accounts") will be able to allocate their respective cash positions to the Account for investment, on a pooled basis, in money market securities.

The eligible separate accounts will be credited with units of interest in the Account, which will be carried as assets on their respective financial statements. Their respective cash positions will be determined each business day and allocated to the Account in a manner consistent with each eligible Account's investment policy and objectives. Adjustments in the number of units of interest in the Account credited to an eligible separate account will be made to reflect subsequent allocations and withdrawals.

Under Equitable's proposal, there will be no investment management fee charged to the eligible separate accounts participating in the Account. Holders of contracts participating in the eligible separate accounts will be charged only the usual investment management fee and any other charges normally applicable to their eligible separate account. There will be no separate or additional fee or any other charge imposed on the units held in the Account. Thus, there will be no duplication of any fees as a result of the proposal.

Equitable proposes to amend the prospectuses of Separate Account Nos. 4 and 100 in order to revise the descriptions of their investment policies to disclose the use of the Account for the investment of cash assets. These prospectuses also will be amended to describe the investment policy of the Account, its management by Equitable, the type of securities held in the Account's portfolio, how interests in the Account are valued and use of the Account by Separate Account Nos. 4 and 100, as the case may be, for the particular association H.R. 10 plan. The statement of investments will include a single line item indicating the total number, cost and market value of the units of interest in the Account credited to Separate Account No. 4 and Separate Account No. 100, together with the effective yield. Any appropriate note disclosure will also be made in the related notes to financial statements.

Section 3(a)(2)

Section 3(a)(2) provides an exemption from registration under the 1933 Act for "any security arising out of a contract issued by an insurance company, which * * * security is issued in connection with * * * [a] pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the [Code] * * *," other than a plan (an H.R. 10 plan) which covers self-employed persons within the meaning of the Code.

Because the cash assets of Separate Account Nos. 4 and 100 attributable to contributions under association H.R. 10 plans would be derived by the Account, through intervening separate accounts (Nos. 4 and 100), from plans covering self-employed persons, the interests in the Account associated with those cash assets would fall within the H.R. 10 exclusion from the section 3(a)(2) exemption. However, the Commission has the authority pursuant to section 3(a)(2) of the 1933 Act, to exempt from the provisions of Section 5 of the 1933 Act any such interest, if and to the extent that it "determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of" that Act.

The legislative history of section 3(a)(2) of the 1933 Act indicates that when the Congress amended that section in 1970 to, among other things, exempt from the registration provisions of the 1933 Act interests in insurance company separate accounts funding Section 401 qualified pension and profit-sharing plans, it excluded from the exemption interests and participations in separate accounts used in connection with H.R. 10 plans "because of their fairly complex nature as an equity investment and because of the likelihood that they would be sold to self-employed persons, unsophisticated in the securities field. However, the amendment would grant the Commission authority, by rule, regulation, or order to exempt such interests or participations to the extent that the Commission shall determine this to be necessary or appropriate in the public interest." House Committee Report No. 91-1382 (1970), pp. 43-44. Equitable submits that none of the concerns of Congress in excluding H.R. 10 plans for the section 3(a)(2) exemption are present under its proposal.

Further, Equitable asserts that this proposal will permit a more efficient, and more effective, method of investing the cash positions of Separate Account Nos. 4 and 100 and the other eligible separate accounts at no additional cost to the contractholder or plan participant. Presently, the investment in money market securities of cash held by the eligible separate accounts is made separately for each account each business day. Equitable believes that by pooling the investment of the cash positions of the eligible separate accounts through the Account, a more efficient utilization of these funds will be achieved with a greater investment return to contractholders and plan participants.

Equitable notes that the portfolio of the Account will consist of the same type of money market securities as those that now are held by each of the eligible separate accounts. Also, Equitable's Securities Operations Area, which is

responsible for the continuing supervision and evaluation of all securities investments of the eligible separate accounts under Equitable's management, performs such responsibilities with respect to the investments of Separate Account Nos. 4 and 100 and will do so for investments of the Account. Additionally Equitable submits that with the use of the Account described in Equitable's prospectuses, as proposed, the relevant disclosures will be subject to the scrutiny of the Commission's staff and to the liabilities provided under the federal securities law.

Request for Order

Based on the foregoing, Equitable requests that the Commission issue an order pursuant to section 3(a)(2) of the 1933 Act exempting from the registration requirements of section 5 of the 1933 Act interests in Equitable's Separate Account No. 2A credited to its Separate Account Nos. 4 and 100 which are attributable to allocations to Separate Account Nos. 4 and 100 under association H.R. 10 plans.

Notice is further given that any interested persons may, not later than July 12, 1982 at 5:30 p.m., submit to the Commission a request for a hearing on the matter, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request to be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C ., 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the dase of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following July 12, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17007 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Flight Transportation Corp.; Order of Suspension of Trading

June 18, 1982.

It appearing to the Securities and Exchange Commission that there are questions which have been raised concerning the accuracy and adequacy of Flight Transportation Corp.'s financial statements, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Flight Transportation Corporation.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 2:10 p.m. (EDT) on June 18, 1982, and terminating at midnight (EDT) on June 27, 1982.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17009 Filed 6-22-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2043]

Declaration of Disaster Loan Area; Alaska

The City of Fort Yukon, Fairbanks North Star Borough in the State of Alaska constitutes a disaster area as a result of damage caused by flooding which occurred on May 16–18, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 5, 1982, and for economic injury until the close of business on March 3, 1983, at the address below:

Small Business Administration, Federal Building & Court House, 101 12th Avenue, P.O. Box 14, Fairbanks, Alaska 99701.

or other locally announced locations.

Homeowners with credit available elsewhere—15¼%.
Homeowners without credit available elsewhere—7⅞%.
Businesses with credit available elsewhere—16½%.
Businesses without credit available elsewhere—8%.
Businesses (EIDL) without credit available elsewhere—8%.
Other (non-profit organizations including charitable and religious organizations)—11½%.

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 4, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-16998 Filed 6-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2047]

Declaration of Disaster Loan Area; Illinois

As a result of the President's major disaster declaration, I find that the county of Williamson and the Township of Road Districts 4 and 5–3 in Perry County, Illinois constitute a disaster loan area because of damage cause by severe storms and tornadoes beginning on May 29, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 5, 1982, and for economic injury until March 7, 1983, at:

U.S. Small Business Administration, Springfield Branch Office, Washington Building, Four North Old State Capital Plaza, Springfield, Illinois 62701.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

Homeowners with credit available elsewhere—15¼%.
Homeonwers without credit available elsewhere—7⅞%.
Businesses with credit available elsewhere—16%.
Businesses without credit available elsewhere—8%.
Businesses (EIDL) without credit available elsewhere—8%.
Other (non-profit organizations including charitable and religious organizations)—11½%.

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Date: June 11, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-16867 Filed 6-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2041; Amdt. No 1]

Declaration of Disaster Loan Area; Massachusetts

The above numbered Declaration (see 47 FR 24010), is amended by correcting the formula interest rate for homeowners who are unable to obtain credit elsewhere from our previously published interest rate of 7¾ percent. All other information remains the same.

Dated: June 11, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-16868 Filed 6-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2045]

Declaration of Disaster Loan Area; Oklahoma

Kingfisher County in the State of Oklahoma constitutes a disaster area as a result of damage caused by flooding which occurred on May 15–16, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 5, 1982, and for economic injury until the close of business on March 3, 1983, at the address below: Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Grand Prairie, Texas 75051, or other locally announced locations.

Homeowners with credit available elsewhere—16⅛%
Homeowners without credit available elsewhere—7⅞%
Businesses with credit available elsewhere—16½%
Businesses without credit available elsewhere—8%
Businesses (EIDL) without credit available elsewhere—8%
Other (non-profit organizations including charitable and religious organizations)—11½%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 4, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-16869 Filed 6-22-82; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2044]

Declaration of Disaster Loan Area; Texas

Gaines County in the State of Texas constitutes a disaster area as a result of damage caused by a tornado which occurred on May 12, 1982. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on August 5, 1982, and for economic injury until the close of business on March 3, 1983, at the address below: Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Grand Prairie, Texas 75051, or other locally announced locations.

Homeowners with credit available elsewhere—15⅝%
Homeowners without credit available elsewhere—7⅞%
Businesses with credit available elsewhere—16½%
Businesses without credit available elsewhere—8%
Businesses (EIDL) without credit available elsewhere—8%
Other (non-profit organizations including charitable and religious organizations)—11½%

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96–302.

Information on recent statutory changes (Pub. L. 97–35, approved August 13, 1981) is available at the above-mentioned office.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: June 4, 1982.

James C. Sanders,

Administrator.

[FR Doc. 82-16870 Filed 6-22-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 811]

Certain Foreign Passports; Validity

"Antigua and Barbuda" and "St. Vincent and the Grenadines" are added to the list of countries which have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign issuing authority for a period of at least six months beyond the expiration date specified in the passport.

This notice amended Public Notice 766 of August 4, 1981 (46 FR 39718).

Dated: June 11, 1982.

Diego C. Asencio,

Assistant Secretary for Consular Affairs.

[FR Doc. 82-16905 Filed 6-22-82; 8:45 am]

BILLING CODE 4701-06-M

[Public Notice 810]

Agency Forms Submitted for OMB Review

AGENCY: State Department.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

PURPOSE: The Office of the Historian of the Department of States is proposing, for the first time, to survey actual readers of the *Foreign Relations of the United States* series. The survey findings will help decide the future shape of the series in terms of audience targeting, format, content, and feasibility of microfiche supplements

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—new.

(2) Title of information collection—Questionnaire for Survey of Users of Foreign Relations of the United States.

(3) Originating Office—Office of the Historian, Bureau of Public Affairs.

(4) Frequency—Nonrecurring.

(5) Respondents—American historians who are members of the Society for Historians of American Foreign Relations and selected professional historians.

(6) Estimated number of responses—800.

(7) Estimated total number of hours needed to fill out form—400.

Section 3504(4) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed form and supporting documents may be obtained from Gail J. Cook, Departmental Clearance Officer, (202) 632–3602. Comments and questions should be directed to (State) Bernard Roshco, (202) 632–0472 and (OMB) Phillip Balazs, (202) 395–4814.

Dated: June 10 1982.

Thomas M. Tracy,

Assistant Secretary for Administration.

[FR Doc. 82–16912 Filed 6–22–82; 8:45 am]

BILLING CODE 4710–24–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 121
Wednesday, June 23, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Home Loan Bank Board	2
Securities and Exchange Commission	3

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, July 2, 1982.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6374.

[S-626-82 Filed 6-2-82; 2:30 pm]

BILLING CODE 6351-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 26733, Monday, June 21, 1982.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The Thursday, June 24, 1982, Bank Board Meeting scheduled for 10 a.m., has been changed to 9:30 a.m.

[No. 43, June 21, 1982]

[S-627-82 Filed 6-21-82; 3:48 pm]

BILLING CODE 6720-01-M

3

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (47 FR 26067) June 16, 1982.

STATUS: Closed/open meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, June 11, 1982.

CHANGES IN THE MEETING: Additional/deletion items. The following items will be considered at a closed meeting scheduled for Tuesday, June 22, 1982, at 11:00 a.m.:

Amend institution of injuctive action. Litigation matter and report of investigation.

The following item will be considered at a closed meeting scheduled for Thursday, June 24, 1982, following the 10:00 a.m. open meeting:

Settlement of injunctive action.

The following item will be considered at an open meeting scheduled for Thursday, June 24, at 10:00 a.m.:

Consideration of whether to propose for comment Registration Statement Form S-20 and three rules concerning other disclosure documents related to standardized options. The proposals are intended to establish a new disclosure framework specifically tailored to the information needs of investors in standardized options. For further information, please contact Gregory H. Mathews at (202) 272-2589.

The following item will not be considered at an open meeting scheduled for Thursday, June 24, at 10:00 a.m.:

Consideration of a request for a "no-action" letter from savings and loan associations that propose to permit a registered broker-dealer, Savings Association Investment Securities, Inc. to offer brokerage services on their premises without registering as broker-dealers under Section 15 of the Securities Exchange Act of 1934. For further information, please contact Colleen C. Harvey at (202) 272-2826.

Chairman Shad and Commissioners Loomis and Evans determined by vote that Commission business required consideration of the former matters and non consideration of the latter matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact; Paul J. Siegelbaum at (202) 272-2468.

June 17, 1982.

[S-625-82 Filed 6-21-82; 1:11 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
June 23, 1982

Part II

Environmental Protection Agency

Small Manufacturer Exemption Standards; Reporting and Recordkeeping Requirements

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 704

[OPTS-80011A; TSH-FRL 2079-5]

Small Manufacturer Exemption Standards; Reporting and Recordkeeping Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes general exemption standards for "small chemical manufacturers" under section 8(a) of the Toxic Substances Control Act. Manufacturers who qualify as "small" under these standards will be exempt from most section 8(a) reporting and recordkeeping rules. The proposed exemption standards have been designed to reduce the paperwork burden on small chemical manufacturers, while ensuring that EPA will receive a sufficient amount of chemical use, production, and exposure information to support assessment of chemical risks.

DATES: Written comments on this proposed rule must be mailed to the address given below on or before August 23, 1982. EPA will provide an opportunity for oral comments, if necessary, at an open meeting on August 23, 1982. Individuals seeking an opportunity for oral comment must submit a request for an open meeting at least 30 days prior to the end of the written comment period. See below, **SUPPLEMENTARY INFORMATION:** Unit VI, for details.

ADDRESS: Comments should be addressed to: Document Control Office, (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPTS-80011A. All comments received will be available for public inspection in Room E-107, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office, (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511B, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C. (554-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Legal Authority

Section 8(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a), authorizes the Administrator of the Environmental Protection Agency to establish, by rule, reporting and recordkeeping requirements for chemical manufacturers and processors. TSCA section 8(a)(2) lists some of the types of data which the Administrator may require to be kept or reported, including information concerning the identity, production volume, and exposure potential of chemicals manufactured or processed.

By the terms of the statute, small manufacturers and processors are usually exempt from section 8(a) reporting and recordkeeping requirements. For purposes of this exemption, TSCA section 8(a)(3)(B) requires the Administrator to promulgate rules that "prescribe standards for determining the manufacturers and processors which qualify as small * * *" This rule prescribes such standards.

The Administrator has discretionary authority under section 8(a)(3)(A)(ii) to require even small manufacturers to report or keep records concerning a chemical substance or mixture that is subject to:

(1) A proposed or promulgated rule under TSCA section 4 (testing requirement), section 5(b)(4) (a list of chemicals which may present an unreasonable risk), or section 6 (control actions), or

(2) An order in effect under section 5(e) (new chemical information), or

(3) Relief granted as a result of civil action brought under section 5 or 7.

II. The Proposed Exemption Standards

The standards proposed here are for manufacturers. Standards for processors will be developed in future rulemaking. All data in this preamble represent only the manufacturing portion of the chemical industry.

There are two small manufacturer exemption standards. A company will qualify as "small" if it meets either standard.

By the first standard, a chemical manufacturer will qualify as small if the total annual sales of all sites owned or controlled by its foreign or domestic parent company are less than $30 million. However, if such a manufacturer annually produces over 45,400 kilograms (100,000 pounds) of a particular chemical at a particular plant site, that manufacturer will not qualify as small with regard to that chemical at that plant site.

Under this standard, a company meeting the sales criterion for small, but not meeting the volume criterion for all sites, will only be subject to reporting or recordkeeping for sites producing 45,400 kilograms or more of the chemical per year.

By the second standard, a chemical manufacturer will qualify as small if total annual sales of all sites owned or controlled by its foreign or domestic parent company are less than $3 million, regardless of the quantity of chemicals produced by that firm.

We expect that the use of these two standards together will result in the exemption of at least 36 percent of all chemical manufacturing firms. These firms represent approximately one percent of total industry production volume and 12.2 percent of the total number of manufacturing plant sites. The latter percentage is smaller than the percentage of firms exempted because many large firms in the chemical industry have a multiple number of plant sites. Likewise, many firms of relatively small size have only a single plant site.

For these standards, total annual sales means the total revenue generated by sale of all products, including non-chemical products, that are produced at all sites owned or controlled by the parent company. We will periodically adjust, as necessary, the sales values of both standards to allow for inflation after the promulgation of this rule.

Companies will use the corporate fiscal year as the twelve month period for which both annual sales and production volume are to be calculated. In the first standard, annual production volume means the total amount of a chemical substance or mixture produced or imported during the designated twelve month period.

A parent manufacturing company owns or controls another company if the parent owns 50 percent or more of the other company's voting stock or other equity rights, or has the power to control the management and policies of the other company. This definition is drawn from the United States Department of Commerce's 1977 Economic Census Report of Organization.

Plant site means a contiguous property unit which serves as the location for chemical manufacturing. There may be more than one manufacturing plant located on a particular site.

III. Agency Objectives

Reporting and recordkeeping are costly in terms of time, money, and personnel resources. These costs have particular impact on companies which

have limited financial and personnel resources. Such manufacturers tend to have fewer administrative personnel, and less capability for data compilation and recordkeeping than larger firms.

In enacting TSCA, Congress recognized a need "to protect small manufacturers from unreasonably burdensome reporting requirements" (Conf. Rep. No. 94-1679, 94th Cong., 2d Sess. 80 (1976)), and added the small business exemption requirement to section 8(a). However, the information collection authority of TSCA section 8(a) also reflects congressional recognition of EPA's need for sufficient data from the chemical industry to accurately assess the risk potential of individual chemicals. Thus, we have attempted to structure exemption standards to balance the need for risk-related information with the need to minimize the reporting and recordkeeping burden on small manufacturers.

The burden imposed on a chemical manufacturer by TSCA section 8(a) requirements is part of the total operating costs of that firm. Chemical firms with limited financial and personnel resources will be least able to bear the additional cost burden of reporting and recordkeeping requirements. The exemption standards should be able to identify small manufacturers through use of a parameter that measures a company's available resources.

Our information requirements are governed by the potential for exposure to chemicals that are produced. A greater exposure potential for an individual chemical may indicate a greater potential risk to human health and the environment. This potential risk in turn creates an Agency need for information to assess that risk. The exemption standards should also contain a parameter that measures chemical exposure potential, and thereby reflects EPA's information needs.

An additional Agency objective for the exemption standards is that they enable us to obtain information that is representative of firms of different sizes. Large and small firms may utilize different production processes, techniques, and equipment, which may present different potentials for exposure. These differences may be a result of the varying amounts of capital available to different segments of the chemical industry. The parameters of the exemption standards should therefore be structured to provide us with representative information.

A final requirement for the standards is that they be easily analyzed and applied by both industry and the Agency. That is, the parameters must represent data which are readily accessible. The data must enable identification of companies which would be likely to qualify for an exemption. The standards must also be easily enforced; the data must enable us to monitor compliance with the exemption.

IV. Agency Approach and Methodology

In developing the exemption standards proposed in this rule, we examined the utility of several possible criteria for "small" as possible measures of chemical exposure potential (our information needs) and the resources available to manufacturers.

We looked at criteria for "small" used by other agencies, and reexamined criteria used for past rules under section 8(a) of TSCA. We considered the possible utility of parameters that have not been used previously, such as market share and net profit. We also relied on the input of industry representatives who responded, both in writing and at meetings with EPA staff, to the notice concerning this proposed rule published in the **Federal Register** of October 6, 1980 (45 FR 66180).

In addition, we utilized an independent contractor's analysis of parameters and exemption values. The analysis focused on 1459 chemicals, which were selected to represent the types of chemicals that may be included in future section 8(a) rules. The data base for the analysis included publicly available production, sales, and employment data for 3044 plant sites that produce these chemicals. The data were drawn from the TSCA Chemical Substance Inventory and from Dun and Bradstreet reports. The full analysis is contained in the public record for this rulemaking.

No parameter or set of parameters can meet our objectives and requirements perfectly. The various types of parameters considered, and their possible values, are only approximations of company resources or our information needs. We relied on industry comments as well as the analysis in selecting standards which best meet our requirements as an average across the entire industry. The following section describes our evaluation of possible parameters and parameter values.

V. Evaluation of Alternative Size Criteria

A. Size Criteria Used in the Past by Other Agencies and EPA

In the size standards used in the past by other Federal agencies, as well as under TSCA, there is no single definition of a "small" business. The standards differ because they have been designed for differing purposes.

The size standards used by the Small Business Administration (SBA) illustrate this point. The purpose of the SBA small manufacturer standards is to identify companies that qualify for Federal Assistance programs. The standards are intended to reflect the degree of competition within individual industries, so that less competitive firms will qualify for assistance. Thus, the SBA size standards are a measure of dominance within each industry, rather than an absolute measure of company size. They vary by industry type to reflect the unique competitive characteristics of different industries. Although the SBA has stated that a typical small manufacturing firm may have 500 or fewer employees, the SBA uses several different employee number standards for different types of manufacturing companies, with the standards ranging from 250 employees to a proposed high of 2500 employees. Within the chemical industry, the values assigned to the employee number standards also vary considerably among different product groupings.

The Occupational Safety and Health Administration (OSHA) and the Bureau of the Census (Census) also utilize size standards based on employee number. OSHA defines a small business as having 10 employees or fewer. Census defines a small business as having fewer than 20 to 50 employees. The purpose of these small business standards is to identify companies whose paperwork burden can be lessened without substantial impact on the agencies' information bases.

EPA shares this purpose. Unlike the SBA, we do not seek to identify firms which are "large" in terms of market dominance. Rather, our primary goal is to balance a reduction in reporting burden with our information requirements. We seek to identify "small" manufacturers as those firms with fewer available resources *and* less potential for chemical exposure.

For previous rules under section 8(a) of TSCA, we have used a combination of sales revenue and chemical production volume parameters as small manufacturer exemption standards. We evaluated these and other possible parameters, including employee number, in developing this proposed rule.

B. Possible Parameters

We considered a number of possible parameters for the small manufacturer exemption standards, including: (1)

Total annual company profit, (2) total company assets, (3) total annual company sales, (4) annual chemical sales, (5) number of company employees, (6) annual production volume per chemical, and (7) market share. Some of these criteria were suggested by Congress in the House Committee Report on TSCA (H.R. Rep. No. 94–1341, 94th Cong. 2d Sess. 43 (1976)).

These possible parameters are described below, along with the reasons for and against using them according to the objectives discussed above.

1. *Total annual company profit.* Total annual company profit, the difference between sales revenue and operating costs, measures financial resources that may be available to a chemical manufacturer to comply with TSCA reporting and recordkeeping requirements. The most serious drawback to the use of this parameter is that profit data for small and closely held firms are usually very sensitive and confidential, and therefore may not be available, either for our analysis or for monitoring of industry compliance.

2. *Total company assets.* Although assets indicate a company's financeal resources, they may not accurately indicate the resources available for immediate use, because at any given time, a manufacturer may have substantial assets but limited liquidity or high operating costs.

Moreover, like the profit parameter, this parameter would be difficult to analyze. While the total value of assets for large, publicly-held firms is available (appearing on their balance sheets), such information can usually only be estimated for small, closely-held firms.

3. *Total annual company sales.* This parameter includes all sales revenues (measured in dollars) of a parent chemical company, including sales of non-chemical products. We believe that the sales parameter is directly related to total profit, cash flow, and financial resources.

Moreover, sales revenue is a measure of output. Manufacturers with limited sales revenues presumably also have limited output and limited available resources, and could be considered small for TSCA reporting and recordkeeping purposes.

Another advantage of using total annual sales in exemption standards is that we have access to sales data for most companies (both publicly and privately held) from publicly available sources such as Dun and Bradstreet and state directories.

However, in some individual cases sales may not reflect profit or cash flow. For example, when sales revenue comes from high selling prices that reflect high raw material costs, profit margins may be very small.

In addition, exemption standards based on a total sales parameter may require adjustment for inflation in order to maintain their long-term accuracy as measures of available financial resources. We propose to use the Bureau of Labor Statistics Producer Price Index for Chemical and Allied Products for this purpose. The Index is a measurement of producer price fluctuations for chemicals. It is published annually, and is the most conveniently applicable index available to the Agency. The use of this Index would ensure the continued accuracy of a total sales parameter.

4. *Annual chemical sales.* This parameter could be either total annual sales revenue for all chemicals produced, or annual sales per chemical. Neither alternative reflects a diversified firm's financial capabilities since chemical sales may be a large or small part of total company sales of all products.

A major problem with using annual chemical sales as a parameter is that unless chemical sales are a major part of a firm's business, chemical sales revenue is not usually reported as a separate line item in the company's financial statements. Alternatively, it would be extremely difficult, if not impossible, to divide chemical sales (where known) among the various chemicals in a firm's product line to derive individual chemical sales.

5. *Total number of company employees.* To the extent that the number of employees includes personnel available for administrative work, an employee number parameter may have value. One of the adverse impacts of paperwork burdens for a small company is the necessity of taking personnel away from production work to fill out reports or records. Logically, the larger a company is, the more likely it is to have personnel who specialize in administration. Several industry commenters have indicated to us that this is generally the case.

As with the data on total sales revenue, employee number data are publicly available to EPA from sources such as Dun and Bradstreet. In contrast with the total sales parameter, employee number would not require adjustment for inflation.

However, industry commenters have also indicated that the dividing line between small and large, in terms of employee number, may be hard to find. They suggest that different chemical manufacturing processes may require widely different numbers of production personnel. If this kind of variability in employee number is prevalent in the chemical industry, a particular total employee number figure may not always reflect a corresponding ability of a manufacturer to carry out reporting and recordkeeping requirements.

6. *Annual domestic production volume per chemical.* Chemicals produced in larger quantities may present a greater potential for human or environmental exposure. Since Agency concern increases when potential exposure increases, we should avoid exempting a manufacturer as "small" if that firm produces a significant quantity of a particular chemical.

A manufacturer's production of a particular chemical could be either: (1) total production volume for all of a company's plant sites, or (2) production volume per plant site. Plant site production data are more meaningful because such data generally reflect the exposure potential at individual plant sites. A total production volume parameter may not always indicate plant site exposure potential. The TSCA Chemical Substance Inventory, which contains production volume information by chemical plant site, also allows us to estimate the effects of exemptions based on production volume per site.

7. *Market share per chemical.* Market share in this sense is one company's production of a particular chemical as a percentage of the total industry production of that chemical. As with the production volume parameter, market share would approximate a company's overall contribution to exposure potential, and thus reflect the importance of that firm's reporting in meeting our information needs. A manufacturer with a dominant share of the market for a particular chemical presumably is in the best position to provide the Agency with information on the chemical.

The market share parameter would probably provide us with information about chemicals that are manufactured by only a few companies which qualify as "small" under other parameters. Thus, a market share parameter would be of particular value in providing us with data on specialty chemicals, which are manufactured by firms that often are small in terms of both production volume and total sales.

However, market share is a relative measure of exposure potential, rather than an absolute measure. It is possible that a firm with a large share of a small market for a particular chemical may present less potential for exposure than a firm that has a relatively small percentage of the total industry

production of a large volume chemical. In addition, we have no means of determining the relative market shares of manufacturers of a chemical. Most companies probably have good estimates of their market share, but not all companies do; therefore, a market share parameter may cause uncertainty, both to EPA and to some companies, as to who would be subject to a future rule.

Because of these significant drawbacks to the market share parameter, production volume is the preferred criterion for measuring exposure potential and our information needs.

C. Analysis of Selected Parameters

Based on our evaluation of the alternative parameters described in the preceding section, we selected three parameters for further analysis: total annual company sales, number of employees, and plant site production volume. These parameters are amenable to analysis and enforcement, and are the best available approximations of either a company's resources or our information needs.

The selected parameters were analyzed against the data base of production, sales, and employment data. The analysis focused on different combinations of parameters and parameter values, in terms of their effect on various cost-benefit variables, such as: (1) The number of firms exempted, (2) the number of plant sites exempted, (3) the number of reports received, (4) the number of chemicals on which no reports would be received, and (5) total reporting costs. The conclusions from the analysis are summarized below.

Structure of the two-parameter standard. We first concluded that, in order for the exemption standards to reflect our information needs, they should include an "information" parameter that would be sensitive to chemical exposure potential. Of the possible parameters, production volume best approximates exposure potential. We would not receive sufficient information for our regulatory purposes from a reporting rule with an exemption bases solely on sales or employee number, unless the value of the sales or employee number parameter was set at a level so low that some relatively small firms would fail to quality for an exemption. Industry representatives recognized EPA's need for information under TSCA section 8(a), and did not object to the proposal of a plant site production volume parameter as a means of ensuring that sufficient information would be received.

The analysis also indicates that an exemption standard which contains only a production volume parameter would be inadequate, because it may not be a sufficiently accurate indicator of the financial or personnel resources available to a manufacturer for reporting and recordkeeping purposes. It also may fail to provide us with necessary information on low volume specialty chemicals produced by larger firms. The Agency would have to set the single parameter at a more stringent low level in order to ensure the receipt of necessary information.

According to the analysis, the use of a second parameter (whether sales or employee number) in addition to production volume would ensure that we would receive sufficient information, at any given total cost to the chemical industry, while targeting the exemption toward those firms with the fewest available resources. The use of two parameters therefore would enable us to achieve the desired balance between our information needs and our desire to reduce the reporting burden on small manufacturers.

The analysis further indicates that we should require manufacturers to meet both parameters in order to qualify for an exemption from reporting requirements. Otherwise, the standards are no different than a single parameter standard, and would not result in an optimal balance between information maximization and cost reduction.

Selection of parameter values. In evaluating different parameter values, we have remained mindful of the fact that the exemption standards are essentially intended to define "small", in terms of company resources and Agency information needs. There are, then, certain logical upper and lower limits to the range of parameter values.

In determining an upper limit, we are particularly concerned about the number of chemicals for which we would receive no reports under a given exemption standard. The analysis indicates that, as parameter values are increased, the number of zero-report cases also increases gradually as an average across the data base of 1459 chemicals employed in the analysis. Moreover, the data base includes a disproportionate number of high volume chemicals, causing the potential information loss for low- or medium-volume chemicals to be greater than the results of the analysis indicated.

For this proposal we have selected parameter values such that no more than 10 percent of all chemicals would be zero-report chemicals. We are concerned about losing access to information altogether, and believe it is reasonable to propose that this loss be limited to 10 percent of the chemicals.

We also prefer standards that maximize the number of individual manufacturing sites required to report, rather than the total number of reports. If we maximize the number of reports received under an exemption standard, we will receive more information from firms that produce a large number of higher-volume chemicals. However, by maximizing the number of locations reporting under an exemption standard, we will receive information which is representative of firms of different sizes. The potential for chemical exposure may vary among different sized firms, because these firms may produce the same chemicals with different production processes and techniques. Thus, we may need representative information to monitor the variations in production processes.

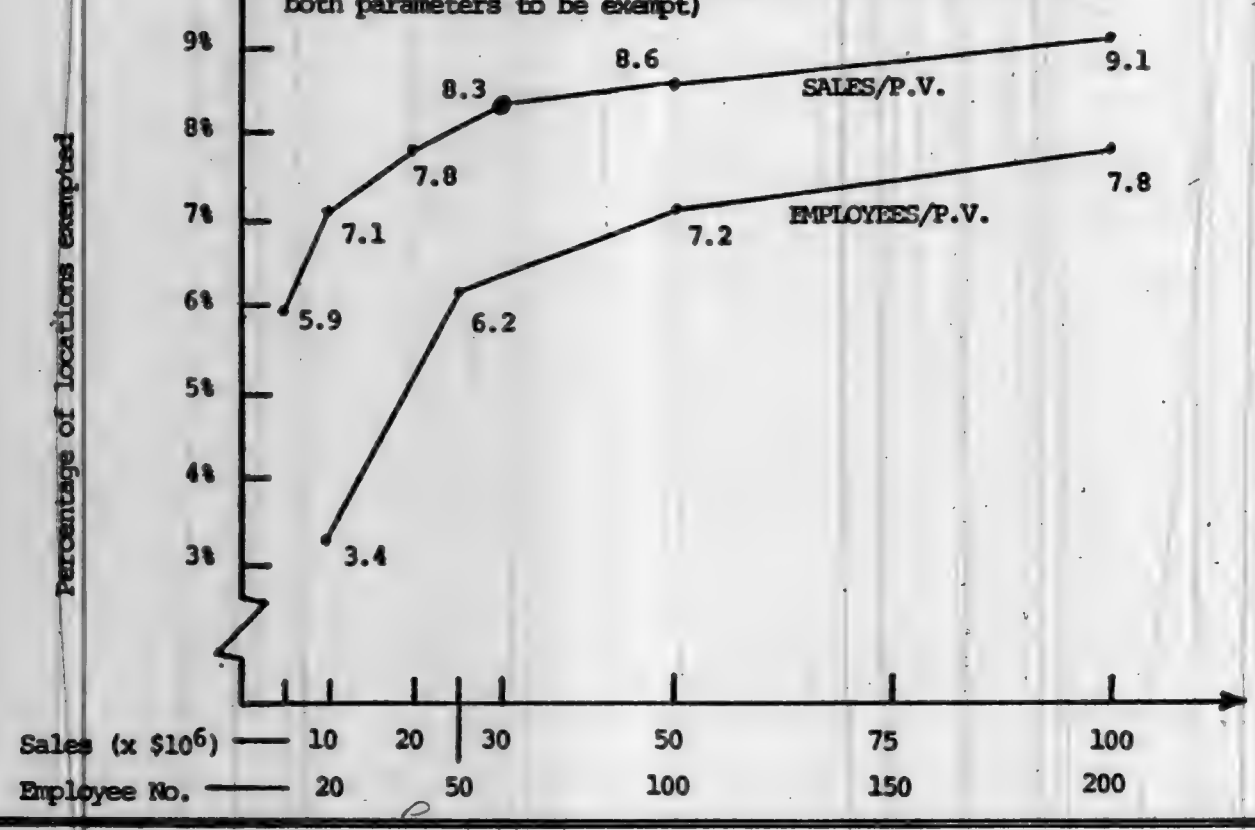
The analysis indicates that a combination of a low-value plant site production volume parameter and a high-value total sales or employee number parameter would maximize the number of locations required to report at any given total cost to the industry.

Value assigned to the production volume parameter. The first of our two proposed exemption standards contains an annual plant site production volume parameter of 45,400 kilograms (100,000 pounds) per chemical at each plant site. The 45,400 kilogram value would meet our need for exposure information, for two reasons. First 45,400 kilograms of a particular chemical is a significant amount to be handled at a single plant site. This level of production, and production quantities of greater than 45,400 kilograms, may result in a significant exposure potential. Second, 45,400 kilograms of production is a point at which the method of chemical manufacture may change from batch processing to a continuous process, the latter with a greater potential for increasing production volume.

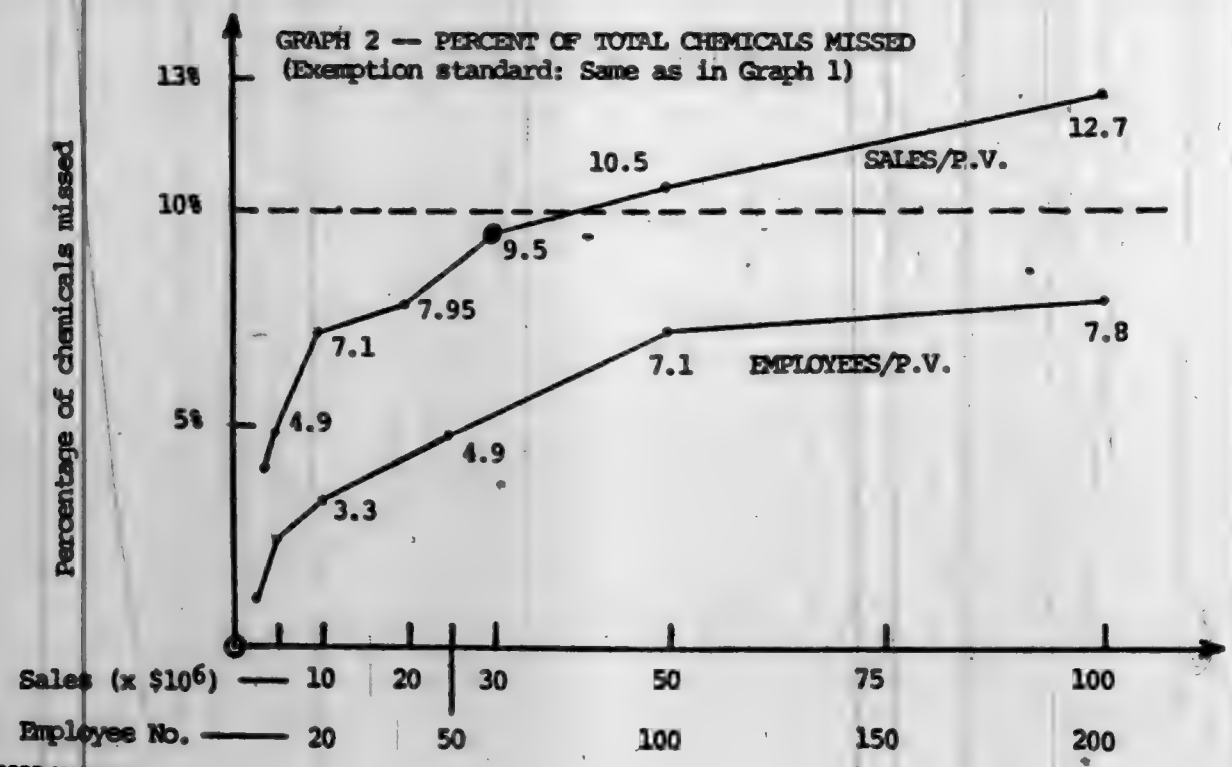
After selecting an appropriate value for the production volume parameter, we used the analysis data to identify possible values for the sales and employee number parameters. We identified values which would result in an exemption standard that would cause us to lose information on no more than 10 percent of all chemicals. These values also represent leveling-off points for each parameter, beyond which additional increases in the sales or employee number value would have only marginal effect on the number of exempted sites. According to the analysis, and as illustrated in Graphs 1 and 2, the leveling-off value for the sales parameter is approximately $30 million in total annual sales. The leveling-off point for the employee number parameter is approximately 100 employees.

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GRAPH 1 — PERCENT OF TOTAL LOCATIONS NOT REQUIRED TO REPORT
(Exemption standard: 45,400 kg. production volume and various sales and employee number parameters; locations must meet both parameters to be exempt)



GRAPH 2 — PERCENT OF TOTAL CHEMICALS MISSED
(Exemption standard: Same as in Graph 1)



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Sales preferred as second parameter. We have provisionally concluded that a sales parameter will best serve our purposes for the second parameter. A total annual sales parameter offers the primary advantage, previously described, of being the best publicly available approximation of a firm's financial resources on hand.

We recognize that employee number tends to reflect available personnel resources for reporting purposes, and that employee number does not share the sales parameter's requirement of periodic indexing to account for inflation. Nevertheless, both the analysis and industry comments have led us to conclude that employee number is a less accurate indicator of firm size than sales.

The analysis indicates that an exemption standard with employee number and production volume criteria would be less effective than one with sales and production volume parameters, in terms of the number of locations exempted. As demonstrated in Graph 1, the curve representing an employee number/production volume standard (with a production value of 45,400 kilograms) levels off at about 100 employees. Above this level, increases in the employee number value will have only marginal effect. However, when compared with the point at which the sales/production volume curve levels off, a standard with a 100 employee parameter would exempt fewer sites. We would have to assign a relatively high value to the employee number parameter (from 200 to 500 employees) to have a standard which exempts the same number of locations as the sales standard.

Moreover, an employee number parameter would not accurately identify "small" chemical firms, regardless of the value assigned to it, because there is a large degree of variability of employee number among chemical firms which have comparable financial resources available for reporting and recordkeeping. The analysis indicates that, within the chemical industry, employee number does not correlate well with sales revenue as a measure of company size. In addition, industry representatives have estimated that the personnel resources of firms with $30 million in total sales may range from 50 to over 300 employees.

The designation of a single average employee value to represent "small" chemical manufacturing firms would actually represent an extremely wide range of financial and personnel resources across the industry; some firms with substantial resources may qualify for an exemption, while other firms with limited resources may not. This variability severely reduces the value of employee number as an accurate measure of the resources available for reporting and recordkeeping.

Therefore, we are proposing exemption standards that include sales and production volume parameters, although the use of employee number, and the possible values for that parameter, remain alternatives on which we invite comment.

$30 million sales parameter. The combination of a $30 million sales parameter and a 45,400 kilogram production volume parameter, both of which must be met for a plant site to be exempt from reporting on a particular chemical, would exempt about 8.3 percent of the total number of plant sites. An increase in the sales value to $100 million would exempt only 0.8 percent more locations. Similarly, the analysis indicates that we would have 9.5 percent zero-report chemicals with a $30 million sales parameter, while a 100 million value would raise the percentage of chemicals missed to 12.74 percent, above the desired 10 percent level.

We are not relying solely on our analysis for the proposed sales parameter value. Industry representatives have noted, during meetings with EPA staff, that firms with sales of less than $30 million are generally viewed within the industry as "small"; firms with greater than $30 million in sales revenue were said to have different characteristics than smaller firms, in terms of management practices, the number of chemicals produced, and the capability of handling reporting and recordkeeping requirements.

Although we are proposing specific values for the sales and production volume parameters of the first exemption standard, we invite comment on alternative values for these two parameters, as well as employee number. These alternative values, and their effect on the number of zero-report chemicals, are listed in Table A below.

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TABLE A -- ALTERNATIVE PARAMETER VALUES

Exemption standards with 45,400 kilogram (100,000 pound) production volume parameter and various sales and employee number values:

SALES	PERCENT OF CHEMICALS MISSED	EMPLOYEE NUMBER	PERCENT OF CHEMICALS MISSED
$10 million	7.14%	20	3.26%
$30 million	9.5%	50	4.92%
$50 million	10.52%	100	7.14%
$100 million	12.74%	200	7.95%

Exemption standards with 454,000 kilogram (one million pound) production volume parameter and various sales and employee number values:

SALES	PERCENT OF CHEMICALS MISSED	EMPLOYEE NUMBER	PERCENT OF CHEMICALS MISSED
$10 million	7.75%	20	3.43%
$30 million	10.52%	50	5.4%
$50 million	11.72%	100	7.75%
-----	----	200	8.76%

Source: ICF Incorporated, Analysis of TSCA section 8(a) Small Manufacturer Exemption, May 1981.

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$3 million sales standard. We are also proposing the use of a second standard, independent of the one described above. The purpose of this additional standard is simply to ensure that there will be no burden on those manufacturers who are the smallest in terms of financial and personnel resources. We are proposing a sales parameter for this standard.

In selecting the value to be assigned to the second standard, we examined the approximately reporting costs for various sized firms, measured as a percentage of their net after-tax profits. In conducting this analysis, we estimated that the average cost per chemical report would be between $500 and $1500. We also made certain assumptions concerning profit as a percentage of sales revenue, and the average tax burden on manufacturing firms. We designated 0.5 percent of net after-tax profit as the maximum amount we would require firms to spend on a single report.

Using this analytical framework, we then determined that a firm with total annual sales revenue of $3 million would spend approximately 0.43 percent of its after-tax profit to produce a $1500 chemical report. This cost burden is below the designated maximum cost per report. We therefore propose that the second standard exempt all manufacturers with total annual sales of less than $3 million, regardless of the volume of the chemicals produced. We expect that larger manufacturers will provide representative information on most of the chemicals produced by firms with less than $3 million in sales.

Impact of the two exemption standards. Our analysis indicates that the combination of the $3 million sales standard and the two-parameter standard would exempt at least 36 percent of all firms that manufacture chemicals. The two standards would exempt 12.2 percent of the total number of manufacturing sites from reporting and recordkeeping requirements. The total reporting and recordkeeping cost to the chemical industry would be reduced by approximately 15 percent.

The proposed standards would enable us to achieve our purpose of defining "small" within the constraints of our information requirements. In addition to the fact that 100 percent of all firms with less than $3 million in sales would be exempt, our analysis indicates that 84 percent of firms with less than $5 million in sales would be exempt. The standards would also exempt over 62 percent of firms with less than $30 million in sales. Moreover, according to the analysis the manufacturing plant sites exempted would be concentrated among smaller firms, and the chemicals we would lose are primarily in the low- and mid-production volume range.

With regard to the potential information loss, the analysis indicates that the standards would result in our not receiving reports on approximately 10 percent of all chemicals in our sample data base of 1459 chemicals. The potential information loss may be significant when one considers the bias of the sample toward large volume chemicals.

In addition, we would not receive about 15 percent of the total number of reports we would have received had there been no exemption. However, the percentage of reports lost represents less than one percent of total industry production; while relatively large chemical firms do not account for all types of chemicals produced, they do represent 99 percent of total industry production volume.

We also examined the impact of the two standards using the public Inventory data (48,523 chemicals), and found that we would not receive reports on 15 to 20 percent or more of the total number of Inventory chemicals. These figures are only approximations, but they demonstrate that the proposed exemption values are at the upper limit of acceptable information loss.

VI. Public Comments

The Proposed Rule-Related Notice for this rule, published on October 6, 1980, (45 FR 66180), requested public comment concerning the form and contents of the small manufacturer exemption standards. We have received information from interested parties, and have met with industry representatives. Comments received, and minutes of meetings with industry representatives, are available in the public record of this rulemaking proceeding.

EPA solicits comments on the parameters and exemption values proposed in this rule. We will consider suggestions for alternative approaches or values for the exemptions. We also solicit information bearing on the use of an employee number parameter. In addition, we welcome the contribution by commenters of information about the general characteristics of the chemical industry as they pertain to the alternative parameters we have considered.

Requests for time to make oral comments must be made by telephone to the Industry Assistance Office, at the telephone number listed, above, at least 30 days prior to the end of the written comment period. The opportunity to submit oral comment will occur on August 23, 1982 at EPA Headquarters in Washington, D.C. For the exact time and location, call the Industry Assistance Office. The meeting will be open to the public, but participation will be limited to EPA personnel and those who make a request for oral comment.

If no one has requested time to make an oral presentation within the required time period, there will be meeting. Interested persons are advised to call the Industry Assistance Office to ascertain the status of the meeting.

VII. Other Statutory Requirements

A. Regulatory Flexibility Act

EPA has developed this rule in accordance with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The Act requires the Administrator to establish efficient, flexible regulatory procedures which have a minimal significant economic impact on small businesses. This rule, while imposing no direct economic burden on small businesses, will reduce the impact to TSCA section 8(a) reporting and recordkeeping rules on small chemical manufacturers by enabling identification of manufacturers who qualify for a section 8(a) exemption.

This preamble and its underlying analysis should be viewed in combination as a Regulatory Flexibility Analysis within the meaning of the Regulatory Flexibility Act. The preamble contains as a discussion of the legal basis, purpose, and content of this rule. The preamble also contains a discussion of relevant issues and comments received, as well as a summary of our analysis of alternative parameters and exemption values. The contractor analysis compared the impacts of various alternative exemption standards.

As required by the Regulatory Flexibility Act, EPA is requesting and considering the comments and suggestions of all interested persons. EPA has requested comments on this rule from the Chief Counsel for advocacy of the Small Business Administration.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., authorizes the Director of the Office of Management and Budget to review certain information requests by Federal agencies. The small manufacturer exemption standard, while associated with the information collection requirements of TSCA section 8(a), is not itself a requirement for the collection of information. This proposed rule is

therefore not subject to the requirements of the Paperwork Reduction Act. It will, however, accomplish the objectives of the Act. The exemption will reduce the regulatory burden on small businesses to a minimum level which is consistent with our information needs.

VIII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not a Major rule.

This rule contains exemption standards, and is intended to reduce regulatory compliance costs to small chemical manufacturers under future rules. We will analyze the impact of the reporting and recordkeeping rules that contain these standards as each of those rules is proposed. The exemption standards by their nature will not adversely affect employment, investment, productivity, or innovation, and will not have a significant adverse effect on competition.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments will be available for public inspection at Room E-107, 401 M St., SW., Washington, D.C. 20460 (docket number OPTS-80011A).

IX. Rulemaking Record

The following documents constitute the administrative record for this rule (docket number OPTS-8011A). All documents are available to the public in the OPTS Reading Room, 8:00 a.m. to 4:00 p.m. weekdays (Room E-107, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) The Proposed Rule-Related Notice (45 FR 66180 (1980)).

(2) Written comments received in response to the Proposed Rule-Related Notice.

(3) Minutes of all meetings between EPA personnel and persons outside the Agency pertaining to the development of this rule.

(4) Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule.

(5) Inter- and intra-agency memoranda and communications which are specifically noted in the index of the record for this rule.

(6) Comments received on this notice.

(7) The Independent Contractor Analysis of the TSCA Section 8(a) Small Manufacturer Exemption.

EPA will identify the complete rulemaking record on or before the date of promulgation of this rule, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between the date of this notice and that designation. The final rule will also permit persons to identify errors or omissions in the record.

List of Subjects in 40 CFR Part 704

Environmental protection, Imports, Hazardous materials, Recordkeeping and reporting requirements.

(Sec. 8(a)(3)(B), Pub. L. 94-469, 90 Stat. 2027; 15 U.S.C. 2607(a)(3)(B))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

Therefore, it is proposed that Part 704 of Chapter I of 40 CFR be amended by adding Subpart D consisting at this time of § 704.65 to read as follows:

PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS

Subparts A-C—[Reserved]

Subpart D—Exemptions

Sec.
704.65 Persons who are small manufacturers.

Authority: Section 8(a)(3)(B), Toxic Substances Control Act, Pub. L. 94-469 (90 Stat. 2027, 15 U.S.C. 2607(a)(3)(B)).

Subparts A-C [Reserved]

Subpart D—Exemptions

§ 704.65 Persons who are small manufacturers.

(a) *Scope.* (1) Under the authority of section 8(a)(3)(B) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a)(3)(B), this rule sets forth standards identifying small manufacturers (including importers) of chemical substances or mixtures. Except as stated in paragraph (a)(2) of this section, the manufacturers who qualify as "small" under the standards contained in paragraph (c) of this section are exempt from rules promulgated under the authority of section 8(a) after June 23, 1982.

(2) Notwithstanding this exemption, the Administrator may, for any rule promulgated under section 8(a), require reporting or recordkeeping from any small manufacturer of a chemical substance or mixture that is subject to a rule proposed or promulgated under TSCA sections 4, 5(b)(4), or 6, or is subject to an order in effect under TSCA section 5(e), or is the subject of relief that has been granted under a civil action brought under TSCA section 5 or 7.

(b) *Definitions.* The definitions in section 3 of TSCA apply for this part. In addition, the following definitions apply.

(1) "Annual" means the corporate fiscal year.

(2) "Domestic" means within the geographic boundaries of the United States, and including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(3) "Importer" means anyone who imports a chemical substance, in pure form or as part of a mixture or article, into the customs territory of the U.S., and includes:

(i) The person liable for the payment of any duties on the merchandise, or

(ii) An authorized agent on his behalf. Importer also includes, as appropriate:

(A) The consignee.

(B) The importer of record.

(C) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(D) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(4) "Manufacturer" means a person who imports, produces or manufactures a chemical substance or mixture. A manufacturer may own or control one or more manufacturing sites. A manufacturer may be owned or controlled by a foreign or domestic parent company.

(5) "Own or control" means ownership of 50 percent or more of a company's voting stock or other equity rights, or the power to control the management and policies of that company.

(6) "Parent company" is a company that owns or controls another company.

(7) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or other business entity.

(8) "Production volume" means the quantity of a chemical substance or mixture which is produced by a manufacturer, as measured in kilograms or pounds.

(9) "Site" means a contiguous property unit. Property divided only by a right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(10) "Total annual sales" means the total annual revenue (in dollars) generated by the sale of all products of a manufacturer. Total annual sales must include the total annual sales revenue of all sites owned or controlled by that manufacturer, and the total annual sales revenue of that manufacturer's foreign or domestic parent company, if any.

(11) "TSCA" means the Toxic Substance Control Act.

(c) *Standards for small manufacturer definition.* A manufacturer must meet either of the following standards to qualify as a small manufacturer under TSCA section 8(a):

(1) *First standard.* A manufacturer is small if its total annual sales, when combined with those of its parent company (if any), are less than $30 million. However, if the annual production volume of a particular chemical substance or mixture at any individual site owned or controlled by the manufacturer is greater than 45,400 kilograms (100,000 pounds), the manufacturer shall not qualify as small for purposes of reporting on the production of that chemical substance or mixture at that site, unless the manufacturer qualifies as small under paragraph (c)(2) of this section.

(2) *Second standard.* A manufacturer is small if its total annual sales, when combined with those of its parent company (if any), are less than $3 million, regardless of the quantity of chemicals produced by that manufacturer.

[FR Doc. 82-16794 Filed 6-21-82; 8:45 am]

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Wednesday
June 23, 1982

Part III

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment and Instruction of Inmates; Final Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

Control, Custody, Care, Treatment and Instruction of Inmates; Suicide Prevention Program

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is publishing a final rule on its Suicide Prevention Program. This rule gives guidelines for Bureau of Prisons' management of potentially suicidal inmates. Each institution is to have a full-time staff member who will serve as Program Coordinator for the institution's suicide prevention program. This program is intended to help the Bureau of Prisons fulfull its responsibility for monitoring the health and welfare of individual inmates, and for ensuring that procedures are pursued to help preserve life.

EFFECTIVE DATE: July 26, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on the Suicide Prevention Program. This subject was previously published as a proposed rule January 26, 1982 (at 47 FR 3755). Interested persons were invited to submit comments concerning the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered, but receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rulemaking since the rule involves agency management. After review of the law and the regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Other Comments

1. Section 549.70—Section 549.70 is rewritten although its basic intent is unchanged. The rule requires that the Warden designate in writing a full-time staff member to serve as Program Coordinator for the institution suicide prevention program. Internal staff instructions state that the Program Coordinator is ordinarily the chief psychiatrist or chief psychologist. If the institution does not have a full-time psychiatrist or psychologist the program responsibility is assigned to the Hospital Administrative Office or to a full-time physician with consultation obtained from a contract psychiatrist or psychologist.

2. Section 549.71—Section 549.71(c) is revised to require that the Program Coordinator, at a minimum, use the techniques listed in § 549.71(c)(1)–(3). Section 549.71(d), Coordinator's assessment, is new. This section states procedures for the Program Coordinator to follow after meeting with the referred inmate. If the Program Coordinator determines that the inmate is not potentially suicidal, this conclusion and the basis for it is to be placed in writing and attached to the initial referral. If the Program Coordinator believes that a potential for suicide exists, the maintenance procedures given in final § 549.71(e), formerly proposed § 549.71(d), are to be initiated immediately. New § 549.71(e) substitutes the phrase "immediate reassignment of housing" for "temporary reassignment of housing" to better identify the intent of this maintenance technique. Proposed § 549.71(e)–(f) become final § 549.71(f)–(g). Section 549.71(g) substitutes the phrase "companions" for "suicide prevention aides." Persons selected as "companions" are not considered, as suggested by a commenter, "inmate hospital workers." Companions are persons trained by psychology services staff. The companion's role is to monitor potentially suicidal inmates at such times when sufficient staff are unavailable. The companion will have visual and verbal interaction, and a means to contact staff immediately. The companion will not have physical contact with the potentially suicidal inmate.

In response to public comment, internal implementing instructions to this rule recognize that a suicide prevention program is of particular importance in facilities housing pretrail inmates.

List of Subjects in 28 CFR Part 549

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V, is amended by adding Part 549, Subpart F.

Dated: June 15, 1982.

Norman A. Carlson,

Director, Bureau of Prisons.

In Part 549, add Subpart F to read as follows:

PART 549—MEDICAL SERVICES

* * * * *

Subpart F—Suicide Prevention Program

Sec.
549.70 Purpose and scope.
549.71 Suicide prevention program.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4005, 4042, 4081, 4082, 4161–4166, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart F—Suicide Prevention Program

§ 549.70 Purpose and scope.

The Bureau of Prisons provides guidelines for the management of potentially suicidal inmates. While such occurrences as suicide attempts cannot be totally eliminated, the Bureau of Prisons is responsible for monitoring the health and welfare of individual inmates, and for ensuring that procedures are pursued to help preserve life. Towards fulfillment of this objective, each Warden shall designate in writing a full-time staff member to serve as Program Coordinator for an institution suicide prevention program.

§ 549.71 Suicide prevention program.

The Program Coordinator shall ensure that the institution's suicide prevention program contains the following elements:

(a) *Identification.* Staff at each institution shall be trained (ordinarily by psychology services personnel) to recognize those signs exhibited by an inmate that may be indicative of a potential suicide.

(b) *Referral.* Staff shall immediately refer to the Program Coordinator any inmate who exhibits behavior indicative of a potential suicide. Documentation of the referral shall be placed in the inmate's medical file.

(c) *Crisis Intervention.* Upon receipt of a referral, the Suicide Prevention Program Coordinator is to immediately initiate appropriate crisis intervention techniques. These techniques shall include, but are not limited to, the following:

(1) Meeting with the inmate;

(2) Demonstrating a caring concern; and

(3) Not leaving the inmate unattended.

(d) *Coordinator's assessment.* If the Program Coordinator determines after

meeting with the inmate that the inmate is not potentially suicidal, the Program Coordinator shall state in writing the basis for this conclusion. This document is attached to the initial referral and placed in the inmate's medical file.

If the Program Coordinator determines that there is a potential for suicide, the maintenance procedures given in paragraph (e) of this section will be initiated immediately.

(e) *Maintenance.* The Program Coordinator shall arrange for the inmate identified as a potential suicide to be maintained under frequent observation. The Program Coordinator shall also utilize other appropriate maintenance techniques. Examples of such techniques include, but are not limited to, immediate reassignment of housing, increased contact with those staff members with whom the inmate has developed a positive relationship, and the provision of treatment services.

(f) *Documentation.* Staff shall document in the inmate's medical file all efforts made on behalf of the potentially suicidal inmate.

(g) *Training.* The Program Coordinator shall ensure that both staff and selected inmates are provided training in suicide prevention techniques. Staff shall receive this training as part of their annual refresher training. Selected inmates shall be trained as "companions", to perform specified functions in helping to monitor suicide-prone inmates. Inmates selected as "companions" shall receive compensation for time spent monitoring a potentially suicidal inmate.

[FR Doc. 82-16029 Filed 6-22-82; 8:45 am]
BILLING CODE 4410-05-M

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28 CFR Part 552

Control, Custody, Care, Treatment and Instruction of Inmates; Use of Force and Application of Restraints on Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document contains the Bureau of Prisons final rule on Use of Force and Application of Restraints on Inmates. The rule describes Bureau of Prisons policy in respect to the use of restraints, chemical agents, and force. The rule authorizes the use of physical restraints on an inmate who becomes violent or displays signs of imminent violence. The use of chemical agents is authorized when the inmate is armed, and/or barricaded, or cannot be approached without danger to self or others, and where a delay in controlling the situation would constitute a serious hazard to the inmate or others, or result in a major disturbance or major property damage. The rule also states that staff may use only the amount of force necessary to ensure the safety of the inmate, staff, and others, and to protect government property.

EFFECTIVE DATE: July 20, 1982.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street, NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is publishing its final rule on Use of Force and Application of Restraints on Inmates. This subject was published in the **Federal Register** as a proposed rule January 12, 1979 (at 44 FR 2988).

Interested person were invited to submit comments on the proposed rule. Members of the public may submit further comments concerning this rule by writing the previously cited address. These comments will be considered but will receive no further response in the **Federal Register.**

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this set of rulemaking since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub, L. 96-354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. *Section 552.20*—The phrase "a cell in" is added to § 552.20 to clarify the example given. A commenter to § 552.20 expresses concern that the term "imminent violence" is not defined. The commenter suggests that the Bureau list applicable situations to guide staff on the use of physical restraints. This guidance already exists. Section 552.21(a)(1)–(a)(4) givens four situations warranting the use of restraints. Section 552.21(a)(5) allows the use of restraints when the inmate displays signs that such violence (as indicated in § 552.21(a)(1)–(a)(4)) may be imminent.

2. *Section 552.21*—This section is retitled "Use of restraints." For clarity, § 552.21(a) substitutes the phrase "may authorize and will ordinarily supervise" for "may apply or supervise." The scope of § 552.21(a)(2) is clarified to specifically authorize the use of restraints to prevent an inmate from destroying government property (for example, a commode or sink in the inmate's cell). Section 552.21(b) is expanded. The phrase "in a cell" is added to indicate the intent of this section. Another revision authorizes the Warden's designee (was "duty officer" in the proposed rule) to act on behalf of the Warden. A third revision to § 552.21(b) allows staff to temporarily apply restraints to an inmate when immediate action is necessary to prevent the inmate from hurting self, staff, or others, and/or to prevent the destruction of government property. After taking this immediate action, staff are to notify the Warden or designee for a decision on the continued use of restraints. Except where the immediate use of restraints is required, the Warden or designee must give prior approval to the use of restraints while an inmate is in a cell in administrative detention or disciplinary segregation.

A commenter to § 552.21(c) and (d) suggested that inasmuch as "acting out" is more a mental health than medical problem, the emphasis in these sections should be placed on mental health, not medical staff. This emphasis is not considered necessary. The rule requires that staff seek the assistance of mental health or medical staff. In some situations, it is possible that mental health and medical staff will jointly attempt to resolve the situation. The specific assistance requested, however, will depend on the given situation. To reflect this fact, § 552.21(d) now states that when an inmate appears to require continuing care (as opposed to "mental health care" in the proposed rule), the deciding staff (mental health or medical staff) shall assume responsibility for the inmate. This section recognizes that such care may require the inmate's admission to the institution hospital.

Section 552.21(e) is rewritten. A commenter states that when it is necessary to restrain an inmate for an excessive period of time (referring to the proposed rule's "longer than 24 hours"), the Bureau should take immediate steps to transfer the inmate to a hospital or to have trained medical staff apply the restraints and supervise the inmate. Another commenter believed the proposed rule allowed "potentially harmful treatment". This commenter suggested that medical surveillance every 30 minutes should begin immediately and that both the Warden's permission and a physician's permission be required for the continued use of restraints beyond 30 minutes.

We do not agree that permission of the Warden and physician should be

required for the use of restraints beyond 30 minutes. The rule identifies when restraints may be used. Internal staff instructions to the rule state that restraints should remain on the inmate until self-control is regained, and suggest that mental health and medical staff may be consulted as to the appropriate time to remove the restraints. These guidelines clearly set a framework on the use, and removal, of restraints.

The final rule addresses other concerns of commenters. The time frame in § 552.21(e) has been reduced from 24 hours to 8 hours. While we do not expect that it will often be necessary to use restraints on an inmate for even as much as eight hours, the intent of § 552.21(e) is to ensure medical involvement if this does occur. Prior to that time, other staff are quite capable of both applying restraints to, and supervising the inmate. While the rule allows for the inmate to be transferred to a hospital, this approach is not always realistic. A hospital room may not be available. The inmate's behavior may require housing in a location more secure than a hospital. A commenter seems to address this point in stating that a person who remains violent after a short period of time should be placed temporarily in a cell where the individual can't do any serious damage. Placement in a more secure location might also reduce the need for the use of restraints. Because the institution hospital may not be the appropriate setting for the inmate, the final rule deletes the requirement that restraints be attached to a hospital bed. Where necessary, the inmate may be restrained to an appropriate bed, approved by medical staff. The final rule retains the requirement that restraints be checked at least every 30 minutes, both to check the general welfare of the inmate and to ensure that the restraints are not hampering circulation. When an inmate is restrained to a bed, staff are to periodically rotate the inmate's position to avoid soreness or stiffness.

Because § 552.21(e) allows an inmate to be restrained to an appropriate bed, approved by medical staff, § 552.21(f) adds the qualifying phrase, "Except as stated in paragraph (e) above". The final rule gives grill work as another example of a "fixed object".

A commenter to §§ 552.20 and 552.21 states that these two sections do not describe or define the type of physical restraints nor indicate which restraints are appropriate for different situations. It is not considered feasible to include this information in the rule. The type of restraints may include handcuffs, leg irons, etc., with staff expected to use only those restraints necessary to gain control of the inmate. Internal staff instructions specifically address other concerns of the commenter by stating (1) that restraints may not be applied as punishment, (2) that restraints should be used only when other effective means of control have failed or are impractical, and (3) that restraints should remain on the inmate only until self-control is regained. We do not agree with a comment that the Warden should approve the use of restraints. The correctional supervisor in charge of the shift is qualified to decide, within the limits of this rule, when restraints should be applied. In support of their position that the Warden should approve the use of restraints, the commenter cited the Commission on Accreditation for Corrections (CAC) Standards for Adult Correctional Institutions (Standard 4189). Since publication of the proposed rule a second edition of CAC Standards has been published. The Bureau of Prisons rule is consistent with Standard 2-4185 which allows the Warden or designee to approve the use of restraints.

3. *Section 552.22*—Section 552.22, "Use of force", is new. The new language expands information contained in § 552.20 and allows staff to apply restraints (for example, handcuffs) to an inmate who continues to resist after staff achieves physical control of the inmate. The rule also recognizes that staff may physically lift and move to another area an inmate who refuses to move on his own accord.

4. *Section 552.23*—Proposed § 552.22 becomes final § 552.23. The term "chemical agents" is substituted for "chemical restraints" in the first sentence of §552.23. Section 552.23(a) states that chemical agents may be used when an inmate is either armed or barricaded, rather than armed and barricaded, provided that a delay in controlling the situation would constitute a serious hazard to the inmate, others, or result in a major disturbance or major property damage. Section 552.23 substitutes the phrase "self or others" for "personnel or to self". Internal Bureau directives are responsive to the concerns of commenters that chemical agents should be used only by individuals trained in its use, and that measures be taken to protect those inmates not involved in the disruptive action. Comments that the use of chemical agents should only occur when no other methods are sufficient are addressed in § 552.23. This section clearly identifies when chemical agents may be used.

5. *Section 552.24*—Proposed § 552.23 becomes final § 552.24. The final rule is expanded to state that a report is to be prepared when chemical agents are used. We do not believe it necessary to adopt a comment that all uses of restraints be accompanied by an affidavit. The required report will ensure that documentation is available.

List of Subjects in 28 CFR Part 552

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below:

In Subchapter C, Part 552, Subpart C is added.

Dated: June 15, 1982.

Norman A. Carlson,

Director, Bureau of Prisons.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

In Subchapter C, Part 552, Subpart C is added to read as follows:

PART 552—CUSTODY

* * * * *

Subpart C—Use of Force and Application of Physical Restraints on Inmates

Sec.

552.20 Purpose and scope.
552.21 Use of restraints.
552.22 Use of force.
552.23 Use of chemical agents.
552.24 Documentation.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart C—Use of Force and Application of Physical Restraints on Inmates

§ 552.20 Purpose and scope.

The Bureau of Prisons authorizes application of physical restraints on an inmate who becomes violent or displays signs of imminent violence. When an inmate behaves violently or displays signs of imminently becoming violent, staff shall use only that amount of force necessary to ensure the safety of the inmate, staff, and others, and to protect government property. This rule does not restrict the use of restraints in situations requiring precautionary retraints, particularly in the movement or transfer of inmates, e.g., the use of handcuffs in moving inmates to and from a cell in detention.

§ 552.21 Use of restraints.

(a) The correctional supervisor in charge of the shift may authorize and will ordinarily supervise the application of restraints necessary to gain control of an inmate who appears to be dangerous because:

(1) The inmate assaults any person;

(2) The inmate destroys government property;

(3) The inmate attempts suicide;

(4) The inmate inflicts wounds upon self; or

(5) The inmate displays signs that such violence may be imminent.

(b) Except where the immediate use of restraints is required for control of the inmate, staff may apply restraints to, or continue the use of restraints on, an inmate while in a cell in administrative detention or disciplinary segregation only with approval of the Warden or designee. Where immediate use of restraints is indicated, staff may temporarily apply such restraints to an inmate to prevent that inmate from hurting self, staff, or others, and/or to prevent the destruction of government property. When the temporary application of restraints is determined necessary, the Warden or designee is to be notified immediately for a decision on whether the use of restraints should continue.

(c) Staff shall seek the assistance of mental health or medical staff upon gaining physical control of the inmate. Where possible, staff shall seek such assistance at the onset of the violent behavior.

(d) Where mental health or medical staff determine that an inmate requires continuing care, the deciding staff shall assume responsibility for care of the inmate, to include possible admission to the institution hospital.

(e) When it is necessary to restrain an inmate for longer than 8 hours, staff shall apply to the inmate medically acceptable restraints (ordinarily leather). The restraints may be attached to an appropriate bed, approved by medical staff. Staff shall check the inmate at least every 30 minutes, both to ensure that the restraints are not hampering circulation and for the general welfare of the inmate. When an inmate is restrained to a bed, staff shall periodically rotate the inmate's position to avoid soreness or stiffness.

(f) Except as stated in paragraph (e) of this section, staff may not secure an inmate to a fixed object, such as a cell door or grill work.

§ 552.22 Use of force.

Staff shall use only that force necessary to gain control of the inmate. Staff shall apply restraints (for example, handcuffs) to the inmate who continues to resist after staff achieve physical control of that inmate. If, after being controlled or restrained, the inmate refuses to move to another area on his own, staff may physically move that inmate by lifting and carrying the inmate to the appropriate destination.

§ 552.23 Use of chemical agents.

The Warden may authorize the use of chemical agents only when the situation is such that the:

(a) Inmate is armed and/or barricaded; or

(b) Cannot be approached without danger to self or others; and

(c) It is determined that a delay in bringing the situation under control would constitute a serious hazard to the inmate, others, or result in a major disturbance or major property damage.

§ 552.24 Documentation.

Staff shall document in writing all incidents involving the use of force or chemical agents. Staff shall also document in writing the use of restraints on an inmate who becomes violent or displays signs of imminent violence. A copy of the report shall be placed in the inmate's central file.

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June 23, 1982

Part IV

Department of Health and Human Services

Office of Child Support Enforcement

Child Support Enforcement Research Demonstration Grants; Notice of Availability of FY 1982 Funds

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Child Support Enforcement Research Demonstration Grants; Notice of Availability of Fiscal Year 1982 Funds

The Director of the Office of Child Support Enforcement gives notice of the availability of fiscal year 1982 funds for child support enforcement research and demonstration (R&D) grants. Funding for grants is authorized under Section 1110 of the Social Security Act.

The closing date for fiscal year 1982 request for grants will be Friday, August 13, 1982.

Program Purpose

Grants funded by OCSE are for research or demonstration projects which will add to existing knowledge and improvements of new methods and techniques for the planning, management, coordination and delivery of child support enforcement activities related to the eligible population.

Program Goals

In general, the Office of Child Support Enforcement (OCSE) intends to support the following types of projects:

(1) Those which develop and demonstrate new performance assessment mechanisms, administrative procedures, and technological innovations for improving the effectiveness and efficiency of child support enforcement programs at the State and local levels.

(2) Those which develop more knowledge on the characteristics and financial needs of a target group.

(3) Those which develop and implement analytical models for comparing the relative merits of alternative methods for carrying out the child support enforcement programs.

(4) Those which develop and demonstrate more effective linkages between child support enforcement programs and related programs such as medical assistance, unemployment compensation, etc.

Program Priorities for Research and Demonstration Funding

Research and demonstration projects will be directed toward priorities derived from State administration and program issues. OCSE has identified certain specific priority projects which reflect these administrative program issues, and they are listed below.

Applicants may also submit proposals for projects not specifically identified in this announcement but which are relevant to the SSA and OCSE program goals. These proposals will be designated as nonpriority but will also be subject to the panel review process. A limited number of projects may be approved pending available funds and will compete with other nonpriority projects.

Priority Projects

Fiscal Year 1982 Projects

Study of IV-A/IV-D Referral Feedback Process—OCSE-82-1. Currently AFDC applications are handled by the IV-A (AFDC) agency and those cases with absent parents are referred to the IV-D (Child Support Enforcement) agency to attempt to secure child support payments. It is crucial for effective program operation that IV-A workers refer cases to IV-D workers, and that IV-D workers provide feedback about those cases to IV-A workers. In addition, the AFDC agencies must inform CSE agencies about changes coming to the attention of the AFDC agency on a continuous basis. Little has been studied about the two-way communication process, the forms that it takes, the extent of its effectiveness, the best ways to organize it, or any Federal, State, or local impediments to an effective referral/feedback process both initially and on a continuing basis.

The process needs to be reviewed from a legal point of view (to see what is intended to be done in this area), from a systemic point of view (a description of all levels of the system from Federal to State to County to Local Office to determine what IV-D/IV-A officials have designed), and followed up with the analysis of a sample of cases (to see what is actually being done in the referral/feedback process). Descriptions of five representative State systems should be accomplished with a case analysis in one site per State. The study should conclude with a set of concrete recommendations, based on firm data and observations, about how the referral/feedback process can be improved at every level for both the initial referral process and the update process.

It is anticipated that one grant in Section 1110 funds will be awarded for one year for up to $100,000.

The Costs of Benefits of Paternity Establishment—OCSE-82-2. Based on recent census data, the number of children living with unwed mothers tripled between 1970 and 1978. In addition, the unwed mother is ten times less likely to receive child support payments from the father as is a divorced mother. With the enactment of child support and establishment of paternity legislation in 1974, each State is required to identify the natural fathers and to seek support orders. The procedures followed to establish paternity vary considerably from jurisdiction to jurisdiction and meet with varying degrees of success.

The intent of this grant is to look at how to lower the cost of the paternity establishment process and to quantify the benefits, over time, of establishing paternity early on and then, if necessary, following up in later years to collect support when there is an ability to pay on the part of the father.

The activities of this project will include cataloging and describing a wide range of current scientific techniques used in establishing paternity, innovative administrative procedures, and legal decisions. Also, a cost/benefit analysis will be conducted taking into account a wide variety of benefits on a long-term basis as well as the costs of establishing paternity. A cost/benefit model of paternity establishment would then be applied in two sites using different approaches to the establishment of paternity. The results will be analyzed in order to (1) lower the cost of the paternity establishment process and (2) through quantification, establish an awareness of a broader view of benefits.

The funding level available is $150,000 in Section 1110 funds. The grantee should contribute at least 5 percent of the total project costs. The project will have a one year duration.

IV-A/IV-D Eligibility Extension—OCSE-82-3. This project involves a determination of the degree to which an extension of the eligibility of AFDC recipients until child support payments equal or exceed the AFDC grant for three consecutive months (or more at the option of the applicant) could: (1) Alter caseload participation and termination rates; (2) increase or decrease net AFDC benefit costs; (3) increase net "medically needy" and "categorically needy" (Medicaid) cost; (4) lower IV-A and IV-D administrative costs and burden, and/or result in any IV-A or IV-D cost avoidance; (5) reduce the number of recipients placed in economic hardship due to the irregularity of child support payments and the termination of AFDC benefits because of irregular child support payments; and, (6) increase or decrease retained child support collections.

The project will require waivers of the following provisions of the Social Security Act (SSA) and the Code of Federal Regulations (CFR):

1. Section 402(a)(1)—SSA—Statewideness;

2. Section 402(a)(5)—SSA—Methods of Administration, and 45 CFR 232.20(a)(1)—Notification of Title IV–A Agency by Title IV–D Agency of Child Support Collection Amount and Redetermination of AFDC Eligibility; and,

3. Section 402(a)(7)—SSA—Income and Resources.

It is anticipated that one grant will be awarded for two years not to exceed $25,000 per year. The initial award will be for a 12-month period and a subsequent grant will be awarded for an additional 12 months depending upon satisfactory performance and the availability of funds.

Since Section 1115 waivers are required for this project, applications for this project will be accepted only from State IV–A agencies.

Improving Interstate Child Support Collections—OCSE–82–4. Although the Child Support Enforcement program may be cost-effective in some States at the present time, an analysis of recent data indicates that expenditures have increased at a much faster rate than collections. If this current trend continues unchecked, total program costs will outstrip total collections in a few years. Broader application of proven management techniques and beneficial State practices already in use in many States need to be encouraged and stimulated. One area of potential improvement is the strengthening of interstate enforcement activities through alterations in the crediting of interstate collections.

At present, available data makes it difficult to locate and account for interstate funds. The grantee will examine the flow of interstate child support collections, with special attention to cost allocation between requesting and responding States in from two to five States and three to seven jurisdictions, for both AFDC and NAFDC cases. The grantee will also identify, describe, and study both persisting and emergent problems in securing, accounting for, and counting interstate collections. Emphasis will be on developing measures that strengthen the data collection and accountability within and between States for interstate collections. No data are publicly available on volume of collections by State for States' use in collection efforts. The grantee must be able to offer evidence that a preponderance of jurisdictions selected for study have been successful in making interstate collections. Both success factors and barriers to collection and accountability for collection will be identified through study of programs in the sample jurisdictions. Both jurisdictions using administrative methods and those employing a Uniform Reciprocal Enforcement Support Act (URESA) approach will be studied.

It is anticipated that one grant in Section 1110 funds will be awarded for one year for up to $250,000.

Eligible Applicants

Section 1110 Grants. Any State, public, or nonprofit organization or agency may apply for a grant under the Section 1110 authority. Only State IV–A agencies may apply for support under project OCSE–82–3.

Availability of Funds

It is anticipated that approximately 4 new grant awards will be made pursuant to this announcement in FY '82. Anticipated amounts are:

Fiscal year 1982 Projects

OCSE–82–1 (Study of IV–A/IV–D Referral Feedback Process). It is anticipated that one grant of up to one year for up to $100,000 will be awarded.

OCSE–82–2 (The Cost and Benefits of Paternity Establishment). It is anticipated that one grant of up to one year for up to $150,000 will be awarded.

OCSE–82–3 (IV–A/IV–D Eligibility Extension). It is anticipated that one grant will be awarded for two years not to exceed $25,000 per year. The initial award will be for a 12-month period and a subsequent grant will be awarded for an additional 12 months depending upon satisfactory performance and availability of funds.

OCSE–82–4 (Improving Interstate Child Support Collections). It is anticipated that one grant of up to one year for up to $250,000 will be awarded.

Recipient Share of the Project Costs

Applicants for grants are expected to contribute some portion of the total cost of the activity in order to receive consideration for funding. Generally 5 percent of the total cost of the project is considered acceptable. No grant will be awarded which will cover 100 percent of project costs.

The Application Process

1. *Availability of application forms.* Application Kits which contain the prescribed application forms and supplemental descriptive information on the priority projects of the Office of Child Support Enforcement are available from: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, First Floor, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (301) 594–0284, Lawrence H. Pullen, Chief, Grants Management Branch.

2. *Application submission.* To be considered for a grant award, all applications must be submitted on standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for the applicant agency or organization and to assume for the agency or organization the obligations imposed by the terms and conditions of the grant.

As part of the project title (page 1 of the application Form SSA–96, item 7) the applicant must clearly indicate whether the application submitted is in response to a priority project identified in this announcement and must reference the unique project identifier (OCSE–82–1, etc.) for which the application is to compete.

3. *Application consideration.* Applications are initially screened for relevance to the interests of OCSE. Irrelevant applications are returned to the applicant. Relevant applications are reviewed and evaluated by a review panel of not less than three experts. Written assessment of each application is made.

4. *Application approval.* Following approval of the applications selected for funding, financial assistance awards will be issued within limits of Federal funds available. The FY '82 grant awards will be issued in September 1982. The official award document is the Notice of Grant Award. It provides the amount of funds awarded, the purpose of the award, the budget period for which support is given, the total project period for which support is contemplated, and the total grantee participation.

Criteria for Review and Evaluation of Applications

Competing applications will be reviewed and evaluated against the following criteria.

1. *Research or Demonstration Design.* Understanding the scope of the work statement and the proposed technical approach to the requirement. This includes clarity of goals and objectives. (30 points)

2. *Knowledge.* Knowledge of the field, literature, and background presentation material. Assurance of timely and acceptable performance. (10 points)

3. *Reasonableness.* Reasonableness of the proposal. Does it make sense? Can it be done? Is the work-hour effort and types of workerpower to complete the

project reasonable? (15 points)

4. *Experience.* Prior experience and/or new approaches or ideas in the branch of the technology or field involved. (10 points)

5. *Relevance.* Relevance of proposal to HHS priorities and goals; and to the purposes of these grants. (25 points)

6. *Personnel, Budget, and Facilities.* Availability and competence of specific kinds and numbers of experienced personnel. (5 points)

Specificity and adequacy of the budget for these projects. Are costs reasonable and adequately described considering the anticipated results?

Availability of necessary facilities, equipment, convenient location, etc.

7. *Utilization.* Quality of evaluation effort. Probability of implementation possibilities (national, State, etc.). (5 points)

Closing Dates and Times

For fiscal year 1982 projects, the closing date will be Friday, August 13, 1982.

Applications may be mailed or hand delivered to: Social Security Administration, Division of Contracts and Grants Management, OMBP, Grants Management Branch, First Floor, Dogwood West Building, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207.

Applications must be received by the Division of Contracts and Grants Management, Grants Management Branch, by the above closing date. Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

An application will be considered to be received, on time, if sent by first class mail (express, registered, or certified) not later than the closing date, as evidenced by a legible U.S. Postal Service postmark. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any other means except by mailing first class through the U.S. Postal Service shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Applications which are not received on time will not be considered for funding.

A–95 *Notification Process.* This program is not covered by the requirements of OMB Circular A–95.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments—Research)

Dated: June 17, 1982.

John A. Svahn,

Director, Office of Child Support Enforcement.

[FR Doc. 82–17017 Filed 6–22–82; 8:45 am]

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June 23, 1982

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

Fishery Management Plans; Guidelines

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 602

Guidelines for Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA proposes to revise the national standard guidelines for fishery conservation and management issued in July 1977 under the Magnuson Fishery Conservation and Management Act (the Act). The seven national standards of the Act represent statutory criteria and principles with which all fishery management plans (FMPs) must be judged consistent by the Secretary of Commerce. The Act requires the Secretary to issue guidelines based on the national standards to assist in the development and review of FMPs, their amendments, and regulations. Review and revision of the 1977 guidelines was needed to update and codify them to reflect current Secretarial interpretations and several years of operational experience in resolving fishery management issues. The proposed guidelines are designed to improve the quality of FMPs by providing clearer, more comprehensive guidance and to result in a more uniform understanding of the Secretary's basis for FMP review and implementation.

DATE: Comments must be submitted on or before August 23, 1982.

ADDRESS: Comments should be addressed to the Assistant Administrator for Fisheries, NOAA, National Marine Fisheries Service, Washington, D.C. 20235. Please write "National Standards Comments" on the envelope.

FOR FURTHER INFORMATION CONTACT: Daphne White, Office of Resource Conservation and Management, NMFS, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634–7218.

SUPPLEMENTARY INFORMATION:

Background

The guidelines NOAA proposes to revise are currently found at 50 CFR 602.2, published on July 5, 1977, at 42 FR 34458. The Environmental Defense Fund (EDF) petitioned the National Marine Fisheries Service (NMFS) in October 1979 to initiate review and revision of all of Part 602. On February 8, 1980, NMFS granted the petition, in part, and issued an Advance Notice of Proposed Rulemaking (ANPR). The ANPR solicited comments on only those portions of the petition related to the national standards (§ 602.2), and on certain other national standard issues not addressed in the petition for which public comment was also deemed advisable. The ANPR was published at 45 FR 8686.

Granting the petition and undertaking the review and revision were based on the following considerations: (1) The need to update the national standard guidelines to reflect and codify current policy interpretations; (2) the need to clarify meanings and simplify language; (3) the need to bring the perspective of several years of experience to bear on fishery management issues unforeseen when the 1977 guidelines were published; (4) the need to respond to changes occurring in the Nation's priorities and economic circumstances, and, in particular, to the forces for change within the fishing industry; and (5) the need to improve the quality of FMPs by providing clearer and more comprehensive guidance.

Early in 1981, action on the proposed guidelines was suspended for six months when the regulatory calendar was frozen. Work on the guidelines resumed in August; a series of four regional workshops was held in September 1981 with Council and agency personnel, to examine guideline feasibility and to discuss rationale directly with those to be affected. The proposed guidelines therefore also address the concerns expressed at the workshops and in the written followup comments.

Overview of Issues and Rationale

The major issues identified by the 45 commenters on the ANPR as needing policy clarification include establishment of fishery management objectives and consideration of short vs. long-term effects of management regimes, and arise from the full range of the national standards, as follows:

Standard 1: definition of overfishing and determination of optimum yield;

Standard 2: identification of available data and research needs;

Standard 3: management throughout the range of individual stock(s);

Standard 4: allocation of fishing privileges;

Standard 5: definition of efficiency and its application;

Standard 6: habitat protection and identification of ecological relationships; biological, ecological, economic, and social contingencies, and the use of a buffer or a reserve; and

Standard 7: cost/benefit application to management regimes.

Thirty-two comments were received from outside NOAA: seven Regional Fishery Management Councils (Councils), six commercial fishing interest associations, three recreational fishing interest organizations, two environmental groups, five Federal agencies, seven State Marine Resource divisions, and two individuals.

Responses from each category were not uniform, although certain cautious generalizations can be made about approach. Many commenters addressed the substance of the EDF proposals rather than the existing guidelines. From an institutional perspective, the evolving policy of NOAA has been to give Councils the greatest degree of flexibility possible within the law, and in accordance with Congressional intent. Industry generally supports this flexibility and policy of decentralizing fishery management decisions. Environmentalists, on the other hand, tend to push for firmer, more centralized direction, as a protection from special interest domination of management decisions; some commented that membership of the Councils appeared disproportionately weighted towards an exploitative point of view. From a resource perspective, commercial fishing interests emphasize the economic and social factors used in setting OY to justify "full utilization" of the fishery stock. Recreational fishing interests and environmentalists support "ecological reserve" concepts inferred from the words "prevent overfishing." NOAA has tried to balance the points of view between both perspectives.

The proposed guidelines allow for innovative policy evolution in response to new social or economic circumstances, and set out as clearly as possible the benchmarks of current fishery management policy under the Act.

With responsible management of a valued national resource as the goal, NOAA believes the guidelines must also supply the Councils, as fishery management planners, a better yardstick to assess their own work in developing and documenting their decisions. To that end, sections of the guidelines specifically address requirements and options for contents of an FMP, supplementing and drawing into sharper focus provisions of § 602.3, currently in effect. This type of section is usually signaled by the paragraph heading "analysis," within which is given more detailed guidance as to the kind of discussion and examination on FMP should contain to demonstrate consistency with the standard in question. Words within these sections

were carefully chosen to convey levels of effort and information commensurate with need, e.g., "consider," "take into account," "explain," "discuss," "examine," "analyze," "identify."

Fishery management choices affect the fishing industry, the government, and the individual taxpayer/consumer. Members of industry, citizens, and those responsible for implementing a management regime all need to know the reasons for decisions that affect them, particularly if controversial. Thus it is important that certain issues undergo enough examination and discussion to illuminate the options, demonstrate the rationales, and justify the final choices. That principle of accountability corresponds with the Secretary's statutory responsibility to make informed judgments regarding an FMP's consistency with the national standards. The principle coincidentally parallels the philosophies of the National Environmental Policy Act (NEPA), the Regulatory Flexibility Act, and E.O. 12291, which seek accountability in regulatory action.

To make these consistency judgments the Secretary must have enough information; without it the review process is delayed or stopped. That is why the guidelines are directed more to the adequacy of rationale than to the substance of a decision. NOAA is aware that the Councils and their advisory groups, staffs, and drafting teams have labored and debated management alternatives at length in developing FMPs; all too often, however, this fact is not adequately reflected in the FMP document itself. The analysis sections pinpoint what kind and level of information are particularly important to include in presenting the supporting rationales.

EDF premised its proposals on assertions that the existing guidelines fail to give Councils adequate guidance on establishing fishery management objectives, identifying long-range strategies for rebuilding and maintaining fish stocks, and more specifically, on Standards 1, 2, 3, and 6. The EDF petition did not propose changes in Standards 4, 5, and 7, perhaps because these standards do not directly address environmental concerns. However, the creative tension established by the human versus resource needs has been a continuing consideration in the revision of the guidelines.

NOAA carefully considered each of the EDF proposals, added a new section on management objectives, provided more explicit guidance with regard to overfishing that encompasses discussion of rebuilding and maintaining stocks, defined factors underlying "best available information," refined the description of scope and composition of a management unit, suggested specific methods of allowing for variations and contingencies, and revised and reorganized the guidelines for every standard. Specific NOAA responses to EDF proposals and other ANPR issues and the rationale for the proposed revisions are presented below in the discussion of guidelines for each standard.

Section 602.2 includes a style guide, which explains the use of specific words to distinguish the advisory, explanatory, or obligatory nature of the guideline language. Section 602.10 makes it clear that FMPs in substantial compliance with the guidelines, the Act, and other applicable law must be approved. The guidelines are meant as a protection for everyone in the FMP system. They are an aggregation of policies developed through creative Council responses to regional fishery management problems—a way of sharing the empirical knowledge gained over the life of the Act. Their acceptance and use are a matter of practical utility for the Councils and of public commitment of the agency to consistent application of the policies stated.

The statutory language of each standard is presented as paragraph (a) under the appropriate section of the proposed guidelines.

ANPR Issues and Rationale for Each Standard

Standard 1—Overfishing

1. *ANPR Issues.* EDF proposed to amend the definition of overfishing to read as follows: "Overfishing is a level of fishing that results in (i) a reduction in the capacity of the management unit to produce maximum biological yield on a sustained basis of specified *reasonably foreseeable* habitat and environmental conditions or (ii) *significant adverse impacts on other species or stocks not included in the management unit.*"

NOAA felt that "reasonably foreseeable" was not a useful addition to the definition, and that the thought is already covered under Section 303(a)(3) of the Act. However, the revised definition substitutes the word "prevailing" for "specified," which suggests the longer perspective sought by the petitioner. NOAA rejected the EDF language regarding adverse impacts on species not in the management unit as being impracticable in the overfishing context. While these considerations are listed as examples of ecological factors in specifying OY and in Standard 6, the data and sophisticated techniques needed for ecosystem management are probably not yet at the stage of practical application.

2. *Rationale.* Overfishing is a relative term; it cannot be defined in isolation from its biological, economic, or ecological consequences, nor from its relationship to given management objectives. NOAA believes that Standard 1's phrase "shall prevent overfishing" is the strongest protectionist statement in the Act; it is supported by the language in the Findings, Purposes, and Policy section of the Act, and in the legislative history. The prevention of overfishing has as its goal the protection of a stock's general reproductive capacity and its productivity in terms of maintaining an adequate supply of catchable fish.

The guidelines state that significant downward trends in spawning stock size and in average annual recruitment to the fishery may signal that overfishing is occurring. Ascertaining when these downward trends have been established is a judgment based on information gained over time from scientific stock assessment, from harvesters and processors (through logbooks, catch samples, interviews, weigh-out slips, etc.), and from other sources such as aerial surveys or hydroacoustic data.

NOAA recognizes that a decline in stock size or abundance may occur independent of fishing pressure and that adverse changes in essential habitat may increase the risk that fishing effort will contribute to a stock collapse. The more effective management response under the Act is to reduce fishing mortality. Management measures must be applied so that there is a reduction in numbers of fish caught. Controls might include, for example, establishment of catch quotas, closed seasons, closed areas, limits on mesh size, limited vessel days, and limits on vessels entering the fishery.

The guidelines specify that an FMP should explain how its conservation and management measures will prevent overfishing, including a program for rebuilding the stock if it has been diminished below a desired level. FMPs containing measures that are designed specifically to prevent overfishing include the northern anchovy, stone crab, and the two salmon FMPs. In the northern anchovy fishery, abundance varies substantially from year to year due to natural fluctuations in the survival of juveniles and in recruitment year class strength. The FMP relates the harvest directly to the size of the spawning biomass. Under the stone crab FMP, productivity is protected by seasons that prevent harvest until

spawning has occurred. Salmon FMPs have always included spawning escapement objectives that relate to rebuilding the strength of the stocks.

The relationship of OY to overfishing is stated at both § 602.11(b) and (f). Overfishing is a limitation on the OY specification, which is itself a target or goal. Exceeding OY does not necessarily constitute overfishing. Other types of "overfishing" are mentioned to acknowledge that fishing can produce a variety of effects on local and stockwide abundance, availability, size, and composition without causing irreversible harm. Conservation and management measures may be adopted to prevent or permit these conditions, if rationally related to FMP objectives.

As management regimes become more comprehensive, the interrelationships of fishing pressure on target and nontarget (both major and minor) species will have to be addressed. NOAA believes that rational management of any multispecies fishery includes acknowledging the fact that overharvesting minor subcomponents may be unavoidable. For example, in a groundfish fishery, minor components of the stocks may have to be consciously overfished in order to harvest the major components or target species at an optimum level. A Council may decide to permit this type of overharvest if the benefits are adequately identified, and if the Council's action will not cause any stock component to require protection under the Endangered Species Act (ESA). Guideline § 602.11(d)(1) was designed to balance the requirements of the ESA—and concern for individual populations within a management unit—with the inevitable results of biomass management.

Whether to allow *any* type of overfishing will continue to be argued among economists, biologists, industry representatives, and environmentalists. The policy question centers on whether the primary responsibility under the Act is to the resource or to the users of the resource, on the "wise use"/preservation dichotomy inherent in the word "conservation," and on the tension between risk and predictability. NOAA believes that the proposed sections regarding overfishing are responsive to the findings of the Act and the protectionist thrust of the EDF petition, particularly when read in conjunction with the standard 6 guideline provisions for buffers, reserves, and framework plan flexibility. They demonstrate a reasoned exercise of responsibility in that they are resilient enough to allow "wide use" and precise enough to permit preservation of the stocks "before overfishing has caused irreversible harm."

Optimum Yield

1. *ANPR Issues.* The EDF petition proposed a lengthy and major change in the definition of the term MSY without suggesting any specific changes in the OY section, although the overall tenor of the petition text makes it clear that EDF favors long-term stability and conservative decisions when scientific understanding is uncertain.

NOAA has concluded that the specific EDF proposals on MSY are unacceptable. The minimum population argument is similar in concept to that underlying the Marine Mammal Protection Act (MMPA), but it is clear that the Magnuson Act's emphasis on achieving OY precludes the exclusively protectionist view that forms the basis of the MMPA. The choice of OY is dependent on the level of knowledge concerning the resource, and on economic, social, and ecological factors as well as on the condition of the resource. NOAA believes that the new definition of overfishing, supported by more specific guidance under standards 3 and 6, is responsive to the petitioner's point and to the approach advocated by the petitioner's supporters.

2. *Rationale.* Past controversy concerning MSY has related to its adequacy as a goal to be achieved by management. As used in the Act, MSY is a baseline tool in the determination of OY. In recognizing that MSY represents the underlying biological rationale upon which most determinations of OY rest, the proposed guidelines set forth a more flexible framework for its specification. Recognition of the need for flexibility in approaching MSY and OY has come as a result of plan review experience and Council innovation in adapting these concepts to the characteristics of different fisheries.

The proposed guidelines permit adjustment of MSY prior to determining OY under certain conditions, provided that the adjustment is fully justified in terms of environmental, ecological, or biological data available for the management unit under consideration. One type of adjustment is best illustrated by the concept of Acceptable Biological Catch (ABC), used by the North Pacific Council and others. Following from the guideline definition of MSY as a longterm average, ABC is an *annually* determined catch that may differ from MSY for biological reasons—lower or higher in some years for species with fluctuating recruitment. It may be set lower than MSY to rebuild overfished stocks, or to compensate for lack of stock assessment data. For example, in the Gulf of Alaska groundfish FMP, two of the eleven species supporting the fishery were found to be incapable of producing MSY at the time. OY for these species was accordingly based on an ABC lower than MSY to avoid risk of overexploitation, and to allow for rebuilding.

Other types of adjustment to MSY have been made to allow for the influence of environmental factors. The Gulf of Mexico shrimp MSY is adjusted through the use of an environmental calculation involving water flow and temperature characteristics. This fishery also illustrates that the biological resiliency and high fecundity of some stocks may allow OY to become a descriptive statement, equivalent—for all practical purposes—to MSY. OY in the Gulf shrimp FMP is equal to everything harvested under the FMP's management measures. Another instance where stock characteristics influence the determination of OY directly (making a numerical calculation of MSY nearly irrelevant) is the stone crab FMP, in which OY is all the stone crab caught with a minimum claw size. (Descriptive OYs must, however, be capable of numerical estimation for purposes of deriving TALFF, and for other reasons.) In cases where specification of MSY may not be possible because of lack of assessment data—such as might occur in an unutilized resource for which a fishery suddenly develops or in species that are minor components of mixed species fisheries—the OY still must be derived from biological information, as for example, the proportional abundance of associated species.

The Act does require the MSY specification; every attempt should therefore be made to specify it. The proposed guidelines acknowledge that MSY may be derived from a number of formulas or models (depending on the level and type of information available), that the use of a range for MSY is satisfactory and that in some fisheries a numerical MSY is not always essential in establishing an appropriate underlying biological basis for OY. NOAA believes that Congressional intent is served if OY rests, even in these cases, on the best directly relevant biological information available.

The two values specified in paragraph (A) of the Act's definition of OY are not discussed in the existing guidelines. This omission was an unfortunate oversight; consideration of these values highlights national interest in consumer concerns and the export of fishery products, and acknowledges the contribution of

recreational fishing to the national, regional, and local economies.

The proposed revision also encompasses a number of additional aspects of OY determination and expression that have evolved since 1977 as a result of the Councils' and NOAA's experience in implementing the Act, and passage of the two amendments. These include: (1) The concept that specification of OY in an FMP is not a quota, per se; (2) the recognition that OY amalgamates management objectives and instructs the management measures; (3) the exception to annual achievement of OY allowed through deferring until the following year the allocation to foreign fishing of some or all of the "surplus" not harvested by vessels of the U.S.; (4) the establishment of a reserve within OY for reallocation to foreign fishing to allow for uncertainties in estimates of domestic harvest and full utilization of OY; and (5) the provision that permits transfer at sea of the surplus of domestic harvest exceeding domestic processing capacity to foreign processor vessels.

Standard 2

1. *ANPR Issue.* Based on its concern that the present national standard guidelines fail to address the operative consequences of serious inadequacies in the biological data base, and fail to specify a minimum quantum of information upon which an approvable plan must rest, EDF proposed that FMPs incorporate measures designed to generate the information needed to assure an improved scientific basis for the plans, and that a suitable buffer in favor of conservation should be provided. In addition, EDF proposed that Councils should identify all significant information gaps and should indicate the manner in which such additional information should be acquired.

NOAA feels that it would be reasonable, and consistent with current practice, to expect Councils to prepare a management strategy to compensate for weaknesses in the information base; however, to require a plan to specify the manner of acquisition is unnecessary and inappropriate since this responsibility falls to the Secretary (Section 304(e) of the Act). The buffer concept is implicit in the concept of adjusting MSY (as in the ABC example), and is, in addition, retained as a provision under standard 6 to compensate for possible variations and contingencies.

2. *Rationale.* Application of this standard affects the operation of all the other standards. The level of information influences the establishment of MSY, OY, and management unit composition; it underlies determinations of allocations, judgments of efficiency, adjustments for variations and contingencies, and evaluations of costs and benefits. The proposed revision strengthens the language regarding the needed information base, and is cross-referenced to two other standards.

The proposed guidelines retain the idea expressed in the current guideline that lack of complete data concerning a fishery does not prevent the preparation and implementation of an FMP. The language has been modified to acknowledge that "complete" scientific information is not attainable in the absolute sense. NOAA believes that, although collection of data about a fishery is a legitimate FMP objective, the need to collect information is not, *by itself,* adequate justification for preparation of a plan, and so states in the standard 7 guidelines. The standard 3 guidelines permit a management unit to contain related species or stocks of fish for which there are inadequate data to specify MSY or determine OY, and to gather data on those species or stocks under the FMP.

The proposed revision directly addresses the question of timeliness, opposing bodies of opinion, and practical utility of the information specified. It emphasizes the continuing need for information for monitoring and in-season adjustment decisions. A voluntary system of data collection is permissible, but requires a justification under the Paperwork Reduction Act, and is not covered under the Act's confidentiality provision. (Under the NOAA data security system, all individually collected fisheries data are treated internally with the same degree of protection.) It is all right to collect data within State boundaries when needed for proper implementation of an FMP. There will always be a dregree of controversy regarding the qualitative word "best," in "best scientific information available." Successful data collection depends on the protection of confidential data, the public trust in that protection, and the public perception of the valid uses of those data. The validity of the entire process may hinge on the cooperative attitudes of constituents, the research community, and the relevant governmental institutions.

Standard 3

1. *ANPR Issues.* EDF cites failure of the guidelines to explain the relationship between the standard 3 directive to manage a fish stock throughout its range and the Act's provisions relating to jurisdiction within territorial waters as the basis for the following proposed language: "Where management units cross Federal-State boundaries, Councils shall identify those conservation and management measures most appropriate for the conservation and management of the entire resource and shall include all such measures in their fishery management plans, leaving to the Secretary the determination whether actions of relevant State authorities substantially and adversely affect the carrying out of such plans." Another proposal that dealt with recommendations concerning habitat is discussed under Standard 6.

NOAA supports EDF's comprehensive approach but believes the EDF solution to be inappropriate. Councils are already analyzing relevant State regulations, soliciting State cooperation, or incorporating State regulations as appropriate.

2. *Rationale.* Standard 3's principle of comprehensive management works well with standard 7's principle of avoiding duplication. The emphasis in the proposed revision is on the scope, composition, and unity of the management unit, and on coordination and cooperation rather than on potential jurisdictional tension.

The proposed revision strengthens guidance on how to handle FMPs for stocks ranging across international and State-FCZ boundaries. NOAA believes that range-wide planning should encourage active State participation in the planning process, and that such planning will provide clear direction to the States as to what is needed to implement the proposed management regime effectively. This is consistent with Council practice and compatible with the comprehensive approach sought by the petitioner. The result should be greater compatibility between Federal and State management measures. Ongoing cooperative arrangements should not be disturbed by the proposed revision.

Because the potential for incompatibility does exist, however, the guidelines require an FMP to discuss the interrelationship between State management activities and the proposed Federal regime. Federal regulations supersede any conflicting State regulations of FCZ fishing (*F/V American Eagle* v. *Alaska,* No. 2227 (Alaska, Nov. 21, 1980)). State landing laws and other forms of indirect regulation of FCZ fishing may be affected by implementing an FMP. The required analysis focuses attention on these impacts and on the effect of inconsistent State action on attaining the objectives of the FMP. This latter discussion will assist in determining

Secretarial responsibilities under section 306(b) of the Act.

Standard 3 calls for management of a "stock" thoughout its range. NOAA feels that the use of the words "stock," "fishery," and "management unit" is significant, and has endeavored to use the appropriate term in the guidelines. A stock may be larger than the fishery, as is the case when only a portion of the stock is actively fished. A fishery may be larger than a stock, when more than one stock is fished together. The management unit may ignore a portion of a fishery or stock when it includes a transboundary fishery or when a minor portion of the unit is fished within the jurisdiction of another Council. The guidelines define "management unit" as a fishery or that portion of a fishery identified in an FMP as relevant to the FMP's management objectives. Examples are given of the perspectives around which a management unit may be organized.

Standard 4

1. *ANPR Issues.* The ANPR question related to standard 4 was designed to give NOAA some understanding of how the term "allocation" is perceived, and how "fair and equitable" fits into the perception. NOAA was seeking assistance in addressing the definitions not elucidated by the existing guidelines.

Commenters were conscious of the need for public involvement in resolving allocation questions. Many urged flexibility, and pointed out that allocation schemes must follow from the objectives of a given plan and that problems of allocation are peculiar to each fishery. The following factors affecting allocation decisions were mentioned: consumer costs, community structure, income produced, jobs created, needs of subsistence fishermen, traditional harvest levels of each group, potential for expansion, economic efficiency of gear, incidental catch risks, economic dislocation caused by new fishing patterns, and opportunities in other fisheries.

2. *Rationale.* The proposed revision provides a more precise expression of agency policy and legal interpretation than was attempted or possible in 1977. To assist Councils in making what are usually the most controversial decisions within an FMP, NOAA has tried to confront the human issues surrounding fishery management directly, consistent with its increased concern for the economic and social consequences of regulation.

The guidelines address the "discrimination among residents of different States" issue as an extension of the Federal "privilege and immunities" clause of the U.S. Constitution, which means that Councils may not rely on, nor incorporate within an FMP, a State law that discriminates against residents of a different State. The guidelines also acknowledgte that management measures may have different effects on persons in different locations without discriminating among residents of different States.

These questions were at issue in the Gulf of Mexico shrimp FMP, which proposed to extend a Texas law by closing the FCZ off Texas to shrimping for a 45-day period to allow for growth that would increase the weight and value of the harvest. Fishermen in four public hearings in Louisiana expressed their fear that additional out-of-State vessels would fish off Louisiana during the Texas closure, which would result in greater competition for shrimp and shore facilities; they argued discrimination. The agency found the FMP consistent with standard 4, however, because "the measure does not allocate or assign fishing privileges to residents of any State. Even if one could consider the Texas closure to be an allocation of fishing privileges, residents of both Texas and Louisiana as well as other States are equally prohibited from fishing in the FCZ off Texas during the closure and have equal opportunity under the FMP to fish in the FCZ after the closure ends. The operator of a small vessel has fewer opportunities to fish than the operator of a large vessel, regardless of the State of residence. The large mobile shrimp vessels traditionally seek shrimp fishing opportunities off coasts of other States or even off foreign countries. Thus, mobility or lack of mobility is a function of each vessel rather than the proposed regulatory measure. The Texas closure will enhance the overall utilization of the resources by allowing for a larger harvest."

Resource management is essentially a series of allocations among present users, between present and future users, between public and private interests. The guidelines define "allocation" for purposes of the standards as a direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete groups of fishermen. Because only measures that meet the definition will be judged against the standard, this is a critical and sensitive delineation.

Many management measures may have an *incidental* effect on the fishing privileges enjoyed by different groups of U.S. fishermen. Any quota has a distributive effect on present and future users through its impact on stock maintenance or rebuilding. Area closures may cause practical difficulties for smaller vessels or those located far from open areas. Seasonal quotas create difficulties for those whose economics of operation do not permit a long period of inactivity.

Direct allocations, by contrast, have been made by the several Councils in a variety of FMPs: quotas by classes of vessels (Atlantic groundfish), quotas for commercial and recreational fishermen (Atlantic mackerel), different fishing seasons for recreational and commercial fishermen (salmon), assignment of ocean areas to different gears (stone crab), and limiting permits to present users (surf clam). These direct allocations were approved under standard 4 because the Councils complied with the three statutory criteria of the standard in constructing their allocation schemes.

The guideline's definition is an attempted middle ground between all measures affecting fishing practices and measures designated as allocations in a plan. The distribution must be direct and deliberate, but a Council could not disclaim an intent to allocate through a measure that had obvious and inevitable allocative effects.

NOAA believes that the required analysis of allocations and alternative schemes considered—including the status quo—will help to focus attention on the existing distribution of privileges and the alteration of that distribution that Federal management will impose. Each FMP should contain the Council's judgment on fairness and equity, conservation aspects, and possible monopolistic effects of the proposed allocations. NOAA feels that the analysis poses no extra burden in that it is similar to the sort of analysis necessary under E.O. 12291.

The guidelines link "fairness" with FMP objectives and OY and acknowledge that fishing rights of treaty Indians and aboriginal Americans should be factored into Council judgments. Rational use of the resource (as in the case of the Gulf of Mexico shrimp) is suggested as one way an allocation scheme may promote conservation. A more visible conservation purpose is illustrated by the moratorium on entry of new vessels into the surf clam fishery, initiated to mitigate a resource crisis in some stocks.

The guideline lists examples of other factors to consider in making allocations, when they are relevant to FMP objectives.

Standard 5

1. *ANPR Issues.* Response was not heavy to the ANPR question regarding

factors to consider in promoting efficiency for full utilization of fishery resources. However, it demonstrated that efficiency like overfishing, is a concept that cannot be defined or applied in absolute terms—in isolation from its biological, economic, and ecological consequences and its relationship to given management objectives. Without specifying whether the comments pertained to commercial or recreational fishing, commenters appeared to define efficiency as either (1) the attainment of the greatest benefits through the least cost to society, or (2) the attainment of the greatest benefits through the least cost to the individual fisherman. The first approach assumes that the most efficient way to achieve a desired goal is by using the fewest resources; the second, that the most efficient way to attain a goal or objective is by imposing the minimum amount of burdens on individuals or industry.

2. *Rationale.* NOAA believes that, for purposes of standard 5, efficiency can be defined as the ability to produce a desired effect or product (or achieve an objective) with a minimum of effort, cost, or misuse of valuable biological and economic resources. In other words, Councils should choose management measures that achieve the FMP's objectives with minimum cost and burdens on society—in effect, additional practical application of judgments necessary under standards 4 and 7, E.O. 12291, the Paperwork Reduction Act, and the Regulatory Flexibility Act. The guidelines also recognize the difficulty inherent in reconciling particular economic and social needs of industry participants and consumers with this goal of efficiency. For example, maximizing employment opportunities by allowing continued overcapitalization instead of reducing effort might be considered inefficient in terms of an economic goal, but not necessarily in terms of a social goal. Or, when it is necessary to preserve a subsistence way of life or enjoyment of recreational fishing, application of the efficiency standard may not be appropriate. Councils thus may have to choose between—or rank—competing objectives.

NOAA believes that an FMP should not restrict the use of productive and cost-effective techniques of harvesting, processing, or marketing, unless such restriction is necessary to achieve the conservation or social objectives of the FMP. For example, the Pacific salmon FMP provides for use of a barbless hook to decrease mortality of sublegal coho and chinook. The high seas salmon FMP requires "heads on" landing for fin-clipped coho and chinook to insure recovery of coded wire tags used to establish a needed distribution data base. In both cases, reduction in efficiency was outweighed by the conservation benefit.

Administrative efficiency can be a factor in choosing between alternatives within management regimes, as well. The Gulf of Mexico shrimp FMP's cooperative Texas closure, for example, increased the effectiveness and efficiency of enforcement.

NOAA chose to address the questions surrounding "limited access" in the context of standard 5 rather than in standard 4, even though limited access, by its nature, is an allocative measure. In fact, the guidelines caution that any limited access system must be consistent with section 303(b)(6) of the Act and the standard 4 guidelines. NOAA believes that placement within standard 5 puts the emphasis more appropriately on concepts of economic efficiency in achieving OY rather than on the contentious issues of right of entry, or limit on effort, per se. The placement of limited access under the aegis of standard 5 does not imply, however, that efficiency is always attained by limited access, nor that it is the most desirable method. It is one tool among many.

Economic waste occurs because individual fishermen have little incentive to take account of the effects of their fishing activities on present or future fishing yields, due to the "common property" nature of the resource. One method of combating this is to reduce units of effort. The guideline enumerates different forms of limited access. The guideline accepts the view of most legal analysts that section 304(d) of the Act prohibits imposition of any sort of fee designed to recover economic rent from U.S. fishermen.

Another purpose of limited access may be to encourage development of an unutilized or under-utilized fishery, in furtherance of the goal of developing these fisheries.

NOAA believes that an FMP should include a discussion of the extent to which overcapitalization, congestion, economic waste, and technically inefficient techniques in the fishery reduce the net benefits derived from the management unit and prevent the attainment and appropriate allocation of OY. If during FMP development the Council considered imposing a limited entry system, its decision to recommend or reject limited access should be discussed. Analysis is needed because efficiency is an increasingly important way of measuring benefits to the Nation; it should be considered and balanced in a manner that allows comparison with the other ways of measuring benefits available under the other standards.

Standard 6

1. *ANPR Issues.* EDF expressed concern that the existing standard 6 guidelines "do little to translate this standard into pure scientific directives," and called for greater specificity to ensure compliance. It proposed to expand the "buffer" concept to require a buffer "whenever information on potential variations is unavailable." In addition, it proposed to require FMPs to include "mechanisms for the automatic adjustment of the conservation and management measures * * *"

NOAA does not believe that the "specificity" called for by the petitioner is necessary, nor any guarantee that the purpose of the standard will be accomplished. The proposal itself does not illuminate the buffer concept. NOAA has retained the original "suitable buffer in favor of conservation" language, but without EDF's additional cautionary requirement. It should be noted that EDF's concern on this point has been, in fact, addressed under standard 1 through the provision allowing for the adjustment of MSY prior to determining OY.

NOAA, which has long sought and supported mechanisms to increase administrative flexibility, recognizes the need for adapting the regulatory process to the everchanging conditions in a fishery. Such mechanisms have been developed and have been in practice for some time through collaborative Council/NOAA efforts. The guidelines reflect a range of administrative options; Councils may respond to the relative volatility of the resource in a variety of ways that appear to fall within the purpose of the petitioner's proposal.

2. *Rationale.* NOAA recognizes that each fishery exhibits unique uncertainties, and that the unpredictable nature of the fishery resource caused by vulnerability to changing conditions and unforeseeable events makes long-term planning difficult. Long-term objectives are more easily attainable in the more stable fisheries. The proposed guidelines clarify that it is possible to compensate for variations by establishing buffers; protection against contingencies is urged through use of flexibility in the regulatory process.

The current guidelines speak of variations in terms of biology, environment, and fishing practices. NOAA believes that economic and social variations have an equally

important effect; the proposed guidelines expand the coverage of variations appropriately. The reserve concept, developed since publication of the present guidelines, allows for establishment of buffers to alleviate these variations. The reserve concept is incorporated in the proposed guidelines under both standards 1 and 6, and is exemplified by the Gulf of Alaska groundfish FMP wherein a reserve is used to compensate for uncertainties in estimating DAH.

The tanner crab FMP also illustrates the principle of administrative flexibility, in that resource-related criteria trigger authority for mid-season adjustments of opening and closing dates. Similar provisions can be found in the two salmon FMPs.

The proposed guidelines remove the comparatively weak reference to habitat protection in the existing guidelines under standard 3, and place an expanded section under standard 6 where it has greater strength.

NOAA believes that the proposed standard 6 guidelines illustrate "wise use" management to achieve a conservation purpose.

Standard 7

1. *ANPR Issues.* There was no specific question in the ANPR addressed to "costs and benefits" or duplication, per se. However, issues of cost and benefit permeate application of all the standards.

2. *Rationale.* The principles of standard 7 coincide with many earnest and recently intense efforts of NOAA and the Councils to streamline the FMP process—an effort touched on, in part, under standard 6. As more and more FMPs have come on line, the costs of enforcement and of collecting data for monitoring, while reduced per FMP, have increased in total. The rising costs of fishing, due to dependence on petroleum-based products, has intensified the need to consider the impact of potentially burdensome regulations. Thus, it has become necessary to be more precise in evaluating the costs to industry and to government, to support comprehensive management, and to work toward a flexible regulatory structure.

NOAA believes that the requirements of E.O. 12291 focus attention quite appropriately on the threshold question of the actual need for management. Even when a Council believes there is an advantage to managing a fishery, growing public concern over excessive Federal regulation of private activities and over the need to reduce the cost of government emphasizes the responsibility to ensure that FMPs are developed only for those fisheries where the need for Federal regulation can be clearly demonstrated. For these reasons, the guidelines propose criteria to assist in making these threshold decisions.

NOAA recognizes that the wide diversity of fisheries and of management objectives increases the difficulties of devising a quantitative cost/benefit analysis for fishery management measures. However, under the proposed guidelines, the types of analyses suggested under standards 4 and 5 would be the first steps in evaluating relative distribution of gains and burdens produced by each alternative set of management measures. While weight of intangibles such as recreational enjoyment, habitat protection, or social dislocation often cannot be expressed in dollar terms, NOAA believes they should be considered and described as explicitly as possible.

The guidelines do not prescribe that the lowest cost alternative be selected. NOAA urges, however, that selection be assisted by an anlalysis of costs relative to the value attributed to achievement of FMP objectives and OY, as prescribed by E.O. 12291.

Classification

The amendments to the national standard guidelines are issued in conformity with E.O. 12291. Because they produce no direct regulatory impact on the public, the Department of Commerce Office of General Counsel has certified that the proposed guidelines will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The proposed guidelines impose no information collection requests nor paperwork burden on the public under the Paperwork Reduction Act.

Environmental Impact Statement

The term "significance" under the National Environmental Policy Act relates to impact on the human environment. Section 1508.14 of the Council on Environmental Quality regulations interprets "human environment" to include "the natural and physical environment and the relationship of people with that environment. This means that economic and social effects are not intended by themselves to require preparation of an environmental impact statement." Amendments to the national standard guidelines do not in themselves affect the human environment. The effect of the guideline amendments on the contents of FMPs is addressed through the requirement for environmental impact statements (EISs) for new FMPs and supplemental EISs for significant amendments. The consequences of specific management measures are addressed in those documents. For these reasons, NOAA determined on July 7, 1980, that an environmental assessment or an EIS is not required for the proposed revision of the national standard guidelines.

Explanation of Restructuring

NOAA proposes to restructure Part 602 by designating subparts to differentiate the subject matter of the guidelines and by renumbering the sections to make them easier to follow. The first phase of this restructuring is a part of this amendment.

List of Subjects in 50 CFR Part 602

Fish, Fisheries, Fishing.

Date: June 9, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 602 is proposed to be amended as follows:

1. The authority citation for Part 602 reads as follows:

Authority.—16 U.S.C. 1851 and 1855.

2. The Part heading for Part 602 is revised; §§ 602.1–602.6 are designated as Subpart A; §§ 602.1 and 602.2 are revised; Subpart B (§§ 602.10–602.17) is added, as set forth below:

PART 602—GUIDELINES FOR FISHERY MANAGEMENT PLANS

Subpart A—General

Sec.
602.1 Purpose and scope.
602.2 Style guide.
* * * * *

Subpart B—National Standards

602.10 General.
602.11 National Standard 1—Overfishing and OY.
602.12 National Standard 2—Scientific Information.
602.13 National Standard 3—Management Units.
602.14 National Standard 4—Allocations.
602.15 National Standard 5—Efficiency.
602.16 National Standard 6—Variations and Contingencies.
602.17 National Standard 7—Costs and Benefits.

Subpart A—General

§ 602.1 Purpose and scope.

The Act requires that any fishery management plan or amendment prepared by either the Regional Fishery Management Councils or the Secretary

of Commerce, and any regulations issued to implement a fishery management plan or amendment, shall be consistent with seven national standards, the other provisions of the Act, and any other applicable law. Part 602 implements those portions of the Act that pertain to the development, content, submission, amendment, review, and implementation of fishery management plans, and establishes guidelines to assist in achieving the required consistency.

§ 602.2 Style guide.

(a) *Definitions.* The terms used in these guidelines have the meanings that are prescribed in section 3 of the Act. In addition, the following definitions apply:

The Act—the Magnuson Fishery Conservation and Management Act, as amended (U.S.C. 1801 *et seq.*), also known as the FCMA, or the Magnuson Act.

Council—Regional Fishery Management Council, as established by the Act.

Secretary—Secretary of Commerce.

(b) *Abbreviations.*

ABC—acceptable biological catch.

DAH—estimated domestic annual harvest.

DAP—estimated domestic annual processing.

EY—equilibrium yield.

FCZ—fishery conservation zone.

FMP—fishery management plan.

JVP—joint venture processing.

MSY—maximum sustainable yield.

OY—optimum yield.

PMP—preliminary fishery management plan.

TAC—total allowable catch.

TALFF—total allowable level of foreign fishing.

(c) *Word usage—Must* is used to denote an obligation to act; it is used primarily when referring to requirements of the Act, the logical extension thereof, or of other applicable law or national policy.

Should is used to indicate that an action or consideration is strongly recommended to fulfill the Secretary's interpretation of the Act, and is a factor reviewers will look for in evaluating an FMP.

May used in a permissive sense.

May not is proscriptive; it has the same force as *must not.*

Will is used descriptively.

Shall is not used at all, except when quoting the statutory language of each standard. "Must" is used instead of "shall" to avoid confusion with the future tense.

Could is used when giving examples, in a hypothetical, permissive sense.

Can is used to mean "is able to," as distinguished from "may."

Examples are given by way of illustration and further explanation. They are not inclusive lists; they do not limit options.

Analysis, as a paragraph heading, signals more detailed guidance as to the type of discussion and examination an FMP should contain to demonstrate compliance with the standard in question.

Determine is used when referring to OY.

Adjust is used when establishing a deviation from MSY for biological reasons, such as in establishing ABC, TAC, or EY.

Modify is used when the deviation from MSY is for the purpose of determining OY, in accord with relevant economic, social, or ecological factors.

* * * * *

Subpart B—National Standards

§ 602.10 General.

(a) *Purpose.* (1) This subpart establishes guidelines, based on the national standards, to assist in the development and review of FMPs, amendments, and regulations prepared by the Councils and the Secretary.

(2) In developing FMPs, the Councils have the initial authority to ascertain factual circumstances, to establish management objectives, and to propose management measures that will achieve the objectives. The Secretary will determine whether the proposed management objectives and measures are consistent with the national standards, other provisions of the Act, and other applicable law. The Secretary has an obligation under section 301(b) of the Act to inform the Councils of the Secretary's interpretation of the national standards so that they will have an understanding of the basis on which FMPs will be reviewed.

(3) The national standards are statutory principles that must be followed in any FMP. The guidelines summarize Secretarial interpretations that have been, and will be, applied under these principles. The guidelines are intended as aids to decisionmaking; FMPs formulated according to the guidelines will have a better chance for expeditious Secretarial review, approval, and implementation. FMPs that are in substantial compliance with the guidelines, the Act, and other applicable law must be approved.

(b) *Fishery management objectives.* (1) Each FMP, whether prepared by a Council or by the Secretary, should identify what the FMP is designed to accomplish, i.e. the management objectives to be attained in regulating the fishery under consideration. In establishing objectives, Councils balance biological imperatives with human needs, reconcile present and future costs and benefits, and integrate the diversity of public and private interests. If objectives are in conflict, priorities should be established among them.

(2) How objectives are defined is important to the management process. Objectives should address the problems of a particular fishery. The objectives should be clearly stated, practicably attainable, framed in terms of definable events and measurable benefits, and based upon a comprehensive rather than a fragmentary approach to the problems addressed. An FMP should make a clear distinction between objectives and the management measures chosen to achieve them. The objectives of each FMP provide the context within which the Secretary will judge the consistency of an FMP's conservation and management measures with the national standards.

§ 602.11 National Standard 1—Optimum Yield.

(a) *Standard 1.* Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery.

(b) *General.* The determination of OY is a decisional mechanism for resolving the Act's multiple purposes and policies, for implementing an FMP's objectives, and for balancing the various interests that comprise the national welfare. OY is based on MSY, or on MSY as it may be adjusted under paragraph (c)(4) of this section. The most important limitation on the specification of OY is that the choice of OY—and the conservation and management measures proposed to achieve it—must prevent overfishing.

(c) *MSY.* (1) MSY, a theoretical concept, is the largest average annual catch or yield that can be taken over a period of time from a stock under prevailing ecological and environmental conditions. It may be presented as a range of values. Since MSY is a long-term average, it need not be specified annually.

(2) In an unexploited stock of fish, the natural mortality rate is balanced by growth and recruitment rates on average. Once fishing pressure is applied, the balance of mortality, growth, and recruitment is altered, and the average value of these rates and the average population size changes. As the population size changes, a new balance

of rates is achieved. The interrelationship between these rates and population size provides the basis for specifying the MSY of a stock. Techniques for estimating MSY depend on the scientific information available. The MSY may be derived from average past catches, stock production models, yield per recruit or dynamic pool models, spawner/recruit relationships, total biomass estimates and estimates of natural mortality, biomass estimates from ecosystem models, or other valid methods.

(3) The determination of OY requires a specification of MSY. However, where sufficient scientific data as to the biological characteristics of the stock do not exist, or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, or where frequent large-scale fluctuations in stock size make this concept of limited value, the OY should be based not on a fabricated MSY but on the best scientific information available.

(4) MSY may be only the starting point in providing a realistic biological description of allowable fishery removals. MSY may need to be adjusted because of environmental factors, stock peculiarities, or other biological variables, prior to the determination of OY. Examples are ABC, TAC, and EY. Such adjustments are valid, provided that they are explained and justified.

(d) *Overfishing.* (1) Overfishing is a level of fishing mortality that jeopardizes the capacity of a stock(s) to maintain or recover to a level at which it can produce maximum biological yield or economic value on a long-term basis under prevailing biological and environmental conditions. An FMP must prevent overfishing, except in certain situations. For example, harvesting the major component of a mixed fishery at its optimum level may result in the overharvest of a minor (smaller or less valuable) stock component. In another case, solving a particular problem may necessitate pruning larger fish from the population. A Council may decide to permit this type of overharvest if the analysis (paragraph (e)(5) of this section) identifies the benefits from such overfishing, and if the Council's action will not cause any stock component to require protection under the Endangered Species Act.

(2) Significant downward trends in spawning stock sizes and in average annual recruitment over a period of several years may signal that overfishing is occurring. These downward trends usually are preceded or accompanied by increased variability in annual recruitment and by major shifts to younger fish and fewer year classes in the spawning stock. If fishing continues at a rate that perpetuates the downward trends, the spawning stock eventually may be incapable of significant reproduction and may be irreversibly damaged.

(3) Declines in stock size may occur independent of fishing pressure, caused by a combination of factors such as natural fluctuations in the environment and man-made changes in essential habitat. Significant adverse alterations in the environment increase the possibility that fishing effort will contribute to a stock collapse. Decisions about the allowable level of fishing mortality will vary according to the conditions of the fishery and the amount of risk associated with different harvest rates.

(4) Since changes in environment/habitat conditions can produce the appearance of overfishing (as can new fishing pressure on an underutilized stock), care should be taken to identify the cause of the downward trends. Whether the trends in spawning stock size and in average recruitment are caused by environmental changes or by fishing effort, the most effective management response under the Act is to propose management measures to reduce fishing mortality. Unless it can be shown that reduced fishing pressure would not alleviate the problem, the FMP must include measures to reduce fishing mortality. If environmental changes are the primary cause of the downward trends, Councils may recommend restoration of habitat and other ameliorative programs.

(5) Fishing can produce a variety of effects on local and stockwide abundance, availability, size, and composition. Some of these effects have been called "overfishing"—with or without qualifiers such as growth, localized, pulse, and economic. These effects are not "overfishing" under standard 1, a Council may recommend conservation and management measures to prevent or permit these effects, depending on the objectives of a particular FMP.

(e) *Specification of OY.*—(1) *OY and management objectives.* Ideally, the process of determining OY and the resulting specification integrate the various objectives of the FMP. Relative weighting of the elements of the OY determination will be influenced both by regional objectives and by national considerations. Rarely will a fishery be managed to meet a single objective. Objectives may conflict. Consequently, priority decisions should be made in developing objectives, the timing of their achievement, and the management measures to achieve them. (See § 602.10.)

(2) *Values in determining OY.* In determining the greatest benefit to the Nation, two values that should be weighed are food production and recreational opportunities (section 3(18)(A) of the Act). They should receive attention as measures of benefit when considering the economic, ecological, or social factors used in modifying MSY to obtain OY.

(i) "Food production" encompasses the goals of providing seafood to U.S. consumers at reasonable prices, maintaining an economically viable fishery and utilizing the capacity of U.S. fishery resources to meet world-wide nutritional needs.

(ii) "Recreational opportunities" includes recognition of the importance of the quality of the recreational fishing experience, and of the contribution of recreational fishing to the national, regional, and local economies and food supplies.

(3) *Factors relevant to OY.* The Act's definition of OY identifies three categories of factors to be used in modifying MSY to arrive at OY: economic, social, and ecological (section 3(18)(B)). Examples are given below. Not every factor will be relevant in every fishery; for instance, there may be no Indian treaty rights. For some fisheries, insufficient information may be available with respect to some factors to provide a basis for corresponding modifications to MSY.

(i) *Economic factors.* Examples are promotion of domestic fishing, development of unutilized or underutilized fisheries, satisfaction of consumer and recreational needs, encouragement of domestic and export markets for U.S. harvested fish, and improvement in the U.S. balance of trade. Some other factors that may be considered are the value of industrial fisheries, the level of capitalization, alternate employment opportunities, and economies of coastal areas.

(ii) *Social factors.* Examples are enjoyment gained from recreational fishing, avoidance of gear conflicts and resulting disputes, preservation of a way of life for fishermen and their families, and dependence of local communities on a fishery. Among other factors that may be considered are the cultural place of subsistence fishing, obligations under Indian treaties, and world-wide nutritional needs.

(iii) *Ecological factors.* Examples are the nature of a mixed-species fishery, predator-prey relationships, and dependence of marine mammals and birds or endangered species on a stock

of fish. Equally important are environmental conditions that stress marine organisms, such as natural and man-made changes in wetlands or nursery grounds, and effects on habitat of pollutants.

(4) *Form of OY specification.* (i) The "amount of fish" that constitutes the OY need not be expressed in terms of numbers or weight of fish. The economic, social, or ecological modifications to MSY may be expressed by describing fish having common characteristics, the harvest of which provides the greatest overall benefit to the Nation. For instance, OY may be expressed as a formula that converts periodic stock assessments into quotas or guideline harvest levels for recreational, commercial, and other fishing. OY may be defined in terms of an annual harvest of fish or shellfish having a minimum weight, length, or other measurement. OY may also be expressed as an amount of fish taken only in certain areas, or in certain seasons, or with particular gear, or by a specified amount of fishing effort, or, in the case of incidental species, as a function of the directed catch.

(ii) If a numerical OY is chosen, a range or average may be specified.

(iii) In a fishery where there is a significant discard component, the OY may either include or exclude discards.

(iv) The OY specification, however, must be capable of conversion into an annual numerical estimate that can be used to establish the TALFF and to analyze impacts of the management regime. There should be a mechanism in a multi-year plan for periodic reassessment of the OY specification, so that it is responsive to changing circumstances in the fishery.

(5) *Analysis.* An FMP must contain an analysis of how its OY specification was determined (section 303(a)(3) of the Act). It should relate the explanation of overfishing in paragraph (d) of this section to conditions in the particular fishery, and explain how its choice of OY and conservation and management measures will prevent overfishing in that fishery. If overfishing is allowed (see paragraph (d)(1) of this section), the analysis must contain a justification in terms of overall benefits and the likelihood of the species reaching a "threatened" or "endangered" status. If the stock has been diminished below a desired level, the analysis should include a program for rebuilding the stock. A Council must identify those economic, social, and ecological factors relevant to management of a particular fishery, then evaluate and weigh them to arrive at the modification (if any) of MSY. The choice of a particular OY must be carefully defined and documentated to show that the OY selected will produce the greatest benefit to the Nation.

(f) *OY as a target.* (1) The specification of OY in an FMP is not automatically a quota or ceiling, although quotas may be derived from the OY where appropriate. OY is a target or goal; an FMP must contain conservation and management measures, and provisions for information collection, that are designed to achieve it. These measures should allow for practical and effective implementation and enforcement of the management regime, so that the harvest is allowed to reach but not to exceed OY by a substantial amount. The Secretary then has the obligation to implement and enforce the FMP so that OY is achieved. If management measures prove unenforceable—or too restrictive or not rigorous enough to realize OY—they should be modified; an alternative is to reexamine the adequacy of the OY specification.

(2) Exceeding OY does not necessarily constitute overfishing, although they might coincide. Even if no overfishing resulted, continual harvest at a level above a fixed-value OY would violate national standard 1 because OY was exceeded (not achieved) on a continuing basis.

(g) *OY and foreign fishing.* Section 201(d) of the Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessels of the United States. The achievement of OY under national standard 1 requires that foreign fishing vessels be given reasonable opportunity to harvest such "surplus." The exception is where an annual fishing level is certified under section 201(d)(2)(B). The annual fishing level amount is allocated to foreign fishing, as is the remainder of the "surplus" (OY minus DAH); if the determinations under section 201(d)(4) are made, however, allocation of all or part of that remainder may be deferred until the next harvesting season.

(1) *DAH.* Councils must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis. Estimating the amount that U.S. fishing vessels will actually harvest is required to determine the surplus.

(2) *Reserves.* Part of the OY may be held as a reserve to allow for uncertainties in estimates of stock size and of DAH. If an OY reserve is established, an adequate mechanism should be included in the FMP to permit timely release of the reserve to foreign fishermen, if necessary, so that full utilization of the OY may be achieved. An FMP may also provide for a direct transfer of a portion of DAH to TALFF.

(3) *DAP.* (i) Each FMP must identify the capacity of U.S. processors and also the amount of domestic annual processed fish (DAP). DAP is the sum of two estimates:

(A) The amount of U.S. harvest that domestic processors will process. This estimate may be based on historical performance and on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and

(B) The amount of fish that will be harvested but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

(ii) When DAH exceeds DAP, the surplus should be designated as available for JVP. JVP is a part of DAH.

§ 602.12 National Standard 2—Scientific Information.

(a) *Standard 2.* Conservation and management measures shall be based upon the best scientific information available.

(b) *FMP development.* The fact that scientific information concerning a fishery is incomplete does not prevent the preparation and implementation of an FMP (see related §§ 602.13(d)(2) and 602.17(b)).

(1) Scientific information includes, but is not limited to, information of a biological, ecological, economic, or social nature. Successful fishery management depends, in part, on the timely availability, quality, and quantity of scientific information, as well as on the thorough analysis of this information, and the extent to which the information is applied. If there are conflicting facts or opinions relevant to a particular point, a Council may choose among them, but must justify the choice.

(2) FMPs must take into account the best scientific information available at the time of preparation. Between the initial drafting of an FMP and its submission for final review, new information often becomes available. This new information should be incorporated into the final FMP where practicable; but it is unnecessary to start the FMP process over again unless the information indicates that drastic changes have occurred in the fishery that might require revision of the management objectives or measures.

(c) *FMP implementation.* (1) An FMP must specify whatever information fishermen and processors will be required or requested to submit to the Secretary. Information about harvest within State boundaries, as well as in

the FCZ, may be collected if it is needed for proper implementation of the FMP. The FMP should explain the practical utility of the information specified in monitoring the fishery, in facilitating inseason management decisions, and in judging the performance of the management regime; it should also consider the effort, cost, or social impact of obtaining it.

(2) An FMP should identify scientific information needed from other sources to improve understanding and management of the resource and the fishery.

(3) The information submitted by various data suppliers about the stock(s) throughout its range or about the fishery should be comparable and compatible, to the maximum extent possible.

(d) *FMP amendment.* FMPs should be amended on a timely basis, as new information indicates the necessity for change in objectives or management measures.

§ 602.13 National Standard 3—Management Units.

(a) *Standard 3.* To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(b) *General.* The purpose of this standard is to encourage a comprehensive approach to fishery management. The geographic scope of the fishery, for planning purposes, should cover the entire range of the stock(s) of fish, and not be overly constrained by political boundaries. Wherever practicable, an FMP should seek to manage interrelated stocks of fish.

(c) *Unity of management.* Coopertion and understanding among entities concerned with the fishery (e.g., Councils, States, Federal government, foreign nations) are vital to effective management. Where management of a fishery involves multiple jurisdictions, coordination among the several entities should be sought in the development of an FMP. Where a range overlaps Council areas, one FMP to cover the entire range is preferred. The Secretary designates which Council or Councils will prepare the FMP, under section 304(f) of the Act.

(d) *Management unit.* The term "management unit" means a fishery or that portion of a fishery identified in an FMP as relevant to the FMP's management objectives.

(1) *Basis.* The choice of a management unit depends on the focus of the FMP's objectives, and may be organized around biological, geographic, economic, technical, social, or ecological perspectives. For example:

(i) *Biological*—could be based on a stock(s) throughout its range.

(ii) *Geographic*—could be an area.

(iii) *Economic*—could be based on a fishery supplying specific product forms.

(iv) *Technical*—could be based on a fishery utilizing a specific gear type or similar fishing practices.

(v) *Social*—could be based on fishermen as the unifying element, such as when the fishermen pursue different species in a regular pattern throughout the year.

(vi) *Ecological*—could be based on species that are associated in the ecosystem or are dependent on a particular habitat.

(2) *Conservation and management measures.* FMPs should include conservation and management measures for that part of the management unit within U.S. waters, although the Secretary can ordinarily implement them only within the FCZ. The measures need not be identical for each geographic area within the management units, if the FMP justifies the differences. A management unit may contain, in addition to regulated species, stocks of fish for which there is not enough information available to specify MSY and OY or to establish management measures, so that data on these species may be collected under the FMP.

(e) *Analysis.* To document that an FMP is as comprehensive as practicable, it should include discussions of the following:

(1) The range and distribution of the stocks, as well as the patterns of fishing effort and harvest.

(2) Alternative management units and reasons for selecting a particular one. A less-than-comprehensive management unit may be justified if, for example, complementary management exists or is planned for a separate geographic area or for a distinct use of the stocks, or if the unmanaged portion of the resource is immaterial to proper management.

(3) Management activities and habitat programs of adjacent States and their effects on the FMP's objectives and management measures. Where State action is necessary to implement measures within territorial and internal waters to achieve FMP objectives, the FMP should identify what State action is necessary, discuss the consequences of State inaction or contrary action, and make appropriate recommendations. The FMP should also discuss the impact that Federal regulations will have on State management activities.

(4) Management activities of other countries having an impact on the fishery, and how the FMP's management measures are designed to take into account these impacts. International boundaries may be dealt with in several ways.

For example:

(i) By limiting the management unit's scope to that portion of the stock found in U.S. waters;

(ii) By estimating MSY for the entire stock and then basing the determination of OY for the U.S. fishery on the portion of the stock within U.S. waters; or

(iii) By referring to treaties or cooperative agreements.

§ 602.14 National Standard 4—Allocations.

(a) *Standard 4.* Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (1) fair and equitable to all such fishermen; (2) reasonably calculated to promote conservation; and (3) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(b) *Discrimination among residents of different States.* An FMP may not differentiate among U.S. citizens, nationals, resident aliens, or corporations on the basis of their State of residence. An FMP may not incorporate or rely on a State statute or regulation that discriminates against residents of another State. Conservation and management measures that have different effects on persons in various geographic locations are permissible, if they satisfy the other guidelines under standard 4. Examples are:

(1) An FMP that restricted fishing in the FCZ to those holding a permit from State X would violate standard 4 if State X issued permits only to its own citizens.

(2) An FMP that closed a spawning ground might disadvantage fishermen living in the State closest to it, because they would have to travel farther to an open area, but the closure could be justified under standard 4 as a conservation measure with no discriminatory intent.

(c) *Allocation of fishing privileges.* An FMP may contain management measures that allocate fishing privileges if such measures are necessary or helpful in furthering legitimate objectives or in achieving the OY, and if the measures conform with paragraph (c)(3)(i) through (iii) of this section.

(1) *Definition.* An "allocation" or "assignment" of fishing privileges is a direct and deliberate distribution of the opportunity to participate in a fishery

among identifiable, discrete user groups or individuals. Any management measure (or lack of management) has incidental allocative effects, but only those measures that result in direct distributions of fishing privileges will be judged against the allocation requirements of standard 4. Adoption of an FMP that merely perpetuates existing fishing practices may result in an allocation, if those practices directly distribute the opportunity to participate in the fishery. Allocations of fishing privileges include, for example, per-vessel catch limits, quotas by vessel class and gear type, different quotas or fishing seasons for recreational and commercial fishermen, assignment of ocean areas to different gear users, and limitation of permits to a certain number of vessels or fishermen.

(2) *Analysis of allocations.* Each FMP must contain a description and analysis of the allocations existing in the fishery and of those made in the FMP. The effects of eliminating an existing allocation system should be examined. Allocation schemes considered but rejected by the Council should be included in the discussion. The analysis should relate the recommended allocations to the FMP's objectives and OY specification, and discuss the factors listed in paragraph (c)(3) of this section.

(3) *Factors in making allocations.* An allocation of fishing privileges must be fair and equitable, must be reasonably calculated to promote conservation, and must avoid excessive shares. These tests are explained in paragraphs (c)(3)(i) through (iii) of this section:

(i) *Fairness and equity.* (A) An allocation of fishing privileges must be rationally connected with the achievement or OY or with the furtherance of a legitimate FMP objective. Inherent in an allocation is the advantaging of one group to the detriment of another. The motive for making a particular allocation must be justified in terms of the objectives of the FMP; otherwise, the disadvantaged user groups or individuals would suffer without cause. For instance, an FMP objective to preserve the economic status quo cannot be achieved by excluding a group of long-time participants in the fishery. On the other hand, there is a rational connection between an objective of harvesting shrimp at their maximum size and closing a nursery area to trawling.

(B) An allocation of fishing privileges may impose a hardship on one group if it is outweighed by the total benefits received by another group or groups. An allocation need not preserve the status quo in the fishery to qualify as "fair and equitable," if a restructuring of fishing privileges would maximize overall benefits. The Council should make an initial estimate of the relative benefits and hardships imposed by the allocation, and compare its consequences with those of alternative allocation schemes, including the status quo. Where relevant, judicial guidance and government policy concerning the rights of treaty Indians and aboriginal Americans must be considered in determining whether an allocation is fair and equitable.

(ii) *Promotion of conservation.* An allocation of fishing privileges is considered a "conservation and management measure" under section 303(b) of the Act. An allocation scheme may promote conservation by encouraging a rational, more easily managed use of the resource. Or it may promote conservation (in the sense of wise use) by optimizing the yield, in terms of size, value, market mix, price, or economic or social benefit of the product.

(iii) *Avoidance of excessive shares.* An allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges and to avoid creating conditions under which a single buyer or seller will be able to acquire a markedly disproportionate control of the fishery.

(iv) *Other factors.* In designing an allocation scheme, a Council should consider other factors relevant to the FMP's objectives. Examples are economic and social consequences of the scheme, food production, consumer interests, dependence on the fishery by present participants and coastal communities, efficiency of various types of gear used in the fishery, transferability of effort to and impact on other fisheries, opportunity for new participants to enter the fishery, and enhancement of opportunities for recreational fishing.

§ 602.15 National Standard 5—Efficiency.

(a) *Standard 5.* Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(b) *Efficiency in the utilization of resources.*—(1) *General.* The term "utilization" encompasses harvesting, processing, and marketing, since management decisions affect all three sectors of the industry. The goal of promoting efficient utilization of fishery resources may conflict with other legitimate social or biological objectives of fishery management. In encouraging efficient utilization of fishery resources, this standard highlights one way that a fishery can contribute to the Nation's benefit with the least cost to society: given a set of objectives for the fishery, an FMP should contain management measures that result in as efficient a fishery as is practicable.

(2) *Efficiency.* In theory, an efficient fishery could harvest the OY with the minimum use of economic inputs such as labor, capital, interest, and fuel. Efficiency in terms of aggregate costs then becomes a conservation objective, where "conservation" constitutes wise use of all resources involved in the fishery, not just fish stocks.

(i) In an FMP, management measures may be proposed that allocate fish among different groups of individuals or establish a system of property rights. Alternative measures examined in searching for an efficient outcome will result in different distributions of gains and burdens among identifiable user groups. An FMP should demonstrate that management measures aimed at efficiency do not simply redistribute gains and burdens without an increase in efficiency.

(ii) Management regimes that allow a fishery to operate at the lowest possible cost (e.g., fishing effort, administration, and enforcement) for a particular level of catch and initial stock size are considered efficient. Restrictive measures that unnecessarily raise any of those costs move the regime toward inefficiency. Unless the use of inefficient techniques or the creation of redundant fishing capacity contributes to the attainment of other social or biological objectives, an FMP may not contain management measures that impede the use of cost-effective techniques of harvesting, processing, or marketing, and should avoid creating strong incentives for excessive investment in private sector fishing capital and labor.

(c) *Limited access.* A "system for limiting access," which is an optional measure under section 303(b) of the Act, is a type of allocation of fishing privileges that may be used to promote economic efficiency. For example, limited access may be used to combat overfishing, overcrowding, or overcapitalization in a fishery to achieve OY. In an unutilized or underutilized fishery, it may be used to reduce the chance that these conditions will adversely affect the fishery in the future, or to provide adequate economic return to pioneers in a new fishery.

(1) *Definition.* Limited access (or limited entry) is a management technique that attempts to limit units of effort in a fishery, usually for the purpose of reducing economic waste, improving net economic return to the

fishermen, or capturing economic rent for the benefit of the taxpayer or the consumer. Common forms of limited access are licensing of vessels, gear, or fishermen to reduce the number of units of effort, and dividing the total allowable catch into fishermen's quotas (a stock-certificate system). Two forms (e.g., taxation, Federal sale of licenses) are not permitted under the Act.

(2) *Factors to consider.* The Act ties the use of limited access to the achievement of optimum yield. An FMP that proposes a limited access system must consider the factors listed in section 303(b)(6) of the Act in § 602.14(c)(3) of these guidelines. In addition, it should consider the criteria for qualifying for a permit, the nature of the interest created, whether to make the permit transferable, and the Act's limitation on returning economic rent to the public under section 304(d)(1). The FMP should also discuss the costs of achieving an appropriate distribution of fishing privileges.

(d) *Analysis.* An FMP should discuss the extent to which overcapitalization, congestion, economic waste, and inefficient techniques in the fishery reduce the net benefits derived from the management unit and prevent the attainment and appropriate allocation of OY. It should also explain in terms of the FMP's objectives any restriction placed on the use of efficient techniques of harvesting, processing, or marketing. If during FMP development the Council considered imposing a limited-entry system, the FMP should analyze the Council's decision to recommend or reject limited access as a technique to achieve efficient utilization of the resources of the fishing industry.

(e) *Economic allocation.* This standard prohibits only those measures that distribute fishery resources among U.S. fishermen on the basis of economic factors alone, and that have economic allocation as their only purpose. Where conservation and management measures are recommended that would change the economic structure of the industry or the economic conditions under which the industry operates, the need for such measures must be justified in light of the biological, ecological, and social objectives of the FMP as well as the economic objectives.

§ 602.16 National Standard 6—Variations and Contingencies.

(a) *Standard 6.* Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(b) *Conservation and management.* Each fishery exhibits unique uncertainties. The phrase "conservation and management" implies the wise use of fishery resources through a management regime that includes some protection against these uncertainties. The particular regime chosen must be flexible enough to allow timely responses to resource, industry, and other national and regional needs. Continual data acquisition and analysis will help the development of management measures to compensate for variations and to reduce the need for substantial buffers. Flexibility in the management regime and the regulatory process will aid in responding to contingencies.

(c) *Variations.* (1) In fishery management terms, variations arise from biological, social, and economic occurrences, as well as from fishing practices. Biological uncertainties and lack of knowledge can hamper attempts to estimate stock size and strength, stock location in time and space, environmental/habitat changes, and ecological interactions. Economic uncertainty may involve changes in foreign or domestic market conditions, changes in operating costs, drifts toward overcapitalization, and economic perturbations caused by changed fishing patterns. Changes in fishing practices, such as the introduction of new gear, rapid increases or decreases in harvest effort, new fishing strategies, and the effects of new management techniques, may also create uncertainties. Social changes could involve increases or decreases in recreational fishing, or the movement of people into or out of fishing activities due to such factors as age or educational opportunities.

(2) Every effort should be made to develop FMPs that discuss and take into account these vicissitudes. To the extent practicable, FMPs should provide a suitable buffer in favor of conservation. Allowances for uncertainties may be factored into the various elements of an FMP. Examples are:

(i) Reduce OY. Lack of scientific knowledge about the condition of a stock(s) could be a reason to reduce OY.

(ii) Establish a reserve. Creation of a reserve may compensate for uncertainties in estimating domestic harvest, stock conditions, or environmental factors.

(iii) Adjust management techniques. In the absence of adequate data to predict the effects of a new regime, and to avoid creating unwanted variations, a Council could guard against producing drastic changes in fishing patterns, allocations, or practices.

(iv) Highlight habitat conditions. FMPs may address the impact of pollution and the effects of wetland and estuarine degradation on the stocks of fish; identify causes of pollution and habitat degradation and the authorities having jurisdiction to regulate or influence such activities; propose recommendations that the Secretary will convey to those authorities to alleviate such problems; and state the views of the Council on unresolved or anticipated issues.

(d) *Contingencies.* Unpredictable events—such as unexpected resources surges or failures, fishing effort greater than anticipated, disruptive gear conflicts, climatic conditions, or environmental catastrophes—are best handled by establishing a flexible management regime that contains a range of management options through which it is possible to act quickly without amending the FMP or even its regulations.

(1) FMPs should include criteria for the selection of management measures, directions for their application, and mechanisms for timely adjustment of management measures comprising the regime. For example, an FMP could include criteria that allow the Secretary to open and close seasons, close fishing grounds, or make other adjustments in management measures.

(2) Amendment of a flexible FMP would be necessary when circumstances in the fishery change substantially, or when a Council adopts a different management philosophy and objectives.

§ 602.17 National Standard 7—Costs and Benefits.

(a) *Standard 7.* Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

(b) *Necessity of Federal management.*—(1) *General.* The principle that not every fishery needs regulation is implicit in this standard. The Act does not require Councils to prepare FMPs for each and every fishery—only for those where regulation would serve some useful purpose and where the present or future benefits of regulation would justify the costs. For example, the need to collect data about a fishery is not, by itself, adequate justification for preparation of an FMP, since there are less costly ways to gather the data (see Section 602.13(d)(2)). In some cases, the FMP preparation process itself, even if it does not culminate in a document approved by the Secretary, can be useful in supplying a basis for management by one or more coastal States.

(2) *Criteria.* In deciding whether a fishery needs management through regulations implementing an FMP, the

following general factors should be considered, among others:

(i) The importance of the fishery to the Nation and to the regional economy.

(ii) The condition of the stock or stocks of fish and whether an FMP can improve or maintain that condition.

(iii) The extent to which the fishery could be or is already adequately managed by States, by State/Federal programs, by Federal regulations pursuant to PMPs or international commissions, or by industry self-regulation, consistent with the policies and standards of the Act.

(iv) The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution.

(v) The economic condition of a fishery and whether an FMP can produce more efficient utilization.

(vi) The needs of a developing fishery, and whether an FMP can foster orderly growth.

(vii) The costs associated with an FMP, balanced against the benefits (see paragraph (d) of this section as a guide).

(c) *Alternative management measures.* Management measures should not impose unnecessary burdens on the economy on individuals, on private or public organizations, or on Federal, State, or local governments. Factors such as fuel costs, enforcement costs, or the burdens of collecting data may well suggest a preferred alternative.

(d) *Analysis.* the supporting analyses for FMPs should demonstrate that the benefits of fishery regulation are real and substantial relative to the added research, administrative, and enforcement costs, as well as costs to the industry of compliance. In determining the benefits and costs of management measures, each management strategy considered and its impacts on different user groups in the fishery should be evaluated. This requirement need not produce an elaborate, formalistic cost-benefit analysis. Rather, an evaluation of effects and costs, especially of differences among workable alternatives including the status quo, is adequate. If quantitative estimates are not possible, qualitative estimates will suffice.

(1) *Burdens.* Management measures should be designed to give fishermen the greatest possible freedom of action in conducting business and pursuing recreational opportunities that are consistent with ensuring wise use of the resource and reducing conflict in the fishery. The type and level of burden placed on user groups by the regulations need to be identified. Such an examination should include, for example: capital outlays; operating and maintenance costs; reporting costs; administrative, enforcement, and information costs; and prices to consumers. Management measures may shift costs from one level of government to another, from one part of the private sector to another, or from the government to the private sector. Redistribution of costs through regulations is likely to generate controversy. A discussion of these and any other burdens placed on the public through FMP regulations should be a part of the FMP's supporting analyses.

(2) *Gains.* The relative distribution of gains may change as a result of instituting different sets of alternatives, as may the specific type of gain. The analysis of benefits should focus on the specific gains produced by each alternative set of management measures, including the status quo. The benefits to society that result from the alternative management measures should be identified, and the level of gain assessed.

[FR Doc. 82-16993 Filed 6-22-82; 8:45 am]

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FEDE

23681
23913
24097
24251
24539
24689
25001
25113
25319
25503
25729
25933
26117
26369
26611
26805
27057

Reader Aids

Federal Register

Vol. 47, No. 121

Wednesday, June 23, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912	1
23913-24096	2
24097-24250	3
24251-24538	4
24539-24688	7
24689-25000	8
25001-25112	9
25113-25318	10
25319-25502	11
25503-25728	14
25729-25932	15
25933-26116	16
26117-26368	17
26369-26610	18
26611-26804	21
26805-27056	22
27057-27242	23

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

January 29, 1859 (Revoked by PLO 6260)	26131
May 8, 1889 (Revoked by PLO 6257)	26130
May 28, 1889 (Revoked in part by PLO 6255)	26129
April 1, 1895 (See PLO 6260)	26131
April 30, 1896 (See PLO 6260)	26131
November 10, 1917 (Revoked in part by PLO 6259)	26130
November 21, 1923 (Revoked in part by PLO 6266)	26133
June 8, 1926 (Revoked in part by PLO 6252)	26133
December 22, 1927 (Revoked by PLO 6263)	26132
April 23, 1929 (Revoked by PLO 6263)	26132
12367	26119

Proclamations:

1245 (Revoked by PLO 6266)	26133
4944	24097
4945	24099
4946	25503
4947	26117
4948	26805

5 CFR

1260	26369
1261	26369

Proposed Rules:

340	24726
720	24336

7 CFR

1	26611
2	23681, 24101
15	25458
15b	25458
29	25933, 27057
102	23910
277	25496
301	23682, 23683, 26121
371	25001
411	27058
439	27059
760	24669
905	25935
906	24137, 25113, 26122
910	24251, 25319, 26370
916	23913
917	23913
923	23684
979	24109
981	25001
1032	25113
1040	26370
1106	25505
1701	24251
1900	24539
2900	25319

Proposed Rules:

28	26637
52	25366
54	23725
235	25368
272	24968, 26639, 26840, 27038
273	24968, 26639, 26840, 27038
276	26639, 27038
932	26394
1001	27080
1011	26656
1046	26656
1065	26840
1071	26665,
1073	26665
1098	26656
1104	26665
1106	26665
1126	26665
1132	26665
1200	23733, 24338
1701	25371, 26841

8 CFR

100	25002

Proposed Rules:

214	24596
248	24596

9 CFR

92	24540
317	26371
318	26371
319	26371

Proposed Rules:

166	26841
318	23941
381	23941

10 CFR

30	27060
40	27060
70	27060
506	25729, 26815

Proposed Rules:

430	26143
456	26148
485	25535

501 25153

12 CFR

217 24252
303 25733
546 26807
563 26807
563b 24252
611 27060
614 27060
701 ..... 23685, 26808
707 26808
708 26808
745 26808

Proposed Rules:

Ch. I 26842
Ch. VII 23747
29 ..... 23944, 26157
202 ..... 23738, 23741, 25019
350 23743
614 25535
701 23750
721 23751

13 CFR

122 24110

14 CFR

39 ..... 25114, 25115
71 ..... 25506, 25507, 26615
73 26123
75 26615
91 ..... 25116, 25508
97 25510
298 25935
323 26809
382 25936

Proposed Rules:

21 24596
39 ..... 23691-23698, 24138, 24541
71 ..... 23699-23702, 23752, 24112, 24139-24141, 25155, 25156, 25539, 25157, 26665
75 24597
91 ..... 26112, 26158
97 23703
202 25019
203 25019
204 25019
208 25019
211 25019
212 25019
213 25019
215 25019
231 23949
250 24689
294 25019
298 ..... 23949, 25019
323 27081
399 24596

15 CFR

376 25118
806 23705
930 27062
970 24948

16 CFR

13 ..... 24113, 25118

Proposed Rules:

Ch. II 24034
13 25157
436 25372
455 24542
1025 25512
1632 25159

17 CFR

140 ..... 24113, 26810
200 ..... 26818, 26820
201 26818
202 26820
203 26820
210 25120
211 ..... 23915, 23916
229 25126
230 26818
231 25120
239 ..... 25126, 26818
240 ..... 23919, 26161
249 ..... 25120, 26818
259 26818
260 26818
269 26818
274 26818
279 26818

Proposed Rules:

21 23951
201 25372
230 25372
240 ..... 24338, 25372, 26161
250 25372
260 25372
270 25372
275 25372

18 CFR

1 24691
3 24691
157 24254
271 ..... 25132, 25133
282 24117
284 24254
375 ..... 24524, 24691

Proposed Rules:

1 24691
271 ..... 23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274 24726
284 24726
375 24726
381 24726

19 CFR

148 24117
177 25975
210 25134

Proposed Rules:

134 24344

20 CFR

416 24274

Proposed Rules:

404 ..... 23954, 25376
651 23754
654 23754

21 CFR

5 ..... 23705, 25733, 26822
12 ..... 25733, 26375
13 26375
14 26375
15 26375
16 26375
20 24277
74 24278
80 24691
81 ..... 24278, 24285
82 24278
137 24692
146 24286
172 26823
177 24288
178 26824
193 ..... 25950, 25951, 27062
436 23707
440 23711
442 23707
444 ..... 23707, 25320
448 23707
449 23707
450 23707
510 ..... 26375, 26376
520 ..... 25320, 25734, 26376, 26377
524 26377
544 24290
548 24693
556 25320
558 ..... 23712, 24694, 24695, 26378, 26379, 26825
561 ..... 25952-25954, 27063, 27064
573 24292
610 24696
630 24696
801 26982
1308 26616

Proposed Rules:

101 ..... 25379, 26580
105 26580
155 26843
172 26843
201 24735

22 CFR

41 24293
514 24119

23 CFR

625 25268

Proposed Rules:

655 25541

24 CFR

Proposed Rules:

203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:

250 23755

26 CFR

1 25139
6a 24701
26a 24127

Proposed Rules:

1 ..... 24112, 24737, 25026, 26666, 26854

27 CFR

9 ..... 24293, 24295, 25517
18 ..... 23920, 25003
240 ..... 23920, 25003

Proposed Rules:

9 24344
240 26399

28 CFR

2 ..... 25735, 25736
549 27218
552 27219

29 CFR

5 ..... 24296, 24297
6 24702
40 24702
580 24702
697 26825
1601 ..... 24542, 24703
1910 ..... 25323, 26557
1952 ..... 25323, 25327

Proposed Rules:

1904 24346
1910 ..... 24751, 26560

30 CFR

250 ..... 24751, 25330
251 25330
730 26356
731 26356
732 26356
733 26356
736 26356
906 25332
913 ..... 23858, 23886
920 25955
943 24130
944 26827

Proposed Rules:

Ch. VII 26405
211 26856
221 26856
226 25252
231 ..... 24128, 26856
250 26856
270 ..... 24129, 26856
700 25092
701 ..... 24954, 25092, 25486, 26592, 26754
736 25278
740 25092
741 25092
742 25092
743 25092
744 25092
745 25092
746 25092
760 25278
761 25278
762 25278
764 25278
765 25278
769 25278
785 25486
816 ..... 24954, 26592, 26754, 26760
817 ..... 24954, 26592, 26754, 26760
822 25486
826 26760
906 25979
910 25981
913 25164
914 ..... 26406, 26857
916 ..... 23766, 26165
922 26779
925 ..... 23767, 26164

931 23898
934 26769
935 26406
937 26786
938 25383
942 25165
947 26794
951 25029

31 CFR

209 24131
535 25003

Proposed Rules:

51 25029
53 25543
55 25543
81 25543
90 25543
92 25543
93 25543
120 25543
121 25543
122 25543
127 25543

32 CFR

242b 24297
536 26616
706 ..... 24131, 24132
806b 26617
1665 24542

Proposed Rules:

293 26857
1656 24599
1660 24599

33 CFR

1 25519
100 25139–25142
117 ..... 24543, 24544, 26125–26127
127 25519
157 24547
175 24548

Proposed Rules:

110 26165
126 26166
154 26166
156 26166
161 26166
167 26167

34 CFR

642 24938
643 24938
644 24938
645 24938
646 24938

36 CFR

7 2429
50 ..... 24299, 24302
800 24306
811 25520

Proposed Rules:

1 24143
2 24143
3 24143
4 24143
5 24143
6 24143
7 24143
9 23768
12 24143
219 24348

37 CFR

201 25004

38 CFR

3 24549

Proposed Rules:

1 23954
21 24603

39 CFR

111 25957
233 26831
3001 23712
3002 25523

40 CFR

1 25006
52 ..... 23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26388, 26618–26623, 26832, 26833, 27065–27073
60 25524
61 24703
62 25335
81 25016
122 24918
125 ..... 24918, 25963, 27075
162 23928
180 ..... 23931–23935, 25017, 25741, 25957–25963
256 26835
401 24534
420 24554
710 27075
712 26992
723 24306
762 ..... 23713, 23717
763 25145

Proposed Rules:

Ch. I 25743, 26859
4 24755
30 26564
50 26407
52 ..... 23773, 23778, 24755 25745
60 26750
62 26169
81 24755
122 ..... 24144, 25546
123 ..... 23955, 25546, 26170
124 ..... 24921, 25546
125 ..... 24921, 25981
141 24756
158 26171
162 25030
180 ..... 23955, 23957, 24604, 25031, 25032, 25746–25750, 25981
425 23958
440 25682
704 27206
712 27003
761 ..... 24976, 25555
790 24348

41 CFR

Ch. I 25018
Ch. 9 26390
7–1 25954
7–6 25954
7–7 25964
7–30 25964
8–2 26127
8–4 25525
8–75 25525

Proposed Rules:

9 23780
101–8 25337
101–41 24357

42 CFR

435 27078
436 27078

Proposed Rules:

405 27084

43 CFR

2 26390
4 26390
2650 26390
3300 25967

Public Land Orders:

548 (Revoked in part by PLO 6252) 24133
619 (Revoked by PLO 6256) 26129
1409 (Revoked by PLO 6254) 23935
1461 (Revoked by PLO 6261) 26131
5345 (Amended PLO 6253) 24133
5791 (Corrected by PLO 6264) 26132
6200 (Corrected by PLO 6265) 26133
6252 24133
6253 24133
6254 23935
6255 26129
6256 26129
6257 26130
6258 26130
6259 26130
6260 26131
6261 26131
6262 26132
6263 26132
6264 26132
6265 26133
6266 26133
6277 27079
6278 27078
6279 27079

Proposed Rules:

Subtitle A 25384
Subtitle B 25384
4 27086
3140 25720
3830 24144

44 CFR

64 ..... 25018, 25145, 25146, 26133
65 ..... 23718, 23719
67 ..... 23720, 24321

Proposed Rules:

67 ..... 23780–23785, 24357

45 CFR

302 24716
303 24716
304 24716
305 24716
306 24716
1611 25148

Proposed Rules:

2 26860
97 26104

46 CFR

Ch. II 25530
42 25148
50 24554
71 24554
91 24554
107 24554
189 24554
510 ..... 24555, 25530
536 25532

Proposed Rules:

Ch. I 26667
7 24604
25 25166
26 25166
35 25166
58 25166
78 25166
97 25166
111 25166
112 25166
162 25166
196 25166
502 24377

47 CFR

1 26393
2 ..... 24557, 25342
13 25972
22 24557
67 24720
73 ..... 24572–24580, 25342–25346, 26624, 26836, 26838
74 ..... 24580, 24723
81 23722
87 23722
90 ..... 23722, 24581, 26631

Proposed Rules:

Ch. I 24612, 25033, 26868, 27087
2 ..... 25033, 25962
21 25033
73 ..... 24144, 24613, 26408, 26861–26868
74 25033
90 26677
94 25033

48 CFR

Proposed Rules:

19 25034
53 26879

49 CFR

1 24581
171 24582
172 24582
173 ..... 24582, 26633
175 24582
385 26135
512 24587
571 ..... 25149, 26136
575 ..... 24593, 25930, 26139
1033 ..... 23723, 24332, 25347
1039 26634
1090 26634
1110 24594
1125 25973
1136 26142
1201 26634

1300	26634	571	25169, 26174	91	26635	674	24724
Proposed Rules:		1032	26409	285	25350, 26393		
172	24157	1102	25035	371	24723	**Proposed Rules:**	
173	24157, 25167, 26172	1248	26870	611	23936, 25018	17	26878
178	25167, 26172			661	24134, 24136	20	25922
192	25555	**50 CFR**		672	23936	602	27228
386	26172	26	25150				

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing June 21, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S.J. Res. 291 / Pub. L. 97–196 Designating "Baltic Freedom Day". (June 18, 1982; 96 Stat. 117) Price: $1.75.

6-24-82
Vol. 47 No. 122
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federal register

Thursday
June 24, 1982

Selected Subjects

Administrative Practice and Procedure
Federal Energy Regulatory Commission

Air Pollution Control
Environmental Protection Agency

Airspace
Federal Aviation Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Bridges
Coast Guard

Coal Mining
Surface Mining Reclamation and Enforcement Office

Endangered and Threatened Wildlife
Fish and Wildlife Service

Exports
International Trade Commission

Government Procurement
National Aeronautics and Space Administration

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

CONTINUED INSIDE

Selected Subjects

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Navigation (Water)
Coast Guard

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

Organization and Functions (Government Agencies)
Animal and Plant Health Inspection Service

Privacy
Army Department

Radio
Federal Communications Commission

Railroad Safety
Federal Railroad Administration

Trade Agreements
Customs Service

Truth in Lending
Farmers Home Administration

Vessels
Coast Guard

Waste Treatment and Disposal
Environmental Protection Agency

Water Pollution Control
Coast Guard
Environmental Protection Agency

Contents

Federal Register

Vol. 47, No. 122

Thursday, June 24, 1982

Agricultural Marketing Service
RULES
27243 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
27299, 27342 Eastern Colorado et al. (2 documents)
NOTICES
27387 Peanut Administrative Committee; 1982 crop year, expenses and rate of assessment

Agriculture Department
See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration.

Air Force Department
NOTICES
Meetings:
27402 Scientific Advisory Board

Animal and Plant Health Inspection Service
RULES
Organization, functions, and authority delegations:
27243 Plant Protection and Quarantine Deputy Administrator; functional responsibilities under Federal Plant Pest Act
NOTICES
Environmental statements; availability, etc.;
27387 Khapra Beetle Methods Development Laboratory, Hoboken, N.J.; construction and operation
27388 Miami International Airport, Fla.; bird quarantine facility

Army Department
RULES
27262 Privacy Act; implementation

Arts and Humanities, National Foundation
NOTICES
Meetings:
27424 Humanities National Council Advisory Committee

Bonneville Power Administration
NOTICES
27402 Power rates, wholesale; intent to revise; closing of comment period

Civil Aeronautics Board
NOTICES
Hearings, etc.:
27388 Altair Airlines, Inc.
27388 Mail rates; domestic and international service

Coast Guard
RULES
Dangerous cargoes:
27293 Self-propelled vessels carrying hazardous liquids; safety requirements; correction
Districts, marine inspection zones, and captain of port zones:
27263 Los Angeles-Long Beach, and San Diego, Calif.; boundary clarification
Drawbridge operations:
27265 Louisiana
Inland waterways navigation regulations:
27265 Nautical charts; removal of obsolete citations from CFR
Pollution:
27478 Deepwater port liability fund, interim rule and request for comments
Regattas and marine parades; safety of life:
27264 Lake Macatawa, Mich.; Queen Beatrix Regatta
27490 Vessel documentation
NOTICES
27430 Port access routes; study results
27434 Small vessel towing and salvage policy study; inquiry

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Customs Service
RULES
27260 Carnets; conforming amendments

Defense Department
See also Air Force Department; Army Department.
NOTICES
Meetings
27402 DIA Advisory Committee

Depository Institutions Deregulation Committee
NOTICES
27446 Meetings; Sunshine Act

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
27423 Schedules I and II, 1982 aggregate

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
27403 Public Service Electric & Gas Co.

Energy Department
See Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
27267 Tennessee
Hazardous waste:
27520 Incinerators; standards for owners and operators and consolidated permit regulations; interim and final rules and request for comments

Water pollution control; State underground injection control programs:
27273 Oklahoma
PROPOSED RULES
Hazardous waste:
27516 Treatment, storage, and disposal facilities; standards for owners and operators; permitting standards for incinerators and storage surface impoundments; temporary suspension of effective date; proposed rule withdrawn
NOTICES
27405 Agency forms submitted to OMB for review

Farmers Home Administration
PROPOSED RULES
27366 Truth in lending disclosure requirements and real estate settlement procedures

Federal Aviation Administration
RULES
Airworthiness directives:
27245 Beech
27246 Bendix; final rule and request for comments
27247 Detroit Diesel Allison
27248 Hiller
27244 Societe Nationale Industrielle Aerospatiale
27253 IFR altitudes
27253 Jet routes
27252 Jet routes; correction
27249 Transition areas (2 documents)
PROPOSED RULES
Administrative regulations:
27472 Designated airworthiness representatives
27373, 27374 Transition areas (3 documents)
NOTICES
27435 Aircraft simulator and visual system evaluation and approval; advisory circular; inquiry
27475 Airworthiness representatives, designated; advisory circular; inquiry

Federal Communications Commission
RULES
Common carrier services:
27293 Recoding devices, use in connection with telephone service; extension of time for filing revised tariff regulations
PROPOSED RULES
27384 National Environmental Policy Act; implementation; extension of time
Radio stations; table of assignments:
27385 Texas
NOTICES
Meetings:
27406 Radio Advisory Committee
27406 Telecommunications Industry Advisory Group
27405 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Deposit Insurance Corporation
NOTICES
27446, 27447 Meetings; Sunshine Act (4 documents)

Federal Election Commission
NOTICES
27447 Meetings; Sunshine Act

Federal Energy Regulatory Commission
PROPOSED RULES
27375 Fees for services and benefits
NOTICES
Hearings, etc.:
27404 Boulder City, Colo.

Federal Highway Administration
NOTICES
Environmental statements; availability, etc.:
27435 San Jose, Calif.; intent to prepare

Federal Home Loan Bank Board
NOTICES
Senior Executive Service:
27406 Bonus awards schedule

Federal Maritime Commission
NOTICES
27447 Meetings; Sunshine Act

Federal Railroad Administration
RULES
27293 Freight car safety standards, final rule and request for comments
NOTICES
Petitions for exemptions, etc.:
27435 Consolidated Rail Corp.

Federal Reserve System
RULES
27244 Interest on deposits (Regulation Q); early withdrawal penalty; temporary suspensions: Connecticut
NOTICES
Applications, etc.:
27406 Community Banks, Inc., et al.
27407 First Farmers & Merchants Corp. et al.
27447, 27448 Meetings; Sunshine Act (2 documents)

Fish and Wildlife Service
RULES
Endangered and threatened species:
27295 Hawksbill Sea Turtle

Health and Human Services Department
See Public Health Service.

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
RULES
27250 Oil and gas goods and technology, U.S. and non-U.S. origin; export restrictions to U.S.S.R.; interim rule and request for comments
NOTICES
Antidumping:
27392 Steel wire nails from Korea
Countervailing duties:
27397 Steel wire nails from Korea
Scientific articles; duty free entry:
27388 Colorado State University et al.
27391 Howard University et al.
27396 Yale University; correction

Trade adjustment assistance determination petitions:
27392 Fair Lawn Fashions, Inc., et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
27415 Permanent authority applications
27421, 27422 Permanent authority applications; operating rights republication (2 documents)
27421 Permanent authority applications; restriction removals
Rail carriers; contract tariff exemptions:
27422 Baltimore & Ohio Railroad Co.
27423 Texas Mexican Railway Co.
27423 Railroad services abandonment:
Chicago & Northwestern Transportation Co.

Justice Department
See Drug Enforcement Administration

Land Management Bureau
RULES
Public land orders:
27288 Arizona; correction
27285 California
27287 Colorado
27283 Idaho
27283–27285 Montana (3 documents)
27290 New Mexico
27285, 27289–27292 Oregon (5 documents)
27286, 27287 Utah (2 documents)
27285, 27290 Washington (3 documents)
NOTICES
Airport leases:
27410 Nevada (3 documents)
Classification of public lands:
27410 California
Coal leases, exploration licenses, etc.:
27411 Montana
Environmental statements; availability, etc.
27413 Bodie-Coleville Planning Units, Calif.
27409 Rio Blanco County, Colo.; sodium preference right lease applications
27413 Roseburg District draft timber management plan, Oreg.
Meetings:
27407 Safford District Grazing Advisory Board
Motor vehicles, off-road, etc.; area closures and openings:
27407 California
Resource management plans:
27410 Hollister Resource Area, Bakersfield District, Calif.; planning criteria availability
Sale of public lands:
27411 Montana
27409, 27412 Nevada (2 documents)
Survey plat filings:
27410, 27411 California (3 documents)
Withdrawal and reservation of lands, proposed, etc.:
27409 Idaho; correction
27412 New Mexico

National Aeronautics and Space Administration
RULES
Procurement:
27274 Directive 82–1
27283 Uniform Contract Format regulatory coverage; correction

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
27436 Electric Auto Corp.

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
27400 Alaska Department of Fish and Game
27400 Zapol, Dr. Warren M., et al.

National Park Service
NOTICES
Historic Places National Register; pending nominations:
27414 South Carolina
Natural Landmarks National Registry; proposed additions, deletions, etc.:
27414 California et al.

National Transportation Safety Board
NOTICES
27448 Meetings; Sunshine Act

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
27371 Nuclear reactors, decontamination; mandatory property insurance; advance notice
Rulemaking petitions:
27371 Ohio Citizens for Responsible Energy
NOTICES
Applications, etc.:
27424, 27425 Commmonwealth Edison Co. (2 documents)
27425 Duke Power Co.
27425 Iowa Electirc Light & Power Co. et al.
27426 Southern California Edison Co. et al.
27426 Regulatory guides; issuance and availability

Postal Service
RULES
Domestic Mail Manual:
27266 Miscellaneous amendments

Public Health Service
NOTICES
Organization, functions, and authority delegations:
27407 National Institutes of Health; correction

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
27437 Applications; exemptions, renewals, etc.

Pipeline safety:
27443 Tennessee Gas Pipeline Co.; maximum allowable operating pressure of transmission line segments; waiver petition

Securities and Exchange Commission
NOTICES
Hearings, etc.:
27426 Avatar Holdings Inc. et al.
27427 Columbia Gas System, Inc., et al.
27428 Jersey Central Power & Light Co., et al.
Self-regulatory organizations; proposed rule changes:
27429 Municipal Securities Rulemaking Board
27429 Options Clearing Corp.
Self-regulatory organizations; unlisted trading privileges:
27427 Boston Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission; various States:
27383 Oklahoma

Textile Agreements Implementation Committee
NOTICES
Export visa requirements; certification, etc.:
27401 Brazil
27400 Singapore

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.
NOTICES
27444 Agency forms submitted to OMB for review
27444 Deepwater port license extension; Texas Offshore Port Inc.; inquiry

Treasury Department
See also Customs Service.
NOTICES
Notes, Treasury:
27445 T–1984

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:
January 29, 1867 (Revoked in part by PLO 6287)....27292
July 2, 1875 (Revoked by PLO 6270)....27285
July 27, 1875 (Revoked by PLO 6271)....27285
August 16, 1911 (Revoked in part by PLO 6280)....27287
February 5, 1912 (Revoked in part by PLO 6283)....27290
July 3, 1913 (Revoked in part by PLO 6280)....27287
December 11, 1914 (Revoked in part by PLO 6280)....27287
February 25, 1919 (Revoked in part by PLO 6282)....27289
November 26, 1921 (Revoked in part by PLO 6274)....27286
April 17, 1926 (Revoked in part by PLO 6284)....27290
699 (See PLO 6287)....27292
4082 (Revoked by PLO 6287)....27292
4364 (Revoked by PLO 6287)....27292
4774 (Revoked by PLO 6287)....27292
5339 (Revoked in part by PLO 6281)....27288
5702 (Revoked by PLO 6287)....27292
6205 (Revoked in part by PLO 6286)....27291
7035 (See PLO 6287)....27292

7 CFR

371....27234
908....27234

Proposed Rules:
1006....27342
1012....27342
1013....27342
1033....27342
1036....27342
1040....27342
1124....27342
1125....27342
1133....27342
1134 (2 documents)....27299, 27342
1135....27342
1136 (2 documents)....27299, 27342
1137 (2 documents)....27299, 27342
1139....27342
1807....27366
1872....27366
1901....27366
1910....27366
1940....27366
1941....27366
1943....27366
1944....27366
1945....27366
1962....27366
1990....27366

10 CFR

Proposed Rules:
50 (2 documents)....27371

12 CFR

217....27244

14 CFR

39 (5 documents)....27244–27248
71 (3 documents)....27249, 27252
75 (2 documents)....27252, 27253
95....27253

Proposed Rules:
71 (3 documents)....27373, 27374
183....27472

15 CFR

376....27250
379....27250
385....27250

16 CFR

Proposed Rules:
1....27375
3....27375
375....27375
381....27375

19 CFR

10....27260
18....27260
114....27260
143....27260

30 CFR

Proposed Rules:
936....27383

32 CFR

505....27262

33 CFR

3....27263
100....27264
117....27265
137....27478
150....27478
162....27265

39 CFR

111....27266

40 CFR

52....27267
81....27267
122....27520
123....27273
264....27520
265....27520

Proposed Rules:
122....27516
264....27516

41 CFR

Ch. 18 (2 documents)....27274, 27283

43 CFR

Public Land Orders:
648 (Revoked in part by PLO 6272)....27285
651 (Revoked in part by PLO 6275)....27286
4395 (See PLO 6287)....27292
4913 (Revoked by PLO 6276)....27287
5976 (Corrected by PLO 6281)....27288
6267....27283
6268....27283
6269....27284
6270....27285
6271....27285
6272....27285
6273....27285
6274....27286
6275....27286
6276....27287
6280....27287
6281....27288
6282....27289
6283....27290
6284....27290
6285....27290
6286....27291
6287....27292

46 CFR

66....27490
67....27490
68....27490
69....27490
153....27293

47 CFR

64....27293

Proposed Rules:
1....27384
73....27385

49 CFR

215....27299

50 CFR

17....27295

V
4
7
/
1
2
2
J
E
2
4
8
2
UMI

Rules and Regulations

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions and Delegations of Authority; Deputy Administrator; Plant Protection and Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of functions of the Animal and Plant Health Inspection Service (APHIS) as it relates to the Deputy Administrator, Plant Protection and Quarantine, to specifically assign functional responsibilities under the Federal Plant Pest Act, as amended by Section 1119 of Public Law 97–98, dated December 22, 1981.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, Hyattsville, MD 20782 (301–436–5591).

SUPPLEMENTARY INFORMATION: The statement of organization, functions and delegations of authority of the Animal and Plant Health Inspection Service is being amended to delegate to the Deputy Administrator, Plant Protection and Quarantine, the functional responsibility for administering the provisions of the Federal Plant Pest Act, as amended December 22, 1981 (Pub. L. 97–98).

The Act provides for protecting against the introduction and dissemination of certain plant pests through enforcement of its many provisions. The amendments of December 22, 1981, provide for the seizure, quarantine, treatment, and application of other remedial measures to destroy or otherwise dispose of any product or article or means of conveyance which there is reason to believe is infested or to quarantine, treat or apply other remedial measures to any premises, including articles on such premises which there is reason to believe are infested or infected by a plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States. Such actions may be taken after the Secretary determines that an extraordinary emergency exists because of the presence of such plant pest on any premises and that such presence threatens the crops, other plant life, or plant products of the United States. Actions can be taken under this amendment only after the Secretary finds, after a review of measures being taken by the State or other jurisdiction and after consultation with the Governor of such State, that the measures being taken are inadequate. Determination that an extraordinary emergency exists that threatens the crops, other plant life or plant products of the United States due to the existence of a plant pest is reserved to the Secretary of Agriculture.

The Secretary has deletgated the responsibility for administration of the Federal Plant Pest Act, as amended, to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, Animal and Plant Health Inspection Service (47 FR 22936).

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 reads as follows:

Authority: 5 U.S.C. 301.

2. Section 371.2 is amended by revising paragraph (c) (2) (iv) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(c) * * *

(2) * * *

(iv) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa–150jj)

* * * * *

Issued at Washington, D.C., this 17th day of June, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-17075 Filed 6-23-82; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 595]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 25–July 1, 1982. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This

regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1981–82 which was recommended by the committee following discussion at a public meeting on February 5, 1982. The committee met again publicly on June 22, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.996 is added as follows:

§ 908.996 Valencia orange regulation 996.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period June 25, 1982, through July 1, 1982, are established as follows:

(1) District 1: 235,000 cartons;
(2) District 2: 265,000 cartons;
(3) District 3: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 23, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82–17332 Filed 6–23–82; 11:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–0409]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe storms and flooding in the Connecticut counties of Fairfield, New Haven, Middlesex, New London, Hartford, Windham, Tolland and Litchfield.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711) or Beverly A. Belcamino, Attorney (202/452–3823).

SUPPLEMENTARY INFORMATION: On June 14, 1982, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Connecticut counties of Fairfield, New Haven, Middlesex, New London, Hartford, Windham, Tolland and Litchfield, major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms and flooding beginning on or about June 4, 1982. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to June 14, 1982, and will remain in effect until 12 midnight, December 14, 1982.

List of Subjects in 12 CFR Part 217

Advertising, Banks, Banking, Federal Reserve System, Foreign banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated counties of Connecticut, directly affected by the severe storms and flooding, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, June 18, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82–17048 Filed 6–23–82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 81–ASW–62; Amdt. 39–4401]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models AS350 and AS355 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) which supersedes AD 82–02–02. After issuing AD 82–02–02, the FAA determined from service experience that compliance with the AD did not eliminate occurrence of cracks in the upper vertical fin support fitting on certain Aerospatiale Model AS350 and AS355 series helicopters. This new AD requires repetitive inspections for cracks in the upper vertical fin support fitting on all Aerospatiale Model AS350 and AS355

series helicopters to prevent possible failure of the fitting and loss of the vertical fin which could result in loss of helicopter control.

DATES: Effective June 28, 1982.

Compliance scheduled as required by the AD.

ADDRESSES: A copy of the service information may be examined at the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas. A copy of the service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 502.

SUPPLEMENTARY INFORMATION: Amendment 39-4294, (47 FR 1113), Airworthiness Directive (AD) 82-02-02, required frequent visual inspections for cracks in the flanges of the upper vertical fin support fitting on certain Aerospatiale Model AS350 and AS355 series helicopters. After incorporating a modification noted in the AD and described in Aerospatiale Service Bulletin No. 55.01 or 55.02, the inspections were no longer required. After compliance with AD 82-02-02 and incorporating the modification, two additional reports of seriously cracked vertical fin support fittings were received. Failure of the support fitting due to possible cracks may result in loss of the upper vertical fin and loss of helicopter control. New Aerospatiale Modification No. AMS071047 adds two thin steel plates to reinforce the fin support fitting flanges. At this time, the agency is also requiring repetitive inspections of fins with this new modification and of fins on new aircraft that have an equivalent design feature.

Since this condition is likely to occur on other helicopters of the same type design, a superseding AD is being issued that requires daily visual check of the flanges of the upper fin support fitting and a dye penetrant inspection of the upper fin support every 50 hours' time in service on Aerospatiale Models AS350 and AS355 series helicopters.

Since a situation exists that requries immediate adoption of the amendment, it is found that notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days. Approximately 350 aircraft will be affected by the inspections specified in this AD. The estimated cost impact of this AD is $4,000 per aircraft.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by rescinding Amendment 39-4294 (47 FR 1113), AD 82-02-02 and adding the following new AD:

Societe Nationale Industrielle Aerospatiale (SNIAS). Applies to Model AS350 series helicopters equipped with upper tail fin, P/N 350A.14.0020, and Model AS355 series helicopters equipped with upper tail fin, P/N 350A.14.0522, including fins modified per AMS 071047, certificated in all categories (Airworthiness Docket No. 81-ASW-62).

Compliance required as indicated:

To detect possible cracks in the flanges of the upper vertical fin support fitting and prevent failure of this fitting and loss of the fin, accomplish the following:

(a) Before the first flight of each day after the effective date of this AD, visually check for cracks in the flanges of the upper vertical fin support using a light. If a crack is found, the vertical fin must be removed before further flight as prescribed in subparagraph (b)(3) of this AD. The check may be performed by the pilot.

Note.—For the requirements regarding the listing of compliance with this AD in the aircraft maintenance record, see § 91.173 of the Federal Aviation Regulations.

(b) Within the next 10 hours' time in service after the effective date of the AD and thereafter at intervals not to exceed 50 hours' time in service from the last inspection, accomplish the following:

(1) Remove the tail cone fairing, P/N 350A.23.0014.

(2) Inspect the flanges of the upper vertical fin support fitting for cracks using a dye penetrant or equivalent inspection method.

(3) If a flange of the fitting is cracked, the upper vertical fin must be removed and a serviceable upper fin installed before further flight in accordance with Chapter 55 of the Model AS350 and AS355 Maintenance Manual or FAA approved equivalent.

(4) Install tail cone fairing.

(c) Equivalent means of compliance with this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations to fly aircraft to a base where compliance with paragraph (b) of this AD may be accomplished.

This supersedes Amendment 39-4294 (47 FR 1113), AD 82-02-02.

This amendment becomes effective June 28, 1982.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Texas, on June 10, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-17032 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-CE-30-AD; Amendment 39-4404]

Beech Model 76 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; revision of existing Airworthiness Directive.

SUMMARY: This amendment revises Airworthiness Directive (AD) 80-19-12 (Amendment 39-3916), applicable to Beech Model 76 airplanes, Serial Numbers ME-1 and up, that have 100 hours or more time-in-service. AD 80-19-12 requires repetitive visual and dye-penetrant inspections of the lower engine mount members for cracks. This revision allows discontinuance of the repetitive inspections, without compromising safety, when improved engine mount assemblies are installed per Beechcraft Service Instructions No. 1147, Revision 1. It also closes the serial number effectivity at ME-415 because

Serial Numbers ME-416 and up incorporate the improved engine mounts during manufacture.

DATES: Effective date: June 14, 1982. Compliance: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Service Instructions Number 1147, Revision 1, applicable to this AD, may be obtained from Beech Aircraft Corporation, Liberal Division, Liberal, Kansas 67901; Telephone number (316) 624-1613. A copy of the Service Instructions is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Don L. Williams, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Room 238, Terminal Building 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269-7005.

SUPPLEMENTARY INFORMATION: AD 80-19-12, Amendment 39-3916, published in the Federal Register on September 22, 1980 (45 FR 62790), was issued as a result of several reports of cracked engine mounts on Beech Model 76 airplanes. Failure of this structure may result in separation of the engine from the airplane. This AD, applicable to all Beech Model 76 airplanes that have 100 hours or more time-in-service, requires repetitive visual and dye-penetrant inspections of the lower engine mount members for cracks. Subsequent to the issuance of AD 80-19-12, the airplane manufacturer developed an improved engine mount, P/N 105-010019-1 and installed it on airplanes, Serial Numbers ME-416 and up. This improved mount is made available to owners of affected aircraft under the manufacturer's warranty provisions per Beechcraft Service Instructions No. 1147, Revision 1. The FAA has determined that AD 80-19-12 should be revised to provide installation of the new mount in accordance with the Service Instructions as an acceptable alternate means of compliance with the AD and to close the AD applicability at Serial Number ME-415.

Since this amendment is, in part, relieving in nature and provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary, and the amendment may be made effective in less than thirty (30) days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending AD 80-19-12, Amendment 39-3916 (45 FR 62790), as follows:

(1) Change the Applicability Statement to read as follows:

Beech: Applies to Model 76 (Serial Numbers ME-1 through ME-415) airplanes certificated in any category, that have 100 hours or more time-in-service.

(2) Redesignate existing Paragraph "E)" as Paragraph "F)."

(3) Add a new Paragraph E which reads as follows:

(E) The repetitive inspections required by paragraphs A) and B) of this AD may be discontinued when engine mount assemblies are replaced with P/N 105-010019-1 engine mount assemblies in accordance with Beechcraft Service Instructions No. 1147, Revision 1.

This amendment becomes effective on June 14, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The FAA has determined that this regulation involves a revision which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and modification on only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the rules docket at the location identified under the caption "ADDRESSES."

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on June 14, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-17000 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 82-ANE-20; Amdt. 39-4405]

Bendix Engine Products Division Model S-1200 Series Magnetos; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment issues a new airworthiness directive (AD) applicable to Bendix S-1200 magnetos incorporating green distributor blocks. The AD requires inspection of distributor block bushings for looseness and if loose, replacement prior to further flight.

DATES: Effective June 28, 1982. Comments related to this amendment must be received on or before July 28, 1982. Compliance is required as set forth in the AD.

ADDRESSES: Bendix Service Bulletin No. 613 may be acquired from the manufacturer at the Engine Products Division, Sidney, New York 13838.

A copy of the service bulletin is contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. A.T. Farrar, Propulsion Section, ANE-174, New York Aircraft Certification Office, Federal Building, JFK International Airport, Jamaica, New York 11430; tel. (212) 995-2894.

SUPPLEMENTARY INFORMATION: Engine malfunctions have been attributed to loosening of the distributor block bushing. Looseness of the bushing has caused short circuits within the distributor, resulting in power loss and engine damage. The manufacturer has made a new design, "Gripper" oilite bushing to insure bushing retention by the distributor block. This AD requires periodic inspections of the distributor block for bushing looseness and ultimate replacement of the block with "Gripper" bushing type.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and thus, was not preceded by notice and

public procedures, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by issuing a new AD as follows:

Bendix.—Applies to Bendix Engine Products Division's S–1200 series magnetos which have *green* distributor blocks and do not have the letter "R", metal stamped on the identification plate as described under "Identification," in Bendix Service Bulletin No. 613. Compliance required as indicated unless already accomplished. To reduce the possibility of magneto and engine malfunction resulting from loose distributor block bushings, accomplish the following:

(a) Comply with the inspection, replacement, and identification procedures outlined under "Detailed Instructions" shown in Bendix Service Bulletin No. 613, dated April 1981, or later approved revisions in accordance with the following schedule:

Magneto time in service since new or overhaul	Accomplish
Less than 1,000 hours	Inspect within the next 25 hours in service and every 25 hours in service thereafter, unless replaced with new "Gripper Bushing" distributor block.
1,000 hours or more but less service than 1,900 hours.	Inspect within the next 100 hours in service unless replaced with new "Gripper Bushing" distributor block.
1,900 hours or more	Replace the distributor block with new "Gripper Bushing" distributor block within the next 100 hours in service.

Any distributor block discovered having a loose bushing must be replaced before further flight.

(b) If compliance with Paragraph (a) reveals the distributor block to be contaminated with brass filings or bronze colored dust, inspect the engine as follows:

(1) Observe engine pistons through spark plug holes for evidence of burning.

(2) Check valve dry tappet clearance per engine manufacturer's instructions.

If piston damage or lower than specified dry tappet clearance is present, the engine must be inspected and maintained in accordance with the engine manufacturer's instructions, for continued airworthiness.

Make an engine log entry of each compliance with Paragraph (a) including the magneto serial number.

Equivalent means of compliance may be approved by the Chief of the New York Aircraft Certification Office, ANE–170, Federal Aviation Administration (FAA), New England Aircraft Certification Division, Federal Building, JFK International Airport, Jamaica, New York 11430. As permitted by FAR 21.197, aircraft may be flown to a base where maintenance required by this AD can be accomplished.

This AD is effective June 28, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

Issued in Burlington, Massachusetts, on June 14, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17026 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–ANE–05; Amdt. 39–4403]

Detroit Diesel Allison Models 250–C20, –C20B Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modifying the high pressure fuel filter assembly installed in Detroit Diesel Allison (DDA) Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system. The AD is needed to prevent possible metal contamination of the CECO Model MC–40 fuel control system power turbine governor which can result in power turbine rotor overspeed.

DATE: Effective July 1, 1982.

ADDRESS: The applicable service bulletin may be obtained from Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206. Copies of the service bulletin are contained in the Rules Docket, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Royace Prather, Chicago Aircraft Certification Office, ACE–140C, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone (312) 694–7132.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the high pressure fuel filter assembly installed in Allison Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system was published in the **Federal Register** on March 22, 1982, Vol. 47, No. 55, page 12190. The proposal was prompted by the FAA and the National Transportation Safety Board (NTSB) determination that metal contamination of the fuel control system power turbine governor can result in power turbine overspeed of Detroit Diesel Allison Models 250–C20 and –C20B turboshaft engines. Detroit Diesel Allison issued Commercial Engine Service Bulletin CEB–1144 on November 14, 1979, warning that the high pressure fuel filter assembly bypass valve, DDA P/N 6895173, was subject to wear. The CEB recommended modifying the high pressure fuel filter assembly with a new design assembly kit. As of January 29, 1982, approximately 70% of affected high pressure filter assemblies were modified. The proposed amendment would require modification of engine high pressure fuel control filter assembly, P/N 6895173 or P/N 6896727 into P/N 686927 in accordance with Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1144, Revision 3, dated March 1, 1982, at the next engine or CECO fuel control/power turbine governor overhaul, but not later than October 1, 1982.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Detroit Diesel Allison. Applies to all Models 250–C20 and –C20B engines equipped with the Chandler Evans Company (CECO) Model MC–40 fuel control system.

Compliance required as indicated unless already accomplished.

To prevent possible power turbine overspeed, accomplish the following at the next engine or CECO fuel control/power turbine governor overhaul, but not later than October 1, 1982:

Modify the engine high pressure fuel control filter assembly, P/N 6895173 or P/N 6896727, into P/N 6899279 in accordance with the detailed instructions provided in Detroit Diesel Allison Commercial Engine Alert Bulletin CEB–A–1144, Revision 3, dated March 1, 1982, or later FAA approved revision.

Upon request of the operator, an equivalent means of compliance with the requirements of this AD may be approved by the Chief, Chicago Aircraft Certification Office, Federal Aviation Administration, Central Region. The manufacturer's specifications and procedures identified and described in this directive are available upon request to Detroit Diesel Allison, Division of General Motors Corporation, Indianapolis, Indiana 46206.

These documents may also be examined at the New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD is maintained by the FAA at the New England Regional Office.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that the rule will not have a significant economic impact on a substantial number of small entities because of the nominal cost of compliance. A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket No. 82–ANE–05, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Mass., on June 14, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17029 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–22; Amdt. 39–4400]

Hiller Model UH–12 Series Helicopter; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document supersedes a currently effective airworthiness directive (AD) which requires repetitive inspections of the rotor drive torsional couplings on Hiller Model UH–12 series helicopters and adopts a new AD. This superseding AD is required because of additional failures which have occurred prior to the initial inspection required by the original AD. This AD requires earlier inspection and identifies specific serial numbers of affected couplings.

DATES: Effective July 1, 1982. Initial compliance required within 50 hours' time in service after the effective date of this AD.

ADDRESSES: The applicable service information may be obtained from Hiller Aviation, 2075 West Scranton Avenue, Porterville, California 93257.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or in the Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM–174W, Western Aircraft Certification Field Office, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone: (213) 536–6361.

SUPPLEMENTARY INFORMATION: Amendment 39–3907 (45 FR 59138), AD 80–18–13 requires inspection and replacement, if necessary, of rotor drive system torsional couplings on Hiller UH–12 series helicopters. After issuing Amendment 39–3907, the FAA determined from service experience that the exposure interval of the initial 300-hour inspection threshold was contributing to an unsafe condition. That is, coupling failures were encountered on helicopters affected by Amendment 39–3907 with less than 300 hours' additional time in service since the effective date of Amendment 39–3907.

Additionally, the FAA has received information subsequent to the issuance of Amendment 39–3907 enabling specific serial number identification of suspect coupling assemblies. The serial number identification results in a cost impact reduction of the AD.

Therefore, the AD is being superseded by a new AD that establishes an initial 50-hour inspection on those helicopters not yet inspected by the original AD, and which limits the effectivity of the inspections (both initial and recurring) to helicopters equipped with certain serial numbered torsional couplings.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by removing Amendment 39–3907, AD 80–18–13, and by adding the following new airworthiness directive:

Hiller Aviation. Applies to Model UH–12E and UH–12L series helicopters certificated in all categories (including military Models OH23F and OH–23G) equipped with torsional couplings P/N 21047–9 and –11 and coupling serial numbers 497 through 766.

Compliance required within the next 50 hours' time in service after the effective date of this AD or within 300 hours' time in service since September 8, 1980, whichever occurs earlier, unless already accomplished, and thereafter at intervals not to exceed 300 hours' time in service since the last inspection.

To prevent possible loss of driving torque to the helicopter rotor system, accomplish this following:

(a) Inspect the P/N 21047–9 and 21047–11 torsional couplings as specified in paragraph 2 of Hiller Aviation Service Bulletin UH–12–21–1, Revision 2, dated April 2, 1982 (after this referred to as SB UH–12–21–1), or FAA approved equivalent.

(b) If torsional coupling is found to be serviceable, reinstall per paragraph 2 of SB UH–12–21–1 or FAA approved equivalent and revert to the repetitive inspection schedule of this AD.

(c) If torsional coupling installation does not meet the inspection requirements of paragraph (a) of this AD, replace with like serviceable part(s) and revert to the repetitive inspection schedule of this AD.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

Note.—Hiller Model UH–12 series helicopters converted to turbine power by STC SH178WE or SH177WE do not incorporate the subject parts and therefore are not affected by this AD unless restored to the original configuration.

This supersedes Amendment 39–3907 (45 FR 59138), AD 80–18–13.

This amendment becomes effective July 1, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it may be obtained by contacting the person identified above under the caption

"FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the various courts of appeals of the United States, or the United States Court of Appeals for the District of Columbia.

Issued in Fort Worth, Tex., on June 10, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82–17031 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–NE–01]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Amendment to Description of the Bennington, Vt., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of the Bennington Vermont transition area so as to provide full-time airspace for aircraft executing the VOR–A, Amendment 5, Standard Instrument Approach Procedure (SIAP) to Bennington State Airport, Bennington, Vermont.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations Procedures and Airspace Branch, ANE–536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 4, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 9222) stating that the FAA proposed to amend the effective hours of the Bennington, Vermont transition area so as to provide full-time airspace for aircraft executing the VOR–A, Amendment 5, SIAP to Bennington State Airport, Bennington, Vermont. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the Bennington, Vermont 700-foot transition area as follows:

Bennington, Vermont

Delete:

"This transition area is effective from sunrise to sunset, daily."

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 8, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17086 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–ASO–12]

Alteration of Transition Area, Greenwood, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Greenwood, South Carolina, Transition Area by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface east of the Greenwood County Airport. A new instrument approach procedure has been developed to serve the airport and additional controlled airspace is required to protect Instrument Flight Rules (IFR) operations.

EFFECTIVE DATE: 0901 G.m.t., September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Monday, April 19, 1982, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface east of the Greenwood County Airport, Greenwood, South Carolina (47 FR 16643). This action will provide controlled airspace protection for aircraft executing the NDB Runway 27 instrument approach procedures at the Greenwood County Airport. A nondirectional radio beacon, which will support the approach procedure, will be established in

conjunction with this alteration of the transition area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received in response to publication. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Greenwood, South Carolina, Transition Area. This action will provide controlled airspace for aircraft executing the new instrument approach procedure which is being established to serve Greenwood County Airport.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 GMT, September 2, 1982, as follows:

Greenwood, South Carolina [Amended]

By deleting the words "* * * (latitude 34°15'00"N., longitude 82°09'35"W.) * * *" and substituting for them the words "* * * (Lat. 34°15'00"N., Long. 82°09'35"W.); within 3 miles each side of the 085° bearing from the Coronaca RBN (Lat. 34°15'13"N., Long. 82°05'11"W.); extending from the 8.5-mile radius area to 8.5 miles east of the RBN * * *"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on June 11, 1982.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 82-17094 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376, 379 and 385

Amendment of Oil and Gas Controls to the U.S.S.R.

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: At the direction of the President, export controls on oil and gas goods and technology to the USSR are amended to include exports of non-U.S. origin goods and technical data by U.S. owned or controlled companies wherever organized or doing business, as well as certain foreign produced products of U.S. technical data not previously subject to controls. The regulations are also revised to state that certain policy guidance is inapplicable to exports to the U.S.S.R. and Poland.

DATES: These rules are effective 5:00 p.m. (e.d.t.), June 22, 1982. Comments must be received by August 21, 1982. However, these regulations may be revised before the close of the comment period.

ADDRESSES: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

At the direction of the President and pursuant to section 6 of the Export Administration Act of 1979, as amended, the Department of Commerce is amending the existing oil and gas controls applicable to the U.S.S.R. Current controls restrict exports and reexports of U.S. origin oil and gas goods and technical data. This rule expands these controls to restrict exports to the U.S.S.R. of non-U.S. origin goods or technical data by U.S. owned or controlled foreign firms. The current controls also restrict the export of foreign produced products of U.S. technical data if the export of the data from the United States was subject to the receipt of a written assurance from the foreign importer against the transfer of the data or its products to proscribed destinations.

This rule amends controls on foreign produced products of U.S. technical data to include products of U.S. data in cases where the right to the use of the data abroad is subject to a licensing agreement with persons subject to the jurisdiction of the U.S. or requires the payment of royalties or other compensation to any such persons or in cases where the recipient of the technical data has agreed to abide by U.S. export control regulations.

As stated by the President, the objective of the United States in imposing sanctions has been and continues to be to advance reconciliation in Poland. There has been no movement by the U.S.S.R. toward this objective.

Pursuant to section 6 of the Export Administration Act of 1979 and at the direction of the President, it has been determined that the expansion of oil and gas controls is necessary to further significantly the foreign policy of the United States. As required by section 6(g), attempts to obtain cooperation of countries that produce comparable items have been made, but have been unsuccessful.

Pursuant to section 4(c), it has been determined that, notwithstanding availability of some of these goods and data from foreign sources, failure to take this action would be detrimental to the foreign policy of the United States. It also has been determined under section 6(d) that there are no feasible alternative means of achieving the purpose of this action.

Appropriate persons in industry and the Congress have been consulted, and the criteria set forth in section 6(b) of the Act have been considered.

These regulations also explain that the policy guidance contained in § 385.2 of the Export Administration Regulations concerning exports to Country Groups Q, W, and Y does not apply to the U.S.S.R. or Poland. A General Order issued on December 30, 1981 (15 CFR 390.8) suspended the processing of validated licenses and other authorizations for export to the U.S.S.R. Furthermore, because the situation in Poland creates the unacceptable risk of diversion to unauthorized end-uses and/or end-

users, export licenses and other authorizations for export of national security or nuclear non-proliferation controlled items destined for Poland will not be issued.

Rulemaking Requirements

The Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq. (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

4. This rule is exempt from the requirements of Executive Order 12291 (46 FR 13193), February 19, 1981), "Federal Regulation" because it relates to a foreign affairs function of the United States.

The period for submission of comments will close on August 21, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review.

List of Subjects

15 CFR Part 376

Exports.

15 CFR Part 379

Exports, Science and technology.

15 CFR Part 385

Communist countries, Exports.

Accordingly, the Export Administration Regulations (15 CFR Part 368, et seq.) are amended as follows:

PART 376—SPECIAL COMMODITIES POLICIES AND PROVISIONS

1. Section 376.12 is amended by revising the introductory paragraph of the "Note" to read:

§ 376.12 Parts, components, and materials in foreign-made end products.

* * * * *

Note.—In order to determine whether the prior written approval of the Office of Export Administration is required for the export from a foreign country of a foreign made end product containing U.S.-origin parts or components, answer the following questions (as of the time of export to the new destination of the foreign-made end product):

PART 379—TECHNICAL DATA

2. Paragraphs (a) (2) and (3) of § 379.8 are revised, and a paragraph (a)(4) is added as follows:

§ 379.8 Reexport of technical data and exports of the product manufactured abroad by use of U.S. technical data.

(a) Prohibited Exports and Reexports.

* * * * *

(2) Export any technical data from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination;

(3) Export or reexport to Country Group P, Q, W, Y, or Z or Afghanistan any foreign produced direct product of U.S. technical data, or any commodity produced by any plant or major component thereof that is a direct product of U.S. technical data, if such direct product or commodity is covered by the provisions of § 379.4(f) (excluding paragraph (1)(i)(*p*)) or § 379.5(e) (1) or (2); or

(4) Export or reexport to the U.S.S.R., Latvia, Lithuania, Estonia or Afghanistan any foreign produced direct products of U.S. technical data, or any commodity produced by any plant or major component thereof that is a direct product of U.S. technical data, described in § 379.4(f)(1)(i)(*p*) if:

(i) A written assurance was required under these regulations when the data were exported from the U.S.; or

(ii) The U.S. technical data are the subject of a licensing agreement with, or the use of the data is contingent upon royalty payments or other compensation to, any person subject to the jurisdiction of the United States as defined in § 385.2(c), regardless of when the data were exported from the U.S.; or

(iii) The U.S. technical data are the subject of a licensing agreement, or other contract, whereby the recipient of the technical data has agreed to abide by U.S. export control regulations.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

3. Section 385.2 is amended as follows:

a. Section 385.2(a) is revised to read:

§ 385.2 Country groups, Q, W, and Y [1]; U.S.S.R., other Warsaw pact countries, Albania, Mongolian People's Republic, and Laos.

(a)(1) The Export Administration Act of 1979 states that it is the policy of the United States "to encourage trade with all countries with which we have diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest." The Act also states that it is the policy of the United States "to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." Accordingly, and in compliance with the other sections of the Export Administration Act of 1979, the Department conducts a continuing review of commodities and technology to assure that prior approval is required for the export or reexport of U.S.-origin commodities and technical data to the U.S.S.R., Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Hungary, Laos, Latvia, Lithuania, Mongolian People's Republic, Poland, and Romania only if the commodities or technical data have a potential for being used in a manner that would prove detrimental to the national security of the United States. The general policy of the Department, however, is to approve applications or requests to export or reexport such commodities and technical data to these destinations (other than the U.S.S.R. and Poland) when the Department

[1] See Supplement No. 1 to Part 370 for listing of Country Groups.

determines, on a case-by-case basis, that the commodities or technical data are for a civilian use or would otherwise not make a significant contribution to the military potential of the country of destination that would prove detrimental to the national security of the United States.

(2) To permit such policy judgments to be made, each export application and reexport request is reviewed in the light of prevailing policies with full consideration of all relevant aspects of the proposed transaction. The review generally includes an analysis of the kinds and quantities of commodities or technologies to be shipped; their military or civilian uses; the unrestricted availability abroad of the same or comparable items; the country of destination; the ultimate end-users in the country of destination; and the intended end-use.

(3) Applications covering certain commodities and technical data that are controlled by the United States and certain other nations that cooperate in an international export control system and are proposed for export or reexport to Country Group Q, W, or Y may have to be forwarded to the Coordinating Committee (COCOM) of this international export control system for consideration in accordance with established COCOM procedures.

(4) Although each proposed transaction is considered individually, certain goods on the Commodity Control List are more likely to be approved than others. See Supplement No. 1 to this Part 385 for an identification of such goods.

(5) The preceding policy guidance cannot be applied to exports to the U.S.S.R. or Poland. Pursuant to the General Order contained in § 390.8, license applications or other authorizations for the U.S.S.R. will be returned without action. Further, because of the risk that items destined for Poland that are controlled for national security or nuclear non-proliferation reasons will be diverted to unapproved users or to the U.S.S.R. contrary to U.S. national security interests, applications for export to Poland of such items will not be authorized.

* * * * *

b. Section 385.2(c) is revised to read:

* * * * *

(c)(1) As authorized by Section 6 of the Export Administration Act of 1979, prior written authorization by the Office of Export Administration is required for foreign policy reasons for the export or reexport to the U.S.S.R. of oil and gas exploration, production, transmission or refinement goods of U.S. origin as defined in CCL entries 6098F, 6191F, 6388F, 6389F, 6390F, 6391F, 6431F, 6491F, 6598F, 6685F, 6779F, and 6780F. Also included in the scope of this control are technical data of U.S. origin (other than that authorized under General License GTDA) related to oil and gas exploration, production, transmission and refinement and other goods that require a validated export license for shipment to the Soviet Union and that are intended for use in oil or gas exploration, production, transmission or refinement. The foreign product of such data is also controlled (§ 379.8). The term "refinement" includes refinery operations directed to energy usage, but excludes petrochemical feedstock processes. In addition, prior written authorization is required for the export to the U.S.S.R. of non-U.S. origin goods and technical data by any person subject to the jurisdiction of the United States.

(2) For the purposes of this § 385.2(c) only, the term "person subject to the jurisdiction of the United States" includes

(i) Any person, wherever located, who is a citizen or resident of the United States;

(ii) Any person actually within the United States;

(iii) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; or

(iv) Any partnership, association, corporation, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (i), (ii), or (iii) of this section.

(Secs. 4, 5, 6, 13, 15, 16, and 21, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended; E.O. No. 12002 (42 FR 35623, July 11, 1977); and E.O. No. 12214 (45 FR 29783, May 6, 1980))

Dated: June 22, 1982.

Bohdan Denysyk,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 82-17340 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 75

[Airspace Docket No. 82-ANM-4]

Designation of VOR Federal Airway and Establishment of Jet Route; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: A final rule was published in the **Federal Register** on April 15, 1982 (47 FR 16171), effective July 8, 1982, that designated an airway/jet route from Bellingham, WA, to Kelowna, BC, Canada, in response to a request from the Canadian Government. The Canadian Government has now requested that VOR Federal Airway V-509 portion be canceled due to inadequate signal coverage. This action withdraws V-509.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-10263 as published in the **Federal Register** on April 15, 1982, is corrected by deleting the following:

"§ 71.123 By adding:

V-509 [New]

V-509 From Bellingham, WA; to Kelowna, BC, Canada. The segment within Canada is excluded."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 16, 1982.

John W. Baier,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-17026 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 82-ASW-14]

Alteration of Jet Routes J-15 and J-180

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX. This action improves air traffic control (ATC) efficiency and flight plan filing procedures for pilots by realigning the jet routes to coincide with noncoded routes now being used to meet operational considerations.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Maxey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 8, 1982, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX (47 FR 15143). The routes are not being used in their current alignment because of ATC considerations. This action would improve ATC efficiency and flight plan filing procedures for pilots by realigning the jet routes to coincide with routes now being used. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns Jet Routes J-15 and J-180 between Humble, TX, and Junction, TX, to coincide with noncoded routes now being used by ATC to meet operational needs.

List of Subjects in 14 CFR Part 75

Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as amended (46 FR 57892) is further amended, effective 0901 G.m.t., September 2, 1982, as follows:

J-15 [Amended]

By deleting the words "From Humble, TX, via INT Humble 275° and Junction, TX, 106° radials; Junction;" and substituting for them the words "From Humble, TX, via INT Humble 269° and Junction, TX, 112° radials; Junction;"

J-180 [Amended]

By deleting the words "From Junction, TX, via INT Junction 112° and Humble, TX 264° radials; Humble; Daisetta, TX;" and substituting for them the words "From Humble, TX, via Daisetta, TX;"

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 17, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-17027 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 95

[Docket No. 23137; Amdt. No. 95-305]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. July 8, 1982.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c),

Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on June 15, 1982.

John M. Howard,

Acting Chief, Aircraft Programs Division.

BILLING CODE 4910-13-M

§95.47 GREEN FEDERAL AIRWAY 7
is amended by adding:

FROM	TO	MEA
Gambell, AK NDB	Ft Davis AK NDB	3000

§95.1001 DIRECT ROUTES - U.S.
is amended to read in part:

FROM	TO	MEA
Bagby INT, CA	Fresno, CA VOR	*7000
*5800-MOCA		
*Bakersfield, CA VOR	**Wrieg INT, CA	5000
*3300-MCA Bakersfield VOR, NE-bound		
**5400-MCA Wrieg INT, SE-bound		
Battle Mountain, NV VOR	Twin Falls, ID VOR	#18000
#MEA is established with a gap in navigation signal coverage.		
Brito INT, CA	Yager INT, CA	*7000
6500-MOCA		
Coaldale, NV VOR	Woodside, CA VOR (COP 68 OAL)	*18000
*15100-MOCA		
Colom INT, CA	Mina, NV VOR	28000
Farallon Island, CA NDB	Sausalito, CA VOR	4000
		MAA-23000

§95.1001 DIRECT ROUTES--U.S.
is amended to read in part:

FROM	TO	MEA
Fellows, CA VOR	Santa Barbara, CA VOR	9000
Fillmore, CA VOR	Fresno, CA VOR (COP 60 FIM)	18000
Frany INT, CA	Oakland, CA VOR	*7000
*3500-MOCA		MAA-39000
Honez INT, CA	Modesto, CA VOR	2200
INT 331 M rad Ukiah VOR & SE CRS Arcata ILS	Brito INT, CA	*11000
*7900-MOCA		
Lake Hughes, CA VOR	Fillmore, CA VOR	8000
Ogden, UT VOR	Daton INT, WY	#22000
	(VIA OGD 008 Rad & JAC 186 Rad) COP 70 OGD	
		MAA-30000

#MEA is established with a gap in navigation signal coverage.

§95.1001 DIRECT ROUTES--U.S.
is amended to read in part:

FROM	TO	MEA
Pacif INT, CA	Seal Beach, CA VOR	3000
Peach Springs, AZ VOR	Dove Creek, CO VOR (COP 100 PGS)	18000
		MAA-41000
Red Bluff, CA VOR	Scaggs Island, CA VOR (COP 60 RBL)	*6000
*5000-MOCA		
Red Bluff, CA VOR	Redding, CA VOR	3000
Reno, NV VOR	Trose INT, CA	22000
Rebas INT, CA	Farallon Island, CA-NDB	8600
Sacramento, CA VOR	Klamath Falls, OR VOR (COP 130 SAC)	18000
Salinas, CA VOR	Gilro INT, CA	5000
Salinas, CA VOR	Licke INT, CA	6000
		MAA-17500

§95.1001 DIRECT ROUTES - U.S.
is amended to read in part:

FROM	TO	MEA
San Simon, AZ VOR	Albuquerque, NM (COP 99 SSO)	18000
		MAA-35000
San Jose, CA VOR	Colli INT, CA	4000
Santa Barbara, CA VOR	Santa Maria, CA VOR	6700
Santa Catalina, CA VOR	Gaviota, CA VOR	6400
Seal Beach, CA VOR	Elmoo INT, CA	*5000
*2400-MOCA		
Stockton, CA VOR	San Jose, CA VOR (COP 30 SCK)	6000
		MAA-30000
Tonopah, NV VOR	Bryce Canyon, UT VOR	23000
Via TPH 077/BCE 262		MAA-45000
*Trose INT, CA	Modesto, CA VOR	
	NE-bound	22000
	SW-bound	5000
*22000-MRA		MAA-39000

§95.1001 DIRECT ROUTES--U.S.
is amended to read in part:

FROM	TO	MEA
Twenty-nine Palms, CA VOR	Golfs, CA VOR	18000
Via TNP 028 & GFS 185	(COP TNP 17)	
		MAA-45000
Ukiah, CA VOR	INT 331 M rad Ukiah VOR And 134 M rad Arcata VOR	*11000
		MAA-24000
*6500-MOCA		
Woodside, CA VOR	*Eugen INT, CA	**6000
*7000-MRA		
**4400-MOCA		

§95.1001 DIRECT ROUTES--U.S.
is added to read:

FROM	TO	MEA
Fellows, CA VOR	Fillmore, CA VOR (COP 42 FLW)	9500
Waker INT, CA	Fillmore, CA VOR	4800

§95.1001 DIRECT ROUTES - U.S.
is added to read:

FROM	TO	MEA
Santa Maria, CA VOR	Paso Robles, CA VOR	5000

§95.6002 VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR	Badger, WI VOR	2800

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Yakima, WA VOR	Ample INT, WA	6000

§95.6004 VOR FEDERAL AIRWAY 4
is amended to delete:

FROM	TO	MEA
Hill City, Kans. VOR Via S alter. *3900–MOCA	Hays, Kans. VOR Via S. alter.	*4500
Hays, Kans VOR Via S alter. *4000–MRA	*Glide INT, Kans. Via S alter.	3900
Glide INT, Kans. Via S alter. *2800–MOCA	Salina, Kans. VOR Via S alter.	*3600
Chari INT, Kans. Via N alter.	Manhattan, Kans. VOR Via N alter.	3000
Manhattan, Kans. VOR Via N alter.	Topeka, Kans. VOR Via N alter.	3000
Topeka, Kans. VOR Via S alter.	Lawrence INT, Kans. Via S alter.	2700
Lawrence INT, Kans. Via S alter. *2200–MOCA	Desot INT, Kans. Via S alter.	*2700
Desot INT, Kans. Via S alter.	Pains INT, Mo. Via S alter.	2800
Pains INT, MO Via S alter.	Kansas City, MO VOR Via S alter.	2800

§95.6006 VOR FEDERAL AIRWAY 6
is amended to delete:

FROM	TO	MEA
Des Moines, Iowa VOR Via S alter.	Bussy INT, Iowa Via S alter.	2700
Bussy INT, Iowa Via S alter. *2100 – MOCA	IowaCity, Iowa VOR Via S alter	*4000

§95.6010 VOR FEDERAL AIRWAY 10
is amended to delete:

FROM	TO	MEA
Dodge City, Kans. VOR Via N alter. *3600–MOCA	Disks INT, Kans. Via N alter.	*4500
Disks INT, Kans. Via N alter. *4000–MRA **3300–MOCA	*Steel INT, Kans. Via N alter.	**4500
*Steel INT, Kans. Via N alter. *4000–MRA **3000–MOCA	Hutchinson, Kans VOR Via N alter	**3200
Emporia, Kans VOR Via N alter.	Desot INT, Kans. Via N alter.	3000
Desot INT, Kans Via N alter.	Napoleon, Mo. VOR Via N alter.	3000
Napoleon, Mo. VOR Via N alter.	Lasso INT, Mo. Via N alter.	2600
Lasso INT, Mo. Via N alter. *2400–MOCA	Kirksville, Mo. VOR Via N alter.	*3000

§95.6012 VOR FEDERAL AIRWAY 12
is amended to delete:

FROM	TO	MEA
Franc INT, Mo Via S. Alter.	Hypoe INT, Mo. Via S alter.	4000
Hypoe INT, Mo. Via S alter.	Jefferson City, Mo. VOR Via S alter.	2600
Jefferson City, Mo. VOR Via S alter.	Guths INT, Mo. Via S alter.	3000
Guths INT, Mo. Via S alter.	Rappe INT, Mo. Via S alter.	4000

§95.6013 VOR FEDERAL AIRWAY 13
is amended to delete:

FROM	TO	MEA
Des Moines, Iowa VOR Via W alter.	Grimes INT, Iowa Via W alter.	2700 MAA–9000
Grimes INT, Iowa Via W alter.	Ft. Dodge, Iowa VOR Via W alter.	3000 MAA–9000
Fort Dodge, Iowa VOR Via W alter.	Mason City, Iowa VOR Via W alter.	3000
Mason City, Iowa VOR Via W alter.	Freed INT, Minn. Via W alter.	3000
Freed INT, Minn. Via W alter. *4600–MRA **2600–MOCA	*Almay INT, Minn. Via W alter	**4600
Almay INT, Minn. Via W alter. *2400–MOCA	Prags INT, Minn. Via W alter.	*4600
Prags INT, MN Via W alter.	Gopher, MN VOR Via W alter.	3000
Gopher, MN VOR Via W alter.	Grantsburg, WI VOR Via W alter.	3000

§95.6014 VOR FEDERAL AIRWAY 14
is amended to delete:

FROM	TO	MEA
Tulsa, Okla VOR Via N alter	Vinta INT, Okla. Via N alter	2600
Vinta INT, Okla. Via N alter	Neosho, Mo. VOR Via N alter	2900
Neosho, Mo. VOR Via S alter	Bilie INT, Mo. Via S alter	3000
Bilie INT, Mo. Via S alter.	Springfield, Mo. VOR Via S alter.	3000
Springfield, Mo. VOR Via N alter.	Vichy, Mo. VOR Via N alter.	3600

§95.6014 VOR FEDERAL AIRWAY 14
is amended to delete:

FROM	TO	MEA
Tulsa, Okla. VOR Via S alter. *2900–MRA	*Pryor INT, Okla. Via S alter.	2700
Pryor INT, Okla. Via S alter.	Neosho, Mo. VOR Via S alter.	2900

§95.6015 VOR FEDERAL AIRWAY 15
is amended to delete:

FROM	TO	MEA
Sioux City, Iowa VOR Via E alter.	Sioux Falls, S.D. VOR Via E alter.	3700

§95.6017 VOR FEDERAL AIRWAY 17
is amended to delete:

FROM	TO	MEA
Gage, Okla. VOR Via W alter.	Liberal, Kans. VOR Via W alter.	4700
Liberal, Kans. VOR Via W alter.	Garden City, Kans. VOR Via W alter.	4700

§95.6027 VOR FEDERAL AIRWAY 27
is amended to read in part:

FROM	TO	MEA
Newport, OR VORTAC	Astoria, OR VOR	8000

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
Coote INT, FL	Biscayne Bay, FL VOR	2000

§95.6051 VOR FEDERAL AIRWAY 51
is amended to read in part:

FROM	TO	MEA
Ft. Lauderdale, FL VOR Via E alter.	Arkes INT, FL Via E alter.	2000

§95.6063 VOR FEDERAL AIRWAY 63
is amended to read in part:

FROM	TO	MEA
Stevens Point, WI VOR	Wausau, WI VOR	3100

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Ft. Lauderdale, FL VOR	Arkes INT, FL	2000

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR	Stevens Point, WI VOR	2800
Stevens Point, WI VOR	Wausau, WI VOR	3100

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

FROM	TO	MEA
Madison, WI VOR Via W alter.	Dells, WI VOR Via W alter.	3200

§95.6185 VOR FEDERAL AIRWAY 185
is amended to read in part:

FROM	TO	MEA
Augusta, GA VOR	Greenwood, SC VOR	2400

§95.6190 VOR FEDERAL AIRWAY 190
is amended to delete:

FROM	TO	MEA
Phoenix, Ariz. VOR Via N alter. *13000—MCA Jodpr INT, E-bound ** 8700—MOCA	*Jodpr INT, Ariz. Via N alter.	**11000
Jodpr INT, Ariz. Via N alter. *9700—MOCA	St. Johns, Ariz. VOR Via N alter.	*14500

§95.6198 VOR FEDERAL AIRWAY 198
is amended to read in part:

FROM	TO	MEA
Taylor, FL VOR *6000—MCA Monie INT, E-bound **1400—MOCA	*Monie INT, FL	**2000
Monie INT, FL	Jacksonville, FL VOR	6000

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
Bowling Green, KY VOR	Renro INT, KY	2500
Renro INT, KY	Clopo INT, KY	3500
Clopo INT, KY *4000—MRA **2000—MOCA	*Apalo INT, IN	**4000
Apalo INT, IN *4000—MRA **2000—MOCA	*Codey INT, IN	**4000
Codey INT, IN *3500—MRA **2000—MOCA	*Wegee INT, IN	**4000
Wegee INT, IN	Lewis, IN VOR	2400

§95.6264 VOR FEDERAL AIRWAY 264
is amended to read in part:

FROM	TO	MEA
Los Angeles, CA VOR	Stabo INT, CA	2500
Stabo INT, CA	Amtra INT, CA	3000
Amtra INT, CA *5600—MCA Pomona VOR E-bound	*Pomona, CA VOR	4500
Pomona, CA VOR *11400—MCA Revon INT E-bound	*Revon INT, CA	6000
Revon INT, CA	Reans INT, CA W-bound E-bound	9000 12800
Reans INT, CA *12000—MCA Yucca INT, W-bound *9000—MCA Yucca INT, SE-bound	*Yucca INT, CA	13500
Yucca INT, CA *7700—MOCA	Twenty-nine Palms, CA	*8500

§95.6267 VOR FEDERAL AIRWAY 267
is amended to read in part:

FROM	TO	MEA
Gremm INT, FL Via E alter.	Jenks INT, FL Via E alter.	2000
Jenks INT, FL Via E alter.	Palm Beach, FL VOR Via E alter.	2500

§95.6293 VOR FEDERAL AIRWAY 293
is amended to read in part:

FROM	TO	MEA
Elko, NV VOR *8600—MCA, Saman INT, S-bound	*Saman INT, ID	10600
Saman INT, ID	*Twin Falls, ID VOR N-bound S-bound	7200 10600
*6200—MCA Twin Falls VOR, S-bound		

§95.6298 VOR FEDERAL AIRWAY 298
is amended to delete:

FROM	TO	MEA
Yakima, WA VOR *5200—MCA Paids INT, W-bound	*Paids INT, WA	6000
Paids INT, WA	Pasco, WA VOR	4000

§95.6298 VOR FEDERAL AIRWAY 298
is amended by adding:

FROM	TO	MEA
Yakima, WA VOR	Suned INT, WA	6000
Suned INT, WA	Benty INT, WA	5000
Benty INT, WA	Pasco, WA VOR	4000

§95.6330 VOR FEDERAL AIRWAY 330
is amended to read in part:

FROM	TO	MEA
Alkal INT, ID *8000 MCA Kinze INT W-bound.	*Kinze INT, ID	8000

§95.6345 VOR FEDERAL AIRWAY 345
is amended to read in part:

FROM	TO	MEA
Falen INT, WI	Eau Claire, WI VOR	3000
Eau Claire, WI VOR	Hayward, WI VOR	3500
Hayward, WI VOR *2700–MOCA	Ashland, WI VOR	*3400

§95.6386 VOR FEDERAL AIRWAY 386
is amended by adding:

FROM	TO	MEA
Soggi INT, CA *9400–MOCA	Yucca INT, CA	*11000
Yucca INT, CA *7600–MCA Palm Springs VOR NW-bound **8200–MOCA	*Palm Springs, CA VOR	**9000

§95.6484 VOR FEDERAL AIRWAY 484
is amended to read in part:

FROM	TO	MEA
Kinze INT, ID	Twin Falls, ID VOR	7000

§95.6493 VOR FEDERAL AIRWAY 493
is amended to read in part:

FROM	TO	MEA
Menominee, MI VOR	Rhinelander, WI VOR	3400

§95.6495 VOR FEDERAL AIRWAY 495
is amended by adding:

FROM	TO	MEA
Corvallis, OR VOR *5000–MRA	*Aldow INT, OR	4000
Aldow INT, OR	Newberg, OR VOR	4000

§95.6502 VOR FEDERAL AIRWAY 502
is added to read:

FROM	TO	MEA
Dodge City, KS VOR 3600–MOCA	Disk INT, KS	*4500
Disk INT, KS *4000–MRA **3300–MOCA	*Steal INT, KS	**4500
Steal INT, KS *4000–MRA **3000–MOCA	*Hutchinson, KS VOR	**3200
Hutchinson, KS VOR	Waive INT, KS	4000
Waive INT, KS *5000–MRA	*Floss INT, KS	3300
Floss INT, KS *2700–MOCA	Emporia, KS VOR	*3300
Emporia, KS VOR	Desot INT, KS	3000
Desot INT, KS	Napoleon, MO VOR	3000
Napoleon, MO VOR	Lasso INT, MO	2100
Lasso INT, MO *2400–MOCA	Kirksville, MO VOR	*3000

§95.6504 VOR FEDERAL AIRWAY 504
is amended by adding:

FROM	TO	MEA
Franc INT, MO	Hypoe INT, MO	4000
Hypoe INT, MO	Jefferson City, MO VOR	2400
Jefferson City, MO VOR	Guths INT, MO	3000
Guths INT, MO	Rappe INT, MO	4000

§95.6505 VOR FEDERAL AIRWAY 505
is added to read:

FROM	TO	MEA
Des Moines, IA VOR	Gumbo INT, IA	2700 MAA–9000
Gumbo INT, IA	Fort Dodge, IA VOR	3000 MAA–9000
Fort Dodge, IA VOR	Mason City, IA VOR	3000
Mason City, IA VOR	Freed INT, MN	3000
Freed INT, MN *4600–MRA **2600–MOCA	*Almay INT, MN	**4600
Almay INT, MN *2400–MOCA	Progs INT, MN	*4600
Progs INT, MN	Gopher, MN VOR	3000
Gopher, MN VOR	Grantsburg, WI VOR	3000

§95.6506 VOR FEDERAL AIRWAY 506
is amended by adding:

FROM	TO	MEA
Tulsa, OK VOR	Vinta INT, OK	2600
Vinta INT, OK	Neosho, MO VOR	2900
Neosho, MO VOR	Springfield, MO VOR	3000
Springfield, MO VOR	Vichy, MO VOR	3000

§95.6507 VOR FEDERAL AIRWAY 507
is added to read:

FROM	TO	MEA
Gage, OK VOR	Liberal, KS VOR	4700
Liberal, KS VOR	Garden City, KS VOR	4700

§95.6508 VOR FEDERAL AIRWAY 508
is amended by adding:

FROM	TO	MEA
Hill City, KS VOR *3900–MOCA	Hays, KS VOR	*4500
Hays, KS VOR	Glide INT, KS	3900
Glide INT, KS *2800–MOCA	Salina, KS VOR	*3600
Salina, KS VOR *5000–MRA	*Vasco INT, KS	3000
Vasco INT, KS	Chari INT, KS	3000
Chari INT, KS	Manhattan, KS VOR	3000
Manhattan, KS VOR	Topeka, KS VOR	3000
Topeka, KS VOR	Lawrence, KS VOR	2700
Lawrence, KS VOR *2200–MOCA	Desot INT, KS	*2700
Desot INT, KS	Kansas City, KS VOR	2800

§95.6528 VOR FEDERAL AIRWAY 528
is added to read:

FROM	TO	MEA
Phoenix, AZ VORTAC *13000–MCA Tents INT, E-bound **9100–MOCA	*Tents INT, AZ	**11000
Tents INT, AZ *10000–MOCA	Payso INT, AZ	*16000
Payso INT, AZ *10000–MOCA	St Johns, AZ VORTAC	*13000

§95.7120 JET ROUTE NO. 120 is amended to delete:

FROM	TO	MEA	MAA
Bethel, AK R215/50	Bethel, AK VORTAC	24000	45000

§95.7120 JET ROUTE NO. 120 is amended by adding:

FROM	TO	MEA	MAA
St Paul Island, AK NDB	Bethel, AK VORTAC	28000	45000

§95.7127 JET ROUTE NO.127 is amended to delete:

FROM	TO	MEA	MAA
Cape Newenham, AK NDB	King Salmon, AK VORTAC	18000	45000

§95.7127 JET ROUTE NO. 127 is amended by adding:

FROM	TO	MEA	MAA
Augin INT, AK	King Salmon, AK VORTAC	18000	45000

§95.7136 JET ROUTE NO. 136 is amended to delete:

FROM	TO	MEA	MAA
Mullen Pass, MT VORTAC	Billings, MT VORTAC	31000	45000

§95.7136 JET ROUTE NO. 136 is amended by adding:

FROM	TO	MEA	MAA
Mullan Pass, ID VORTAC	Helena, MT VORTAC	10000	45000

§95.7591 JET ROUTE NO. 591 is added to read:

FROM	TO	MEA	MAA
Bellingham, WA VORTAC	U.S. Canadian Border	18000	45000

2. By amending Sub-part D as follows:

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
J-4 is added to read:			
Malad City, ID VORTAC	Ft. Bridger, WY VORTAC	32	Malad City
J-120 is amended by adding:			
St. Paul Island, AK NDB	Bethel, AK VORTAC	190	St. Paul Island
J-136 is added to read:			
Mullan Pass, ID VORTAC	Helena, MT. VORTAC	100	Mullan Pass

[FR Doc. 82-17037 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-13-C

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 18, 114 and 143

[T.D. 82-116]

General Provisions; Amendments Relating to Carnets

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document makes conforming amendments to the Customs Regulations relating to the use of carnets. Carnets are international customs documents, backed by an internationally valid guarantee, that may be used for the entry of articles into a country in place of the usual customs documents required. The amendments: (1) Implement an optional provision of the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods; (2) reflect the withdrawal of the United States from the Customs Convention on the E.C.S. Carnets for Commercial Samples; (3) clarify the circumstances in which certain merchandise may be taken abroad and returned without formal entry and payment of duty; and (4) correct typographical errors in the regulations relating to carnets.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jerrold O. Worley, Office of Commercial Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8607).

SUPPLEMENTARY INFORMATION:

Background

Carnets are international customs documents, backed by an internationally valid guarantee, which may be used for the entry of articles under various customs procedures such as temporary importation and transportation in bond (transit). The carnet is used in place of the usual national customs documentation and guarantees the payment of duties (including taxes and associated penalties) which may become due if the requirements under a particular customs procedure are not satisfied. The existence of a single international document rather than numerous national documents facilitates international commerce.

The carnet guarantee is based on international chains of national guaranteeing associations established in the countries accepting the carnets. The guaranteeing association is jointly and severally liable with the carnet holder for the payment of the sums due in the event of non-compliance with the conditions of the procedures for which the carnet is used.

A notice setting forth the proposed changes was published in the **Federal Register** on October 1, 1981 (46 FR 48235). No comments were received in response to the notice.

Types of Carnets Commonly Used

A.T.A. Carnets. The A.T.A. ("Admission Temporaire-Temporary Admission") carnet is used for the temporary duty-free entry of professional equipment, commercial samples, and advertising material. The use of the A.T.A. carnet allows the traveler or businessman to make customs arrangements in advance and to use a single document for goods which will pass through several different countries. A.T.A. carnets are valid for a period of one year. In the United States, the U.S. Council of the Intenational Chamber of Commerce has been designated by the Customs Service as the United States issuing and guaranteeing organization for A.T.A. carnets.

E.C.S. Carnets. Before the United States withdrew from the Customs Convention on the E.C.S. Carnets for Commercial Samples, effective August 11, 1977, the E.C.S. ("Echantillons Commerciaux-Commercial Samples") carnet was used in the same manner as the A.T.A. carnet, but only for the temporary duty-free entry of commercial samples. E.C.S. carnets were valid for one year. The U.S. Council of the International Chamber of Commerce also had been designated by the Customs Service as the United States issuing and guaranteeing organization for E.C.S. carnets.

T.I.R. Carnets. T.I.R. ("Transport International Routier-International Road Transport") carnets authorize road vehicles, containers, and their contents to transit one or more frontiers without customs inspection at intermediate points and with a minimum of other formalities. Road vehicles and containers transit the country or move from port of entry to final destination with their contents under customs seal. Inspection is accomplished at the final destination. T.I.R. carnets are valid until the end of the transit operation. The Equipment Interchange Association has been designated by the Customs Service as the issuing and guaranteeing association for T.I.R. carnets in the United States.

As a result of certain actions regarding the acceptance and use of carnets within the United States, and to correct typographical errors found in previous amendments to the regulations relating to carnets, Customs is making certain conforming amendments to the Customs Regulations. The following is a list of the changes and the reasons for them:

1. The United States withdrew from the Customs Convention on the E.C.S. Carnets for Commercial Samples effective August 11, 1977. In a General Notice published in the **Federal Register** on August 25, 1977 (42 FR 42851), Customs announced that it would not accept E.C.S. carnets issued after August 10, 1977, for the temporary duty-free admission of commercial samples into the United States. The A.T.A. carnet was designated to replace the E.C.S. carnet for this purpose. Accordingly, modifications to various sections of Part 114, Customs Regulations (19 CFR Part 114), are necessary.

2. At the request of the Secretary General of the Customs Cooperation Council, the United States has elected to exercise the option, under article 3, paragraph 3, of the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods, to accept A.T.A. carnets for transit operations, permitting articles covered by A.T.A. carnets to be transported in bond. Therefore, modifications to various sections of Parts 18 and 114, Customs Regulations (19 CFR Parts 18, 114), are necessary.

3. By T.D. 75-41, published in the **Federal Register** on February 13, 1975 (40 FR 6646), section 10.68, Customs Regulations (19 CFR 10.68), was amended to include professional books, implements, instruments, and tools of trade, occupation, or employment, among the types of articles which are permitted to be returned, after having been temporarily taken abroad under cover of an A.T.A. carnet, without formal entry or payment of duty. However, the word "formal" was inadvertently omitted before the word "entry" and this made it appear that all the types of articles listed in section 10.68 could be returned without entry and without payment of duty if either an exportation voucher from an A.T.A. carnet or an application on Customs Form 4455 was filed prior to exportation. It is necessary to amend § 10.68 to: (1) Clarify that in every case either an informal entry or a declaration is still required, and (2) state when each procedure is necessary. Other aspects of § 10.68 were recently amended by T.D. 82-49, published in the **Federal Register** on March 22, 1982 (47 FR 12159).

4. A minor typographical error in § 114.26(c), Customs Regulations (19 CFR 114.26(c)), also requires correction. The typographical error in § 114.12(b), Customs Regulations (19 CFR 114.12(b)),

described in the proposed rule, has already been corrected.

5. Section 114.22(a)(3), Customs Regulations (19 CFR 114.22(a)(3)), as proposed in the notice, is not adopted because the substance of this proposed section is incorporated in redesignated § 114.22(d). Additional minor, nonsubstantive changes are being made to § 114.22(c)(3), Customs Regulations (19 CFR § 114.22(c)(3)), which is being redesignated as § 114.22(d), Customs Regulations (19 CFR 114.22(d)).

Executive Order 12291

Because this document will not result in a regulation which would be a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to these regulations. For the reasons set forth in the notice of proposed rulemaking, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that these regulations will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal authors of this document were Lawrence P. Dunham and Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Federal Register Thesaurus

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

List of Subjects

19 CFR Part 10

Exports.

19 CFR Part 18

Common carriers, Surety bond, Exports.

19 CFR Part 114

Exports, Trade agreements.

19 CFR Part 143

Imports.

Amendments to the Regulations

Part 10, 18, 114, and 143, Customs Regulations (19 CFR Parts 10, 18, 114, 143), are amended as set forth below.

Approved: June 4, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

William von Raab,

Commissioner of Customs.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.68(a) is amended by inserting "formal" between "without" and "entry" in the first sentence and by adding the following between the first and second sentences:

§ 10.68 Procedure.

(a) * * * Articles exported under cover of an A.T.A. carnet (where the carnet serves as the control document) may, in accordance with this paragraph, be returned without entry or the payment of duty. If Customs Form 4455 is utilized, commercial travelers' samples, professional books, implements, instruments, and tools of trade, occupation, or employment may be returned with either an informal entry or a declaration on Customs Form 3299; theatrical scenery, properties, and effects and motion-picture films may be returned only with an informal entry.* * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (19 U.S.C. 66, 1202 (Gen. Hdnte. 11, Tariff Schedules of the United States), 1624))

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.1(a) is amended by adding a new paragraph (3) to read as follows:

§ 18.1 Carriers; application to bond.

(a) * * *

(3) Merchandise to be transported from one port to another in the United States under cover of an A.T.A. carnet (see Part 114 of this chapter) shall be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The A.T.A. carnet shall be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond shall be responsible as provided in § 114.22(d) of this chapter.

* * * * *

2. Section 18.2(a) is amended by adding "or A.T.A." after "TIR" in the second sentence and by removing "TIR" from the third sentence.

3. Sections 18.2(c) and 18.4(c)(2) are amended by removing "TIR" from the first sentence of each.

4. Sections 18.5 (c) and (d) are amended by removing "TIR."

5. Section 18.6(d) is amended by removing "TIR" and by inserting "appropriate" between "the" and "guaranteeing" in the first sentence.

6. Section 18.8(e) is amended by substituting "114.22(d)" for "114.22(c)(3)" in the first sentence of subparagraph (2) and by adding a new subparagraph (3) to read as follows:

§ 18.8 Liability for shortage, irregular delivery, or nondelivery; penalties.

* * * * *

(e) * * *

(3) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by an A.T.A. carnet. However, the liability of the guaranteeing association shall not exceed the amount of the import duties by more than 10 percent. If an A.T.A. carnet is unconditionally discharged with respect to certain goods, the guaranteeing association will no longer be liable on the carnet with respect to those goods unless it is subsequently discovered that the discharged of the carnet was obtained fraudulently or improperly or that there has been a breach of the conditions of temporary admission or of transit. No claim for payment shall be made more than one year following the date of expiration of the validity of the carnet. The guaranteeing association shall be allowed a period of six months from the date of any claim by the district director in which to furnish proof of the reexportation of the goods or of any other proper discharge of the A.T.A. carnet. If such proof is not furnished within the time specified, the guranteeing association shall either deposit or provisionally pay the sums. The deposit or payment shall become final three months after the date of the deposit or payment, during which time the guaranteeing association may still furnish proof of the reexportation of the

goods to recover the sums deposited or paid.

7. Sections 18.11 (b), (c), (f), and (g), are amended by removing "TIR."

8. Section 18.11(h) is amended by removing "TIR" from the first sentence and by substituting "114.22(d)" for "114.22(c)(3)" in the last sentence.

9. Section 18.12(d) is amended by removing "TIR."

10. Section 18.12(e) is amended by substituting "carnets" for "a TIR carnet."

11. Sections 18.20 (a) and (b) are amended by removing "TIR."

12. Section 18.20(b) is further amended by substituting "see §§18.1(a) (2) and (3))," for "(see §18.1(a)(2),".

13. Sections 18.24 (a) and (b) are amended by removing "TIR."

14. Section 18.25(a) is amended by adding the following at the end of the section:

§ 18.25 Direct exportation.

(a) * * * If an A.T.A. carnet covers the merchandise which is to be exported directly without transportation, the carnet shall be discharged by the certification of the appropriate transportation and reexportation vouchers by Customs officers as necessary.

* * * * *

15. Section 18.26(a) is amended by adding the following at the end of the section:

§ 18.26 Indirect exportation. *

(a) * * * If merchandise has been imported under cover of an A.T.A. carnet to be transported in bond to another port for exportation, the appropriate transit voucher shall be accepted in lieu of Customs Forms 7512. One transit voucher shall be certified by Customs officers at the port of importation and a second transit voucher, together with the reexportation voucher, shall be certified at the port of exportation.

* * * * *

(R.S. 251, as amended, secs. 551, 553, 623, 624, 46 Stat. 742, as amended, 759, as amended (19 U.S.C. 66, 1551, 1553, 1623, 1624))

PART 114—CARNETS

1. Part 114 is amended by removing §§ 114.1(e) and 114.2(b) and marking those paragraphs "Reserved."

2. Section 114.22(a) is amended to read as follow:

§ 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transported, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm., consisting essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

3. Section 114.22 paragraph (b) is removed and marked "Reserved."

4. Section 114.22(c)(3) is redesignated as § 114.22(d) and is amended to read as follows:

§ 114.22 Coverage of carnets.

* * * * *

(b) [Reserved]

* * * * *

(d) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier's bond.

5. Section 114.23(a) and the section heading are amended by removing *"and E.C.S."* and "or E.C.S."

6. Sections 114.24, 114.25, 114.26 (a) and (b), 114.34(b) are amended by removing "or E.C.S." wherever it appears.

7. Section 114.26(c) is amended by revising the first sentence to read as follows:

§ 114.26 Discharge, nonacceptance, or cancellation of carnets.

* * * * *

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to Customs is not accepted, it shall be stamped "Not Taken on Charge" (see § 114.22(c)(2)). * * *

§ 114.32 [Amended]

8. Section 114.32 is amended by substituting "A.T.A." for "E.C.S." in both places.

(R.S. 251, as amended, secs. 484, 553, 624, 46 Stat. 742, as amended, 759 (19 U.S.C. 66, 1484, 1553, 1624))

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. Section 143.21 is amended by removing "and" after the semicolon in paragraph (g), by substituting a semicolon for the period at the end of paragraph (h), by redesignating § 143.21(i) as § 143.21(j), and adding a new § 143.21(i) to read as follows:

§ 143.21 Merchandise eligible for informal entry.

* * * * *

(i) Theatrical scenery, properties, and effects, motion-picture films, commercial travelers' samples and professional books, implements, instruments, and tools of trade, occupation, or employment, as set forth in § 10.68 of this chapter; and

* * * * *

2. Section 143.21 is further amended by substituting the following in chronological order in the citation of authority:

T.D. 75-41, 40 FR 6046, February 13, 1975.

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 729 (19 U.S.C. 66, 1484, 1498, 1624))

[FR Doc. 82-17118 Filed 6-23-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340-21]

Privacy Act of 1974; Personal Privacy and Rights of Individuals Regarding Personal Records

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Army hereby adopts exemption rules for Army systems of records A0404.02DAJA, entitled "Courts-Martial Files" and A1012.01DAPE, entitled "Applicants/Students, US Military Academy Prep School".

EFFECTIVE DATE: July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of The Adjutant General, Headquarters, Department of the Army (DAAG-AMR-

R), Hoffman Building 1, 2461 Eisenhower Avenue, Alexandria, VA 22331; telephone (703) 325-6163.

SUPPLEMENTARY INFORMATION: In FR 14925, April 7, 1982, the Army proposed to delete exemptions pertaining to systems of records A1012.01DAPE, entitled "USMAPS Admissions Files" and A1012.04aDAPE, entitled "USMAPS Training Files" because information was consolidated into system of records A1012.01DAPE, entitled "Applicants/ Students, US Military Academy Prep School". Portions of the consolidated system which fall within 5 U.S.C. 552a(k) (5) and (7) were proposed to be exempted from subsection (d) of the Privacy Act.

In 47 FR 20632, May 13, 1982, the Army proposed to add an exemption rule for proposed system of records A0404.02DAJA, entitled "Courts-Martial Files" published on May 13, 1982 at 47 FR 20654.

List of Subjects in 32 CFR Part 505

Privacy.

In that no comments were received concerning these proposed amendments, the rules are adopted as proposed and § 505.9 of 32 CFR is amended by removing Exempted Record Systems A1012bDAPE and A1012.04aDAPE and by adding the following Exempted Record Systems:

PART 505—PERSONAL PRIVACY AND RIGHTS OF INDIVIDUALS REGARDING THEIR PERSONAL RECORDS

§ 505.9 Exemption rules for Army systems of records.

* * * * *

Exempted Record System

(General Exemptions)

ID—A0404.02DAJA

SYSNAME—Courts-Martial Files.

EXEMPTION—All portions of this system which fall under Title 5 U.S.C. 552a(j)(2) are exempt from the following provisions of Title 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g).

AUTHORITY: Title 5 U.S.C. 552a(j)(2).

REASONS—Courts-martial files are exempt because a large body of existing criminal law governs trials by court-martial to the exclusion of the Privacy Act. The Congress recognized the judicial nature of court-martial proceedings and exempted them from the Administrative Procedures Act by specifically excluding them from the definition of the term "agency" (Title 5 U.S.C. 551(1)(F)). This definition is applicable to the Privacy Act (Title 5 U.S.C. 552a(1)). Substantive and procedural law applicable in trials by court-martial is set forth in the Constitution, the Uniform Code of Military Justice (UCMJ), Manual for Courts-Martial, United States, 1969 (Revised edition), and the decisions of the U.S. Court of Military Appeals and Courts of Military Review. The right of the accused not to be compelled to be a witness against himself and the need to obtain accurate and reliable information with regard to criminal misconduct necessitate the collection of information from sources other than the individual accused.

Advising the accused or any other witness of the authority for collection of the information, the purpose for which it is to be used, whether disclosure is voluntary or mandatory, and the efforts on the individual of not providing the information would unnecessarily disrupt and confuse court-martial proceedings. It is the responsibility of the investigating officer or military judge to determine what information will be considered as evidence. In making the determination, the individual's rights are weighed against the accused's right to a fair trial. The determination is final for the moment and the witness' failure to comply with the decision would delay the proceeding and may result in prosecution of the witness for wrongful refusal to testify.

In a trial by court-martial, the accused has a unique opportunity to assure that his record is accurate, relevant, timely, and complete as it is made. He has the right to be present at the trial, to be represented by counsel at general and special courts-martial, and to consult with counsel in summary courts-martial, to review and challenge all information before it is introduced into evidence, to cross-examine all witnesses against him, to present evidence in his behalf and in general and special courts-martial, to review and comment upon the record of trial before it is authenticated. Procedures for correction of the record are controlled by paragraphs 82, 86, and 95, Manual for Courts-Martial, 1969 (Revised edition). After completion of appellate review, the record may not be amended. Article 76 of the Uniform Code of Military Justice (10 U.S.C. 876) provides that the proceedings, findings, and sentences of courts-martial as approved, reviewed or affirmed are final and conclusive and binding upon all departments, courts, agencies, and officers of the United States subject only to action upon a petition for new trial (Article 73, UCMJ), action by the Secretary concerned (Article 74, UCMJ), and the authority of the President.

* * * * *

Exempted Record System

(Specific Exemption)

ID—A1012.01DAPE

SYSNAME—Applicants/Students, US Military Academy Prep School.

EXEMPTION—Parts of this system which fall within 5 U.S.C. 552a(k) (5) and (7) are exempted from subsection (d) of Title 5 U.S.C., section 552a.

AUTHORITY—5 U.S.C. 552a(k) (5) and (7).

REASONS—It is imperative that the confidential nature of evaluation material on individuals, furnished to the US Military Academy Preparatory School under an express promise of confidentiality, be maintained to insure the candid presentation of information necessary in determinations involving admission to or retention at the US Military Academy Preparatory School and subsequent admission to the United States Military Academy and suitability for commissioned military service.

* * * * *

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 21, 1982.

[FR Doc. 82-17138 Filed 6-23-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 82-038]

Coast Guard Areas, Districts, Marine Inspection Zones, and Captain of the Port Zones.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends the latitude coordinates codified in 33 CFR Part 3, which establish a boundary separating the Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Zone from the San Diego Marine Inspection Zone and Captain of the Port Zone. The present latitude coordinates are incorrect. This document amends 33 CFR Part 3 to reflect the proper latitude coordinates.

EFFECTIVE DATE: This rule becomes effective on June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Ens. R. B. Strobridge, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, 2100 2nd Street S.W., Washington, D.C. 20593, (202) 426-4956.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Ensign R. B. Strobridge, Project Manager, and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking has been omitted for good cause. This amendment to 33 CFR Part 3 corrects an inadvertent error made in the publication of latitude coordinates. Notice of proposed rulemaking is unnecessary since the effects of this document are purely editorial.

In the **Federal Register** dated Monday, December 30, 1974, on page 44960, amendments were published to revise the description in 33 CFR Part 3 of the two Captain of the Port Zones and the two Marine Inspection Zones of the Eleventh Coast Guard District. However, when these amendments were published in the **Federal Register** (and subsequently in 33 CFR Part 3), one of the latitude coordinates describing the boundary between the two Captain of the Port Zones and the two Marine Inspection Zones was incorrect. The latitude coordinate for San Mateo Point of 32°22.5'N, referred to in Parts 3.55–10(b) and 3.55–15(b) should read 33°22.5'N. The present error in latitude results in a charted error for San Mateo Point of sixty (60) nautical miles south of its actual position.

This action corrects the latitude coordinate identifying San Mateo Point, California in 33 CFR 3.55–10(b) and 3.55–15(b).

Regulatory Evaluation: This amendment has been reviewed under the provision of Executive Order 12291, and under DOT Order 2100.5, dated May 5, 1980, and has been determined to be non-major and non-significant since this change is purely editorial and will have no economic impact.

In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities since this change is purely editorial and will have no economic impact.

List of subjects in 33 CFR Part 3

Marine safety.

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

In consideration of the foregoing, Part 3 of Title 33, Code of Federal Regulations is amended as follows:

§ 3.55–10 [Amended]

1. In 33 CFR 3.55–10(b), the latitude coordinate for San Mateo Point is amended by changing the reference in the last sentence from "32°22.5'N." to "33°22.5'N.".

§ 3.55–15 [Amended]

2. In 33 CFR 3.55–15(b), the latitude coordinate for San Mateo Point is amended by changing the reference from "32°22.5'N." to "33°22.5'N.".

(5 U.S.C. 552; 14 U.S.C. 93; 14 U.S.C. 633; 49 U.S.C. 1655(b); 49 CFR 1.45, 1.46)

Dated: June 11, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82-16782 Filed 6-22-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 100

[CGD 09-82-18]

Queen Beatrix Regatta, Special Local Regulation

June 14, 1982.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard will establish a regulated area in Lake Macatawa on June 26, 1982. This action is required to permit the conducting of an approved marine event. It is intended to restrict vessel navigation in the Lake Macatawa area for the safety of the spectators and participants in the event.

EFFECTIVE DATE: This amendment will be effective only on June 26, 1982.

FOR FURTHER INFORMATION CONTACT: MSTC Bruce Graham, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: Since there is insufficient time to publish a proposed rule before the date of the event this regulation is published as a final rule and will become effective in less than 30 days.

Drafting Information: The principal persons involved in drafting this rule are MSTC Bruce Graham, Project Officer, Office of Search and Rescue, and LCDR Michael Gentile, Project Attorney, Legal Office, Ninth Coast Guard District.

Discussion of Comments: None was received due to the previously mentioned lack of time for a proposed rule.

Summary of Final Evaluation: The Queen Beatrix Regatta will be conducted on Lake Macatawa on 26 June 1982. This event will have an estimated 1400 vessels which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Holland, MI).

These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 USC 601 et. seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to insure the protection of life and property in the area during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

In consideration of the foregoing, Part 100 of Title 33 Code of Federal Regulations, is amended by adding the following section:

§ 100.35–0918 Lake Michigan/Lake Macatawa, Holland, MI.

(a) The following area will be closed to commercial vessel navigation or anchorage from 10:00 a.m. (local time) until 7:00 p.m. on 26 June 1982.

(1) The Lake Macatawa Channel Entrance and Lake Macatawa.

(b) No vessel may close to within 100 yards of the U.S. Coast Guard Cutter ACACIA while she is underway in Lake Macatawa and Lake Macatawa Channel Entrance.

(c) The Lake Macatawa Channel Entrance will be closed to all vessel traffic while the U.S. Coast Guard Cutter ACACIA is in the channel maneuvering to moor.

(d) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

(e) A sucession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(f) This § 100.35–0916 will become effective at 10:00 a.m. (local time) on 26 June 1982 and will no longer be effective after 7:00 p.m. on 26 June 1982.

(Sec. 1, 35 Stat. 69 as amended, Sec. 6(b)(1), 80 Stat. 937; 46 USC 454; 49 USC 1655(b)(1); 33 CFR 100.35; 49 CFR 1.46(b))

Dated: June 9, 1982.

J. R. Kirkland,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 82-16790 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 08-82-01]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Algiers Alternate Route, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Plaquemines Parish Commission Council and the Louisiana Department of Transportation and Development, the Coast Guard is changing the regulations governing the State Route 23 lift span bridge across the Gulf Intracoastal Waterway (GIWW), Algiers Alternate Route, mile 3.8, Belle Chasse, Plaquemines Parish, Louisiana. The bridge is a semi-high rise, with a vertical clearance of 40 feet in the closed position, and now is required to open on signal at any time. The change will require that, Monday through Friday except holidays, the draw need not open for the passage of vessels from 3:30 P.M. to 5:30 P.M. This action is being taken to relieve overland traffic congestion during the peak afternoon vehicular traffic period, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, Eighth Coast Guard District, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130—(504) 589–2965.

SUPPLEMENTARY INFORMATION: On 8 April 1982, the Coast Guard published a proposed rule (47 FR 15146) concerning this amendment. The Eighth Coast Guard District also published this proposal as a Public Notice dated 8 April 1982. Interested persons were given until 23 May 1982 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of Comments

No comments were received from navigational interests. Two comments were received from non-navigational interests, offering no objections.

The regulatory change (closing the bridge to navigation 3:30 P.M. to 5:30 P.M., Monday through Friday excluding holidays) has been in effect on a trial basis since 27 March 1981. Data obtained during the trial period show that the change provides relief to overland peak traffic, while still meeting the reasonable needs of navigation.

These final regulations have been reviewed under provisions of Executive Order 12291 and have been determined not to be a major rule. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). An economic evaluation has not been conducted since the impact is expected to be minimal for the reasons discussed above. In accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 33—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.536 to read as follows:

§ 117.536 GIWW, Algiers Alternate Route, mile 3.8, Belle Chasse, Louisiana.

The draw shall open on signal except that from 3:30 P.M. to 5:30 P.M., Monday through Friday excluding holidays, the draw need not open for the passage of vessels.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: June 10, 1982.

W. H. Stewart,

Rear Admiral, Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 82-17117 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 162

[CGD 82-039]

Inland Waterways Navigation Regulations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This document amends portions of Part 162 of Title 33, Code of Federal Regulations, which cite obsolete nautical charts. These citations of specific charts have, in the past, served to identify certain bodies of navigable water in Alaska; however, subsequent to their citation in 33 CFR Part 162 the charts have become obsolete. This action amends Part 162 by deleting references to specific nautical charts, thereby avoiding any possible confusion, and eliminating the need for future amendment should the charts again be changed.

EFFECTIVE DATE: This amendment becomes effective on June 24, 1982.

FOR FURTHER INFORMATION CONTACT: ENS R. B. Strobridge, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, D.C. 20593, (202) 426–4950.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Ensign R. B. Strobridge, Project Manager and Lieutenant Mark Hanlon, Project Attorney, Office of Chief Counsel.

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking has been omitted for good cause. This amendment to 33 CFR Part 162 is editorial in nature and does not effect any substantive change in the regulations. Therefore, a notice of proposed rulemaking is unnecessary.

The paragraphs in Part 162 of Title 33, Code of Federal Regulations, which contain the citations of obsolete charts are §§ 162.240(a), 162.250(a), and 162.255(a)(1). These paragraphs serve to aid in identifying three bodies of navigable water located in Alaska known as "Tongass Narrows", "Port Alexander", and "Wrangell Narrows", respectively. However, these charts are no longer available due to cancellation, replacement, or assignment of new chart numbers.

This action deletes references to specific nautical charts found in 33 CFR

162.240(a), 162.250(a), and 162.255(a)(1). The amendment affects only chart references. The geographic reference to "Port Alexander" has been modified to eliminate the need for a specific chart reference.

REGULATORY EVALUATION: This amendment has been reviewed under the provision of Executive Order 12291, and under DOT Order 2100.5, dated May 5, 1980, and has been determined to be non-major and non-significant since the amendment is editorial with no substantive effect.

In accordance with § 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule will not have a significant economic impact on a substantial number of small entities since the change is only editorial in nature.

List of Subjects in 33 CFR Part 162

Navigation (water), Waterways (inland).

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

In consideration of the foregoing, Part 162 of Title 33, Code of Federal Regulations, is amended as follows:

1. By amending § 162.240(a) as follows:

§ 162.240 Tongass Narrows, Alaska; navigation.

(a) Definitions. The term "Tongass Narrows" includes the body of water lying between Revillagigedo Channel and Guard Island in Clarence Strait.

* * * * *

2. By amending § 162.250(a) as follows:

§ 162.250 Port Alexander, Alaska; speed of vessels.

(a) Definition. The term "Port Alexander" includes the entire inlet from its head to its entrance from Chatham Strait.

* * * * *

3. By amending § 162.255(a)(1) as follows:

§ 162.255 Wrangell Narrows, Alaska; use, administration, and navigation.

(a) Definitions. (1) The term "Wrangell Narrows" includes the entire body of water between Wrangell Narrows North Entrance Lighted Bell Buoy 63 and Midway Rock Light.

* * * * *

((33 U.S.C. 1223); 49 CFR 1.46(n)(4))

Dated: June 14, 1982.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 82-16791 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for Issue 9 of the Domestic Mail Manual (DMM), which is incorporated by reference in the **Federal Register**, 39 CFR 111.1.

Some of the revisions are minor, editorial, or clarifying. Substantive changes, such as the acceptance times for Express Mail Next Day Service or the new procedures for refusing or terminating lockbox or caller service, have previously been published in the **Federal Register** both in the proposed rule and the final rule stages.

EFFECTIVE DATE: May 1, 1982.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, (202) 245–4638.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (see 39 CFR 111.1), has been amended by the publication of a transmittal letter for Issue 9, dated May 1, 1982. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office.

The following excerpt from the Summary of Changes section of the transmittal letter for Issue 9 covers the minor changes not previously described in interim or final rules published in the **Federal Register**.

Summary of Changes

Note.—Issue 9 contains all DMM revisions published between January 28, 1982, and April 29, 1982.

1. Exhibit 113.66 is revised to clarify language and to conform to current revisions in Postal Operations Manual, chapter 3.

2. * * *

3. Section 122.442 is revised to allow members of the U.S. Senate to use the simplified form of address on franked mail (PB 21340, 2–25–82).

4. Exhibit 125.2 is revised to update conditions of mailing to military post offices.

5. * * *

6. Section 137.231 is revised to update the list of U.S. Government offices authorized to use federal government mailing privileges.

7. * * *

8. Section 144.13 is revised to correct the name of an authorized meter manufacturer (PB 21343, 3–18–82).

9. Sections 144.342*d* and 144.92*d* are revised to apply to electronic postage meters used in the Computerized Remote Postage Meter Resetting System (PB 21340, 2–25–82).

10. Sections 145.5*g* and 145.93 are added to explain the use of the permit imprint on Western Union Mailgram envelopes (PB 21349, 4–29–82).

11. Section 159.442 is revised and 159.443 is added to provide instructions for handling unidentified money orders found loose in the mail (PB 21337, 2–4–82).

12. Section 159.49 is added to require that Federal government property found loose in the mail be returned to the Federal supply system, under specified conditions (PB 21341, 3–4–82).

13. Sections 222.2, 223.3, and 224.4, and subchapter 230 are revised to clarify service guarantees for Express Mail (PB 21344, 3–25–82).

14. * * *

15. Sections 411.1*b* and 467.111 are revised to specify that only one piece rate is applicable to firm packages of second-class mail, regardless of whether individually addressed copies or unaddressed copies are in the package (PB 21346, 4–8–82).

16. * * *

17. * * *

18. Sections 448.4 and 448.5 are revised to include new reporting requirements for publishers mailing at second-class rates (PB 21336, 1–28–82).

19. Section 621.3 is revised to clarify conditions under which computer printed material may be mailed as third-class mail (PB 21341, 3–4–82).

20. Section 651.211*b*(2) is revised to conform to maximum size standards for third-class carrier route presort level rate mail as stated in 622.11*c* (PB 21340, 2–25–82).

21. Part 911 is revised as follows (PB 21342, 3–11–82):

(a) Section 911.12 is revised to emphasize that items mailed in business reply envelopes may not be registered (PB 21342, 3–11–82).

(b) Sections 911.254, 911.261, and 911.262 are deleted and replaced by new sections 911.254, 911.261, and 911.262 to provide instructions on handling articles

presented for registration with underdeclared values, to clarify procedures for handling materials presented for registration, and to clarify indemnity provisions on registered mail sent by authorized government agencies.

(c) Section 911.5 is added to provide instructions for filing inquiries regarding uninsured registered mail.

22. Part 951 is revised as follows (PB 21343, 3–18–82):

(a) Sections 951.121, 951.4 and 951.5 are revised to clarify the meanings of the terms *boxholder* and *customer*.

(b) Section 951.131 is revised to modify procedures for accepting applications for lockbox service.

(c) Sections 951.132 and 951.133 are combined and new section 951.133 is added to permit service for boxholders to be transferred between stations or branches of the same post office.

(d) Section 951.152*b* is revised to correct a typographical error and to clarify that Form 1532, *Semiannual Check of Overflow Mail,* is used only for boxes which have an overflow.

(e) Exhibit 951.152 is deleted.

23. Section 952.133 is renumbered, and sections 952.14, 952.15, and 952.16 are revised to modify procedures for accepting applications for caller service (PB 21343, 3–18–82).

24. * * *

25. Editorial revisions are made in the Table of Contents, to include E–COM service, and in sections 122.642, 144.348, 146.121, 152.75, 468.32, 667.132*e*, and 723.21 to correct printing errors.

26. Sections 141.1, 141.2, and 142.1 are revised to include current rates for precanceled stamped envelopes and other postage (PB 21350, 5–6–82).

27. Note: Phased rates which will be effective at 12:01 a.m., July 6, 1982, are included in section 411.322 and exhibit 711.4, along with current rates which are effective until that date.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

In consideration of the foregoing, 39 CFR 111.3 is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
9	May 1, 1982	47 FR ———

(5 U.S.C. 552(a); 39 U.S.C. 401, 407, 408, 3001–3011, 3201–3218; 3403–3405, 3601, 3621; 42 U.S.C. 1973 cc–13, 1973 cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-17072 Filed 6-23-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A–4–FRL 2079–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Tennessee: Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today announcing approval of several State Implementation Plan (SIP) revisions submitted by the State of Tennessee. These revisions involve changes and additions to the regulatory and the non-regulatory parts of the Tennessee rules and include general alternate emission standards, review of new stationary sources, nonattainment redesignations, Standards of Performance for New Stationary Sources, control of Volatile Organic Compounds (VOC) and other miscellaneous changes.

EFFECTIVE DATE: This action will be effective on August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Raymond S. Gregory of EPA, Region IV's Air Programs Branch (see address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Library Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005

Library, Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Tennessee Air Pollution Control, Metropolitan Health Department, Nashville-Davidson County, 311 23rd Avenue, North, Nashville, Tennessee 37203

FOR FURTHER INFORMATION CONTACT: Mr. Raymond S. Gregory, Air Programs Branch, EPA Region IV, at the above listed address and phone 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce action on a series of revisions and additions to the Tennessee implementation plan dealing with various requirements of the Clean Air Act. EPA today approves these various revisions to the Rules of the Tennessee Department of Public Health as they were adopted by the Tennessee Air Pollution Control Board.

1200–3–1–.02, Severability, states that a judgment which invalidates any portion of 1200–3 will not affect any other part of 1200–3. (Submitted October 15, 1979).

1200–3–2–.01, Definitions were amended as follows:

1. Paragraph (z): Malfunction, was deleted and replaced by a definition which excludes failures caused by preventable upset condition or equipment breakdown; (aa), Modification, was deleted and replaced by a definition which added a stipulation that exceptions to the changes must be proven by the owner or operator, and verified by the Technical Secretary; and definition (hhh) for excess emissions was added. (Submitted June 13, 1979).

2. Paragraphs (kkk) and (lll) defining silicon carbide plant and magnetic processing plant, respectively, were added. (Submitted October 15, 1979).

3. Paragraph (nnn) defining RACT was added. (Submitted February 19, 1980).

4. Paragraph (ggg) defining best available control technology (BACT) was deleted and replaced by a rule which explains the BACT limitation criteria, which hold BACT emissions to standards set in Chapters 1200–3–11 (Hazardous Air Contaminants) and 1200–3–16 (New Source Performance Standards), and which describes the Technical Secretary's authority to prescribe alternate control application. (Further clarification of this definition as it applies to PSD will be made with approval of Tennessee's PSD Plan.) Paragraph (j) defining construction was amended to include the word "or modification." A sub-part (IV) was added to part 2 of subparagraph (aa) (modification) exempting required fuel changes. A part 4 was added to

subparagraph (aa) which stated that the definition of "major modification" under the Prevention of Significant Deterioration regulation (PSD) would take precedence in PSD issues. Paragraphs (iii), (jjj), and (mmm) were added, defining liquid sulfur dioxide plants, pellet plants and mine shaft heaters, respectively. (Submitted October 25, 1979).

5. Paragraph (ll) defining person was deleted and replaced. (Submitted December 9, 1981).

6. Paragraphs (ooo) through (uuu) were added giving definitions for recovery furnace stack, total reduced sulfur, lime kiln, smelt dissolving tank, digester system, black liquor solids and multiple effect evaporator system, respectively. (Submitted January 22, 1982).

1200–3–3–.05 on achievement of ambient air standards has been revised to specify new attainment dates for some pollutants. July 1, 1975, remains the attainment date for nitrogen dioxide, total suspended particulates (TSP) and sulfur dioxide (SO_2), except for TSP and SO_2 areas identified in Chapter 1200–3–19 which have until December 31, 1982. The new standard for lead is to be achieved by October 31, 1981. Standards for ozone and carbon monoxide have to be met by December 31, 1982, except for those areas given an extension to December 31, 1987. Table 1 of this rule was modified to reflect the revised ozone limit of 0.12 ppm and to include the lead standard. (Submitted October 25, 1979).

1200–3–4–.02, Open Burning Prohibited, has been rewritten to specifically prohibit open burning in areas within one-half mile of a TSP nonattainment area. (Submitted June 13, 1979).

1200–3–4–.04–(8) relating to permits for open burning has a sentence added which forbids permits for any burning within one-half mile of a TSP nonattainment area. (Submitted June 13, 1979).

1200–3–4–.04–(9) on permit requirements was renumbered to 1200–3–4–.04–(10). A new paragraph (9) was added which states that anyone seeking an open burning permit after March 1, 1978, will be subject to the applicable provisions of 1200–3–9–.01–(4) concerning construction permits and the prevention of significant air quality deterioration. (Submitted October 25, 1979).

Rule 1200–3–9–.01–(4) on general standards was added to require major stationary sources seeking construction permits, as identified in 1200–3–9–.01–(4), to comply with visible emissions standards set pursuant to 1200–3–9. (Submitted October 25, 1979).

1200–3–5–.07 which restricts visible emissions from certain wood fired fuel burning equipment to a reading of two on the Ringelmann Chart, or 40% opacity for five minutes in a one-hour period was added. (Submitted June 13, 1979).

1200–3–5–.08 was added to regulate visible emissions from titanium dioxide manufacturing sources constructed prior to July 1, 1975 to a limit of 80% opacity. The rule also sets requirements for compliance tests to show that such sources meet particulate emission limits. (Submitted January 22, 1982).

1200–3–5–.10 was amended to offer certain sources an opportunity to elect an alternative visible emission standard. The alternative standard allows a maximum of twenty (20) percent opacity (6 minute average) except for one six-minute period per one (1) hour but not more than twenty-four (24) minutes in any twenty-four (24) hour period. (Submitted August 26, 1981).

1200–3–6–.01 on general non-process emissions had added to paragraph (2) a new section on additional emission standards for certain sources in nonattainment areas, as designated in Chapter 1200–3–19. A new paragraph (7) has been added which allows setting an emission limit more restrictive than existing ones, by mutual agreement of the source operator and the Technical Secretary, as a special permit condition, violation of which would be grounds for revocation. (Submitted June 13, 1979).

1200–3–6–.01 was also modified by deleting the word "particulate" from its title and from paragraphs (1) and (3). (Submitted October 25, 1979).

1200–3–6–.01–(5) dealing with fuel modification was amended by deleting the words "particulate matter." Also, sentences were added which exempt sources described in 1200–3–9–.01–(4) covering construction permits, from the provisions of this paragraph, but which still holds sources to the allowable emissions unless BACT is required. (Submitted October 25, 1979).

1200–3–6–.01–(6), which stated that fuel switching ordered by the Department of Energy would not be considered a modification, was deleted. (Submitted October 25, 1979).

1200–3–6–.02–(c), which was added in the June 13, 1979, submittal and which obligates new or modified non-process sources located in or impacting a nonattainment area to comply with 1200–3–9–.01–(f) (growth policy) before receiving a permit, was renumbered to 1200–3–6–.01–(6). (Submitted October 25, 1979).

1200–3–6–.01–(8) is a new section which directs all sources identified in 1200–3–9–.01–(4) (major stationary source) to comply with standards set in Chapter 1200–3–9 on construction and operating permits. (Submitted October 25, 1979).

1200–3–6–.04 concerning nitrogen oxides and their emission standards for new air contaminant sources was repealed in its entirety. (Submitted February 6, 1979).

1200–3–6–.05–(1), which lists emission standards for wood fired fuel burning equipment in operation before March 1, 1978, was amended by adding paragraph (d), which lists a limit of 0.56 grains of particulate matter per dry standard cubic foot of exhaust gases, corrected to 12% carbon dioxide for fuel burning equipment up to and including 50 million BTU per hour located in counties identified in paragraph 1200–3–6–.05–(8) on applicability, and by adding paragraph (e), which states that the allowable limit for wood fired fuel burning equipment between 50 million and 100 million BTU per hour heat input and located in these counties is that determined by linear interpolation between the emission values in paragraphs (d) (above) and existing paragraph (b) (which requires a limit of 0.300 grains of particulate matter per dry standard cubic foot of exhaust gases, corrected to 12% carbon dioxide for fuel burning equipment of 100 million BTU heat input or more). (Submitted June 13, 1979).

1200–3–6–.05–(8) which concerns applicability of the rule for wood fired fuel burning equipment was deleted and replaced in its entirety. Paragraph (8) specifies for which counties in Tennessee various particulate emission limitations apply for wood fired fuel burning equipment. (Submitted June 13, 1979).

1200–3–6–.05–(9)(d) which specifies applicability for the regulations concerning wood fired fuel burning equipment was amended by adding Bradley, Franklin, Henry, McMinn, Polk, Rutherford, Scott, Weakley and White (Submitted June 13, 1979), Loudon (Submitted November 23, 1979), and Sumner (Submitted October 25, 1979) Counties to the list of counties (subparagraph (d)) for which the emission limits in paragraphs (1)–(d) and (1)–(e) apply.

1200–3–7–.01 on general process particulate emission standards had an addition to paragraph (2), which concerns more stringent emission standards for sources in nonattainment areas. The addition states that the Tennessee Air Pollution Control Board has noted such violations in counties identified in Chapter 1200–3–19 as

nonattainment areas, and has set standards which are found in that chapter. (Submitted June 13, 1979).

1200–3–7–.01–(5) contains a new paragraph which allows the setting of more stringent emission limits as a condition for permitting. (Submitted June 13, 1979).

1200–3–7–.03 concerning new processes had a new paragraph (3) added which states that all sources located in or impacting a nonattainment area shall comply with the standards set in 1200–3–9–.01–(5), Growth Policy, prior to receiving a construction permit. (Submitted June 13, 1979).

1200–3–7–.03–(4) was added, which states that the major stationary sources identified in 1200–3–9–.01–(4) dealing with PSD shall comply with the standards set in Chapter 1200–3–9, superseding those in 1200–3–7. (Submitted October 25, 1979).

1200–3–7–.08 relating to specific process emission standards had several paragraphs deleted. The State repealed 1200–3–7–.08–(2)–(b) concerning new nitric acid plants, and 1200–3–7–.08–(4) concerning new portland cement plants. New source performance standards (NSPS) replaced the previous regulations for new plants. (Submitted January 22, 1982).

1200–3–7–.10 is a new rule on grain loading limit for certain existing sources. It establishes conditions for a certificate of validation to be issued by the Technical Secretary, as well as the procedures by which a certificate may be revoked. (Submitted June 13, 1979). One source applied for and received a certificate of validation allowing a higher emission limit. The related source operating permits were submitted by Tennessee. (Submitted November 5, 1981).

1200–3–7–.11 is a new rule governing carbon monoxide from electric furnaces in Knox County which sets a limit of 18.0 pounds of carbon monoxide per ton of metal produced. (Submitted October 15, 1979).

1200–3–8–.01 relating to fugitive dust had paragraph (2) modified changing the reference of Rule "1200–3–10–.03" to "1200–3–20." The requirements of 1200–3–10–.03 were moved to 1200–3–20 (Limits on Emission Due to Malfunctions, Startups, and Shutdowns). (Submitted January 22, 1982).

1200–3–8–.01, Fugitive Dust, was revised to include a new paragraph (4) which compels all sources identified in 1200–3–9–.01–(4) (PSD) to comply with standards in 1200–3–9 (Construction and Operating permits). (Submitted October 25, 1979).

1200–3–8–.02 is a new rule entitled Special Nonattainment Area Fugitive Dust Requirements. It specifies that fugitive dust sources in the Tennessee nonattainment areas identified in 1200–3–19–.03 are required to comply with the growth policy standards in 1200–3–9–.01–(5) before they may obtain a construction permit. (Submitted June 13, 1979).

1200–3–9–.01 covering construction permits was amended by adding a sentence to paragraph (2) which says that the major stationary sources identified in 1200–3–9–.01–(4) concerning PSD must apply for a permit at least 120 days prior to the start of construction. (Submitted October 25, 1979).

1200–3–9–.01–(3)–(a) dealing with waivers for construction permits was revised by deleting the last sentence and substituting: "The request for a waiver shall be accompanied by a request for a construction permit on forms available from the Technical Secretary". This insures that the source will receive the application forms as a result of requesting a waiver. (Submitted October 25, 1979).

1200–3–9–.01–(3)–(d) prohibiting waivers for sources emitting hazardous air contaminants was replaced with a new version which omitted a reference to exceptions for major stationary sources identified in 1200–3–9–.01–(4)–(b) which is the definition of "major stationary source" under PSD. (Submitted October 25, 1979).

1200–3–9–.01–(5)–(b)–11 was added which states "Regardless of the specific emission standards contained in this rule, all sources identified in rule 1200–3–9–.01–(4) of these regulations shall comply with the standards set pursuant to rule 1200–3–9–.01–(4) if more stringent." This requires more stringent PSD limits to apply. (Submitted October 25, 1979).

1200–3–9–.05 is a new rule on appeal of permit application denials and permit conditions. This rule sets procedures for filing an appeal and any resulting hearing. (Submitted November 23, 1979).

1200–3–9–.01–(5)–(b)–12 removes the construction restrictions for the Bristol and Jacksboro particulate nonattainment areas for which Part D plans have already been approved. (Submitted August 26, 1981).

1200–3–10–.02–(1) relating to monitoring of emissions was revised by amending subparagraph (c) to include provisions authorizing the Technical Secretary to approve alternate monitoring procedures or additional requirements, requiring the sampling point for continuous emission monitoring to be representative of the concentration of the parameter being monitored at the source emission point. (Submitted October 25, 1979).

1200–3–10–.02–(1)–(f) relating to continuous SO_2 monitoring of fossil fuel-fired steam generators has been amended by deleting parts 2, 3, 5 and 6 (essentially the provisions which were added to 1200–3–10–.02–(1)–(c) above) and renumbering part 4 to be part 2. Also, a new subparagraph (1)–(g) was added which requires the sources that must have a continuous SO_2 monitoring system per 1200–3–12–.04–(3), Monitoring Required for Large Existing Fuel Burning Installations, to have installation and performance testing completed and recordkeeping commenced within twelve months of the effective date of 1200–3–10–.02–(1)–(g). (Submitted October 25, 1979).

1200–3–10–.02–(2) relating to recording and reporting was revised by deleting the first sentence in subparagraph (c) and replacing it with one which referred to Rule 1200–3–12–.04 referenced above, rather than subparagraph 1200–3–14–.02–(1)–(e) under nonprocess emission standards. In 1200–3–10–.02–(2)–(c)–1–(i) concerning reports of continuous emission monitoring data for certain sources, a revision was made to include 3-hour averages. (Submitted October 25, 1979).

1200–3–11–.03–(4) relating to stack testing for beryllium was amended in subparagraph (h) by correcting a reference to **Federal Register**, Volume 38, Number 65 to read Number 66. (Submitted October 15, 1979).

1200–3–11–.05–(8)–(h) relating to measurement of vinyl chloride is amended by adding to parts 1 and 2 another **Federal Register** reference of Volume 41, Number 234, Friday, December 3, 1976, on corrections to standards for vinyl chloride. (Submitted October 15, 1979).

1200–3–12–.02 on procedures for ambient sampling and analysis was deleted and replaced with a new rule that updates the reference for sampling and analysis of nitrogen dioxide from the **Federal Register**, Volume 38, Number 110, dated June 8, 1973, to Volume 41, Number 232, dated December 1, 1976: National Ambient Air Quality Standards—Nitrogen Dioxide Measurement Principles and Calibration Procedures. This rule also establishes a reference for lead sampling and analysis procedures in **Federal Register**, Volume 43, Number 194, dated October 5, 1978: National Primary and Secondary Ambient Air Quality Standards for Lead, and an ozone procedure reference in **Federal Register**, Volume 44, Number 28, Part V, dated February 8, 1979: Revisions to the National Ambient Air Quality Standards for Photochemical Oxidants. The revised rule also omits

the procedure for measuring soiling index. (Submitted February 19, 1980).

1200–3–12–.03 was revised to specify methods of sampling and analysis (a) Sample and Velocity Traverses, (b) Stack Gas Velocity determination, (c) Gas Analysis, (d) Determination of Moisture Content in Stack Gases, (g) Determination of Sulfuric Acid in Stack Gases and (h) Determination of Nitrogen Oxides in Stack Gases. (Submitted November 23, 1979).

1200–3–12–.04 was renamed to "Monitoring Required for Determining Compliance of Certain Large Sources," and a new subparagraph (3) added which requires continuous in-stack sulfur dioxide monitoring subject to paragraph 1200–3–10–.02–(1), monitoring of emissions, for sulfuric acid plants, liquid sulfur dioxide plants, and pellet plants existing on January 1, 1979, in a SO_2 State classified Class I county. (Submitted October 25, 1979).

1200–3–14–.01 was revised in a previous revision concerning sulfur dioxide limitations. Paragraphs (3), (4), and (5) were inadvertently deleted in that revision and are now being added back. (Submitted August 26, 1981).

1200–3–14–.03 had paragraph (1) amended with the addition of a statement that "different standards and averaging times may be met as an alternative, or as required, where they are specified in Chapter 1200–3–19" (concerning nonattainment areas). (Submitted October 25, 1979).

1200–3–15–.03–(2) was replaced with a new paragraph requiring submittal of an acceptable air pollution episode emissions reduction plan by major sources in or significantly impacting a nonattainment area. (Submitted August 26, 1981).

1200–3–16–.01–(6)–(a) concerning NSPS (General Provisions) had housekeeping changes made to clarify unclear language. (Submitted January 22, 1982).

1200–3–16–.02, Fossil Fuel Fired Generators, had paragraph (1) on applicability amended by adding a subparagraph (b) which exempted facilities covered under 1200–3–16–.02a (as described below) from this rule, and which renumbered the existing subparagraph to (a). (Submitted January 22, 1982).

1200–3–16–.02a was added, which covered all aspects of electric utility steam generating units (NSPS) for which construction commenced after September 18, 1978. (Submitted January 22, 1982).

1200–3–16–.03–(5) on test methods for incinerators had subparagraph (a) amended by adding the word "particulate" after "The sampling time for each". (Submitted September 30, 1981).

1200–3–16–.06–(3) concerning nitric acid plants was corrected by replacing "0.1–(5)" with "0.01–(5)". Also, subparagraph (5)–(a) concerning test methods and procedures was amended by adding "for nitrogen oxides" after "The sampling point" in the first sentence. (Submitted September 30, 1981).

1200–3–16–.08 concerning NSPS for petroleum refineries was amended as follows:

1. Applicability (.08–(1)–(a)) was extended to cover Claus sulfur recovery plants producing more than 20 long tons per day (LTD), while reference to fluid catalytic cracking unit incinerator-waste heat boilers was deleted. A subparagraph (b) was added which reaffirms the April 21, 1976, applicability date for all sources listed in subparagraph (a), with the exception that only Claus plants which begin construction or modification after the effective date of the rule are covered. (Submitted August 26, 1981).

2. Definitions were expanded to include (i) Claus sulfur recovery plant, (j) oxidation control system, (k) reduction control system, and (l) reduced sulfur compounds. (Submitted August 26, 1981).

3. Standards for particulate matter and opacity (.08–(3)–(a)) were changed to allow six (6) minutes of exceedance in any hour of the 30% opacity limit by exhaust gases, compared to three (3) minutes previously. Also, the reference for the incremental rate of particulate emission in subparagraph (3)–(b) was changed from 0.18 g/million calories (0.10 #/MBTU) to units of 43.0 g/MJ (also 0.10 #/MBTU). (Submitted August 26, 1981).

4. The Standard for sulfur dioxide (.08–(5)) had subparagraphs (a) and (b) combined into part (a) and (1), and gained part (a)–(2) which limited emissions to 0.025% SO_2 with incineration in the process, and 0.030% reduced sulfur compounds and 0.010% hydrogen sulfide with no incineration. Subparagraph (b) has been reserved. (Submitted August 26, 1981).

5. Emission monitoring (.08–(6)) had four parts added to subparagraph (a) on continuous monitoring systems to cover continuous monitoring (1) and recording of carbon monoxide (2), hydrogen sulfide from fuel gas combustion devices (3) & (4), sulfur dioxide from Claus plants (5), and hydrogen sulfide and reduced sulfur compounds from Claus plants (6).

The existing system for continuous monitoring of sulfur dioxide from combusted fuel gases had its exception for a continuous monitoring system for hydrogen sulfide changed from a reference to the Technical Secretary to a reference of 1200–3–16–.08–6–(a)–(4). Subparagraph (b) has been reserved, and the previous subparagraphs b, c, and d have been redesignated c, d, and e. Subparagraph (e) on reporting of periods of excess emissions was further modified by including provisions for carbon monoxide reporting (2), specifying the opacity limit of 30% for six minutes over one-hour periods (1), and expanding the criteria for sulfur dioxide (3) to include Claus plants and hydrogen sulfide from devices covered under 1200–3–18–.05–(a)–(1). (Submitted August 26, 1981).

6. Test methods and procedures (.08–(7)) were expanded in several areas. Under subparagraph (a), a new part (1) was added which, in reference to the procedures set in 1200–3–16–.0–(5)–(g), established Method 5 for determining concentration of particulate matter and moisture content, Method 1 for sample and velocity traverses, and Method 2 for velocity and volumetric flow rate. The existing parts (a)–(1) and (2) were renumbered to (2) and (3), and the appropriate reference method was included. Parts (3) to (7) were renumbered to (4) to (8) gaining a reference to Method 10 of 1200–3–16–.01–(5)–(g). In subparagraph, (b) on hydrogen sulfide concentrations at high pressure, a minimum sampling time of 10 minutes was added. In subparagraph (c), concerning compliance with Part 1200–3–16–.08–(5)–(a)–(1), Method 11 was established for determining hydrogen sulfide concentrations, and Method 6 set for determining sulfur dioxide levels, as detailed in Parts (c)–(1) and (c)–(2). A new subparagraph (d) was added, which, in reference to compliance with 1200–3–16–.08–(5)–(a)–(2), reiterated Method 6 for sulfur dioxide concentration and set Method 15 for determining hydrogen sulfide and reduced sulfur compound concentrations. Application of these test procedures was detailed in subparagraphs parts (d)–(1) and (d)–(2). (Submitted August 26, 1981).

7. Minor language changes were made which included in .08–(6)–(a)–7 substituting "paragraph (4) of this rule" for "part 4 above" and in .08–(7)–(a)–2 specifying "for determining the volume of exhaust gases from the" rather than "for exhaust gases from the". (Submitted September 30, 1981).

1200–3–16–.09 was changed to reflect changes to new source performance standard for storage vessels for petroleum liquids (constructed after 6/

11/73, and prior to 5/19/78). (Submitted August 26, 1981).

1200–3–16–.19 on primary aluminum production plants had subparagraph (6)(a) on test methods for fluoride emissions modified by changing the reference procedure from "that in the **Federal Register**, Volume 41, Number 17, January 26, 1976," to the method in "1200–3–16–.01–(5)–(g)–(15)". (Submitted September 30, 1981).

1200–3–16–.22 on primary zinc smelters was modified by having the word "particulate" added after "The sampling time for each" in subparagraph (7)–(b) for test methods and procedures. (Submitted September 30, 1981).

1200–3–16–.23 on primary lead smelters was modified by having the word "particulate" added after "The sampling time for each" in subparagraph (7)–(b) for test methods and procedures. (Submitted September 30, 1981).

1200–3–16–.24 on Steel Plants: Electric Arc Furnaces was modified by deleting the word "fun" in subparagraph (6)(a) of test methods and procedures and replacing it with "particulate run". In subparagraph (6)(b) the reference to "Part (2)–(a)–3" was corrected to "Part (3)–(a)–3". (Submitted September 30, 1981).

1200–3–16–.25 on ferroalloy production facilities had subparagraph (7)–(a) on test methods and procedures for determining particulate matter concentration and moisture content modified by changing the reference from the "**Federal Register**, Volume 36, Number 247, December 23, 1971," to "Method 5 in 1200–3–16–.01–(5)–(g)." Subparagraph (7)–(b) was amended by adding the word "particulate" between "each" and "run" in the first sentence (Submitted September 30, 1981).

1200–3–16, NSPS regulations were adopted using EPA guidance for the following source categories: .26 lime manufacturing plants (Submitted September 27, 1979), .27 grain elevators (Submitted November 23, 1979), .28 Kraft Pulp Mills (Submitted October 15, 1979 with minor housekeeping changes submitted on December 9, 1981), .29 Stationary Gas Turbines (Submitted August 26, 1981).

1200–3–18–.01 concerning Control of Volatile Organic Compounds (VOC) was retitled from "Purpose" to "Purpose and General Provisions". Paragraph (2) which allows for mutual agreement between the State and a source for a more restrictive emission limit than specified in Chapter 18 was added. This will enable the use of alternative emission standards or "bubbles". (Submitted January 22, 1982).

1200–3–18–.04–(2)–(a) was replaced with a new subparagraph which as a condition for a certificate of alternate control for volatile organic compound emissions specified that reduction credit would be based on the manufacturing process as it existed on the date the applicable regulation went into effect. The purpose of this change was to allow credit toward compliance by use of process changes. (Submitted August 26, 1981).

1200–3–18–.08 concerning bulk gasoline plants was replaced by a modified rule (Submitted December 9, 1981) which:

1. Deleted reference to " 'API Standard 650—Welded Steel Tanks for Oil Storage', Section 3.6.3. Shell Nozzles or the equivalent as approved by the Technical Secretary," from the definitions of "Bottom Filling" and "Submerged Filling".

2. Exempted Hamilton and Shelby Counties from this rule.

3. Added requirements for submerged filling or bottom filling equipment in paragraph (4).

4. Added requirements for a vapor balance system and a submerged filling system or its equivalent in paragraph (5).

5. Added conditions on transferring gasoline from tank truck or trailer to a stationary tank to include: a vapor balance system; closing of hatches; no leaks throughout the transfer system; and a pressure release limit of no less than 4.8 kPa (0.7 psia) or highest allowable pressure under the applicable fire regulations, for the pressure relief valves.

1200–3–18–.10, Gasoline Service Stations Stage 1, was modified in a new version of this rule. The definition for "Submerged Fill Pipe," subparagraph (1)(c), was altered slightly without changing the six inches from tank bottom requirement. In paragraph (3) in the provisions concerning exemptions, the 2000 gallon limit for storage containers was converted to 7570 liters. A provision was added requiring the containers to be equipped with submerged fill pipes (subparagraph (b)). Also in paragraph (3), Hamilton and Shelby Counties were exempted in subparagraph (c) of this rule, and a limit of 4200 gallons for tank truck servicing facilities was adopted in subparagraph (d). A lower limit of a 2000 gallon tank size was deleted from paragraph (4) which requires controls on the transfer of gasoline from a delivery vessel to a stationary storage tank. (Submitted August 26, 1981).

1200–3–18–.40, which concerns regulations required only in Metropolitan Davidson County, was adopted. Sources located there and emitting more than 1000 tons/year VOC are required to use reasonably available control technology (RACT) (Submitted November 23, 1979).

1200–3–18–.41 on compliance schedules had housekeeping changes made to (1)–(a), (2)–(a), and (3)–(a) specifying regulatory applicability. (Submitted January 22, 1982).

1200–3–18–.42 detailing individual compliance schedules for VOC sources was amended. Paragraph (1) was changed to allow source compliance schedules extending beyond those in 1200–18–3–.41 and "other rules of this Chapter" (1200–3–18). Paragraph (5) was expanded in applicability from categorical compliance schedules to "applicable compliance schedule". (Submitted January 22, 1982).

1200–3–18–.44, Determination of Volatile Content of Surface Coatings, was altered in subparagraph (5)–(a) by changing a reference to subparagraph (5)–(c) to read "paragraph (3) of this rule." In subpart (5)–(b)–1–(ii) the symbol C was changed to Cv. In subpart (5)–(b)–1–(iii) the term "grams/liters" was changed to "grams/liter". In subpart (5)–(b)–2–(ii), the word "convert" was changed to "content". In subpart (5)–(b)–3–(i), a reference to paragraph (e)–(2)–(i) was changed to paragraph (5)(b)1. In subpart (5)–(b)–3–(iv), the term "grams/liters" was changed to "grams/liter". (Submitted August 26, 1981).

1200–3–19–.03–(1) established specific boundaries for areas that had been classified as nonattainment for Total Suspended Particulates (TSP) in the March 3, 1978 **Federal Register** (43 FR 9035), and 1200–3–19–.03–(2) established specific boundaries for areas that were classified as nonattainment for sulfur dioxide in the March 3, 1978 **Federal Register** (43 FR 9035). (Submitted October 15, 1979).

Since the date of the original State submittal, the designation of a number of these areas has been revised. The original Rockwood TSP designation (1200–3–19–.03–(1)–(d)) was repealed. A new area in Rockwood was identified in revisions submitted to EPA on October 15, 1979. Tennessee has conducted an in-depth study of the nonattainment area and is giving consideration to reclassifying the second nonattainment area. Under these circumstances, no new designation is being made for the Rockwood area at this time. The existing particulate nonattainment area (1200–3–19–.03–(1)–(c)) in Anderson and Knox Counties (Bull Run area) was deleted. Attainment was the result of the installation of new control devices at the Tennessee Valley Authority's (TVA) Bull Run plant. The particulate

nonattainment area in Sumner County (Odoms Bend area) was deleted. The original nonattainment designation was a result of noncompliance by TVA's Gallatin plant, which is now on a schedule of compliance. An area of downtown Knoxville was designated as unclassifiable for particulates. (Submitted August 20, 1981).

Nonregulatory revisions (1.3 and 2.12.1) were submitted which support the above changes to area designations. (Submitted May 5, 1980).

The description of the Chattanooga particulate nonattainment area was revised to include a missing boundary. (Submitted January 22, 1982) A revision was made amending the description of the Copper Basin SO_2 nonattainment area to give greater detail to the boundary description. (Submitted regulatory change December 9, 1981, and nonregulatory changes March 20, 1980).

1200–3–20–.09 was adopted which exempts violations of the visible emission standards which occur for periods of less than 20 minutes in one day from the malfunction notice requirement. Prior to this exemption all malfunctions had to be reported to the Technical Secretary first by telephone notification and then by certified mail within 72 hours. (Submitted December 9, 1981).

1200–3–20–.10, Additional Sources Covered, allows the Technical Secretary to require reports from sources which impact a nonattainment area and may be violating ambient standards. (Submitted November 23, 1979).

1200–3–21–.01, General Alternate Emission Standards was added. This rule described the procedures and conditions for obtaining a Certificate of Alternate Control for sources of particulates of sulfur dioxide. (Submitted January 22, 1982).

Several other nonregulatory revisions to the SIP were submitted also.

Section 2.8.1 on review of new stationary sources was submitted. This section discussed permitting requirements, PSD review, modeling guidelines, and redesignation. (Regarding approval of non-guideline air quality models, the State has agreed to obtain EPA concurrence for use of any non-guideline models.) "Section 2.5.1. which is the control strategy for particulates from wood-fired boilers" was added. (Submitted October 25, 1979).

Section 1.4.1 was adopted establishing a public information and participation program to inform the general public, environmental, and industrial groups in order to stimulate public participation in the implementation plan revision process. (Submitted August 15, 1980).

Section 2.5.2 (Table 1) was revised to reflect a previous change in the sulfur dioxide standard. (Submitted August 15, 1980).

A revision to Section 1.3 reclassified the Tullahoma unclassified area for particulates to attainment. (Submitted November 5, 1981).

Section 2.12.3.C.5 was revised by making a change to Chattanooga's reasonable further progress line for ozone. (Submitted August 15, 1980).

Action

An addition is being made to the listing of submittal dates for Tennessee's Part D revisions in § 52.2220(c)(33). The date (May 15, 1979) of the submittal by the State of the revision for new source review and control of volatile organic compounds adopted by the Metropolitan Nashville-Davidson County Board of Health on April 11, 1979, and March 14, 1979, was inadvertently left out of the original listing.

EPA has found all other portions of the submitted material addressed in this notice to comply with EPA requirements. Therefore, EPA is today announcing approval of those submittals as satisfying the requirements of an acceptable plan.

The public should be advised that this action will be effective August 23, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act, judicial review of EPA's approval of these revisions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before August 23, 1982. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only approves state actions. It imposes no new requirements.

The Office of Management and Budget has exempted this regulation from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,
Administrator.

List of Subjects

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Secs. 107, 110(a) and 172 of the Clean Air Act (42 U.S.C. 7407, 7410(a), and 7502)

Dated: June 14, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 4, Code of Federal Regulations is amended as follows:

Subpart RR—Tennessee

1. Section 52.2220 is amended by revising paragraph (c)(33) and by adding paragraph (c)(44) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(33) 1979 implementation plans for the Nashville TSP and CO nonattainment areas and Statewide ozone nonattainment areas, including regulations Number 3, and Number 7 for Nashville-Davidson County adopted on April 11, 1979 and March 14, 1979, which were submitted on May 15, 1979, and regulations 1200–3–18–.01 through .47, adopted on March 14, April 11, June 20 and 28, 1979, and May 1, 1980, and submitted on June 28, July 2, 1979, and May 8, 1980, by the Tennessee Department of Public Health.

* * * * *

(44) Miscellaneous nonregulatory revisions submitted on October 25, 1979, March 20, 1980, May 5, 1980, August 15, 1980, and November 5, 1981, and miscellaneous regulatory revisions submitted on February 6, 1979 (change in Chapter 6), on June 13, 1979 (changes in Chapters 2, 4, 6, 7, and 8), on September 27, 1979 (change in Chapter 16), on October 15, 1979 (changes in Chapters 1, 2, 7, 11, 16, and 19), on November 23, 1979 (changes in Chapters 6, 9, 12, 16, 18, and 20), on February 19,

1980 (changes in Chapters 2 and 12), October 25, 1980 (changes in Chapters 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, and 14), on August 26, 1981 (changes in Chapters 5, 9, 14, 15, 16, 18, and 19), on September 30, 1981 (change in Chapter 16), on December 9, 1981 (changes in Chapters 2, 16, 18, 19, and 20), and on January 22, 1982 (changes in Chapters 2, 5, 7, 8, 12, 16, 18, 19, and 21).

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart C—Section 107—Attainment Status Designations

§ 81.343 [Amended]

2. In § 81.343, the table titled "Tennessee-TSP" is revised to read as follows:

TENNESSEE-TSP

Designation area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Those portion of Campbell County within downtown LaFollette and the area surrounding the Carborundum Company's plant at Jacksboro.	X	X		
That portion of Davidson County within the 1964 Urban Services Area of Nashville.	X	X		
That portion of Hamilton County within approximately the city limits of Chattanooga.	X	X		
That portion of Knox County within a section of downtown Knoxville			X	
That portion of Maury County within the northern section of downtown Columbia.	X	X		
That portion of Maury County within the remainder of the northern section of Columbia.			X	
That portion of Obion County within the downtown section of Union City.			X	
That portion of Roane County within a downtown section of Rockwood.			X	
Those portions of Shelby County within two sections of downtown Memphis.	X	X		
Those portions of Sullivan County within a section of Bristol and a section of Kingsport.	X	X		
That portion of Washington County within downtown Johnson City			X	
Rest of State				X

[FR Doc. 82-17007 Filed 6-23-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 123

[W-6-FRL 2153-8]

Oklahoma State Department of Health Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Oklahoma has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, III, IV, and V injection wells. The Oklahoma program for the regulation of Class II injection wells was approved on December 2, 1981. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Classes I, III, IV, and V wells meets the requirements of Section 1422 of the Act. Therefore, this application covering Classes I, III, IV and V injections is approved. The State of Oklahoma now has primacy enforcement responsibility over all injection wells in the State.

EFFECTIVE DATE: This approval is effective June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Stark, Ground Water Protection Section, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR Part 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to

prevent endangerment of underground sources of drinking water.

The State of Oklahoma was listed as needing an UIC program on September 25, 1978 (43 FR 43420). The State of Oklahoma submitted an application under Section 1422 on January 15, 1982, for the approval of an UIC program governing Classes I, III, IV and V injection wells to be administered by the Oklahoma State Department of Health (OSDH). On March 2, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Oklahoma UIC program submitted by the OSDH (47 FR 10861). A public hearing was held on April 1, 1982 in Oklahoma City, Oklahoma. After careful review of the application and comments received from the public, I have determined that the Oklahoma UIC program submitted by the OSDH meets the requirements established by Federal regulations pursuant to Section 1422 of the SDWA, and hereby approve it.

In this application, Oklahoma chose not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe an UIC program governing injection wells on any Indian lands or reservations in Oklahoma.

EPA is publishing this approval effective immediately so that Oklahoma can begin issuing UIC permits for Classes I, III, IV, and V wells under the UIC program.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

The radioactive tracer survey, as described in the Oklahoma application and further justification, is approved as a mechanical integrity test under the provisions of 40 CFR 146.08(d) for use in Oklahoma.

OMB Approval: The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Oklahoma State Department of Health will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: June 17, 1982.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-17098 Filed 6-23-82; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Parts 1, 3, 5, 7, 15, 20, 24, Appendix C and Supp. No. 2

[Procurement Regulation Directive 82-1 (dated March 31, 1982)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 82-1 concerning the following areas:

1. Debarred, Ineligible, and Suspended Bidders
2. Recovered Material
3. Equipment Visibility System (EVS) Requirements
4. Types of Contracts
5. Increased Threshold for Cost or Pricing Data
6. Fast Pay Procedure
7. Imprest Funds
8. Waiver of Cost of Money
9. Calculation and Application of Capital Employed for Facilities Under Construction
10. DoD Indirect Cost Monitoring Office
11. Mandatory Federal Supply Schedules
12. Delivery of Excess Quantities of $100 or Less
13. Application of Cost Accounting Standard (CAS) 405, Accounting for Unallowable Costs, to Directly Associated Costs
14. Organization Costs
15. Relocation Costs
16. Cost of Money as an Allowable Cost
17. Contract Administration Functions
18. Contractor's Approved Scrap Procedure
19. Standard Contract Closeout Schedule

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: The major changes are summarized as follows:

1. In Part 1, 1.601-4, "Protection of Lists," is removed and the paragraph is marked "Reserved."

2. In Part 1, 1.2500-5(a) is revised to eliminate the requirement for a specified minimum percentage of recovered material to be used in the production of items sold to the Government.

3. In Part 1, the clause in 1.5406 is revised to clarify the EVS screening requirements by excepting centrally reportable equipment for incorporation into "flight qualified" or "flight monitoring" deliverable end items.

Additionally, paragraph 5 of the instructions for the preparation of NASA Form 1018 is revised to state that nonprofit educational and research contractors are not required to report, on NASA Form 1018, property which NASA has transferred to them under Pub. L. 95-224.

4. In Part 3, 3.404-3(c)(3)*c.4.* and 3.404-3(c)(3)*c.6.* are revised to require that any contract containing any Economic Price Adjustment (EPA) clause where the index is subject to revision; e.g., a Bureau of Labor Statistics Producer Price Index, must state if any later contract price revision is to be based on the initial publication or the final revised version of the index and to reflect the Bureau of Labor statistics replacement of the "Wholesale Price Index for Material" with the "Producer Price Index."

5. In Part 3, 3.501(b)(3), Part III, Section L(7), 3.807-3(b) (i), (ii), (iii) and (d), 3.807-6(f), 3.811(c), 7.103-2, the text and clauses under 7.104-28 (a) and (b), the text and clauses under 7.104-43 (a) and (b), the clause under 7.104-89, 7.203-2, 7.304-1, 7.453-1 and 7.901-2 are revised to reflect the change to $500,000 from $100,000 as the threshold for the requirement for certification of cost or pricing data.

Section 2306(f)(1) of Title 10, United States Code, which is the law on this subject, was amended by Public Law 97-86 (FY 82 DoD Authorizations Act) which inserted $500,000 in lieu of $100,000 in each place it appeared in that section of the Code. The Public Law was signed by the President on December 1, 1981.

6. In Part 3, 3.606 is revised to require consignees to notify the procurement office when supplies have not been received or have been received damaged or not in accordance with specifications. The "Fast Payment Procedure" clause is revised to incorporate a 180-day period within which the contractor shall remain responsible for supplies when shipped overseas and notification of damage, etc., is furnished by the contracting

officer within the 180-day period. All invoices are required to be marked "FAST PAY." When a DD Form 250 is not required, specific information is required to be placed on invoices which must be included in each shipment.

15. In Part 15, 15.205–25 is revised to recognize changes in the cost of relocating contractors' employees due to economic factors and changes in industry and Government practices.

16. In Part 15, 15.205–50 is revised to recognize cost of money on capital assets under construction (CAS 417) as an allowable cost; to recognize facilities capital cost of money (CAS 414) as an allowable cost in cost-sharing and cost (no fee) contracts. The effective date of the (CAS 417) cost of money allowability is December 11, 1981. The change in allowability regarding (CAS 414) cost of money is effective upon receipt.

17. In Part 20, 20.604(d) (xxxii) and (xxxiii) are revised to clarify that in those situations where and advance agreement is negotiated of the type discussed under 15.205–3 and 15.205–35, the responsible Government contracting officer has full authority for determinations related to CAS 420.

18. In Part 24, 24.204–4(e) is revised to specify a single control point for precious metal reporting, and to provide for the disposition of all precious metals.

19. In Supplement No. 2, S2.305(a) is revised to provide more time for the closeout of contracts which age due to circumstances which are not within the direct control of NASA personnel.

List of Subjects in 41 CFR Ch. 18, Parts 1, 3, 5, 7, 15, 20, 24, Appendix C and Supplement No. 2

Government procurement.

(42 U.S.C. 2473(c)(1))

Leroy Hopkins,

Deputy Assistant Administrator for Procurement.

PART 1—GENERAL PROVISIONS

1.601–4 [Amended]

1. In Part 1, Table of Contents, the title of 1.601–4 is removed and the paragraph number is marked "Reserved." The page numbers for paragraphs 1.601–4 and 1.601–50 are amended to read "1–6:2" in place of "1–6:1."

2. In Part 1, Table of Contents, the number for paragraph 1.5406 is amended to read "1–54:2" in place of "1–54:1."

3. In Part 1, 1.601–4 is removed and the paragraph is marked "Reserved" and in paragraph 1.1004–1(b) last line, the words "1.1007 and" are removed.

4. In Part 1, 1.2500–5(a) is revised to read as follows:

1.2500–5 Procedures.

(a) These procedures are applicable to all acquisitions using Government specifications which require incorporation of recovered materials.

* * * * *

5. In Part 1, the clause in 1.5406 is revised by changing the date "(March 1980)" to read "(March 1982)" and the first sentence to read as follows:

1.5406 Contract clause. * * *

Prior to the acquisition of any item of centrally reportable equipment under this contract (unless for incorporation into flight qualified or flight monitoring deliverable end items), the Contractor shall provide the Contracting Officer, at the earliest possible date, a detailed listing of his requirements for screening of existing Government inventories.

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

3.404–4 [Amended]

6. In Part 3, Table of Contents, the page number for paragraph 3.404–4 "Fixed Price Incentive Contracts" "3–4:5" is revised to read "3–4:8B."

7. In Part 3, Table of Contents, the page numbers for paragraphs 3.606–4, 3.607, 3.607–1 through 3.607–4 are revised to read as follows:

3.606–4	Responsibility for Collection of Debts	3–6:7
3.607	Imprest Fund Method	3–6:7
3.607–1	General	3–6:7
3.607–2	Establishment of Imprest Funds	3–6:7
3.607–3	Conditions for Use	3–6:8
3.607–4	Procedures	3–6:8A

8. In Part 3, Table of Contents, the page numbers for paragraphs 3.807–4 through 3.807–7 and 3.807–7 through 3.811 are revised to read as follows:

3.807–4	Subcontractor Cost or Pricing Data	3–6:22
3.807–5	Refusal to Provide Cost or Pricing Data.	3–6:22A
3.807–6	Certificate of Current Cost or Pricing Data.	3–6:22A
3.807–7	Adequate Price Competition and Catalog or Market Prices and Prices Set by Law or Regulation.	3–6:22C
3.808–7	Facilities Capital Cost of Money	3–6:36A
3.809	Contract Audit as a Pricing Aid	3–6:36B
3.810	Exchange of Information	3–6:40B
3.811	Contract Negotiation Memorandum	3–6:40B

9. In Part 3, Table of Contents, Subpart 13 is revised and Subpart 14 is added to read as follows:

Subpart 13—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

3.1300	Facilities Capital Employed for Facilities in Use.	3–13:1
3.1300–1	Policy	3–13:1
3.1300–2	Definitions, Measurement and Allocation.	3–13:1
3.1300–3	Estimating Business Unit Facilities Capital and Cost of Money.	3–13:1
3.1300–4	Contract Facilities Capital Estimates	3–13:2
3.1300–5	Pre-Award Facilities Capital Applications.	3–13:3
3.1300–6	Post Award Facilities Capital Applications.	3–13:3
3.1300–7	Administrative Procedures	3–13:3
3.1301	Facilities Capital Employed for Facilities Under Construction.	3–13:4
3.1301–1	Policy	3–13:4
3.1301–2	Definitions	3–13:4
3.1301–3	Measurement	3–13:5
3.1301–4	Composition and Allocation of Costs	3–13:6
3.1301–5	Limitations	3–13:6
3.1301–6	Preaward Capital Employed Application.	3–13:6

Subpart 14—Indirect Cost Monitoring Office

3.1400	Scope of Part	3–14:1
3.1401	General	3–14:1
3.1402	Guidance Papers	3–14:1
3.1403	ICMO Working Group	3–14:2

3.404–3 [Amended]

10. In Part 3, 3.404–3(c)(3)*a.* the reference to "* * * *b.* below, * * *" in the first sentence is amended to read "* * * *c.* below, * * *"

11. In Part 3, 3.404–3(c)(3)*c.2.* is revised to read as follows:

3.404–3 Fixed-price contract with economic price adjustment.

* * * * *

c. * * *

1. * * *

2. Normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the four digit level of the Bureau of Labor Statistics Producer Price Index or the Wage and Income Series by Standard Industrial Classification (Labor).

12. In Part 3, 3.404–3(c)(3)*c.4.* is revised by adding an new sentence at the end of paragraph *4.* to read as follows:

4. * * * When an index to be used is subject to revision (*e.g.*, the Bureau of Labor Statistics Producer Price Indexes), the economic price adjustment clause shall further specify that any economic price adjustment shall be based upon the applicable revised index.

* * * * *

3.404–3 [Amended]

13. In Part 3, 3.404–3(c)(3)*c.6.* is amended by removing the word "Wholesale" in the second sentence and inserting the word "Producer."

3.501 [Amended]

14. In Part 3, 3.501(b) Section L(7) the figure "$100,000" is amended to read "$500,000."

15. In Part 3, 3.606–1 is revised to read as follows:

3.606–1 General.

The fast payment procedure is designed to reduce lead time to consignees and to improve supplier relations by expediting payment for small purchases. The procedure provides for payment for supplies based on the contractor's submission of an invoice which constitutes a representation that the supplies have been delivered to a post office, common carrier or point of first receipt by the Government, and that the contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase agreements. Consignees shall notify the procurement office as soon as possible of supplies not received, damaged in transit, or not conforming to specifications of the purchase order.

3.606–3 [Amended]

16. In Part 3, 3.606–3(b)(iv), the clause date "(March 1980)" is revised to read "(March 1982)".

17. In Part 3, 3.606–3(b)(iv), the last sentence of paragraph (b) of the clause is amended by adding the following: "(one hundred eighty (180) days for overseas shipments.)"

18. In Part 3, 3.606–3(b)(iv), paragraph (c)(1) of the clause is revised to read—All invoices shall also be prominently marked "FAST PAY."

19. In Part 3, 3.606–3(b)(iv) paragraph (c)(3) of the clause is amended by adding the following at the end of the paragraph.

When a DD Form 250 is not required, the invoice will include the following information: (i) Ship-To-Point, (ii) Mark-For-Point and MILSTRIP document number if in contract, as well as the information in (c)(1) above. In all cases where no DD Form 250 if prepared, a copy of the invoice will be included in each shipment.

20. In Part 3, 3.607–3 (a)(ii) and (b)(i) are revised to read as follows:

3.607–3 Conditions for use.

* * * * *

(ii) The supplies or services are available for delivery within 60 days, whether at the supplier's place of business or at destination; and

* * * * *

(b) Imprest funds may also be used for payment of:

(i) Charges for local delivery, parcel post (including c.o.d. postal charges) and line haul or inter-city transportation charges of $75.00 or less for supplies ordered.

* * * * *

21. In Part 3, 3.807–3 (b) (i), (ii), and (iii), and (d) are revised to read as follows:

3.807–3 Requirement for cost or pricing data.

(b) * * *

(i) The award of any negotiated contract (except for unpriced actions such as letter contracts) expected to exceed $500,000 in amount;

(ii) The pricing of any modification to any formally advertised or negotiated contract whether or not cost or pricing data were required in connection with the initial pricing of the contract when the modification involves aggregate increases and/or decrease in costs plus applicable profits expected to exceed $500,000. (For example, the requirement applies to a $150,000 modification resulting from a reduction of $350,000 and an increase of $200,000, or as another example, when the modification results in no change in contract price because there is an increase of $1,000,000 and a reduction of $1,000,000. However, this requirement shall not apply when unrelated and separately priced changes for which cost or pricing data would not be required are included in the same modification for administrative convenience.);

(iii) The award of any negotiated contract not expected to exceed $500,000 in amount, or any contract modification not expected to exceed $500,000 in amount to any contract whether or not cost or pricing data were required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action; unless the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under (i) and (ii) above may be waived in exceptional cases when the Assistant Administrator for Procurement authorizes such waiver and states in writing the reasons for such determination.

* * * * *

(d) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $25,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $25,000 and $500,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data; hence all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (*e.g.*, analysis of only specific factors) will provide a reasonable pricing result on awards under $500,000 without the submission of complete cost or pricing data, the contracting officer shall request only that data which he considers adequate to support the limited extent of the cost analysis required and he will not require certification.

* * * * *

3.807–6 [Amended]

22. In Part 3, 3.807–6(a) the figure "100,000," appearing in two places in the last sentence of paragraph (f) in the "Certificate of Current Cost or Pricing Data" are revised to read "500,000."

23. In Part 3, 3.808–7, the last sentence of the introductory text is revised and a clause is added. 3.808–7 now reads as follows:

3.808–7 Facilities capital cost of money.

When facilities capital cost of money (cost of capital committed to facilities) is included as an item of cost in the contractor's proposal, a reduction in the profit objective shall be made in an amount equal to the amount of facilities capital of cost of money allowed in accordance with 15.205–50. If the contractor does not propose this cost, the following clause shall be inserted into the contract:

Waiver of Facilities Capital Cost of Money (March 1982)

The contractor is aware that facilities capital cost of money is an allowable cost but waives the right to claim it under this contract.

3.809 [Amended]

24. In Part 3, 3.809, paragraph "(d) Review of Contractors' Estimating Systems" is amended by changing the (d) to read "(4)."

25. In Part 3, 3.809(c) is revised by adding a new paragraph (5) to read as follows:

3.809 Contract audit as a pricing aid.

* * * * *

(c) * * *

(5) Procedures for Identifying Contractors' Unallowable Costs.

(i) The establishment, maintenance, and consistent use of procedures for identifying and segregating unallowable costs, which will assure compliance with CAS 405 and 15.201–6, will benefit

both the Government and contractors. Such procedures may vary between plants or divisions of a contractor due to size, mix of business and complexity of organization. Some of the advantages of sound procedures are that:

(A) A greater degree of confidence can be placed on the accuracy and reliability of contractors' proposals, billings and claims;

(B) They expedite the negotiation process; and

(C) They may reduce the scope of reviews performed by audit and other technical and procurement personnel.

(ii) The responsible Federal Contract Audit organization shall review contractors' procedures and practices in conjunction with other contract audit activities. Deficiencies shall be reported to the cognizant ACO, and, as appropriate, PCOs having substantial business with the contractor. Among the matters to be considered in determining the adequacy of a contractor's procedures are its policy, practices and techniques for:

(A) Assignment of responsibilities within the contractor's organization for reviewing and approving claims against the Government;

(B) Identification of unallowable costs (expressly unallowable, mutually agreed to be unallowable or specifically designated as unallowable by written decision of the contracting officer) together with the individual employees incurring such costs;

(C) Identification and computation of directly associated costs;

(D) Assurance that unallowable and directly associated costs are not included in estimated costs proposed, or incurred amounts claimed by the contractor;

(E) Coordination and communication between the elements of the contractor's organization that prepare proposals and claims and those responsible for identifying unallowable and directly associated costs; and

(F) Assuring the adequacy of the documentation maintained by the contractor identifying the unallowable costs together with directly associated costs.

(iii) Documentation in support of the contractor's procedures shall be made available to authorize Government personnel. (See 3.801–5(b)(7).)

26. In Part 3, the titles of Subpart 13 and paragraph 3.1300 are revised to read as follows:

Subpart 13—Facilities Capital Employed for Facilities in Use or for Facilities Under Construction

3.1300 Facilities capital employed for facilities in use.

* * * * *

27. In Part 3, a paragraph 3.1301 is added to read as follows:

3.1301 Facilities capital employed for facilities under construction.

3.1301–1 Policy.

It is the policy of NASA to recognize a contractor's investment in capital facilities while these are being constructed, fabricated, or developed for the contractor's own use. This recognition is made through the allowance of an imputed cost of money amount which is (i) calculated in accordance with 3.1301–3 below, (ii) capitalized along with the other costs of the asset for which the investment is made, and (iii) allocated to NASA contracts in accordance with 3.1301–4.

3.1301–2 Definitions.

The following definitions have been taken or developed from Cost Accounting Standard (CAS) 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction, which has been incorporated in Appendix 0.

(a) *Intangible Capital Asset.* An asset that has no physical substance, has more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current acounting period for the benefit it yields.

(b) *Tangible Capital Asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the service it yields.

(c) *Cost of Money Rate.* The cost of money rate is either the interest rate determined by the Secretary of the Treasury pursuant to Pub. L. 92–41 (85 Stat. 97), or the time-weighted average of such rates for each cost accounting period during which the asset is being constructed, fabricated, or developed. The time-weighted average interest rate is calculated by multiplying the various rates in effect during the months of construction by the number of months each rate was in effect. The sum of the products is divided by the total number of months in which the rates were experienced.

(d) *Representative Investment.* The representative investment is the calculated amount considered invested by the contractor in the project to construct, fabricate, or develop the asset during the cost accounting period. In calculating the representative investment, consideration must be given to the rate or expenditure pattern of the investment, *i.e.*, if most of the investment was at the end of the cost accounting period, the representative investment calculation must reflect this fact.

(1) If the contractor experiences an irregular or uneven expenditure pattern in the construction, fabrication, or development of a capital asset, *i.e.*, a majority of the construction costs were incurred toward the beginning, middle, or end of the cost accounting period, the contractor must either:

(i) Determine a representative investment amount for the cost accounting period by calculating the average of the month-end balances for that cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

(2) If the construction, fabrication, or development costs were incurred in a fairly uniform expenditure pattern throughout the construction period, the contractor may:

(i) Determine a representative investment amount for the cost accounting period by averaging the beginning and ending balances of the construction, fabrication, or development cost account for the cost accounting period; or

(ii) Treat month-end balances as individual representative investment amounts.

3.1301–3 Measurement.

(a) The imputed cost of money for an asset under construction, fabrication, or development is calculated by applying a cost of money rate (see 3.1301–2(c)), to the representative investment amount (see 3.1301–2(d)).

(1) When a representative investment amount is determined for a cost accounting period in accordance with 3.1301–2(d)(1)(i) or 3.1301–2(d)(2)(i), the cost of money rate used shall be the time-weighted average rate.

(2) When a monthly representative investment amount (see 3.1301–2(d)(1)(ii) or 3.1301–2(d)(2)(ii) is used, the cost of money rate shall be the rate in effect each month. (Note: Under this method, the cost of money calculation is made monthly and the total for the cost accounting period is the sum of the monthly calculations.)

(b) The method chosen by a contractor for determining the representative investment amount may be different for each capital asset being

constructed, fabricated, or developed as long as the method fits the expenditure pattern of the construction costs incurred.

(c) The imputed cost of money will be capitalized only once in any cost accounting period; either at the end of the period or at the end of the construction period, whichever comes first.

(d) When the construction of an asset takes more than one cost accounting period, the cost of money capitalized for the first cost accounting period will be included in determining the representative investment amount for any future cost accounting periods.

3.1301-4 Composition and allocation of costs.

(a) The cost of money for a tangible capital asset determined in accordance with 3.1301-2 and 3.1301-3 shall be capitalized along with the other construction, fabrication, or development cost of that asset for purposes of depreciation pursuant to 15.205-9.

(b) The cost of money for an intangible capital asset determined in accordance with 3.1301-2 and 3.1301-3 shall be capitalized along with other construction, fabrication, or development costs of that asset and amortized over appropriate cost accounting periods.

(c) Where CAS 414 cost of money is allocated to construction, fabrication, or development effort in accordance with 3.1300, it will be recognized and considered an element of total construction costs and be included in all calculations of the asset's representative investment amount.

3.1301-5 Limitations.

If substantially all activities necessary to get an asset ready for its intended use are discontinued, cost of money shall not be capitalized for the period of discontinuance, except when such discontinuance arises out of causes beyond the control and without the fault or negligence of the contractor.

3.1301-6 Preaward capital employed application.

An offset to the profit objectives as set forth in 3.808-7 is not required for CAS 417 cost of money.

28. In Part 3, a new Subpart 14 is added to read as follows:

Subpart 14—Indirect Cost Monitoring Office

3.1400 Scope of part.

This Subpart deals with the organization and function of the Indirect Cost Monitoring Office (ICMO) and its role in the DoD procurement process.

3.1401 General.

The Indirect Cost Monitoring Office (ICMO), under the direction of the DoD Director, Contracts and Systems Acquisition, Office of the Under Secretary of Defense, Research and Engineering, is responsible for assuring uniform application of contracting policies and consistent treatment of cost allowability including research and development/bid and proposal (IR&D/B&P) costs, and for promoting timely and equitable settlement of overhead and advance agreements for IR&D/B&P costs. The function of the ICMO will include:

(i) Maintaining a data bank concerning Part 15 cost principles;

(ii) Maintaining a liaison with DCAA to achieve maximum consistency between negotiation decisions and audit decisions as to contracting officer determined and audit determined final overhead rates;

(iii) Attending, after coordination with the Departments, selected negotiations of final overhead rates to act as an observer/advisor, as appropriate, and to identify problem areas requiring policy change;

(iv) Monitoring the negotiation of advance agreements for IR&D/B&P in order to assure maximum uniformity and consistency, and maintaining an awareness of matters that may require policy change;

(v) Recommending to the DoD Director, Contracts and Systems Acquisition (C&SA), OUSD(R&E), policy changes as needed;

(vi) Monitoring establishment of CACO's and the conduct of contracting officer determination assignments in accordance with established criteria. The responsibility and authority for establishing the positions and designation of the individual to perform the function remains with the cognizant Department;

(vii) Maintaining a master list of contractor locations and responsible activities where final overhead rates are contracting officer determined and negotiated advance agreements for IR&D and B&P costs are required by Public Law 91-441;

(viii) Providing advice in resolving disagreements between CACO's and ACO's designated by different Departments and assigned final overhead determination responsibilities within a corporation or business enterprise;

(ix) Reviewing proposed changes relative to the assignments for negotiation of IR&D/B&P advance agreements, and making appropriate recommendations to the DoD Director (C&SA), OUSD(R&E).

3.1402 Guidance papers.

(a) The ICMO guidance papers are issued to provide criteria for Government field personnel to use in the resolution of identified problems. The criteria set forth in the guidance paper shall be used for purposes of establishing a basis for the resolution of the subject issues. In the final settlement, the contracting officer and cognizant DCAA auditor are still responsible for exercising their best judgment in such a manner to protect the best interest of the Government on each individual issue.

(b) Proposed guidance papers will be coordinated with representatives of the ICMO Working Group as indicated in § 3.1403. The coordinated guidance paper, along with Departmental and DCAA positions, will be presented to the DoD Director (C&SA), OUSD(R&E), for approval and publication as appropriate.

3.1403 ICMO working group.

The Working Group shall consist of representatives of each Military Department, DLA/DCAS, and DCAA. Representatives of OUSD(R&E) (C&SA) and OASD(C)DASD(Audit), NASA and other interested agencies will participate as consultants. The Working Group shall be chaired by the ICMO designee. It shall meet at the call of the Chairman to coordinate actions and perform research. The Chairman shall specify task assignments, establish cases and assign case numbers, make case assignments to Working Group members, determine case priorities, and issue resulting guidance papers. Projects which require expenditure of significant DoD resources shall be approved by the DoD Director (C&SA), OUSD(R&E), prior to initiation.

PART 5—INTERDEPARTMENTAL PROCUREMENT

29. In Part 5, § 5.102 is revised by adding a new paragraph (i) to read as follows:

5.102 Mandatory federal supply schedules.

* * * * *

(i) *Authorization to Purchase Identical Item(s) When Available at Lower Price(s).* "Escape" provisions appear in certain Federal Supply Schedule contracts similar to the following:

"AUTHORIZATION TO PURCHASE IDENTICAL ITEM(S) WHEN AVAILABLE

AT LOWER PRICE(S). When an ordering agency finds that an identical product (make and model number) or service is available from another source at a delivered price lower than the contract price, such agency is free to purchase such item at such lower price without violating the contract requirements. Those agencies that purchase items at lower prices are required to furnish a copy of the ordering document to: General Services Administration, Federal Supply Service, Code FCC, Washington, D.C. 20406."

When it is known that the conditions of such a provision can be met, the guidance of 5.103, pertaining to Federal Supply Schedules not mandatory upon NASA, shall be followed. GSA shall be informed of any non-schedule purchase as required by such "escape" provision. Contracting officers shall not solicit bids, or otherwise test the market solely for the purpose of seeking alternative sources to mandatory Federal Supply Schedules.

30. In Part 7, Table of Contents, the page numbers for paragraphs 7.104 through 7.104–35; 7.104–44 and 7.104–45; 7.104–85 through 7.104–96; 7.105 through 7.105–8; 7.203–9 through 7.203–22; 7.403–1 through 7.451–13; 7.452–5 through 7.452–16; 7.452–18 through 7.452–22; 7.452–23 and 7.452–24 are revised and 7.104–97 through 7.104–103; and 7.452–17 are added to read as follows:

7.104-29 through 7.104-34 [Reserved]		7-1:10A
7.104-35	Progress Payments	7-1:10A
7.104-44	[Reserved]	7-1:16A
7.104-45	Limitation of Liability	7-1:16A
7.104-85	[Reserved]	7-1:24
7.104-86	Notification of Changes	7-1:24
7.104-87 through 7.104-88 [Reserved]		7-1:26
7.104-89	Engineering Change Proposals (ECP's).	7-1:26
7.104-90	Change Order Accounting	7-1:26A
7.104-91 through 7.104-94 [Reserved]		7-1:26A
7.104-95	Preference for United States Flag Air Carriers.	7-1:26A
7.104-96	Notice of Intent to Disallow or Not Recognize Costs.	7-1:26B
7.104-97 through 7.104-102 [Reserved]		7-1:26B
7.104-03	Delivery of Excess Quantities of $100 or Less.	7-1:26B
7.105	Additional Clauses	7-1:26C
7.105-1	Alterations in Contract	7-1:26C
7.105-2 through 7.105-4 [Reserved]		7-1:26C
7.105-5	Liquidated Damages	7-1:26C
7.105-6	Bill of Materials	7-1:26D
7.105-7	Supply Warranty	7-1:26E
7.105-8	Stop Work Orders	7-1:26E
7.203-9	Utilization of Small Business and Small Disadvantaged Business Concerns.	7-2:8A
7.203-10	Termination	7-2:8A
7.203-11	Excusable Delays	7-2:8A
7.203-12	Disputes	7-2:8A
7.203-13	Waiver of Facilities Capital Cost of Money.	7-2:8A
7.203-14	Clean Air and Water	7-2:8A
7.203-15	Convict Labor	7-2:8A
7.203-16	Contract Work Hours Standards Act-Overtime Compensation.	7-2:8A
7.203-17	Walsh-Healey Public Contracts Act	7-2:8A
7.203-18	Equal Opportunity	7-2:8A
7.203-19	Officials Not to Benefit	7-2:8A
7.203-20	Covenant Against Contingent Fees	7-2:8A
7.203-21	Government Property	7-2:8A
7.203-22	Insurance-Liability to Third Person	7-2:8A
7.403-1	Clauses for Contracts Involving Construction Work.	7-4:5
7.403-2	Filing of Patent Applications	7-4:6
7.403-3	Special Test Equipment	7-4:6
7.403-4	[Reserved]	7-4:6
7.403-5	Excusable Delays	7-4:6
7.403-6	[Reserved]	7-4:6
7.403-7	Priorities, Allocations, and Allotments.	7-4:6
7.403-8	Communist Areas	7-4:6
7.403-9	Negotiated Overhead Rates	7-4:6
7.403-10	Notice to the Government of Labor Disputes.	7-4:6
7.403-11	Subcontractor Cost or Pricing Data	7-4:6
7.403-12	Limitation on Withholding of Payments.	7-4:6
7.403-13	Price Reduction for Defective Cost or Pricing Data.	7-4:6
7.403-14	Changes to Make-or-Buy Program	7-4:6
7.403-15	Frequency Authorization	7-4:6
7.403-16	Flight Risks	7-4:7
7.403-17	Required Source for Jewel Bearings and Related Items.	7-4:7
7.403-18 through 7.40-22 [Reserved]		7-4:7
7.403-23	General Services Administration Supply Sources.	7-4:7
7.403-24	Labor Surplus Area Subcontracting Program.	7-4:7
7.403-25 through 7.403-42 [Reserved]		7-4:7
7.403-43	Waiver of Facilities Capital Cost of Money.	7-4:7
7.403-44	Limitation of Liability	7-4:7
7.403-50	Optional Data Requirements	7-4:7
7.403-51	Approval of Contract	7-4:7
7.403-52	Preference for United States-Flag Vessels.	7-4:7
7.403-53	Limitation of Government's Obligation.	7-4:7
7.403-54	Financial Reporting of Government-Owned/Contractor-Held Property.	7-4:7
7.403-55	Cost Accounting Standards	7-4:7
7.403-56	NASA Financial Management Reporting.	7-4:7
7.40357	Key Personnel and Facilities	7-4:7
7.403-58	Safety and Health	7-4:7
7.403-59	[Reserved]	7-4:7
7.403-60	Report on NASA Subcontracts	7-4:7
7.403-61	Rights in Data For Potentially Hazardous Items.	7-4:8
7.403-62	Potentially Hazardous Items	7-4:8
7.403-63	Order of Precedence	7-4:8
7.403-64	Preference for United States Air Carriers.	7-4:8
7.403-65	Geographic Participation in the Aerospace Program.	7-4:8
7.403-66 through 7.403-85 [Reserved]		7-4:8
7.403-86	Notification of Changes	7-4:8
7.403-87 and 7.404-88 [Reserved]		7-4:8
7.403-89	Engineering Change Proposals (ECP's).	7-4:8
7.404-90	Change Order Accounting	7-4:8
7.404	Additional Clauses	7-4:8
7.404-1	Changes	7-4:8
7.404-2	Alterations in Contract	7-4:8A
7.404-3	[Reserved]	7-4:8A
7.404-4	Bill of Materials	7-4:8A
7.404-5	Stop Work Orders	7-4:8A
7.404-50	Notice of Delay	7-4:8A
7.404-51	[Reserved]	7-4:8A
7.404-52	Date of Incurrence of Costs	7-4:8A
7.404-53	Inventions Made Under Contractor's Independent Research and Development Programs.	7-4:8A
7.404-54 through 7.404-56 [Reserved		7-4:8A
7.404-57	Federal, State, and Local Taxes	7-4:8A
7.450	Clauses for Cost-Reimbursement Research and Development Contracts With Nonprofit Institutions (Including Educational Institutions).	7-4:8A
7.450-1	Applicability	7-4:8A
7.451	Required Clauses	7-4:8B
7.451-1	Definitions	7-4:8B
7.451-2	Limitation of Cost	7-4:8B
7.451-3	Allowable Cost and Payment	7-4:8B
7.451-4	Standards of Work	7-4:8C
7.451-5	Inspection	7-4:8C
7.451-6	Assignment of Claims	7-4:8C
7.451-7	Examination of Records by Comptroller General.	7-4:8C
7.451-8	Subcontracts	7-4:8C
7.451-9	Utilization of Small Business and Small Disadvantaged Business Concerns.	7-4:8C
7.451-10	Termination for the Convenience of the Government.	7-4:8C
7.451-11	Disputes	7-4:8C
7.451-12	[Reserved]	7-4:8C
7.451-13	Buy American Act and Trade Agreements Act.	7-4:8C
7.452-5 and 7.452-6 [Reserved]		7-4:12B
7.452-7	Priorities, Allocations, and Allotments.	7-4:12B
7.452-8	Communist Areas	7-4:12B
7.452-9	Negotiated Overhead Rates	7-4:12B
7.452-10	Notice to the Government of Labor Disputes.	7-4:12B
7.452-11	Subcontractor Cost or Pricing Data	7-4:12B
7.452-12	Limitation on Withholding of Payments.	7-4:12B
7.452-13	Price Reduction for Defective Cost or Pricing Data.	7-4:12C
7.452-14	Changes to Make-or-Buy Program	7-4:12C
7.452-15	Frequency Authorization	7-4:12C
7.452-16	Required Source for Jewel Bearings and Related Items.	7-4:12C
7.452-17	Waiver of Facilities Capital Cost of Money.	7-4:12C
7.452-18 through 7.452-22 [Reserved]		7-4:12C
7.452-23	General Services Administration Supply Sources.	7-4:12C
7.452-24	Labor Surplus Area Subcontracting Program.	7-4:12C

7.103–2 [Amended]

31. In Part 7, 7.103–2, in the text following the "Changes" clause is amended by changing the figure "$100,000" to read "$500,000."

7.104–28 [Amended]

32. In Part 7, 7.104–28 (a) and (b) are amended by increasing the figure "$100,000" to read "$500,000" in the introductory text of both paragraphs and the first paragraph of the clause in paragraph (b). The clause date is changed to read "(June 1981)" in place of "(August 1979)" in paragraph (b). Also, the clause title is changed to read "Price Reduction for Defective Cost or Pricing Data—Price Adjustments."

33. In Part 7, 7.104–43 is revised to read as follows:

7.104–43 Subcontractor Cost or Pricing Data.

(a) The following clause shall be inserted in all negotiated contracts expected to exceed $500,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The contracting officer may include this clause, with appropriate reduction in the dollar amounts included therein, in other negotiated contracts where a Certificate of Current Cost or Pricing Data is required (see 3.807–3(b)(iii)) in connection with initial pricing of the contract.

Subcontractor Cost or Pricing Data (March 1982)

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to the award of any subcontract the amount of which is expected to exceed $500,000 when entered into, (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract of subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds $500,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder in excess of $500,000, the Contractor shall insert the substance of the following clause:

Subcontractor Cost or Pricing Data—Price Adjustments

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances: (i) prior to award of any subcontract, the amount of which is expected to exceed $500,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $500,000 when entered into.

(b) Insert the following clause in all contracts, both formally advertised and negotiated, which exceed $500,000 other than those described in (a) above:

Subcontractor Cost or Pricing Data—Price Adjustments (March 1982)

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000. The requirements of this clause shall be limited to such modifications.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances: (i) Prior to the award of any subcontract the amount of which is expected to exceed $500,000 when entered into; (ii) prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed $500,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the data of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract which exceeds $500,000.

(c) The requirement for inclusion of the above clauses in contracts with foreign governments or agencies thereof may be waived in exceptional cases by the Assistant Administrator for Procurement, who shall state in writing the reasons for such determination.

7.104–89 [Amended]

34. In Part 7, 7.104–89 is amended by increasing the figure "$100,000" appearing in paragraph (b) of the clause to read "$500,000."

35. In Part 7, 7.104–103 is added to read as follows:

7.104–103 Delivery of Excess Quantities of $100 or Less.

The following clause may be inserted in contracts for supplies:

Delivery of Excess Quantities of $100 or less (March 1982)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to $100 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of $100 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price.

7.203–2 [Amended]

36. In Part 7, 7.203–2 is amended by increasing the figure "$100,000" appearing in the text following the clause to read "$500,000."

37. In Part 7, 7.204–17 is added to read as follows:

7.204–17 Waiver of Facilities Capital Cost of Money.

In accordance with 3.808–7, insert the clause set forth therein.

7.304–1 [Amended]

38. In Part 7, 7.304–1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

39. In Part 7, 7.403–43 is added to read as follows:

7.403–43 Waiver of facilities capital cost of money.

In accordance with 3.808–7, insert the clause set forth therein.

7.404–1 [Amended]

40. In Part 7, 7.404–1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

41. In Part 7, 7.452–17 is added to read as follows:

7.452–17 Waiver of facilities capital cost of money.

In accordance with 3.808–7, insert the clause set forth therein, if the contract is with a nonprofit organization which is subject to the cost principles in Part 15, Subpart 2.

7.453–1 [Amended]

42. In Part 7, 7.453–1 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

7.901–2 [Amended]

43. In Part 7, 7.901–2 is amended by increasing the figure "$100,000" to read "$500,000" appearing in the text following the clause.

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

44. In Part 15, Table of Contents, 15.201–4 through 15.205–5; 15.205–11 through 15.205–35; 15.205–49 and 15.205–50 are revised to read as follows:

15.201–4	Definition of Allocability	15-2:2
15.201–5	Credits	15-2:2
15.201–6	Accounting for Unallowable Costs.	15-2:2
15.202	Direct Costs	15-2:3
15.203	Indirect Costs	15-2:3
15.204	Application of Principles and Procedures.	15-2:4A
15.205	Selected Costs	15-2:4B
15.205–1	Advertising Costs	15-2:4B
15.205–2	Bad Debts	15-2:4C
15.205–3	Bid and Proposal Costs	15-2:4C
15.205–4	Bonding Costs	15-2:4D
15.205–5	Civil Defense Costs	15-2:4D
15.205–11	Entertainment Costs	15-2:12
15.205–12	Cost of Idle Facilities and Idle Capacity.	15-2:12
15.205–13	Fines and Penalties	15-2:13
15.205–14	[Reserved]	15-2:13
15.205–15	Fringe Benefits	15-2:13
15.205–16	Insurance and Indemnification	15-2:13
15.205–17	Interest and Other Financial Costs.	15-2:14
15.205–18	Labor Relations Costs	15-2:15
15.205–19	Losses on Other Contracts	15-2:15
15.205–20	Maintenance and Repair Costs	15-2:15
15.205–21	Manufacturing and Production Engineering Costs.	15-2:15
15.205–22	Material Costs	15-2:15
15.205–23	Organization Costs	15-2:17
15.205–24	Other Business Expenses	15-2:17
15.205–25	Relocation Costs	15-2:17
15.205–26	Patent Costs	15-2:18A
15.205–27	Pension Plans	15-2:18B
15.205–28	Plant Protection Costs	15-2:18B
15.205–29	Plant Reconversion Costs	15-2:18B
15.205–30	Precontract Costs	15-2:18B
15.205–31	Professional and Consultant Service Costs—Legal, Accounting, Engineering, and Other.	15-2:18B
15.205–32	Gains and Losses on Disposition of Depreciable Property or Other Capital Assets.	15-2:18C
15.205–33	Recruitment Costs	15-2:18D
15.205–34	Rental Costs (Including Sale and Leaseback of Property).	15-2:18E
15.205–35	Independent Research and Development Costs.	15-2:18F
15.205–50	Cost of Money	15-2:27
15.206	Notice of Intent to Disallow or Not Recognize Costs.	15-2:28A

45. In Part 15, 15.201–6 is revised to read as follows:

15.201–6 Accounting for unallowable costs.

(a) *Application of CAS 405.* The provisions of CAS 405, *Accounting for Unallowable Costs,* are incorporated herein in their entirety and are applicable to all contracts to which this Subpart 2 applies. Unallowable costs shall be identified using procedures as contemplated by 3.809(c)(5).

(b) *Directly Associated Costs.* (1) A directly associated cost is any cost which is generated solely as a result of the incurrence of another cost, and would not have been incurred had the other cost not been incurred. When an unallowable cost is incurred, the directly associated costs are also unallowable.

(2) If a directly associated cost is included in a cost pool which is allocated over a base that includes the unallowable cost with which it is associated, the directly associated cost shall remain in the cost pool. Since the unallowable cost will attract its allocable share of costs from the cost pool, no further action is required to assure disallowance of the directly associated cost. In all other cases the directly associated costs, if material in amount, must be purged from the cost pool as unallowable costs.

(3) In determining the materiality of a directly associated cost, consideration should be given to the significance of (i) the actual dollar amount, (ii) the cumulative effect of all directly associated costs in a cost pool, or (iii) the ultimate effect on the cost of Government contracts.

(4) Salary expenses of employees who participate in activities which generate unallowable costs shall be treated as directly associated costs to the extent of the time spent on the prescribed activity provided the costs are material in accordance with (3) above (except when such salary expenses are, themselves, unallowable). The time spent in proscribed activities should be compared to total time spent on company activities (estimated when actual time records are not available), to determine if the costs are material. Time spent by employees outside the normal working hours should not be considered except when it is evident that an employee engages so frequently in company activities during periods outside normal working hours as to indicate that such activities are a part of his regular duties.

(5) When a selected item of cost under 15.205 provides that directly associated costs are unallowable, it is intended that such directly associated costs be unallowable only if determined to be material in amount in accordance with the criteria provided above, except in those situations where allowance of any of the directly associated costs involved would be considered to be contrary to public policy.

46. In Part 15, 15.205–2 is revised to read as follows:

15.205–2 Bad debts.

Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, and any directly associated costs such as collection costs and legal costs are unallowable.

47. In Part 15, 15.205–11 is revised to read as follows:

15.205–11 Entertainment costs.

Costs of amusement, diversion, social activities, and any directly associated costs such as meals, lodging, rentals, transportation, and gratuities, are unallowable (see 15.205–10 and 15.205–43).

15.205–17 [Amended]

48. In Part 15, 15.205–17 is amended by replacing the words ", and costs related thereto," with the words ", and directly associated costs," near the end of the paragraph.

15.205–23 [Amended]

49. In Part 15, 15.205–23 is amended by inserting the words "Except as provided in (b) below, * * *" at the beginning of paragraph (a).

50. In Part 15, 15.205–25 is revised to read as follows:

15.205–25 Relocation costs.

(a) Relocation costs, for the purpose of this Subpart 2, are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) (but see (f) below) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to:

(i) Cost of travel of the employee and members of his immediate family (see 15.205–46) and transportation of his household and personal effects to the new location;

(ii) Cost of finding a new home, such as advance trips by employees and spouses to locate living quarters, and temporary lodging during the transition period;

(iii) Closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.) incident to the disposition of actual residence owned by the employee when notified of transfer;

(iv) Other necessary and reasonable miscellaneous expenses incident to relocation, such as disconnecting and connecting household appliances, automobile registration; drivers license and use taxes; cutting and fitting rugs, draperies, and curtains; forfeited utility fees and deposits; and purchase of insurance against damage to or loss of personal property;

(v) Loss on sale of home;

(vi) Costs incident to the acquisition of a home in a new location;

(vii) Continuing costs of ownership of the vacant former actual residence being sold, such as maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date or lease date of new permanent residence;

(viii) Continuing mortgage principal and interest payments on residence being sold; and

(ix) Cost of canceling an unexpired lease.

(b) Subject to (c), (d) and (f) below, relocation costs of the type covered in (a)(i), (ii), (iii), (iv), (vi), (vii) and (ix) above are allowable *Provided*

(i) The move is for the benefit of the employer;

(ii) Reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically;

(iii) The costs are not otherwise unallowable under the provisions of 15.205–33, or any other paragraph of Subpart 2 (see 15.107 as related to large scale contractor relocation); and

(iv) Amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses, except that for costs of the type discussed in (a)(iv), a flat amount, not to exceed $500, may be allowed in lieu of actual (or reasonably estimated) cost.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions:

(i) The transition period for incurrence of costs of the type covered in (a)(ii) above shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 36 days including advance trip time;

(ii) Allowance for the combined total of costs of the type covered in (a)(iii) and (a)(vii) above shall not exceed 11.5% of the sales price of the property sold;

(iii) Costs of canceling an unexpired lease under (a)(ix) shall not exceed 3 times the monthly rental, and

(iv) Costs incident to the acquisition of a home in a new location if customarily paid by the purchaser are allowable except for the following:

(A) Brokers fees and real estate commissions;

(B) Costs of litigation;

(C) Insurance such as owner's title policy, "record title" policy, mortgage insurance relating to real property and insurance against damage or loss of property (however, cost of a mortgage title policy is allowable);

(D) Interest on loans, points, and mortgage discounts;

(E) Any fee, cost, charge, or expense which is determined to be part of the finance charge under the Truth in Lending Act, Title I, Public Law 90–321 and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System; and

(F) Property taxes and operating or maintenance costs. Costs of the type covered in (a)(iii), (a)(iv), (a)(vi) and (a)(vii) above are allowable only in connection with the relocation of existing employees.

(d) Costs of the type covered in (a)(v), and (a)(viii) above are not allowable. Costs of the type covered in (a)(iii), (a)(iv), (a)(vi) and (a)(vii) above are not allowable for newly recruited employees.

(e) Payments for employee income taxes incident to reimbursed relocation costs are unallowable.

(f) If the employee does not remain at the new location for at least 12 months, the costs associated with the relocation are allowable if failure to comply with the 12-month requirement is beyond the control of the employee and the reason is acceptable to the Government.

15.205–31 [Amended]

51. In Part 15, 15.205–31(d) is amended by replacing the words ", and related costs," with the words ", and directly associated costs," in the first sentence of the paragraph.

52. In Part 15, 15.205–50(a)(2) is revised to read as follows:

15.205–50 Cost of money.

(a) Facilities Capital Cost of Money.

(1) * * *

(2) Facilities capital cost of money is allowable cost *provided* (i) the contractor's capital investment is measured, allocated to contracts, and costed in accordance with 3.1300, (ii) the contractor maintains adequate records to demonstrate compliance with item (i), and (iii) the estimated facilities capital cost of money is specifically identified or proposed in cost proposals relating to the contract under which this cost is to be claimed. (See 3.808–7.)

* * * * *

PART 20—ADMINISTRATIVE MATTERS

53. In Part 20, 20.604(d) (xxxii) and (xxxiii) are revised to read as follows:

20.604 Implementation.

* * * * *

(c) * * *

(xxxii) Determine whether prime contractor's Disclosure Statements are in compliance with Part 15 and Cost Accounting Standards; except that for those contractors with whom advance agreements are negotiated of the type discussed under 15.205–3 and 15.205–35, the Government contracting officer responsible for such agreements shall have full authority for determinations related to CAS 420;

(xxxiii) Determine contractor compliance with Cost Accounting Standards and Disclosure Statements, if applicable; except that for those contractors with whom advance agreements are negotiated of the type discussed under 15.205–3 and 15.205–35, the Government contracting officer responsible for such agreements shall have full authority for determinations related to CAS 420;

PART 24—METHODS OF DISPOSAL

54. In Part 24, 24.204–4(e) is revised to read as follows:

24.204–4 Contractor's approved scrap procedure.

* * * * *

(d) * * *

(e)(1) Silver, gold, platinum, palladium, rhodium, iridium, osmium and ruthenium; scrap bearing such metals; and items containing recoverable quantities thereof will be reported to the Defense Property Disposal Precious Metals Recovery Office (DPDM–R), NWS Earle, Colts Neck, New Jersey 07722, for disposition instructions.

(2) Precious metals shall be packaged in nonporous, smooth containers in a manner to prevent loss through leakage or damage to the containers. (Glass containers shall *not* be used.) Grindings or sweepings shall not be packaged in paper or wooden containers as loss occurs due to adhesion of particles. Containers shall be marked to show the type of precious metals contained therein.

(3) The shipping document shall indicate the net weight of each item to the nearest ounce (troy or avoirdupois). Shipment shall be made by the most economical means available, consistent with adequate safeguards to prevent loss or theft.

(4) When the determination is made that precious metal recovery is not feasible, the material in (e)(1) above shall be disposed of through normal procedures. The sales return shall not be less than the scrap value of the precious metal(s) contained therein.

Appendix C—Property in Possession of R&D Contractors

55. In Appendix C—Instructions for the Preparation of NASA Form 1018, Section "5. EXCLUSIONS" paragraph (k) is added to read as follows:

5. Exclusions

* * * * *

(j) * * *

(k) Property for which title has been transferred to the contractor pursuant to NASA PR 13.350–4.

Supplement No. 2—File Maintenance, Closeout, and Disposition

56. In Supplement No. 2, Subpart 3—Closeout of Contract Files, Table of Contents, S2.303 through S2.306 are revised to read as follows:

S2.303	Closeout of Contract Files by the Office Administering the Contract.	S2–3.2
S2.304	[Reserved]	S2–3.3
S2.305	Standard Times for Contract Closing	S2–3.3
S2.306	Status of Physically Completed Unclosed Contracts.	S2–3.3

57. In Supplement No. 2, S2.303 an "(a)" is added to the first paragraph to correct the format of the paragraph. The first paragraph now reads as follows:

S2.303 Closeout of Contract Files by the Office Administering the Contract.

(a) The office administering the contract is responsible for ensuring that all contract administration has been completed and for initiating closeout action (see S2.305 and S2.306). The organizational element to which this responsibility is delegated shall proceed as follows upon determination or advice (such as by final DD Form 250 or other final report) that the contract has been fully performed (including final payment) or has been terminated completely:

58. In Supplement No. 2, S2.305(a) is revised to read as follows:

S2.305 Standard Times for Contract Closing.

(a) Standard times for closing physically completed contracts are set forth below.

CALENDAR MONTHS AFTER THE MONTH IN WHICH PHYSICALLY COMPLETED

Category	Months	Contract type
A	3	Fixed priced small purchase ($10,000 and under).
B	6	Firm fixed price (exclude "A" above).
C	36	Contracts requiring settlement of overhead rates.
D	20	All other (excluding "A" through "C" above).

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[Procurement Notice 82–3]

Regulatory Coverage for the Uniform Contract Format; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Correction to final rule.

SUMMARY: This document corrects a typographical error in a final rule published April 23, 1982 which clarified NASA's position regarding post-selection increases in the apparent successful offeror's proposed estimated costs.

EFFECTIVE DATE: The final rule was effective April 23, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202–755–2237.

List of Subjects in 41 CFR Ch. 18 Part 3

Government procurement.

(42 U.S.C. 2473(c)(1))

Leroy Hopkins,

Deputy Assistant Administrator for Procurement.

3.501 [Corrected]

Accordingly, 41 CFR 3.501(b)(3) paragraph (30), published on April 23, 1982 at 47 FR 17489 is corrected by revising the second sentence to read as follows:

"The purpose of this provision is to advise the offeror(s) selected for final negotiation that they may not unilaterally increase their estimated costs except for the reasons cited therein."

[FR Doc. 82–17090 Filed 6–23–82; 8:45 am]
BILLING CODE 7510–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6267

[I–8947]

Idaho; Withdrawal of Forest Service Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 150 acres of national forest land from nonmetalliferous mining for a period of 20 years. The land contains gem quality garnet deposits and lies adjacent to the nationally known Emerald Creek garnet deposit. The withdrawal would protect the streams and facilitate planned development of the public garnet collection area on Emerald Creek.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands, which are under the jurisdiction of the Secretary of Agriculture, are hereby withdrawn from nonmetalliferous location and entry under the general mining laws.

Boise Meridian, St. Joe National Forest, East Fork Emerald Creek Garnet Area

T. 42 N., R. 1 W.,
Sec. 10, NE¼SW¼SE¼SE¼, S½SW¼SE¼SE¼, N½SE¼SE¼SE¼, SW¼SE¼SE¼SE¼;
Sec. 11, NW¼SE¼SW¼SW¼, NE¼NW¼SE¼SE¼;
Sec. 12, E½W½SW¼NE¼, NE¼SW¼NW¼, NW¼SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, W½NE¼NE¼SW¼, NE¼NW¼NE¼SW¼, SE¼NE¼SW¼, SE¼SE¼NE¼SE¼, E½E½NW¼SE¼, E½NW¼NW¼SE¼, W½SW¼NW¼SE¼, NE¼SE¼SE¼, W½SE¼SE¼SE¼;
Sec. 13, NE¼NE¼NE¼, NE¼SE¼NE¼NE¼, S½SE¼SE¼NE¼, SW¼SE¼SW¼NW¼, SE¼SW¼SE¼NW¼, SE¼SW¼SE¼SW¼;
Sec. 14, S½SW¼SW¼NE¼, SW¼NE¼NE¼NE¼NW¼, NW¼NW¼NE¼NW¼, SE¼SW¼SE¼NW¼, S½SE¼SE¼NW¼;
Sec. 15, NW¼NW¼NE¼NE¼, N½NE¼NW¼NE¼.

The area described contains 150 acres in Latah County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82–17086 Filed 6–23–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6268

[M–41617]

Montana; Order Opening Reclamation Lands to Location, Entry and Patent Under the General Mining Laws

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document modifies a Departmental Order of October 7, 1948, which withdrew lands for reclamation

purposes. The 70.38 acres involved will be open to location, entry and patent under the United States mining laws, subject to certain stipulations. The lands lie within the Canyon Ferry and Helena Valleys Units, Pick-Sloan Missouri Basin Reclamation Project.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Dan Stark, Montana State Office, 406–657–6291.

By virtue of the authority contained in the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154 (1976), and the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following described lands shall at 8 a.m. on July 21, 1982, be open to location, entry, and patent under the United States mining laws:

Principal Meridian

T. 10 N., R. 1 W.,
Sec. 5, lots 7 and 8.

The lands described contain 70.38 acres in Lewis and Clark County.

2. These lands remain subject to the mineral location provisions of the Act of August 11, 1955, 30 U.S.C. 621 (1976), as they were withdrawn for powersite purposes by Executive Order dated July 2, 1910.

3. The locators or entrymen must agree to the following stipulations which apply to all prospecting, mining and other uses and operations on the lands covered by their locations to insure against interference in the construction, operation and maintenance of the Canyon Ferry Unit and the Helena Valley Unit, Montana.

4. The opening made by this order shall be subject to the stipulations quoted below, and which is made a part of this order, to be executed and acknowledged in favor of the United States by the locators, for themselves, their heirs, successors, and assigns, and recorded in the county records and in the Bureau of Land Management's State Office located in Billings, Montana 59107, before any rights vest in the intending locator(s) or entrymen:

a. Prospective locators or entrymen have applied for mining permits on reclamation lands in T. 10 N., R. 1 W., Sec. 5, lots 7 and 8, P.M. Montana, withdrawn by the Departmental Order of October 7, 1948, in connection with the Canyon Ferry Unit, pursuant to Section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented.

b. The Bureau of Reclamation has agreed to have the land opened to location, entry, and patent under the general mining laws pursuant to the Act of April 23, 1932, 47 Stat. 136; 43 U.S.C. 154, and the regulations contained in 43 CFR 3816, without prejudice.

c. In order to insure against the possible interference with the construction, operation and maintenance of the Canyon Ferry Unit and Helena Valley Unit, Montana, the successful locator or entryman agrees that the following conditions shall apply to all prospecting, mining and other uses and operations on the lands covered by the location described in 4a. above in conjunction with and in addition to pertinent State and Federal mining laws:

1. All prospecting, mining and other use and operations on the lands covered by said mining location shall be subject to the reservation of a right-of-way to the United States according to provisions of the Act of August 30, 1890, 26 Stat. 371; 43 U.S.C. 945.

2. The locator or entryman shall be liable for any and all damages to the property of the United States, its successors and assigns, resulting from exploration, development or operation of the works as contemplated by the mining claimant.

3. The locator or entryman agrees to maintain a bond with qualified sureties in an amount as required by the United States to pay for any damage caused to the Canyon Ferry Unit and Helena Valley Unit.

4. The locator or entryman agrees that under no conditions should the mining operation close or cause to be closed any portion of the Helena Valley Pumping Plant access road.

5. In addition to complying with applicable State and Federal mining regulations, the locator or entryman agrees to submit a mining plan to the Regional Director, Bureau of Reclamation, Billings, Montana, for approval. The mining plan shall include the mining operations, methods, and equipment and shall show mining and prospecting sites along with proposed improvements, structures, developments and any other activities. A supplemental agreement will be developed incorporating the mining plan into these stipulations. Said supplemental agreement will set out further conditions or reservations relative to the plan to insure compatability with the purposes of the Canyon Ferry Unit and Helena Valley Unit. Only those activities, structures, and improvements which are contained in the mining plan and thereby receive advance approval by the Regional Director of the Bureau of Reclamation in the form of a supplement to these stipulations will be authorized.

6. No residences or other buildings, including but not limited to trailers, garages, or maintenance buildings, shall be allowed on the premises, except a mobile type office building directly associated with the mining operations or the security thereof.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1981.

[FR Doc. 82–17087 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

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43 CFR Public Land Order 6269

[M–41836]

Montana; Partial Revocation of Secretarial Order Dated August 18, 1894

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order affecting 120 acres of land described as Reservoir Site No. 6. The lands are in private ownership, therefore, they will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406–657–6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated August 18, 1894, which withdrew lands for reservoir use is hereby revoked insofar as it affects the following described lands:

Principal Meridian

T. 20 N., R. 8 W.,
Sec. 14, NE¼SE¼, S½SE¼.

The area described contains 120 acres in Lewis and Clark County.

2. This action will not restore the above described land to operation of the public land laws, mining or mineral leasing laws as the surface and mineral interests are in private ownership.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau

of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17086 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6270

[OR-22199 (Wash)]

Washington; Revocation of Executive Order of July 2, 1875

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew 128.65 acres of land for use by the Department of the Army for military purposes. The lands have been conveyed from United States ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 2, 1875, which withdrew the following described lands for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 34 N., R. 2 W.,
Sec. 9, lots 1 to 4, inclusive, and NE¼NE¼;
Sec. 16, lots 1 and 2.
The areas described aggregate 128.65 acres in San Juan County.

2. The lands described above have been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17088 Filed 6-23-82; 8:45 am]

BILLING CODE 4315-84-M

43 CFR Public Land Order 6271

[OR-33890 (Wash)]

Washington; Revocation of Executive Order of July 27, 1875

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 484.31 acres of land for use by the Department of the Army for military purposes. The land has been conveyed from United States ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of July 27, 1875, which withdrew the following described land for use by the Department of the Army for military purposes is hereby revoked:

Willamette Meridian

T. 35 N., R. 3 W.,
Sec. 1, lots 1, 2, and 3, and SW¼SW¼;
Sec. 2, lots 4, 7, and 8;
Sec. 11, lots 1, 4, and 5;
Sec. 12, lots 1, 2, and 3, and NW¼NW¼.
The area described contains 484.31 acres in San Juan County.

2. The land described above has been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82-17082 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6272

[M-53456]

Montana; Partial Revocation of Public Land Order No. 648

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke Public Land Order No. 648, dated June 5, 1950, covering a Bureau of Land Management administrative site. This action will not restore the lands to operation of the public land laws, including the mining and mineral leasing laws as these interests are in private ownership.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Roland F. Lee, Montana State Office, 406-657-6291.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 648 dated June 5, 1950, which withdrew and reserved lands for use by the Bureau of Land Management as administrative sites, is revoked insofar as it affects the following described lands:

Principal Meridian

T. 30 N., R. 30 E.,
Cosner's Third Addition to Malta Townsite, in sec. 18, Block 10, lots 28, 29, 30, and 31.

The area described contains 0.39 acres of reconveyed land in Phillips County.

2. This action will not restore the above described lands to operation of the public land laws, mining laws or mineral leasing laws as the surface and mineral interests are in private ownership.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982

[FR Doc. 82-17089 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6273

[OR-19168]

Oregon; Powersite Cancellation No. 357; Revocation of Powersite Classification No. 311

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order as to 1,866.89 acres of land withdrawn for a powersite classification. This action will restore 1,686.89 acres to such forms of disposition as may by law be made of national forest lands. The balance of 180 acres remains segregated by existing withdrawals.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-567-Oregon, it is ordered as follows:

1. The Secretarial Order of November 18, 1938, which created Powersite Classification No. 311, is hereby revoked

insofar as it affects the following described lands:

Willamette Meridian

Powersite Classification No. 311, Mt. Hood National Forest

T. 1 N., R. 9 E.,
Sec. 14, S½NW¼.
T. 1 S., R. 9 E.,
Sec. 1, lot 4 and SW¼NW¼;
Sec. 2, lots 1 and 2, lots 5 to 9, inclusive, SW¼NE¼, and W½SE¼;
Sec. 11, lots 1 and 2, W½NE¼, and SE¼;
Sec. 12, SW¼NW¼, N½SW¼, SW¼SW¼, N½SE¼SW¼, and SW¼SE¼SW¼;
Sec. 13, NW¼NW¼;
Sec. 14, E½;
Sec. 23, E½ and E½W½.

The areas described aggregate 1,866.89 acres in Hood River County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The S½SE¼NE¼ and NE¼SE¼ of Section 23, T. 1 S., R. 9 E., W.M., are included in a recreation area withdrawal and the SE¼SW¼ and S½SE¼ of Section 23, T. 1 S., R. 9 E., are included in a preliminary power project and remain withdrawn from operation of the public land laws, including the mining laws.

4. At 7:30 a.m., on July 21, 1982, the lands will be open to such forms of disposition as may by law be made of national forest lands, except as provided in paragraph 3 of the order.

5. The lands have been and continue to be open to applications and offers under the mineral leasing laws and, except as provided in paragraph 3, to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, (69 Stat. 682; 30 U.S.C. 621).

Dated: June 15, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17106 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6274

[U-41558]

Utah; Partial Revocation of Public Water Reserve No. 81

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes the Executive Order creating Public Water Reserve No. 81 insofar as it affects 120 acres. This action will restore 40 acres of land to surface entry and nonmetalliferous mining. This portion has been and will remain open to metalliferous mining and mineral leasing. The remaining 80 acres are located within an oil shale withdrawal and thus will remain closed to surface entry and all mining.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Ken Latimer, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of November 26, 1921, creating Public Water Reserve No. 81, is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian

T. 14 S., R. 22 E.,
Sec. 13, NW¼SE¼.
T. 15 S., R. 22 E.,
Sec. 15, SE¼SW¼;
Sec. 23, SE¼SW¼.

The areas described aggregate 120 acres in Uintah County.

2. At 10:00 a.m. on July 21, 1982, the above described lands, excepting those described in paragraph 3 below, shall be open to the operation of the public lands generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10:00 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. This action will not restore the following described lands to operation of the public land laws or to mining location for nonmetalliferous minerals as they are subject to an oil shale withdrawal.

Salt Lake Meridian

T. 14 S., R. 22 E.,
Sec. 13, NW¼SE¼.
T. 15 S., R. 22 E.,
Sec. 23, SE¼SW¼.

The area described aggregates 80 acres in Uintah County.

4. At 10:00 a.m. on July 21, 1982, Section 15, SE¼SW¼, shall be open to location for nonmetalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 15, 1982.

[FR Doc. 82-17083 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6275

[CA-7792 WR; CA-8196 WR]

California; Revocation of Recreation Withdrawal No. 50 and Public Land Order No. 651

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial Order and a Public Land Order which withdrew approximately 937.89 acres, more or less, for protection of recreational values. The lands have been patented to the State of California. The 200 acres described in paragraph 1 will not be opened to location under the mining laws unless and until appropriate rules and regulations are issued to allow mineral location on lands conveyed pursuant to the Recreation and Public Purposes Act. The remaining lands are within the Golden Gate Recreation Area and are not subject to mineral location or leasing.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Morrison, California State Office, 916–484–4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of April 20, 1932, which withdrew the following described lands for protection of recreational values is hereby revoked:

Humboldt Meridian Recreation Withdrawal No. 50

T. 2 S., R. 2 E.,
Sec. 8, NW¼NE¼, N½NW¼, SW¼NW¼, and NW¼SW¼.

The area described contains 200 acres in Humboldt County.

2. The surface estate of the lands has been conveyed to the State of California pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869, et seq.; therefore, unless and until appropriate rules and regulations are issued, the lands will not be open to location under the United States mining laws. The lands have been open and continue to

be open to applications and offers under the mineral leasing laws.

3. Public Land Order No. 651 of June 26, 1950, which withdrew the following described lands for protection of recreation values is hereby revoked:

Mount Diablo Meridian

T. 1 S., R. 5 W.,
Tract 37;
Tract 38;
Tract 39.

The area described contains 737.89 acres, more or less, in Marin County, except the following parcel described by metes and bounds which was not included in Public Land Order No. 651:

Commencing at Point Ione, at low-water mark of the Bay, thence south, approximately six hundred and eighty (680) feet to a point on the northerly side of Military Road; thence following the Station side (northerly) of said Military Road to a point of intersection with a line bearing south forty-five (45) degrees east, which line passes through a point one hundred (100) feet north, forty-five (45) degrees east from the northernmost Station structure; thence north forty-five (45) degrees west to a point on the low-water mark of Bay at Hospital Cove; thence in a westerly direction with the low-water mark to the point of beginning; together with a contiguous area one hundred (100) feet wide, centered on two groups of water tanks, and to extend from the Station side of Military Road a distance of fifty (50) feet beyond the center of the farthest group of tanks.

The lands described in paragraph 3, less the metes and bounds parcel, which were patented to the State of California for historic monument purposes only, lie within the Golden Gate National Recreation Area. In accordance with 36 CFR 5.14, lands within the National Park system are not subject to mineral location or leasing.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E–2841, 2800 Cottage Way, Sacramento, California, 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 15, 1982
[FR Doc. 82–17077 Filed 6–23–82; 8:45 am]
BILLING CODE 4310–84–M

Public Land Order 6276

[C–3830]

Colorado; Revocation of Public Land Order No. 4913

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 40 acres of land for the Black Ridge Communication Site. The land will be restored to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: July 21, 1982.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303–837–2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4913 of October 5, 1970, which withdrew the following described land for protection of public values as a communication facilities site is hereby revoked in its entirety:

Sixth Principal Meridian

T. 11 S., R. 102 W.,
Sec. 25, SW¼SW¼.
Containing 40 acres in Mesa County.

2. At 7:45 a.m. on July 21, 1982, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on July 21, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on July 21, 1982, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be directed to the Chief, Withdrawal Section, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 15, 1982.
[FR Doc. 82–17084 Filed 6–23–82; 8:45 am]
BILLING CODE 4310–84–M

43 CFR Public Land Order 6280

[U–0146319]

Utah; Powersite Restoration Nos. 629; Partial Revocation of Powersite Reserves No. 199, 380, and 463

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes three Executive Orders as to 4,440.15 acres of land situated in southwestern Utah. The lands which were withdrawn for powersite reserve purposes have been relinquished by the U.S. Geological Survey. Approximately 1,000.66 acres, located within the Manti LaSal National Forest, will be opened to such uses as may by law be made of national forest lands. Another 480.00 acres are privately owned and thus will not be opened. The remaining 2,959.49 acres of public lands will be opened to surface entry. Both the National Forest and public lands affected by this order have been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA–186 Utah, it is ordered as follows:

1. The Executive Orders dated, August 16, 1911 creating Powersite Reserve No. 199, July 3, 1913 creating Powersite Reserve No. 380, December 11, 1914 creating Powersite Reserve No. 463 are hereby revoked as to the following described lands:

Salt Lake Meridan, Utah

Powersite Reserve No. 199

T. 29 S., R. 6 W.,
Sec. 17, lot 11;
Sec. 18, lot 3, E½SW¼, S½SE¼;
Sec. 20, NE¼, N½NW¼, SE¼NW¼, E½SE¼;
Sec. 21, W½NW¼, SW¼SW¼;
Sec. 28, lots 2, 3, S½N½, NW¼NW¼.
T. 29 S., R. 7 W.,
Sec. 13, N½S½.

Powersite Reserve No. 380

T. 18 S., R. 3 E.,
Sec. 8, S½NE¼, N½SE¼;
Sec. 9, S½NW¼, N½SW¼, SE¼;
Sec. 10, lots 3, 4, E½SW¼, SE¼.

Powersite Reserve No. 463

T. 28 S., R. 9 W.,
Sec. 19, lots 3, 4, SE¼SW¼, SW¼SE¼;
Sec. 28, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 29, S½NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 30, N½NE¼;
Sec. 33, NE¼NE¼;
Sec. 34, W½NW¼, SE¼NW¼, NE¼SW¼, W½SE¼, SE¼SE¼.
T. 28 S., R. 10 W.,
Sec. 14, SW¼SW¼;
Sec. 15, lot 3, E½SW¼, S½SE¼;
Sec. 22, NE¼NE¼;
Sec. 23, NE¼, N½NW¼;
Sec. 24, S½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.
T. 27 S., R. 11 W.,
Sec. 30, lot 4, SE¼SW¼, SW¼SE¼;
Sec. 31, N½NE¼;
Sec. 32, S½NE¼, NW¼, NE¼SE¼;

Sec. 33, lots 1, 2, 3, N½SW¼.

The area described aggregates 4,440.15 acres in Beaver and Sanpete Counties.

2. The State of Utah has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The lands described in this paragraph are privately owned and will not be restored to the operation of the public land laws.

Salt Lake Meridian

T. 28 S., R. 10 W.,
Sec. 15, E½SW¼, S½SE¼;
Sec. 22, NE¼NE¼.
T. 27 S., R. 11 W.,
Sec. 32, S½NE¼, NW¼, NE¼SE¼.

The area described aggregates 480 acres in Beaver County.

4. The lands described in this paragraph are national forest lands and will be opened to such uses as may by law be made of national forest lands.

Salt Lake Meridian

T. 18 S., R. 3 E.,
Sec. 8, S½NE¼, N½SE¼;
Sec. 9, S½NW¼, N½SW¼, SE¼;
Sec. 10, lots 3, 4, E½SW¼, SE¼.
T. 29 S., R. 6 W.,
Sec. 17, lot 11;
Sec. 20, NE¼, E½NW¼, NW¼NW¼, E½SE¼;
Sec. 21, W½NW¼, SW¼SW¼;
Sec. 28, lots 2, 3, S½N½, NW¼NW¼.

The area described aggregates approximately 1,020.66 acres in Beaver County.

5. At 10 a.m. on July 22, 1982, the public lands, except as provided for in paragraphs 3 and 4, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. The lands have been open to mineral leasing and to location under the mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17681 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6281

[NEV-051731; (A-13384)]]

Arizona; Public Land Order No. 5976; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document amends and corrects errors and adds lands that were omitted in a public land order revoking certain lands included in Executive Order No. 5339 for the State of Arizona that appeared at pages 35504 thru 35506 of Thursday, July 9, 1981 (46 FR 01-20070). This order is restated for clarity and correction of land descriptions and acreages therein. An additional 19,058 acres in Arizona will be restored to operation of the public land laws generally, including nonmetalliferous minerals under the mining laws. The lands are already open to mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, 602-261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 5339 of April 25, 1930, which withdrew lands in Nevada and Arizona in aid of legislation pending determination as to the advisability of including them in a national monument, is revoked as to the remaining lands in Arizona:

Gila and Salt River Meridian, Arizona

T. 27 N., R. 22 W.
T. 28 N., Rs. 10, 11, 12, 13, 21, and 22 W.
T. 29 N., Rs. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 30 N., Rs. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 31 N., Rs. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 W.
T. 32 N., R. 5 W.,
Secs. 1 thru 18, inclusive.
T. 32 N., R. 8 W.
T. 32 N., Rs. 9, 10, 11, 12, 13, 14, 15, 16, and 17 W.
T. 33 N., R. 5 W.
T. 33 N., R. 6 W.,
That part north of the Colorado River and in the Grand Canyon National Monument.
T. 33 N., R. 7 W.,
That part lying north of the Colorado River and in the Grand Canyon National Monument.
T. 33 N., R. 8 W.,
All of township except those parts of secs. 5, 8 and 17 west of the Grand Canyon National Monument and secs. 6, 7 and 18.
T. 33 N., R. 9 W.,
Secs. 22 thru 27, inclusive; secs. 31 to 36, inclusive.
T. 33 N., R. 10 W.,
Secs. 32 thru 36, inclusive.
T. 33 N., R. 12 W.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive; secs. 22 to 36, inclusive.

Gila and Salt River Meridian

T. 33 N., R. 15 W.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 33 N., R. 16 W.
T. 34 N., Rs. 4, 5, and 6 W.
T. 34 N., R. 7 W.,
Secs. 1 to 2, inclusive;
Sec. 10, E½;
Secs. 11 to 15, inclusive;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, E½;
Secs. 34, 35, and 36.
T. 35 N., R. 4 W.,
Sec. 10, E½
Secs. 11 to 14, inclusive;
Sec. 15, E½
Sec. 22, E½
Secs. 23 to 36, inclusive.
T. 35 N., R. 5 W.
T. 35 N., R. 6 W.,
Secs. 25 thru 36, inclusive.
T. 35 N., R. 7 W.,
Secs. 25, and 26;
Secs. 27, E½E½, S½SW¼, W½SE¼;
Secs. 34 to 36, inclusive.

2. At 10 a.m. on July 22, 1982, any of the following described lands not previously opened on August 5, 1981, by Public Land Order No. 5976 dated June 30, 1981, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on July 22, 1982, any of the following described lands not previously opened on August 5, 1981, by Public Land Order No. 5976 dated June 30, 1981, will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Gila and Salt River Meridian

T. 32 N., R. 11 W.,
Secs. 1, 2, 3, 4, and 5, inclusive;
Sec. 6, lots 1, and 2, S½NE¼, SE¼;
Sec. 7, NE¼;
Secs. 8, and 9;
Sec. 10, E½, N½NW¼, SE¼NW¼, SW¼;
Secs. 11 to 16, inclusive;

Sec. 18, lots 3, and 4, E½SW¼, SE¼;
Sec. 19, lot 3;
Sec. 20;
Secs. 22 to 24, inclusive.
T. 31 N., R. 12 W.,
Secs. 4, and 6.
T. 32 N., R. 12 W.,
Sec. 1, lots 2, 3, and 4, SW¼NE¼, S½NW¼, SW¼ and W½SE¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, SW¼, S½SE¼;
Secs. 3 to 7, inclusive;
Secs. 8 to 19, inclusive;
Sec. 20, W½;
Sec. 21, E½;
Secs. 22, and 23;
Secs. 30, 32, and 34.
T. 33 N., R. 12 W.,
Secs. 1, 2, and 3;
Secs. 11 to 14, inclusive;
Secs. 23, 24, and 25;
Sec. 26, NE¼, E½NW¼, NE¼SW¼, SE¼;
Sec. 34, S½;
Sec. 35, S½.
T. 31 N., R. 13 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Sec. 4, W½,
Secs. 5 to 8, inclusive,
Sec. 9, W½,
Sec. 16, W½,
Secs. 17, and 18.
T. 32 N., R. 13 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 1 thru 24, inclusive,
Secs. 26, and 28,
Secs. 30, 31, 32, 34, and 36.
T. 32 N., R. 14 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 1 to 19, inclusive,
Secs. 22, to 26, inclusive,
Sec. 36.
T. 29 N., R. 15 W.,
Sec. 4, lots 1 to 4, inclusive,
Secs. 6, 8, 18, and 20,
Sec. 28, lots 1 to 4, inclusive,
Sec. 30.
T. 30 N., R. 15 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 18, and 20,
Sec. 28, lots 1, 2, 3, and 4,
Sec. 30,
Sec. 32, E½.
T. 29 N., R. 16 W.,
Secs. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 30 N., R. 16 W.,
Excepting any lands within the Grand Canyon National Park on the following described lands:
Secs. 2, 3, 4, 10, 14, 16, 20, 22, 24, 26, 28, 30, 32, and 34.
Sec. 36, S½NW¼, S½.
T. 29 N., R. 17 W.,
Secs. 2, and 4.
Sec. 9, N½NW¼, SW¼NW¼, W½SW¼,
Sec. 10, N½, SW¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼, N½SE¼SE¼ SE¼,
Secs. 12, and 14,
Sec. 16, W½,
Secs. 17, and 18,
Sec. 19, NE¼,
Secs. 20, 22, 24, 26, and 28,
Sec. 29, NE¼, W½SE¼ and NE¼SE¼,
Secs. 30, 32, and 34.
T. 29 N., R. 18 W.,
Secs. 14, 16, 17, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 36.
T. 29 N., R. 19 W.,
Secs. 3 thru 10, inclusive,
Secs. 13 thru 20, inclusive,
Secs. 22, 24, 26, 28, 30, 31, 32, and 34.
T. 29 N., R. 20 W.,
Secs. 1, and 2,
Secs. 11 to 15, inclusive; secs. 22 to 27, inclusive,
Secs. 34 to 36, inclusive.
T. 30 N., R. 20 W.,
Secs. 1, 12, 13, 24, 25, 35, and 36.
T. 28 N., R. 21 W.,
T. 29 N., R. 21 W.,
T. 30 N., R. 21 W., unsurveyed,
Secs. 5 to 8, inclusive; secs. 17 to 21, inclusive,
Secs. 28 to 33, inclusive.
T. 27 N., R. 22 W.,
Sec. 6,
Secs. 7, 18, and 19 except as to all lands lying inside a line 300-foot landward from the highwater mark, measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave, and the 1,229-foot elevation of Lake Mead.
T. 29 N., R. 22 W.,
Secs. 1, 2, 12, and 13, unsurveyed.
T. 30 N., R. 22 W.,
Secs. 1, 12, 13, 24, and 25;
Secs. 2, 11, 14, 23, 26, 35, and 36 except as to all lands lying inside a line 300-foot landward from the highwater mark, measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave, and the 1,229-foot elevation of Lake Mead.

Containing approximately 208,715 acres.

4. The remaining lands containing approximately 607,379 acres in Arizona are either patented or contained within other withdrawals which continue to segregate the lands from all forms of appropriation.

Inquires concerning the lands should be addressed to the State Director, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Date: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17112 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6282

[OR-20221]

Oregon; Partial Revocation of Public Water Reserve No. 61

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in part as to 1,602.18 acres of land withdrawn for public water reserve purposes. The action will restore 1,522.18 acres to operation of the surface land laws and 1,602.18 acres to nonmetalliferous mineral location under the mining laws. The entire acreage has been and will remain open to metalliferous mineral location and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of February 25, 1919, which withdrew certain land for public water reserve purposes is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 9 S., R. 14 E.,
Sec. 4, SE¼.
T. 5 S., R. 15 E.,
Sec. 34, NE¼NE¼.
T. 8 S., R. 15 E.,
Sec. 24, W½;
Sec. 27, SW¼.
T. 7 S., R. 17 E.,
Sec. 8, SE¼.
T. 8 S., R. 18 E.,
Sec. 24, NE¼.
T. 10 S., R. 18 E.,
Sec. 23, SE¼SE¼;
Sec. 24, S½SW¼.
T. 7 S., R. 19 E.,
Sec. 31, lots 1, 2, 3, and 4, and E½W¼.
T. 10 S., R. 19 E.,
Sec. 7, S½SE¼;
Sec. 18, N½NE¼.

The areas described aggregate 1,602.18 acres in Wasco and Jefferson Counties.

2. The land in section 34, T. 5 S., R. 15 E., is included in Stock Driveway No. 96 of September 19, 1919, and the NE¼SW¼ of section 31, T. 7 S., R. 19 E., is included in Powersite Classification No. 383 of August 15, 1947, and remains withdrawn from operation of the public land laws generally.

3. At 10 a.m. on June 22, 1982, the land described in paragraph 1, except as provided in paragraph 2, shall be open to operation of the public land laws

generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 22, 1982, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17110 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6283

[OR-22459 (WASH)]

Washington; Revocation of Coal Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew certain lands for examination and classification with respect to coal values. This action will restore 2,706 acres of land to such forms of disposition as may by law be made of national forest lands and 2,426 acres to nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive order of February 5, 1912, which withdrew the following described lands for examination and classification with respect to coal values is hereby revoked:

Willamette Meridian

Wenatchee National Forest

T. 18 N., R. 15 E.,
Sec. 9, S½N½ and S½; Patented
Sec. 10, S½NW¼ and S½;
Sec. 14, NW¼NE¼ and S½N½;
Sec. 15, N½, N½SW¼, SE¼SW¼, and SE¼; Patented
Sec. 16, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 17, E½; Patented
Sec. 21, NE¼, N½NW¼, and N½SE¼; patented
Sec. 22, SW¼NE¼, NW¼, and N½SW¼; (NW¼NW¼ and S½NW¼ Patented)
Sec. 23, NW¼NW¼ and S½NW¼.
T. 19 N., R. 15 E.,
Sec. 19, E½NE¼ and NE¼SE¼; Patented
Sec. 20, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 27, SW¼ amd SW¼SE¼; (Portions patented in M.S. 1200)
Sec. 28, NW¼NW¼, S½NW¼, and S½;
Sec. 29, NE¼, N½NW¼, SE¼NW¼, N½SE¼, and SE¼SE¼; Patented
Sec. 33, NE¼, N½NW¼, and SE¼NW¼; Patented
Sec. 34, W½NE¼ and N½NW¼. (Portions patented in M.S. 1200).

The areas described aggregate 5,160 acres in Kittitas County.

2. At 7:30 a.m. on July 22, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the national forest lands will be open to such forms of disposition as may by law be made of national forest lands.

3. At 7:30 a.m. on July 22, 1982, the lands described in paragraph 1, except where the mineral estate has been conveyed from United States ownership, will be open to nonmetalliferous mineral location under the United States mining laws.

4. The lands described in paragraph 1, except where the mineral estate has been conveyed from United States ownership, have been and continue to be open to location under the United States mining laws as to metalliferous minerals and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17111 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6284

[NM-42312-WR]

New Mexico; Partial Revocation of Secretarial Interpretation, Public Water Reserve No. 107

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a Secretarial Order as to 320 acres withdrawn for public water reserve purposes. This action will restore the lands to operation of the public land laws generally, including nonmetalliferous mining. All lands affected by this order have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Miguel M. Martinez, New Mexico State Office, 505-988-6654.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Those portions of Public Water Reserve No. 107 granted to BLM by Executive Order of April 17, 1926, and further designated by Secretarial Order of Interpretation No. 47 dated April 18, 1927, are hereby revoked as far as they affect the following described lands:

New Mexico Principal Meridian

T. 16 N., R. 5 W.,
Sec. 16, N½.

The area described contains 320 acres in McKinley County.

2. At 8:00 a.m. on July 22, 1982, the lands will be open to operation of the public land laws generally subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 8:00 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time, those received thereafter shall be considered in the order of filing.

3. At 8:00 a.m. on July 22, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and will continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17060 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6285

[OR-20520]

Oregon; Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 7,855.29 acres of land for reclamation purposes. This action will restore 7,035.29 acres to operation of the public land laws generally, and 7,675.29 acres to operation of the mining laws.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior, by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of January 5, 1905, which withdrew certain lands for use by the Bureau of Reclamation for reclamation purposes in connection with the Chewaucan Project is hereby revoked:

Willamette Meridian

Chewaucan Project

T. 33 S., R. 18 E.,
Sec. 26, E½SW¼;
Sec. 27;
Sec. 28, Lots 1 to 4, inclusive, and W½;
Sec. 33, Lots 1 to 9, inclusive.

Fremont National Forest

T. 36 S., R. 17 E.,
Sec. 26.
T. 34 S., R. 18 E.,
Sec. 9, N½Ne¼, SW¼NE¼, W½SE¼NE¼, and S½;
Secs. 16 and 21;
Sec. 28, N½, W½SW¼, and SE¼;
Sec. 33 Tract C, N½NE¼NE¼, W½W½, N½SE¼NW¼, E½NE¼SE¼, and SE¼SE¼.
T. 35 S., R. 18 E.,
Sec. 6, Lots 1 to 7, inclusive, Tract C, SE¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, SE¼NW¼, NE¼SW¼, N½N½SE¼SW¼, SW¼NW¼SE¼SW¼, NW¼SW¼SE¼SW¼, E½SE¼, E½NE¼NW¼SE¼, W½W½NW¼SE¼, E½SW¼NW¼SE¼, NE¼SE¼NW¼SE¼, and N½NW¼SW¼SE¼;
Sec. 23, N½, W½SW¼,SE¼SW¼, and SW¼SE¼;
Sec. 34, N½, N½SW¼, SW¼SW¼, N½NE¼SE¼, NW¼SE¼, and S½SE¼SE¼.
T. 36 S., R. 18 E.,
Sec. 3, Lots 1, 2, and 4, N½SW¼NE¼, SE¼SW¼NE¼, SE¼NE¼, SW¼NW¼, W½SW¼, S½NE¼SW¼, SE¼NW¼SE¼, E½SW¼SE¼, and SE¼SE¼;
Sec. 4, Lots 1 to 4, inclusive, S½N½, and S½;
Sec. 18, Lots 1 to 4, inclusive, N½NE¼, NE¼NW¼, E½SW¼, NE¼SE¼, and S½SE¼.

The areas described aggregate 7,855.29 acres in Lake County.

2. The land in the E½SW¼, sec. 27, T. 33 S., R. 18 E., is included in Power Project 865 of March 16, 1928, and the lands in the SE¼SE¼, sec. 6, T. 35 S., R. 18 E., and W½NE¼SW¼, sec. 16, T. 34 S., R. 18 E., are withdrawn as a recreation area by Public Land Order No. 2298 of March 14, 1961, and remain segregated from operation of the public land laws generally, including the United States mining laws.

3. The land in the W½E½ and W½, sec. 9, T. 34 S., R. 18 E., is included in Powersite Reserve No. 289 of October 18, 1912, and remains segregated from operation of the public land laws generally.

4. The land in the W½E½NE¼, section 16, T. 34 S., R. 18 E., is withdrawn as a recreation area by Public Land Order No. 3363 of April 7, 1964, and remains segregated from operation of the United States mining laws.

5. The surface estate of the lands in the SE¼ of section 28 and the N½NE¼ NE¼ and W½SE¼SE¼ of section 33, T. 34 S., R. 18 E., has been conveyed from Federal ownership and will not be opened to operation of the public land laws.

6. At 7:30 a.m., on July 22, 1982, the land in T. 33 S., R. 18 E., except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:30 a.m., on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

7. At 7:30 a.m., on July 22, 1982, the land in T. 33 S., R. 18 E., except as provided in paragraph 2, will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

8. At 7:30 a.m., on July 22, 1982, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the above described lands, except as provided in paragraphs 2 to 5, inclusive, will be open to such forms of disposition as may by law be made of national forest lands, including location and entry under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82–17079 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6285

[OR–20407]

Oregon; Reservoir Site Restoration No. 53; Revocation of Reservoir Site Reserve No. 19

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order as to 476.39 acres of land withdrawn for a reservoir site reserve. This action will restore 396.39 acres to operation of the surface land laws and 80 acres to such forms of disposition as may by law be made of national forest land, including the nonmetalliferous mining laws. The lands have been and will remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 6205 of July 14, 1933, which created Reservoir Site Reserve No. 19 is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Reservoir Site Reserve No. 19

T. 21 S., R. 10 E.,
Sec. 1, W½SE¼;
Sec. 12, SE¼NE¼ and N½NE¼SE¼;
Sec. 13, W½NE¼NE¼, W½SE¼NW¼, and W½SW¼SW¼;
Sec. 24, W½SE¼NW¼;
Sec. 25, W½SW¼SW¼.
T. 21 S., R. 11 E.,
Sec. 6, lot 2 and SE¼NW¼;
Sec. 7, lots 1 and 2.

Deschutes National Forest

T. 20 S., R. 11 E.,
Sec. 31, W½SE¼.

The areas described aggregate 476.39 acres in Deschutes County.

2. At 10 a.m. on July 22, 1982, the W½SE¼, section 31, T. 20 S., R. 11 E., will be open to such forms of disposition as may by law be made of national forest lands.

3. At 10 a.m. on July 22, 1982, the lands described in paragraph 1, except as provided in paragraph 2, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of

applicable law. All valid applications received at or prior to 10 a.m. on July 22, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on July 22, 1982, the lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 16, 1982.

[FR Doc. 82-17078 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6287

[OR-11517, OR-25306]

Oregon; Withdrawal of Lands For Addition to Oregon Islands National Wildlife Refuge; Revocation of Executive Orders Nos. 4082, 4364, 4774 and 5702; Partial Revocation of Executive Order of January 29, 1867

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 208 acres of land involving unsurveyed rocks and islands off the coast of Oregon as an addition to the Oregon Islands National Wildlife Refuge. It also revokes or partially revokes five withdrawal orders which are no longer needed.

EFFECTIVE DATE: July 22, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the mining laws, 30 U.S.C. Ch. 2, and reserved for use by the U.S. Fish and Wildlife Service as an addition to the Oregon Islands National Wildlife Refuge:

Willamette Meridian

All the Federally owned unsurveyed rocks and islands above the mean high water elevation of the Pacific Ocean offshore from and within three geographical miles of the Pacific coastline of Oregon, except for those rocks and islands that are already withdrawn and reserved as part of the Oregon Islands National Wildlife Refuge by Executive Order No. 7035 of May 6, 1935, and Public Land Order No. 4395 of April 1, 1968; except those rocks and islands withdrawn and reserved as the Three Arch Rocks National Wildlife Refuge by Executive Order No. 699 of October 14, 1907; except the unsurveyed island known as Gregory Point containing the Cape Arago Light Station; and except the following described lands which remain under the administration of the Bureau of Land Management:

Squaw Island, Unsurveyed

T. 28 S., R. 14 W.,
Offshore from Sec. 4
(43°20' N., 124°22' W.).

Two Unnamed Islands, Unsurveyed

T. 28 S., R. 14 W.,
Offshore from Sec. 8
(43°20' N., 124°22' W.).

Fish Rock, Unsurveyed

T. 29 S., R. 15 W.,
Offshore from Sec. 2
(43°05' N., 124°25'45" W.).

North Sisters Rocks, Unsurveyed (Three Rocks)

T. 34 S., R. 14 W.,
Offshore from Sec. 30
(42°37'04" N., 124°24'50" W.).

Pistol River and Myers Creek Rocks, Unsurveyed (Eight Rocks)

T. 38 S., R. 14 W.,
Offshore from Sec. 7
(42°18' N., 124°24'50" W.).

Lone Ranch Beach Rocks, Unsurveyed

T. 40 S., R. 14 W.,
Offshore from Sec. 22
(42°06'02" N., 124°20'40" W.).

Harris Island and Unnamed Rock, Unsurveyed

T. 40 S., R. 14 W.,
Offshore from Sec. 36
(42°03'50" N., 124°18'30" W.).

Zwagg Island

T. 41 S., R. 13 W.,
Sec. 6, Lot 9;
Sec. 7, Lot 2.

Table Rock, Unsurveyed

T. 41 S., R. 13 W.,
Offshore from Sec. 6
(42°02'55" N., 124°17'25" W.).

The areas described aggregate, after making the aforesaid exceptions, approximately 208 acres in Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, and Curry Counties, Oregon.

2. The withdrawal shall remain in effect for a period of 40 years from the effective date of this order.

3. The lands added to the Oregon Islands National Wildlife Refuge by this order have either been designated as wilderness and made a part of the "Oregon Island Wilderness" by Act of Congress of October 11, 1978 (Pub. L. 95-450) or will be managed so as not to impair their suitability for preservation as wilderness pending a determination by Congress as to their inclusion in the National Wilderness Preservation System.

4. Executive Order No. 4774 of November 29, 1927, which temporarily withdrew all unreserved rocks and pinnacles off the coast of Oregon from settlement, location, sale, or entry for classification and in aid of proposed legislation, is hereby revoked in its entirety.

5. Executive Order No. 5702 of September 1, 1931, which withdrew the rocks constituting Port Orford, Blanco, and Rogue River Reefs from settlement, location, sale, or entry and reserved them as a refuge for the protection of sea lions, is hereby revoked in its entirety.

6. Executive Order No. 4364 of January 7, 1926, which withdrew certain named and unnamed islands and rocks situated in the Pacific Ocean and lying off the coast of Oregon from settlement, location, sale, or entry pending legislation for permanent reservation for recreational purposes or protection of waterfowl and other native birds, is hereby revoked in its entirety.

7. Executive Order No. 4082 of October 6, 1924, which temporarily withdrew the unsurveyed island known as Proposal Rock situated in Secs. 26 and 35, T. 5 S., R. 11 W., W.M., for classification and in aid of legislation, is hereby revoked in its entirety.

8. The Executive Order of January 29, 1867, which reserved certain islands off the Pacific Coast for lighthouse purposes, is hereby revoked insofar as it affects the rocky islets off Cape Blanco in Oregon.

9. The lands identified in paragraph 1 as remaining under the jurisdiction of the Bureau of Land Management have been and continue to be segregated from operation of the public land laws, generally, by multiple use management withdrawal, Public Land Order No. 5490 of February 12, 1975.

10. At 10:00 a.m., on July 22, 1982, the lands identified in paragraph 1 as remaining under the jurisdiction of the Bureau of Land Management and aggregating approximately 18.88 acres will be open to nonmetalliferous mineral location under the United States mining laws, and they have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 16, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 82-17109 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 153

[CGD 79-128]

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule governing self-propelled vessels carrying bulk hazardous liquid cargoes that appeared in the Federal Register of Monday, May 17, 1982, (47 FR 21198). This action is necessary to correct typographical errors in the Federal Register and inadvertent omissions in the original document.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James W. Gormanson, Office of Merchant Marine Safety (G-MTH-1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202-426-1217).

Accordingly, the Coast Guard is correcting 46 CFR Part 153 as follows:

1. On page 21205, item 6., under the table I "Cargo name" column, "Dimethylehanolamine" is corrected to read "Dimethylethanolamine."

2. On page 21206, item 6., under the table I "Special requirements" column for "Isophorone diisocyanate" is corrected to read ".236(a),(b), .316, .409, .500, .501, .602, .1000, .1020."

3. On page 21206, item 6., under the table I "Cargo name" column, "(alpha-) Methyl styrene" is corrected to read "alpha-Methyl styrene."

4. On page 21207, item 6., footnote 2 at the end of table I is corrected to read "[2]153.230-153.232."

5. On page 21208, column 1, item 19., § 153.284(a) is corrected by inserting the word "a" between "Be" and "positive."

6. On page 21208, column 2, item 24., the introductory text of § 153.350 splits "B/3" into two lines as "B/" and "3." As corrected, it should read as follows:

§ 153.350 Location of B/3 vent discharges.

Except as prescribed in § 153.353, a B/3 venting system must discharge:

* * * * *

7. On page 21208, column 3, item 27., the title of § 153.361 is corrected by inserting the word "systems" between "venting" and "having."

8. On page 21209, column 1, "§ 153.336 (Removed.)" is corrected to read "§ 153.366 (Removed.)"

9. On page 21209, column 1, item 30., "§ 153.408(b), line 2, "value" is corrected to read "valve."

10. On page 21209, column 1, item 30., "§ 153.408(c)(6), line 3, "Tank Overflow Alarm" is corrected to read "TANK OVERFLOW ALARM."

11. On page 21209, column 2, item 31., "§ 153.409(d), lines 2 and 3, "High Level Alarm" is corrected to read "HIGH LEVEL ALARM."

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

June 18, 1982.

[FR Doc. 82-17128 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[Docket No. 20840]

Use of Recording Devices in Connection With Telephone Service: Order Extending Time for Filing Revised Tariff Regulations

AGENCY: Federal Communications Commission.

ACTION: Rule related notice.

SUMMARY: The Common Carrier Bureau has extended the time for filing revised tariff regulations providing for the use of recording devices in connection with telephone service. The Federal Communications Commission modified its policies concerning the use of recording devices and ordered common carriers to revise their tariffs accordingly. However, the American Telephone and Telegraph Company has requested clarification of that order. This extension will allow common carriers until after the Commission's determination on the petition for clarification to file their revised tariff regulations.

DATE: Revised tariff regulations must be submitted within 30 days after publication in the Federal Register of the Commission's determination on the perition for clarification.

ADDRESS: FCC Wash., D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Margaret Wood, 202-254-8100.

SUPPLEMENTARY INFORMATION:

In the matter of use of recording devices in connection with telephone service (Docket No. 20840, June 2, 1981, 46 FR 29474); Order.

Adopted June 9, 1982.

Released June 14, 1982.

By the Chief, Common Carrier Bureau.

1. Before the Commission is a petition filed by American Telephone and Telegraph Company (AT&T) requesting, *inter alia*, an extension of time for filing revised tariff regulations providing for the use of recording devices in connection with interstate and foreign message toll telephone service and wide area telephone service. In the *Memorandum Opinion and Order* in Docket No. 20840, 86 FCC 2d 313 (1981), the Commission ordered all common carriers subject to Title II of the Communications Act, 47 U.S.C. 151 *et seq.* to revise their tariffs to comport with the order. AT&T, however, has filed a petition for clarification of that order, and therefore it requests that the time for filing revised tariffs be extended to a period thirty days subsequent to the publication in the Federal Register of the Commission's determination on the petition for clarification. Good cause having been shown, we grant the request.

2. So ordered.

Federal Communications Commission.

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-17257 Filed 6-23-82; 8:31 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket Number RSFC-6, Notice 4]

Railroad Freight Car Safety Standards

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Amendment of final rule, notice of public hearing.

SUMMARY: This document amends the final rule published on December 31, 1979 (44 FR 77328), which revised the Railroad Freight Car Safety Standards (49 CFR Part 215). The amendment extends the compliance date for equipping the side doors of railroad box cars with safety hangers, or the equivalent (49 CFR 215.121(d)). The compliance date is extended from July 1, 1982, until November 1, 1982. The extension will permit FRA an

opportunity to hold a public hearing and receive written comments from interested persons on the petition of the Association of American Railroads (AAR) to further extend the compliance date until December 31, 1985. This action is taken by FRA in response to the AAR's petition for an extension of a compliance date in the final rule.

DATES: This amendment is effective June 30, 1982.

(1) Written Comments: Written comments must be received before August 17, 1982. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) Public Hearing: A public hearing will be held at 10:00 a.m. in Washington, D.C. on August 3, 1982. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before July 27, 1982, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Written comments will be available for examination both before and after the closing date for written comments, during regular business hours in Room 7321A of the Nassif Building at the above address.

(2) Public Hearing: A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Persons desiring to make oral statements at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone (202) 426–0897.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1979, FRA published a notice of proposed rulemaking (NPRM) to revise the Freight Car Safety Standards (44 FR 1419). The proposed revision included a requirement that a railroad may not place or continue in service "* * * a box car, the side doors of which are not equipped with operative safety hangers, or the equivalent, to prevent the door from becoming disengaged * * *" (proposed § 215.41(d)).

The door safety hanger requirement was widely supported, though many commenters stated that the compliance period needed to be lengthy in light of the number of cars (approximately 100,000) involved. The Association of American Railroads (AAR) suggested a 6 year compliance period.

The final rule (44 FR 77329) adopted the safety hanger requirement and provided a 6 month compliance period instead of making the requirement immediately applicable as originally proposed. The 6 month compliance period resulted from a misreading of the AAR's comments. The preamble to the final rule stated, "the AAR requested a 6 month extension to permit the railroads to comply with proposed § 215.41(d), which would require that the side doors on box cars be equipped with safety hangers. FRA believes that this request is reasonable. Therefore, § 215.121(d) of the final rule provides this extension." (44 FR 77337)

After publication of the final rule, the AAR submitted a petition for reconsideration which addressed, among other things, the compliance period for door safety hangers. As a result, FRA amended the final rule and extended the compliance date from September 1, 1980 until July 1, 1982 (45 FR 26708).

In that notice, FRA acknowledged that "the constraints of personnel and materials and design differences" necessitate an extension of the deadline. However, FRA did not grant AAR's request that a compliance date of December 31, 1985 (a 6 year period from publication of the final rule) be adopted.

The AAR has renewed its request that FRA establish a compliance date of December 31, 1985. The AAR bases this request, as it consistently has, on the limitations of personnel and materials. AAR estimates that there are approximately 65,000 remaining plug door box cars without safety hangers.

FRA recognizes that the remaining 65,000 cars cannot be equipped by July 1, 1982. FRA also recognizes that the industry has made substantial efforts to reduce the number of box cars that are not equipped with safety hangers. However, in light of the potential hazard posed by the absence of safety hangers and the lack of data on the time needed to complete the safety hanger retrofit, FRA believes that only a 4 month extension is warranted at this time. FRA will hold a public hearing on the AAR's petition to extend the compliance to December 31, 1985, and will receive written comments from interested persons as well. Further extension of the compliance date may be made after full consideration of the comments made in response to this notice.

To avoid the disruption of rail service and public inconvenience that would result if the remaining 65,000 plug door box cars not yet equipped with safety hangers were to be removed from service on the current compliance date of July 1, 1982, this amendment date shall become effective in less than 30 days on June 30, 1982.

List of Subjects in 49 CFR Part 215

Railroad safety.

Environmental Impact

On June 16, 1980, the FRA published (45 FR 40854) revised procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act ("NEPA," 42 U.S.C. 4321 *et seq.*), the Department of Transportation Act (49 U.S.C. *et seq.*), other environmental statutes, executive orders, and DOT Order 5610.1C. FRA has reviewed the amendment in this notice in light of the criteria established under the FRA procedures and has determined that the action does not constitute a major FRA action requiring an environmental assessment.

Economic Impact

FRA has reviewed this notice under the standards established by Executive Order 12291 and by DOT's order on regulatory policies and procedures. FRA has concluded that the amendment is not a major rule under the terms of Executive Order 12291 or a significant rule under DOT criteria.

This notice has been reviewed according to the requirements of the Regulatory Flexibility Act (Pub. L. 95–354, 94 Stat. 1184, September 19, 1980). FRA has not identified any significant economic impact from the rule change that will affect small entities. Based on this fact, it is certified that the amendment will not have significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act.

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

In consideration of the foregoing, § 215.121(d) of Part 215 of Title 49, Code of Federal Regulations, is revised, effective June 30, 1982, as follows:

§ 215.121 Defective car body.

* * * * *

(d) After November 1, 1982, the car is a box car and its side doors are not equipped with operative hangers, or the

equivalent, to prevent the doors from becoming disengaged.

* * * * *

(Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n))

Issued in Washington, D.C. on June 21, 1982.

Robert W. Blanchette,

Administrator.

[FR Doc. 82-17210 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Critical Habitat for the Hawksbill Sea Turtle in Puerto Rico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines Critical Habitat for the hawksbill sea turtle (*Eretmochelys imbricata*) in the Commonwealth of Puerto Rico. Nesting of this species occurs in scattered localities throughout the Caribbean although in no place is nesting as abundant as in the past. The beaches on Mona Island represent a significant nesting area for this species in the Caribbean and were singled out as of major importance at the World Conference on Sea Turtle Conservation held in November 1979 in Washington, D.C. Areas on the islands of Culebra, Culebrita, and Cayo Norte are also regularly used by nesting hawksbills. This document identifies habitat subject to Federal agency consultation pursuant to Section 7(a) of the Act.

DATE: This rule becomes effective on July 26, 1982.

ADDRESSES: Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION: Background. The hawksbill sea turtle is a rare and critically Endangered reptile throughout the world (see Parsons, 1972; Carr and Stancyk, 1975; and Pritchard, 1979) and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable and undisturbed nesting beaches and the protection of nesting beaches is a strategy endorsed by scientists throughout the world (World Conference on Sea Turtle Conservation, 1979) for the conservation of this species. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 4 of the Act, thereby providing additional protection through Section 7.

In accordance with the July 18, 1977, Memorandum of Understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given responsibility for sea turtles while on land. Such responsibility includes proposing and designating Critical Habitat. The designation of marine Critical Habitat is the jurisdiction of the National Marine Fisheries Service; therefore, this rule includes only land areas.

Hawksbill sea turtles are known to nest on all of Mona Island's 7.2 kilometers of beaches. The offshore areas appear to support a somewhat stable and resident population (Thurston and Wiewandt, 1975; Wiewandt, 1973; A. Carr, pers. commun.). In addition, green turtles and, rarely, leatherback turtles may also nest on Mona (T. Wiewandt, pers. commun.). The designation of Mona Island as Critical Habitat for the hawksbill sea turtle was recommendation number 83 in the World Action Plan for the Conservation of Sea Turtles (World Conference on Sea Turtle Conservation, 1979). The entire island of Mona is already Critical Habitat for the listed yellow-shouldered blackbird, Mona ground iguana, and Mona boa.

Nesting of hawksbill sea turtles occurs on suitable sandy beaches on the north shore of Culebra Island, as well as the nearby islands of Cayo Norte and Isla Culebrita. Turtles are known to feed on the rich offshore reefs around these islands. In addition to hawksbills, occasional nesting has been reported for leatherback, loggerhead, and green turtles on these beaches (T. Carr, 1974). The Critical Habitat for the Endangered Culebra Island giant anole on Playa Resaca barely overlaps the Critical Habitat of the hawksbill.

The hawksbill sea turtle is a tropicopolitan species. It occurs in waters off the east coast of the continental United States (primarily Florida), the U.S. Virgin Islands, mainland Puerto Rico, the Hawaian Islands, Pacific Trust Territory, American Samoa, Guam, and Territory of the Northern Marianas. Nesting is known to occur very rarely in Florida (Lund, 1978; R. Witham, pers. commun.) and more frequently in the Virgin Islands (Island Resources Foundation, 1978) and on remote islands under U.S. jurisdiction in the Pacific Ocean (Pritchard, 1977). Dodd (1978) has provided a list of nesting areas for the hawksbill in the United States and in areas under its jurisdiction.

The threats to the worldwide apparent decline in populations of the hawksbill sea turtle come from three main sources: killing the animal so that the scutes covering the bony shell may be removed to fashion tortoise-shell items, or the animal may be stuffed and sold to tourists; removal of eggs for human consumption or the destruction of eggs by predators; disruption or alteration of the nesting beaches. Additional problems that this species may encounter include killing for meat (this happens occasionally but hawksbill meat is considered poisonous in many parts of the world), incidental catch in trawls (a minor problem in the Caribbean), accidental entanglement in fishing nets, pollution and destruction of nesting and feeding reefs, and harassment while nesting and swimming. The problems faced by this species were treated in detail at the recent (November 26-30, 1979) World Conference on Sea Turtle Conservation held in Washington, D.C.

Critical habitat for beaches used by nesting hawksbills in the Commonwealth of Puerto Rico was proposed on May 24, 1978, in the **Federal Register** (43 FR 22224-22225). Those areas were withdrawn from consideration on March 6, 1979 (44 FR 12382-12384), because of the substantive changes made to the requirements for the determination of Critical Habitat by the Endangered Species Act Amendments of 1978. The areas in the final rule are essentially the same as those of the original and subsequent proposal. This rule is in compliance with the requirements of the 1978 and later amendments.

In conjunction with the proposal for Critical Habitat, the Service held public meetings in Mayaguez (December 2, 1980), San Juan (December 3, 1980), and on Isla Culebra (December 4, 1980) to explain the proposal, answer public

questions, and to solicit additional information on the biology of the turtle and the economic effects of a Critical Habitat designation on federally authorized and funded projects in the area. All public comment periods were closed on January 21, 1981.

Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the List of Endangered and Threatened Wildlife and Plants or to the addition of Critical Habitat to an already listed species. In the October 22, 1980, **Federal Register** (45 FR 70198–70201), the Service proposed to list the Critical Habitat of the hawksbill sea turtle, *Eretmochelys imbricata.*

Comments received through January 21, 1981, on the proposed Critical Habitat of this turtle are summarized below. A total of 25 comments were received in response to the proposal.

All comments favored the proposal, except a letter signed by Mr. Frederick E. Rushford on behalf of Governor Carlos Romero Barcelo of Puerto Rico. Mr. Rushford simply acknowledged receipt of notification of the proposal but offered no comments on the proposal itself. Of the remainder, 21 comments offered no substantive comments or criticisms, but merely reiterated the information contained in the proposal.

In the additional three favorable comments, several suggestions were offered. One comment recommended exclusion of Playa de Pajaros and Sardinera Beach on Mona because these areas are used for camping or there are cottages constructed near them. The Service notes that both areas are used for nesting by this species and believes they are important to the survival of the nesting hawksbill on Mona. Neither camping nor already existing cottages would be affected by this rule since a designation of Critical Habitat only applies to federally authorized or funded projects. Harassing or harming of hawksbills is prohibited by other sections of the Act and have been since 1973.

One comment from the National Wildlife Federation noted the discrepancy between the width of the proposed Critical Habitat on Culebra and Culebrita (150 meters inland from mean high tide) and that recommended to protect marine turtles in the Draft Environmental Impact Statement with regard to the proposed land transfer on Culebra and Culebrita (167 meters from mean low tide contour). The Service responds as follows: Recent legislation gave the Commonwealth title to all submerged lands around Puerto Rico and all its islands (including Culebra and Culebrita) for a distance of 3 marine leagues (=10.35 statute miles) beginning at mean *high* tide (Pub. L. 96–205, which amended the Puerto Rican Federal Relations Act of 1971, also known as the "Jones Act"). Legal citation for the current jurisdiction is 48 U.S.C. 749, as amended March 12, 1980. Based on this, the Service believes the Critical Habitat boundary at mean high tide is appropriate. The conveyance restrictions were first drafted prior to enactment of this amendment. Substantively, there is little difference between the two, since tidal fluctuations in Puerto Rico are reported to be extremely small.

While Defenders of Wildlife supported the proposal, they raised a number of questions concerning it, in addition to reiterating information contained in the proposal. Defenders noted past U.S. Navy involvement and the pending transfer of excess Navy lands to the Commonwealth of Puerto Rico and the Service. Defenders expressed concern that the beaches proposed as Critical Habitat be adequately protected and managed. The Service responds that the transfer of lands on Culebra to the Commonwealth of Puerto Rico was approved by the Secretary on February 1, 1982. The Department decided to deed 936 acres on Culebra, including most of the beach in this final rule, to the Commonwealth. Seven hundred and seventy six acres were deeded to the Service to be managed as part of the National Wildlife Refuge system. Culebrita, already within the Refuge system, will remain within Caribbean National Wildlife Refuge. An integral part of the transfer included conveyance restrictions to insure that no activities adverse to sea turtle nesting will occur on the beaches. These restrictions include prohibition of all night time uses, including recreation and anchoring of boats; prohibition of installation of lights or their use at night during the nesting season; prohibition of motorized vehicles and hoofed animals; limitation of daytime uses to hiking, picnicking, swimming, and similar compatible recreational activities; intensive beach patrols; and education of visitors to the protections provided to all Endangered species and marine mammals. In an intra-Service consultation completed on May 16, 1980, the Service determined that these restrictions would be sufficient to preclude adverse impacts to nesting and hatchling turtles.

Defenders noted that Playas Blanca and Flamenco, both proposed in 1978 by the Service (see the **Federal Register** of May 24, 1978; 43 FR 22224–22225), were absent from the reproposal. They questioned this, as well as why beaches on Vieques were not included. The Service notes that Playa Blanca and Playa Flamenco were deleted from the reproposal because of the lack of hawksbill turtle nesting there and the intensive recreational use of the area. Other beaches mentioned in the letter were not included in either the original proposal or the reproposal because of lack of definitive data on turtle use.

The Service notes that the article cited by Defenders (Dodd, 1978) included areas under review for Critical Habitat status, not areas already determined to be biologically Critical Habitat. In any case, the article does not present Service positions, only the professional opinion of one biologist as to which areas may qualify.

Finally, Defenders noted that the proposed Critical Habitat in 1978 (previously referenced) proposed Critical Habitat to extend 0.1 mile inland whereas the reproposal extended only 150 meters inland. The Service believes, however, that the decision to change the Critical Habitat boundary from 0.1 mile (161 meters) to 150 meters from the high tide line makes no substantive difference; the beaches are fully protected regardless of which is chosen. As it is, there is extensive overlapping on Culebrita and all beach areas are included within the Critical Habitat boundaries.

After a thorough review and consideration of all the available information, the Secretary has determined that those areas proposed in the October 22, 1980, **Federal Register** (45 FR 70198–70201) should be determined as Critical Habitat for the Endangered hawksbill.

Critical Habitat

The Act defines "Critical Habitat" as: (i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such

areas are essential for the conservation of the species.

The Service believes that certain beaches and adjacent landward areas within the geographical area occupied by the hawksbill sea turtle in the Commonwealth of Puerto Rico should be designated as Critical Habitat. This species is highly susceptible to changes in its nesting habitat and unless these areas are managed carefully with regard to nesting and the successful incubation and hatching of eggs, the species could disappear from these beaches, which are reputed to be among the best in the world for hawksbills. The Service believes that the designation of Critical Habitat is essential to the conservation of this species and will work carefully in cooperation with the Department of Natural Resources in Puerto Rico to insure survival of the species, which requires special management consideration and protection.

Section 424.12(b) of 50 CFR further states that, when considering the designation of Critical Habitat, the Service shall focus on the biological or physical constituent elements within the defined area that are essential to the conservation of the species. Known primary constituent elements shall be listed with the Critical Habitat description. The following elements are known or believed to be constituent elements in the nesting habitat of the hawksbill sea turtle.

1. *Presence of clean sand*—The hawksbill sea turtle requires clean sand, free of pollutants such as oil, to have successful incubation of its eggs.

2. *Obstructions*—Tree roots, beach debris, steep banks, and offshore obstructions such as rocks or jetties may prohibit or hinder successful nesting. Beaches should be free from or have a minimum of such obstructions.

3. *Depth of sand*—There must be sufficient depth of sand to allow successful incubation and hatching without the eggs being drowned by sea water intrusion.

4. *Lights on land*—Areas behind and on the nesting beach should be free of lights. Lights may inhibit females from nesting and disorient hatchlings (Philibosian, 1976).

5. *Beach disturbance*—Beaches should receive a minimum of disturbance, especially after dark. Loud noise and even silhouettes may inhibit females from nesting. In addition, vehicles on a beach or even careless human walking may collapse nesting cavities.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any determination of Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Secretary, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for this species. It should be emphasized that Critical Habitat designation may not affect each of the activities listed below, as Critical Habitat designation only affects Federal agency activities, through Section 7 of the Act. At this time, no Federal activities are known which would be affected by this action.

Examples of activities that could be detrimental to the environment of this species and lead to further reduction of its range include:

1. The destruction of reef areas needed for feeding and resting or actual physical disturbance or pollution.

2. The modification of nesting beaches through removal of sand.

3. The placement of artificial lighting too near the nesting beach which could disorient hatchlings.

4. Putting human recreational facilities too close to nesting beaches which could allow the destruction of already completed nests or the spooking of nesting females as they come onto shore to deposit eggs.

5. Pollution of the nesting beaches by oil or other fouling materials.

6. The use of off-road vehicles on nesting beaches.

7. The creation of offshore barriers which could prevent the females from reaching the beaches.

8. General harassment by people and domestic and introduced animals.

The above eight examples are provided as illustrations of the types of activities which may be detrimental to the physical environment of hawksbill sea turtle nesting beaches. They are not necessarily examples of what is actually happening at each of the areas determined as Critical Habitat.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes at this time that economic and other impacts of this section are not significant in the foreseeable future. The Service is notifying Federal and Commonwealth agencies that may have jurisdiction over the land and water under consideration in this action.

Effect of this Final Rule

Section 7(a) of the Act provides (in part):

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purpose of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to Section 4 of this Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as "agency action") is not likely to jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to Subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

This final rule now requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the hawksbill sea turtle, but also requires them to insure that their actions are not likely to result in the destruction or adverse modification of its Critical Habitat which has been determined by the Secretary. Provisions for Interagency Cooperation are codified at 50 CFR Part 402.

Literature Cited

Carr, T. 1974. The marine turtles and terrestrial reptiles of Culebra Island. Rept. to U.S. Fish and Wildlife Service, Washington, D.C. 28 pg., 24 fig.

Carr, A. and S. Stancyk. 1975. Observations on the ecology and survival outlook of the hawksbill turtle. Biol. Conserv. 8:161–172.

Dodd, C. K., Jr., 1978. Terrestrial Critical Habitat and marine turtles. Bull. Md. Herp. Soc. 14:233–240.

Island Resources Foundation. 1978. Report on sea turtle nesting, sighting, eggs and hatchlings for 1978 in the U.S. Virgin Islands and a recommended research methodology for dealing with hatchling disorientation on the beach (with special reference to leatherback nests at Sandy Point, St. Croix). Rept. to NOAA/NMFS on purchase order 01–8–D08–00187. 29 pp.

Lund, F. 1978. Atlantic hawksbill. pp. 24–25 In: R. W. McDiarmid (ed.), Rare and Endangered Biota of Florida, Amphibians & Reptiles, Vol. 3, Univ. Press of Florida, Gainesville.

Parsons, J. J. 1972. The hawksbill turtle and the tortoiseshell trade. Études de geographie tropicale offertes a Pierre Gourou, Mouton & Co., Paris. pp. 44–60.

Philibosian, R. 1976. Disorientation of hawksbill turtle hatchlings, *Eretmochelys imbricata*, by stadium lights. Copeia. 1976:824.
Pritchard, P. C. H. 1977. Marine turtles of Micronesia. Chelonia Press, San Francisco, California. 83 pp.
Pritchard, P. C. H. 1979. Encyclopedia of Turtles. T. F. H. Publ. Inc., Neptune, N.J. 895 pp.
Thurston, J. and T. A. Wiewandt. 1975. Management of sea turtles on Mona Island. In: Unit Plan for the Management of the Mona Island Forest Reserve, Dept. of Natural Resources, San Juan, PR.
Wiewandt, T. A. 1973. Mona amphibians, reptiles, and mammals. In: Mona and Monito Islands, an assessment of their natural and historical resources. Vol. II. Environmental Quality Board of Puerto Rico, San Juan.
World Conference on Sea Turtle Conservation. 1979. Sea Turtle Conservation Strategy, IUCN, Gland, Switzerland. 38 pp.

An environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, implemented at 40 CFR Parts 1500–1508.

Note.—The Department of the Interior has determined that this is not a major rule and does not require preparation of a regulatory analysis under Executive Order 12291, and does not have a substantial effect on a significant number of small entities under the Regulatory Flexibility Act. These determinations are discussed in more detail in a Determination of Effects which has been prepared by the U.S. Fish and Wildlife Service.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is hereby amended as set forth below:

1. Section 17.95(c), Reptiles, is amended by adding Critical Habitat of the hawksbill sea turtle before that of the leatherback sea turtle as follows:

§ 17.95 [Amended]

Hawksbill Sea Turtle

(Eretmochelys imbricata)

Puerto Rico: (1) Isla Mona. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point 150 meters from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) Culebra Island. The following areas of beachfront on the north shore of the island from mean high tide inland to a point 150 meters from shore: Playa Resaca, Playa Brava, and Playa Larga. (3) Cayo Norte. South beach, from mean high tide inland to a point 150 meters from shore. (4) Isla Culebrita. All beachfront areas on the southwest facing shore, east facing shore, and northwest facing shore of the island from mean high tide inland to a point 150 meters from shore.

HAWKSBILL SEA TURTLE



HAWKSBILL SEA TURTLE



Dated: May 14, 1982.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-17099 Filed 6-23-82; 8:45 am]
BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1134, 1136, and 1137

[Docket Nos. AO-326-A21, AO-301-A17 and AO-309-A23]

Milk in the Eastern Colorado, Western Colorado and Great Basin Marketing Areas; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends adoption in each of the three milk marketing orders of the uniform classification and order format provisions that were incorporated in a large number of other milk orders in 1974, including a 10-cent Class II differential and the use of a single butterfat differential. In the Eastern Colorado milk order only, the decision also would permit a handler to consider all his distributing plants as a single unit for purposes of meeting the pooling standards. The proposed amendments are based on industry proposals considered at a public hearing held on February 2, 1982.

DATE: Comments are due by July 9, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 778).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid specified marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by July 9, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The proposed amendments set forth below are based on the record of a public hearing held at Denver, Colorado, on February 2, 1982, pursuant to the notice thereof issued January 4, 1982 (47 FR 778).

The material issues on the record of the hearing relate to:

1. Classification of milk.
2. Class II differential.
3. Butterfat differential
4. Unit pooling of distributing plants in the Eastern Colorado milk order.
5. Other changes.
6. Advance Class II price announcement.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Classification of milk.* The Eastern Colorado, Western Colorado and Great Basin milk orders should provide for the same uniform classification of skim milk and butterfat that is commonly provided in many other Federal milk orders.

The proposals for the uniform classification of milk in the three orders were made by two cooperative associations supplying milk to the Eastern and Western Colorado milk orders and by a proprietary handler regulated by the Great Basin milk order. Also, two proprietary handlers regulated by the Eastern Colorado milk order proposed that such classification be provided for that order. In the case of all proponents, the uniform classification plan that was proposed was that which was included in 39 Federal milk orders in 1974 following extensive hearings in 1971 on the issue of uniform classification and pricing provisions. The plan was modified slightly the following year.

The spokesman for the cooperative associations testified that uniform classification provisions are needed in the Eastern and Western Colorado marketing areas because competition for sales between the two markets and with other federal milk order markets has developed over the years since the two orders were promulgated. He testified that one of the cooperatives, through its bottling facilities in the Western Colorado area, distributes fluid milk products into the Eastern Colorado marketing area and takes back Class II and Class III products for distribution in the Western Colorado market. Also, he indicated that Eastern Colorado handlers distribute ice cream, cottage cheese and yogurt into the Western Colorado area.

The witness testified that there is distribution of products in all 3 classes into the Eastern Colorado area from the

Scottsbluff, Nebraska, area of the Nebraska-Western Iowa order. Also, handlers regulated by the Wichita, Kansas, order distribute all 3 classes of milk and dairy products into the Eastern Colorado area. It was noted that both orders were included in the earlier classification proceedings.

The witness also testified that a handler regulated by the Great Basin milk order distributes sour cream and yogurt in the Eastern and Western Colorado areas and takes back cottage cheese from its plant regulated by the Eastern Colorado milk order for distribution in the Great Basin market.

The spokesman for the proponent cooperatives testified that the reasons for adopting uniform classification provisions are essentially the same as those reasons which were stated in the Department's decisions for the earlier classification proceedings. He said that the adoption of the uniform classification provisions for the Eastern and Western Colorado orders will provide competitive parity for the various dairy products being distributed between the two markets.

The spokesman for two handlers regulated by the Eastern Colorado order testified that the uniform classification provisions that have been provided by the Department in other orders should be provided for the Eastern Colorado order. He testified that when the Eastern Colorado order and other nearby orders were promulgated the classification plans adopted reflected the marketing conditions that prevailed at that time for the respective marketing areas. He stated that the classification plans varied from one order to another because local conditions and facilities were seldom alike from market to market. The witness indicated that as long as the markets remained relatively isolated from each other marketing problems resulting from the differences in the various classification plans were minimal.

The witness testified that in recent years the local character of the markets in the region have been disappearing. Intermarket movements of milk and dairy products have been commonplace as handlers have sought to find additional outlets for their products. He also indicated that such movements have been facilitated by developments such as health inspection reciprocity, improved highway networks, the virtual completion of the interstate highway system and the concentration of processing and packaging operations in large, specialized facilities.

The witness said that sour cream is being sold in the Denver area (Eastern Colorado order) by a handler regulated by the Indiana milk order. Also, cream products, including whipping cream and half and half, that are processed and packaged in Nebraska are presently being sold in the Eastern Colorado area, including Denver. In the above instances, he noted, the products are being classified under the uniform classification provisions previously cited. The witness stated that differences in classification among markets can adversely affect competition for sales among regulated handlers. He said that such differences have little, if any, foundation in current marketing conditions.

A spokesman for a proprietary handler regulated by the Great Basin milk order testified that the uniform classification provisions cited previously should be adopted for the order. He indicated that the handler operates two pool plants under the Great Basin order and distributes dairy products from the plants into the Great Basin, Western Colorado, Eastern Colorado, Lake Mead, Black Hills and Southwestern Idaho-Eastern Oregon marketing areas. The spokesman stated that over 70 percent of the sour cream, yogurt, half and half and party dips produced by the handler's Salt Lake City plant under the Great Basin milk order are shipped to Denver and distributed in the Eastern Colorado, Western Colorado and Black Hills marketing areas.

The witness said that unless the Great Basin milk order is amended to provide the uniform classification provisions cited previously, the Salt Lake City plant will continue to operate at a disadvantage with competing products in the other orders. He said that the adoption of a uniform classification system will eliminate the pricing distortions that act as an artificial barrier to the free movement of dairy products.

It is apparent from the testimony presented by proponents that considerable intermarket competition for sales of all classes of milk has developed since the three orders involved in this proceeding were established (1958–1961). When the orders were promulgated, marketing conditions were generally local in nature. Now, handlers, in one market compete extensively with handlers in another market where the classification of skim milk and butterfat are not the same. Also, the handlers regulated by the milk orders in this proceeding compete for sales with handlers regulated by the Indiana, Nebraska-Western Iowa, Wichita, and Eastern South Dakota milk orders which provide for the uniform classification provisions cited previouly.

Exhibits introduced at the hearing indicated that handlers regulated under these three orders presently use milk to produce products that are classified as Class I or Class III, but under the proposals would be a Class II classification. Such products include cream (both sweet and sour), which is a Class I product under these orders (except that under the Eastern Colorado order sour cream not disposed of under a Grade A label is a Class III product), and yogurt, ice cream mix, eggnog, and milk sold to commercial food processors, which are Class III uses under the orders. As described previously, these are all Class II products under those orders that provide for the uniform classification provisions.

These differences in the classification and the corresponding differences in prices of milk used to produce the same products are disruptive to the competitive relationships of handlers, and thus to the orderly marketing of producer milk, under these three orders in relation to handlers regulated under orders providing for the uniform classification provisions. It is concluded that uniformity is needed and that adoption of the uniform classification provisions in these three orders, along with uniform Class II pricing and uniform butterfat differentials, as discussed later, is appropriate.

Class I milk should include all skim milk, and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

Each product designated herein as a Class I produce would be considered a "fluid milk product" as defined in the respective orders. In addition to these fluid milk products, Class I milk would include any skim milk and butterfat not specifically accounted for in Class II or Class Class III, other than shrinkage permitted a Class III classification.

Class III milk should include products which are made from surplus Grade A milk and which compete in a national market with similar products made from manufacturing grade milk. These products include cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form (such as nonfat dry milk), any concentrated milk product in bulk, fluid form that is used to produce a Class III product, and evaporated or condensed skim milk (plain or sweetened) and evaporated or condensed skim milk (plain or sweetened) in consumer-type packages. Class III milk also should include any product not specified in Class I or Class II.

An intermediate class, Class II, should apply to certain products which can command a higher value than Class III products, but which must be competitively priced below Class I in order to compete with non-dairy substitute products or manufactured dairy products that can be used in making Class II products. Class II milk should include skim milk and butterfat disposed of in the form of a "fluid cream product," eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles one of these products. As defined in the respective orders, "fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

Class II milk should also include bulk fluid milk products disposed of to any commercial food processing establishment at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages. In addition, it should include milk used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and certain other products as specified in the order.

The classification scheme adopted herein was proposed by proponents and is identical to the uniform classification plan contained in many of the other Federal orders. The plan was based on exhaustive hearings held on this issue in 1971 for 39 markets. The final decision on the uniform classification plan was issued February 19, 1974 (39 FR 6202, 6452, 6712, 9012). Official notice was taken of this decision at the hearing for the current proceeding. It contains a detailed discussion of the classification issue. Official notice also was taken of the Assistant Secretary's decision issued July 17, 1975 (40 FR 30119), which modified certain provisions originally adopted in the 39-market decision. The record evidence indicates that the findings and conclusions of these decisions are equally applicable under current marketing conditions in the three markets involved in the current proceeding. The classification system adopted herein will be fully appropriate for the three orders. Adoption of the uniform classification plan in the respective orders will coordinate these essential provisions in the respective orders and with the same provisions under most other orders.

A spokesman for a cooperative association and one for an ice cream manufacturer testified that skim milk and butterfat used to make ice cream should continue to be classified as Class III in the Great Basin milk order, and not in Class II as proposed by proponents. They testified that ice cream made in Great Basin regulated plants competes with ice cream made in unregulated plants and from ungraded milk ingredients. However, the evidence in the record is not persuasive that any significant quantity of ungraded product competes with ice cream made by regulated plants. Further, it is apparent that both regulated and unregulated plants making ice cream in the Great Basin area are using substantial quantities of Grade A milk for use in ice cream and that a large proportion of the ingredients for unregulated plants comes from Great Basin pool plants. The record established that handlers want a regular supply of Grade A milk for the products proposed for uniform Class II classification, including ice cream, and that such milk is not available from alternative sources for less than the proposed Class II price. It is concluded that the continued Class III classification of skim milk and butterfat used in ice cream in the Great Basin order should be denied.

2. *Class II differential.* Class II differential should be 10 cents for each of the three orders in this proceeding. The differential is added to the basic formula price for the month of yield the Class II price.

The two cooperatives supplying milk to the Eastern Colorado and Western Colorado markets proposed that the Class II differential be 10 cents. Two proprietary handlers regulated by the Eastern Colorado order also proposed that the Class II differential be 10 cents. A proprietary handler regulated by the Great Basin order proposed that the Class II differential of that order be 10 cents, and the cooperative association that supplies most of the milk to the Great Basin market supported the proposal.

At present, the Eastern Colorado and Great Basin orders provide for a Class II differential of 15 cents. The Western Colorado order provides for a Class II differential of 15 cents. In all three orders the differential is added to the basic formula price for the month. There was no proposal to change the basic formula price as the move for the Class II price.

In conjunction with the adoption of the uniform classification provisions it also is appropriate to provide for the same Class II differential in these three orders that is provided presently in those orders that provide for the uniform classification provisions (i.e., the M–W price plus 10 cents). Both producer and handler witnesses claimed that the Class II differential in these three orders should be the M–W price plus 10 cents even though such a differential would represent a 5-cent reduction in Class II prices under the Eastern Colorado and Great Basin orders and a 5-cent increase in Class II prices under the Western Colorado order. To promote equity among handlers competing for the sale of similar products and the orderly marketing of milk by producers, it was previously found in this decision that the uniform classification provisions should be adopted in these three orders. To fully achieve this objective, it also is necessary to adopt in these three orders the same Class II differential that is provided in the other orders. Otherwise, the benefits of adopting the uniform classification provisions would be reduced because the prices of milk used to produce the Class II products would not be uniform. Accordingly, the Class II differential in each of the three orders should be the M–W price plus 10 cents.

3. *Butterfat differential.* The three orders should have a single butterfat differential equal to .115 times the average wholesale price of Grade A (92-score) bulk butter per pound at Chicago as reported by the Department for the month. This butterfat differential should

be used to adjust prices to the actual butterfat content of the milk being priced.

Presently, the three orders provide for separate butterfat differentials (for each one-tenth percent of butterfat above or below 3.5 percent) for each of the three classes of milk utilization. For Class I milk, the butterfat differential in the Eastern Colorado order is the Chicago butter price for the preceding month multiplied by 0.13, while in the Great Basin and Western Colorado orders it is the preceding month's Chicago butter price multiplied by 0.12. For Class II and Class III milk, the butterfat differential in the Eastern Colorado and Western Colorado orders is the Chicago butter price for the current month multiplied by 0.12, while in the Great Basin order it is the current month's Chicago butter price multiplied by 0.115. The butterfat differential used in adjusting the uniform price in each order is the average of the butterfat differentials for each class weighted by the proportion of butterfat in producer milk allocated to each class.

Proponents of the uniform classification provisions in the three markets stated that using a single butterfat differential factor of .115 would result in a uniform adjustment of class prices for butterfat content among the three orders and also would promote competitive equity with handlers in other markets with whom they competes. There was no opposition.

The witness for the proprietary handler who proposed amending the Great Basin order testified that under present conditions, with separate class butterfat differentials, the handler's Salt Lake City plant is at a disadvantage when competing with handlers regulated under orders that provide for a single butterfat differential. To illustrate this, the witness said that based on current pricing formulas the difference in the cost at its Salt Lake City plant for half and half with 10.5 percent butterfat and the cost at plants subject to a single butterfat differential is $2.34 per hundredweight. This would take into consideration the different classification for half and half among the markets.

It is appropriate to adopt the same butterfat differential in these three markets as is provided in the markets that contain the uniform classification provisions. As described previously, the record evidence indicates there is a need to incorporate the uniform classification provisions in these three orders because of the extensive competition among handlers regulated under these three orders, both between themselves and with handlers regulated under orders that already contain those classification provisions.

Further, a change in the relative values of the components of milk in Class I uses also has been occuring for some time. This has been related to the continuous decline, both nationally and locally, in the proportion of butterfat in Class I sales. An indication of this trend is the average test of fluid milk products sold in the Federal order marketing areas. In 1975 the average butterfat test in 55 Federal order markets for such sales was 2.75 percent. This percentage declined from year to year and in 1980 the comparable average butterfat test was 2.56 percent (official notice was taken at the hearing of the Annual Summaries for 1975 and 1980, Federal Milk Order Market Statistics, issued by the Dairy Division, AMS, USDA). On a percentage basis, the average butterfat content in these fluid milk products declined 7 percent from 1975 to 1980. It is anticipated that this decline will continue because of consumers' preference for low-fat products.

The average butterfat test of Class I sales in the three markets subject to the instant hearing also has been declining. The average test of Class I sales by handlers regulated under the Eastern Colorado order dropped from 2.63 percent in 1975 to 2.49 percent in 1980, a decline of 5 percent. For handlers regulated under the Great Basin order, the average test of Class I sales also declined 5 percent (from 2.54 percent in 1975 to 2.41 percent in 1980), while for handlers regulated under the Western Colorado order the average test declined 11 percent (from 2.83 percent in 1975 to 2.52 percent in 1980).

The increasing demand for fluid milk products with lower butterfat content can be expected to result in a continuing decline in the average butterfat test of Class I sales under each of the orders. Adopting the same butterfat differential for Class I milk as for other classes will give recognition to the reduced demand and the related lower market value of butterfat in Class I fluid milk products. By reflecting a lower value for butterfat in the returns to producers, there will be less incentive to produce high-test milk which consumers do not want.

Since the same butterfat differential would apply to all classes of milk, it is necessary under the orders to provide only for a producer butterfat differential. Under this procedure, there is no need to provide for a separate butterfat differential for adjusting class prices nor is there any need to pool the value of butterfat in each class. All producer "differential" butterfat received by handlers will be priced the same to all handlers regardless of the class in which the butterfat is used. Accordingly, each order should be modified to provide only for the announcement and use of a single producer butterfat differential.

4. *Unit polling of distribution plants for the Eastern Colorado milk order.* The provisions of the order that relate to the basis for pooling a distributing plant should be revised.

Presently, the order provides that a distributing plant shall qualify as a pool plant if during the month it processes and packages fluid milk products and an amount of milk equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as milk products, except filled milk, on routes, and 10 percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as fluid milk products, except filled milk, on routes in the marketing area. If a handler operates more than one distributing plant, each plant must qualify separately as a pool plant.

The order should be changed to permit a handler who operates two or more distributing plants to consider them as a unit for purposes of meeting the 50 percent total route disposition requirement. The order should continue to provide that the in-area distribution requirement be met by each plant separately.

The proposal was made by a cooperative association that supplies milk to the Eastern Colorado marketing area. The spokesman for the cooperative said that one of its chief customers has a fluid milk plant at Englewood, Colorado, and a plant at Greeley, Colorado, where it processes fluid milk products and where it also manufactures the majority of its Class II and Class III products. The plant at Greeley is operating close to the 50 percent route disposition requirement. If the Englewood plant increases its Class II manufacture to lessen the impact at Greeley, the cooperative probably would have to supply the milk at some cost to the association. The association believes that the unit pooling that it proposes would obviate the need to do that, would keep the Greeley plant pooled and would assure continued pool status for the association's member producers who are supplying milk to the Greeley plant.

A spokesman for the proprietary operator of the plants at Englewood and Greeley supported the proposal. He testified that both plants process fluid milk products and the Greeley plant packages sour cream, cottage cheese, whipping cream and half and half for the Eastern Colorado market. The Englewood plant packages ice cream, yogurt and buttermilk for the same

market. The spokesman indicated that the two plants are about 60 miles apart and are coordinated to supply the Eastern Colorado market with a variety of milk and dairy products.

The witness stated that in the recent past the Greeley pool plant has encountered problems meeting the requirement that the plant distribute at least 50 percent of its receipts as fluid milk products on routes, particularly in the summer months. He noted that in June 1980 the plant failed to meet the requirement and it was depooled, with adverse consequences to other regulated handlers who bought fluid milk products from the Greeley plant. He indicated that such handlers incurred additional financial obligations to the order's producer-settlement fund. To avoid this, the witness said, the handler obtained a temporary suspension of the provision for July and August 1980. A similar suspension was obtained for July and August 1981.

The spokesman testified that the pooling problem for the Greeley plant will not be restricted to the summer months. The handler anticipates that the Greeley plant's Class I utilization will hover around 50 percent throughout the year because the cream products will become Class II if the uniform classification provisions are adopted.

The proposed change in the pool distributing plant definition should be adopted. Order provisions should not impede the ability of a multi-plant handler to achieve operational efficiencies by specializing in the processing of fluid milk products in one plant and by-products in another. With unit pooling, it will be possible for a multi-plant handler to confine certain specialized operations in one plant in order to achieve an economy of scale comparable to that which would be realized by maintaining his total operation in one plant.

Moreover, the need for shifting producer deliveries between the two plants solely to assure that each plant qualifies individually for pooling could be avoided under the proposal. Such practices would add unnecessarily to the cost of handling and transporting the milk to be pooled. Providing for unit pooling will remove the need to make uneconomic movements of milk solely for pooling purposes and will allow the assignment of producers to the plant where it is most practicable for them to deliver milk.

As indicated previously, each distributing plant in the pooling unit would still have to dispose of at least 10 percent of its receipts or 12,000 pounds per day, whichever is less, on routes in the marketing area. There was no proposal to change this requirement.

As a condition to qualify for unit pooling, a handler would be required to notify the market administrator in writing prior to the first month in which plants are to be considered as a unit for pooling purposes. Unit pooling would be continued in each following month without further notification. However, if other plants of the handler are added to or dropped from the unit, the handler would need to notify the market administrator prior to the month in which such change is to be effective.

The proposal by the multi-plant operator that notification to the market administrator be made during any month for which unit pooling is applicable, rather than prior to such month, should not be adopted. The handler said that such provision was needed, if it were discovered during a month that unit pooling is needed. The evidence is that unit pooling may be needed in all months of the year, particularly with the adoption of uniform classification provisions. Accordingly, it is presumed that the market administrator will be notified in advance that automatic unit pooling is desired.

5. *Other changes.* If for any reason a price or pricing constituent needed by the market administrator in administrating the three orders in this proceeding is not available, the market administrator should be authorized by the order to use an equivalent price or pricing constituent as determined by the Secretary. Including this identical provision in each of the three orders will leave no uncertainty with respect to the procedure to be followed in the absence of any data customarily used and thereby will prevent interruption in the operation of the order. This is the same provision that was adopted as part of the format of uniform provisions for the 39-market amendments cited previously. It is one of the several such provisions that were proposed by proponents in requesting uniform classification for the orders in this proceeding, and all of such provisions are adopted herein for the reasons set forth in the previously cited 1974 decision.

The uniform format of order provisions that was incorporated into the 39 other Federal milk orders in 1974 also should be adopted in these three orders. In adopting this format no substantive changes have been made in the order provisions of the respective orders that were not under consideration at the hearing. All orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or of other source milk, those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, the three orders of this proceeding are structured so that the provisions relating to these various categories do not appear in the same place in the orders or under the same section title as they do in those orders that contain the uniform classification provisions. Accordingly, for the reasons set forth in the previously cited 1974 decision these three orders should be coordinated with those other orders in this respect.

6. *Advance Class II price notice.* This decision includes amendatory language for advance Class II price notice for the Eastern Colorado, Western Colorado and Great Basin milk orders. The adopted amendments are based on the record of a hearing held at Denver, Colorado, on February 3, 1982, under Docket Nos. AO–326–A21–R01, AO–301–A17–R01 and AO–309–A23–R01 (47 FR 814). Such hearing, which involved 14 milk orders, was a reopening of the hearing on uniform classification provisions for the Eastern Colorado, Western Colorado and Great Basin orders. The findings, conclusions and adopted amendments based on the record of the 14-order hearing are being published simultaneously with this decision, and the adopted amendatory language of that decision is included herein as a convenience.

Rulings on Proposed Finding and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict

with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Parts 1137, 1134, and 1136

Milk marketing orders, Milk, Dairy products.

Recommend Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in each of the respective marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1137.1 General provisions.

Definitions

1137.2 Eastern Colorado marketing area.
1137.3 Route disposition.
1137.4 [Reserved]
1137.5 [Reserved]
1137.6 [Reserved]
1137.7 Pool plant.
1137.8 Nonpool plant.
1137.9 Handler.
1137.10 Producer-handler.
1137.11 [Reserved]
1137.12 Producer.
1137.13 Producer milk.
1137.14 Other source milk.
1137.15 Fluid milk product.
1137.16 Fluid cream product.
1137.17 Filled milk.
1137.18 Cooperative association.
1137.19 Product prices.

Handler Reports

1137.30 Reports of receipts and utilization.
1137.31 Payroll reports.
1137.32 Other reports.

Classification of Milk

1137.40 Classes of utilization.
1137.41 Shrinkage.
1137.42 Classification of transfers and diversions.
1137.43 General classification rules.
1137.44 Classification of producer milk.
1137.45 Market administrator's reports and announcements concerning classification.

Class Prices

1137.50 Class prices.
1137.51 Basic formula price.
1137.51a Basic Class II formula price.
1137.52 Plant location adjustments for handlers.
1137.53 Announcement of class prices.
1137.54 Equivalent price.

Uniform Price

1137.60 Handler's value of milk for computing uniform price.
1137.61 Computation of uniform price.
1137.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1137.70 Producer-settlement fund.
1137.71 Payments to the producer-settlement fund.
1137.72 Payments from the producer-settlement fund.
1137.73 Payments to producers and to cooperative associations.
1137.74 Butterfat differential.
1137.75 Plant location adjustments for producers and on nonpool milk.
1137.76 Payments by a handler operating a partially regulated distributing plant.
1137.77 Adjustment of accounts.
1137.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1137.86 Assessment for order administration.
1137.86 Deduction for marketing services.

Authority.—Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

General Provisions

§ 1137.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1137.2 Eastern Colorado marketing area.

"Eastern Colorado marketing area" hereinafter called the "marketing area" means all the territory within the perimetric boundaries of the counties listed below, including all territory (municipal, State, or Federal) installations, institutions and other establishments:

Colorado Counties

Adams, Arapahoe, Boulder, Cheyenne, Clear Creek, Crowley, Custer, Denver, Douglas, Elbert, El Paso, Gilpin, Huerfano, Jefferson, Kiowa, Kit Carson, Las Animas, Larimer, Lincoln, Logan, Morgan, Otero, Park, Phillips, Pueblo, Sedgwick, Teller, Washington, Weld, Yuma.

Kansas Counties

Cheyenne, Logan, Sherman, Wallace.

§ 1137.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant: *Provided,* That packaged fluid milk products, except filled milk, that are transferred to a distributing plant from a plant with route disposition in the marketing area, and which are classified as Class I under § 1137.40(a), shall be considered as a route disposition from the transferor plant, rather than from the transferee plant, for the single purpose of qualifying it as a pool distributing plant under § 1137.7(a)(1).

§§ 1137.4–1137.6 [Reserved]

§ 1137.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk. A unit consisting of two or more distributing plants operated by a handler shall be considered as one distributing plant for the purpose of meeting the requirements of this subparagraph if each plant separately meets the requirements of paragraph (a)(2) of this section and the

handler notifies the market administrator in writing before the first day of the month that the plants should be considered as a unit. The unit shall continue from month to month thereafter without further notification. If, however, there is any change in the composition of the unit, the handler shall notify the market administrator in writing on or before the first day of the month such change is to be made; and

(2) Ten percent or more of such receipts, or 12,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved to distributing pool plant(s) as fluid milk products, except filled milk. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of March through August unless it fulfills the shipping requirements of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) Any distributing plant from which there is less than an average of 300 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1137.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1137.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1137.12;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notifies the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for all such milk. Such milk shall be deemed to have been received by such cooperative association at the location of the pool plant to which delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1173.7(c).

§ 1137.10 Producer-handler.

(a) "Producer-handler" means any person who operates a dairy farm and a milk processing plant from which there is route disposition in the marketing area and who:

(1) Receives no fluid milk products during the month from dairy farmers;

(2) Receives no fluid milk products during the month from any other source except by transfer from a pool plant; and

(3) Receives no other source milk for reconstitution into fluid milk products.

(b) Such person must provide proof satisfactory to the market administrator that the care and management of all the dairy animals and other resources necessary to produce the volume of fluid milk products (excluding transfers from pool plants) and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of such person.

§ 1137.11 [Reserved]

§ 1137.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom at least three deliveries of milk are received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of its member producer milk received at distributing pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative according to a method approved by the market administrator.

(2) A handler in this capacity as the operator of a distributing pool plant may divert for this account the milk of any

producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom at least three deliveries of milk are received during the month at this distributing pool plant. The total quantity of milk so diverted may not exceed 30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purposes of the requirements of § 1137.7, milk diverted for the account of the operator of a distributing pool plant, except an operator which is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purposes of location adjustments pursuant to §§ 1137.52 and 1137.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the nonpool plant to which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1137.44(a)(8)(iii) and the corresponding step of § 1137.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1137.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1137.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1137.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1137.9(b), subject to the limitations and conditions provided in § 1137.12; and

(2) For which the cooperative association is the handler pursuant to § 1137.9(c).

§ 1137.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1137.40(b)(1) from any source other than producers, handlers described in § 1137.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1137.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1137.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1137.40(b)(1)) for which the handler fails to establish a disposition.

§ 1137.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) the term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1137.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1137.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1137.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales, or marketing milk or its products for its members.

§ 1137.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1137.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices

used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1137.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1137.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1137.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1137.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragrahs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1137.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1137.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1137.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1137.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1137.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1137.30 and 1137.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1137.40 Classes of utilization.

Except as provided in § 1137.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1137.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt,

except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is not disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cotttage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1137.15; and

(6) In shrinkage assigned pursuant to § 1137.41(a) to the receipts specified in § 1137.41(a)(2) and in shrinkage specified in § 1137.41 (b) and (c).

§ 1137.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1137.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph in amounts equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) (1) through (6) of this section; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1137.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1137.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1137.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1137.44(a)(7) or the corresponding step of § 1137.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the

least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1137.44(a) (11) or (12) or the corresponding steps of § 1137.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk from form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administractors, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provide for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1137.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignments of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1137.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products as such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization as such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any

remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1137.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1137.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1137.60.

§ 1137.43 General classification rules.

In determining the classification of producer milk pursuant to § 1137.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1137.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1137.9(b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1137.40, 1137.41, and 1137.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1137.9(b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1137.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1137.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1137.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1137.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1137.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1137.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in §1137.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1137.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount

equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1137.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1137.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received. For purposes of this subtraction at a pool plant operated by a cooperative association, skim milk in fluid milk products transferred to the pool plant of another handler shall be added to the remaining pounds of skim milk in each class prorata to the market average utilization announced pursuant to § 1137.45(a):

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section.

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1137.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler). For purposes of such computation at a pool plant of a cooperative association, the pounds remaining shall include any remainder of the quantity added pursuant to paragraph (a)(11) of this section;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the

computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1137.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1137.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1137.42(e) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1137.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimates shall be based upon the most current available data and shall be final for such purposes.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1137.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1137.50 Class prices.

Subject to the provisions of § 1137.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the proceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1137.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1137.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1137.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1137.9(c) at a pool plant, or diverted to a nonpool plant, located more than 50 miles by shortest highway distance as measured by the market administrator, from the plant to the nearest County Courthouse located in Denver, Colo.; Pueble, Colo.; or Colorado Springs, Colo., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1137.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 75 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1137.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1137.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1137.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1137.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1137.42(e) that were classified in each class pursuant to §§ 1137.43(a) and 1137.44(c) by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1137.44(a)(14) and the corresponding step of § 1137.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1137.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1137.44(a)(9) and the corresponding step of § 1137.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1137.44(a)(12) and the corresponding step of § 1137.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7) (i) through (iv) and the corresponding step of § 1137.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(7) (v) and (vi) and the corresponding step of § 1137.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1137.44(a)(11) and the corresponding step of § 1137.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or

butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1137.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1137.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1137.60 for all handlers who filed the reports prescribed by § 1137.30 for the month and who made the payments pursuant to §§ 1137.71 and 1137.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1137.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1137.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight of producer milk of 3.5 percent butterfat content delivered to plants at which no location adjustment is applicable.

§ 1137.62 Announcement of uniform price and butterfat differential

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1137.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1137.71, 1137.76, and 1137.77, subject to the provision of § 1137.78 and out of which he shall make all payments pursuant to §§ 1137.72 and 1137.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1137.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1137.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1137.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1137.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1137.73(c), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1137.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1137.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1137.71(a)(2) exceeds the amount computed pursuant to § 1137.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1137.73 Payments to producers and to cooperative associations.

Except as provided in paragraphs (b) and (c) of this section, each handler except a cooperative association shall make payment as specified in paragraph (a) of this section to each producer from whom milk is received:

(a)(1) On or before the last day of each month, to each producer who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received during the first 15 days of the month at the Class III price for the preceding month.

(2) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1137.61, as adjusted by the butterfat differential specified in § 1137.74 and location adjustments specified in § 1137.75, plus or minus adjustments for errors made in previous payments to such producers and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1137.86; and

(iii) Proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment for such delivery period pursuant to § 1137.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to

reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) For milk received from a pool plant operated by a cooperative association or from a cooperative association that is a handler pursuant to § 1137.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price pursuant to § 1137.61, as adjusted pursuant to §§ 1137.74 and 1137.75, less payment made pursuant to paragraph (c)(1) of this section.

(d) In making the payments to producers pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1137.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from pool plants operated by cooperative associations, and from handlers described in § 1137.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of such nonpool plant, each at the rates set forth in § 1137.52; and

(b) For purposes of computations pursuant to §§ 1137.71 and 1137.72 the uniform price shall be adjusted at the rates set forth in § 1137.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1137.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1137.30(b) and § 1137.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order in classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partically regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partically regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1137.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the

extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1137.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1137.60 for such handler shall include, in lieu of the value of other source milk specified in § 1137.60(f) less the value of such other source milk specified in § 1137.71(a)(2)(ii), a value of milk determined pursuant to § 1137.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1137.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1137.30(b) and 1137.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1137.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1137.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1137.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in moneys due a producer, a cooperative association, or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1137.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1137.71 or 1137.77 relative to payments to the producer settlement fund shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

Administrative Assessment and Marketing Service Deduction

§ 1137.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1137.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1137.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1137.44(a) (7) and (11) and the corresponding steps of § 1137.44(b), except such other source milk that is excluded from the computations pursuant to § 1137.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat substracted pursuant to § 1137.76(a)(2).

§ 1137.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1137.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1134.1 General provisions.

Definitions

1134.2 Western Colorado marketing area.
1134.3 Route disposition.
1134.4 [Reserved]
1134.5 Distributing plant.
1134.6 Supply plant.
1134.7 Pool plant.
1134.8 Nonpool plant.
1134.9 Handler.
1134.10 Producer-handler.

Sec.
1134.11 [Reserved]
1134.12 Producer.
1134.13 Producer milk.
1134.14 Other source milk.
1134.15 Fluid milk product.
1134.16 Fluid cream product.
1134.17 Filled milk.
1134.18 Cooperative association.
1134.19 Product prices.

Handler Reports

1134.30 Reports of receipts and utilization.
1134.31 Payroll reports.
1134.32 Other reports.

Classification of Milk

1134.40 Classes of utilization.
1134.41 Shrinkage.
1134.42 Classification of transfers and diversions.
1134.43 General classification rules.
1134.44 Classification of producer milk.
1134.45 Market administrator's reports and announcements concerning classification.

Class Prices

1134.50 Class prices.
1134.51 Basic formula price.
1134.51a Basic Class II formula price.
1134.52 Plant location adjustments for handlers.
1134.53 Announcement of class prices.
1134.54 Equivalent price.

Uniform Price

1134.60 Handler's value of milk for computing uniform price.
1134.61 Computation of uniform price.
1134.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1134.70 Producer-settlement fund.
1134.71 Payments to the producer-settlement fund.
1134.72 Payments from the producer-settlement fund.
1134.73 Payments to producers and to cooperative association.
1134.74 Butterfat differential.
1134.75 Plant location adjustments for producers and on nonpool milk.
1134.76 Payments by a handler operating a partially regulated distributing plant.
1134.77 Adjustment of accounts.
1134.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1134.85 Assessment for order administration.
1134.86 Deduction for marketing services.

Authority: Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

General Provisions

§ 1134.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

Definitions

§ 1134.2 Western Colorado marketing area.

"Western Colorado marketing area", hereinafter called the "marketing area", means all the territory within the outer boundaries of the following counties in the State of Colorado:

Delta, Garfield, Mesa, Montrose.

§ 1134.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outsets (including a delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a delivery in bulk to a nonpool plant.

§ 1134.4 [Reserved]

§ 1134.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are pasteurized or packaged and from which there is route disposition of Grade A fluid milk products in the marketing area.

§ 1134.6 Supply plant.

"Supply plant" means any plant to which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a pool distributing plant.

§ 11.34.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which during the month fluid milk products are processed or packaged and from which:

(1) An amount equal to 50 percent or more of the total receipts of Grade A milk (except receipts from distributing pool plants) is disposed of as route disposition, except filled milk; and

(2) Ten percent or more of such receipts, or 2,000 pounds per day, whichever is less, are disposed of as route disposition, except filled milk, in the marketing area.

(b) Any plant, hereinafter referred to as a "supply pool plant" from which during the month 50 percent of its dairy farm supply of Grade A milk is moved in the form of fluid milk products, except filled milk, to distributing pool plants. Any supply plant which has qualified as a pool plant in each of the months of September through February shall be a pool plant in each of the following months of March through August, unless written request for nonpool status for any such month(s) is furnished in advance to the market administrator. A plant withdrawn from supply pool plant status may not be reinstated for any of the following months of March through August unless it fulfills the shipping requirements of this paragraph for such month(s).

(c) The term "pool plant" shall not apply to the follwing plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) of this section and there is more route disposition (except filled milk) in this marketing area than in the marketing area defined under such other order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of March through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) Any distributing plant from which there is less than an average of 200 pounds of route disposition per day, except filled milk, in the marketing area during the month.

§ 1134.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are futher defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are moved during the month to a pool plant.

§ 1134.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1134.12;

(c) A cooperative association with respect to milk of its member producers

which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by the association or by a hauler under contract to the assocation;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1134.7(c); and

(g) A vendor (any person who does not operate a plant described in paragraph (a), (d), (e) or (f) of this section but who engages in the business of receiving fluid milk products for resale and distributes to retail and wholesale outlets, via a mobile delivery vehicle, packaged fluid milk products received from such a plant).

§ 1134.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family, or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the lesser of 5,000 pounds or 5 percent of his Class I sales during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1134.11 [Reserved]

§ 1134.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements for fluid consumption of a duly constituted health authority, whose milk is received at a pool plant or diverted to a nonpool plant that is not a producer-handler plant within the limits set forth in paragraph (a) (1) and (2) of this section:

(1) A cooperative association may divert for its account the milk of any member-producer from whom not less than 3 days' production was received during the month at a distributing pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of its member-producer milk received at pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. Such request shall specify the basis for assigning overdiverted milk to the producer-members of each cooperative association, at a time and in a manner approved by the market administrator.

(2) A handler may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section, from whom not less than 3 days' production was received during the month at the pool plant. The total quantity of milk so diverted may not exceed 60 percent in the months of March, April, May, June, July, and August and 30 percent in other months of the milk received at such distributing pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(1) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler, at a time and in a manner approved by the market administrator, shall specify the dairy farmers whose milk is ineligible as producer milk.

(3) For the purpose of the requirements of § 1134.7, milk diverted for the account of the operator of a distributing pool plant, except an operator who is also a cooperative association diverting milk in the same month pursuant to paragraph (a)(1) of this section, shall be included in the receipts of the pool plant from which diverted.

(4) For purpose of location adjustments pursuant to §§ 1134.52 and 1134.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1134.44(a)(8)(iii) and the corresponding step of § 1134.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1134.13 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer.

(a) With respect to receipts at a pool plant for which the handler operating such plant is to be responsible pursuant to § 1134.60:

(1) Received directly from such producer; and

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions provided in § 1134.12;

(b) With respect to the additional receipts of a cooperative association:

(1) For which the cooperative association is the handler pursuant to § 1134.9(b), subject to the limitations and conditions provided in § 1134.12; and

(2) For which the cooperative association is the handler pursuant to § 1134.9(c). If the milk received at a pool plant from a handler described in § 1134.9(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1134.9(c) at the location of the pool plant.

§ 1134.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1134.40(b)(1) from any source other than producers, handlers described in § 1134.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1134.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1134.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1134.40(b)(1)) for which the handler fails to establish a disposition.

§ 1134.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percentage nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1134.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1134.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1134.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of, or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 1134.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division,

Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1134.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1134.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1134.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1134.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1134.31 Payroll reports.

(a) On or before the 23rd day after the end of each month, each handler described in § 1134.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 11344.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1134.32 Other reports.

(a) On or before the seventh day after the end of each month, each handler described in § 1134.9 (a) and (b) who diverted milk to nonpool plants shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(1) The name of the plant to which diverted;

(2) The name of the individual dairy farmers so diverted;

(3) The pounds of skim milk and butterfat from each dairy farmer contained in the milk so diverted; and

(4) The number of days milk of the dairy farmer was received at a pool plant of the diverting order.

(b) In addition to the reports required pursuant to §§ 1134.30 and 1134.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1134.40 Classes of utilization.

Except as provided in § 1134.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1134.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and buld fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, pudding, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry cured cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this

section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1134.15; and

(6) In shrinkage assigned pursuant to § 1134.41(a) to the receipts specified in § 1134.41(a)(2) and in shrinkage specified in § 1134.41(b) and (c).

§ 1134.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1134.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section, the maximum pounds computed pursuant to such paragraph divided by 0.02; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim mik and butterfat, respectively, in milk received from a handler described in § 1134.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1134.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1134.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Except as provided in paragraph (e) of this section, skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b);

(2) If the transferor-plant received during the month orther source milk to be allocated pursuant to § 1134.44(a)(7) or the corresponding step of § 1134.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1134.44(a) (11) or (12) or the corresponding steps of § 1134.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Tranfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat

allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1134.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified.

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product; and

(2) As Calss I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1134.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, and then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a cooperative association to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1134.9(c) and from a pool plant operated by a cooperative association to another handler's pool plant shall be classified pursuant to § 1134.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1134.60.

§ 1134.43 General classification rules.

In determining the classification of producer milk pursuant to § 1134.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1134.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1134.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class is accordance with §§ 1134.40, 1134.41, 1134.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1134.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1134.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1134.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1134.9(a) for each of his pool plants separately the classification of producer milk and milk subject to the provisions of § 1134.42(e) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1134.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid products received in packaged form from an other order plant, except that to be substracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1134.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1134.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1134.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk subject to the provisions of § 1134.42(e), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subract from the pounds of skim remaining in each class, in series begining with Class III, the pounds of skim milk in fluid milk products and products specified in § 1134.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being

subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1134.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1134.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk subject to the provisions of § 1134.42(e), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk subject to the provisions of § 1134.42(e) in each class shall be the combined pounds of skim and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1134.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(A) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1134.44(a)(12) and the corresponding step of § 1134.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1134.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which

such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1134.50 Class prices.

Subject to the provisions of § 1134.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.00.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1134.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1134.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheedar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computation:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1134.52 Plant location adjustments for handlers.

(a) For milk received from producers and from handlers described in § 1134.9(c) at a pool plant, located more than 100 miles by shortest highway distance as measured by the market administrator, from the courthouse in Grand Junction, Colorado, and which is classified as Class I milk or assigned Class I location adjustment credit under paragraph (b) of this section, the price computed pursuant to § 1134.50(a) shall be reduced by 15 cents if such plant is located more than 100 miles but not more than 110 miles from such courthouse, and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee plant, in excess of the sum of receipts at such plant for producers and handlers described in § 1134.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1134.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1134.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1134.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk subject to the provisions of § 1134.42(e) that were classified in each class pursuant to §§ 1134.43(a) and 1134.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1134.44(a)(14) and the corresponding step of § 1134.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1134.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1134.44(a)(9) and the corresponding step of § 1134.44(b);

(D) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (i) through (iv) and the corresponding step of § 1134.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(7) (v) and (vi) and the corresponding step of § 1134.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1134.44(a)(11) and the corresponding step of § 1134.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classifed and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1134.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1134.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1134.60 for all handlers who filed the reports prescribed by § 1134.30 for the month and who made the payments pursuant to §§ 1134.71 and 1134.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1134.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1134.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1134.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1134.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1134.71, 1134.76, and 1134.77, subject to the provision of § 1134.78 and out of which he shall make all payments pursuant to §§ 1134.72 and 1134.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

§ 1134.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1134.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1134.75, of such handler's receipts of producer milk and milk subject to the provisions of § 1134.42(e). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1134.73(e), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received (not to be less than the Class III price) of other source milk for which a value is computed pursuant to § 1134.60(f).

(b) On or before the 25th day after the end of the month each person who

operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

(c) Each vendor shall pay the market administrator on or before the 25th day after the end of the month at the difference between the value of the skim milk and butterfat in fluid milk products received from a producer-handler during the month at the Class I price applicable at the location of the producer-handler's plant (but not less than the Class III price) and its value at the Class III price subject to the following conditions:

(1) The quantities of skim and butterfat in fluid milk products on which payments shall be made pursuant to this section shall not exceed the vendor's Class I disposition in the marketing area during the month; and

(2) This section shall not apply to a vendor whose total Class I disposition is obtained from a producer-handler, or whose total receipts and disposition of fluid milk products are considered as a part of the receipts and disposition of the producer-handler pursuant to § 1134.10(b)(3).

§ 1134.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1134.71(a)(2) exceeds the amount computed pursuant to § 1134.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1134.73 Payments to producers and to cooperative associations.

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(a) Not later than the last day of the month, to each producer from whom he received milk during the first 18 days of the month, a partial payment for the milk received during the first 15 days of the month, at the Class III price for the preceding month.

(b) Not later than the 16th day of the month, for milk received during the preceding month, an amount computed at not less than the uniform price, per hundredweight, pursuant to § 1134.61, as adjusted by the butterfat differential specified in § 1134.74, location adjustment specified in § 1134.75 and adjustments for errors made in previous payments minus:

(1) Payments made pursuant to paragraph (a) of this section;

(2) Deductions for marketing services pursuant to § 1134.86; and

(3) Deductions approved by the market administrator and authorized in writing by the producer. If the handler has not received full payment for the delivery period from the market administrator pursuant to § 1134.72, he may reduce his total payments to all producers uniformly by the amount owing to him by the market administrator. The handler shall, however, complete all payments not later than the 16th day of the month following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim by the cooperative association, each handler shall pay to the cooperative association on or before the second day preceding the dates set out in paragraphs (a) and (b) of this section an amount equal to the sum of the individual payments otherwise payable to the producer members of such organization. This payment shall be made for all milk of such producer certified by the cooperative association as a member, beginning the first day of the month following receipt of the certification and ending the last day of the month next preceding the date on which a written notice from the cooperative association terminating the membership was received.

(2) A copy of the request for payment, promise to reimburse, and certified list of members, shall be filed simultaneously with the market administrator. He may verify the information by auditing the records of the cooperative association. Exceptions to the accuracy of the membership certification, by a producer or by a handler, shall be made in writing to the market administrator for his determination.

(d) In making the payments to producers under paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk, a supporting statement which shall show for each month;

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producers;

(3) The minimum rate or rates at which payment to such producer is required under this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) For milk received from a pool plant operated by a cooperative association or from a handler described in § 1134.9(c), each handler shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) A final settlement equal to the value of such milk at the uniform price, as adjusted pursuant to §§ 1134.74 and 1134.75, less payment made pursuant to paragraph (e)(1) of this section.

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter

per pound at Chicago, as reported by the Department for the month.

§ 1134.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant from producers, in bulk from a pool plant operated by a cooperative association, and from a handler described in § 1134.9(c) may be reduced by the amount of the location adjustment applicable at the location of the pool plant at which such milk was first physically received from producers, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which diverted, each at the rates set forth in § 1134.52; and

(b) For purposes of computations pursuant to §§ 1134.71 and 1134.72 the uniform price shall be adjusted at the rates set forth in § 1134.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1134.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to § 1134.30(b) and § 1134.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1134.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1134.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1134.60 for such handler shall include, in lieu of the value of other source milk specified in § 1134.60(f) less the value of such other source milk specified in § 1134.71(a)(2)(ii), a value of milk determined pursuant to § 1134.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1134.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§1134.30(b) and 1134.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1134.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1134.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1134.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in

moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1134.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1134.71, 1134.76, 1134.77, 1134.85 and 1134.86 shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this sections shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1134.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk subject to the provisions of § 1134.42(e) but excluding such milk in the case of a cooperative association which is a handler of milk subject to the provisions of § 1134.42(e)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1134.44(a)(7) and (11) and the corresponding steps of § 1134.44(b), except such other source milk that is excluded from the computations pursuant to § 1134.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1134.76(a)(2).

§ 1134.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of his own production) pursuant to § 1134.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) For producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 14th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction from each producer was computed.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

Subpart—Order Regulating Handling

General Provisions

Sec.
1136.1 General provisions.

Definitions

1136.2 Great Basin marketing area.
1136.3 Route disposition.
1136.4 [Reserved]
1136.5 Fluid milk plant.
1136.6 [Reserved]
1136.7 Pool plant.
1136.8 Nonpool plant.
1136.9 Handler.
1136.10 Producer-handler.
1136.11 [Reserved]
1136.12 Producer.
1136.13 Producer milk.
1136.14 Other source milk.
1136.15 Fluid milk product.
1136.16 Fluid cream product.
1136.17 Filled milk.
1136.18 Cooperative association.
1136.19 Product prices.

Handler Reports

1136.30 Reports of receipts and utilization.
1136.31 Payroll reports.
1136.32 Other reports.

Classification of Milk

1136.40 Classes of utilization.
1136.41 Shrinkage.
1136.42 Classification of transfers and diversions.
1136.43 General classification rules.
1136.44 Classification of producer milk.
1136.45 Market administrator's reports and announcements concerning classification.

Class Prices

1136.50 Class prices.
1136.51 Basic formula price.
1136.51a Basic Class II formula price.
1136.52 Plant location adjustments for handlers.
1136.53 Announcement of class prices.
1136.54 Equivalent price.

Uniform Price

1136.60 Handler's value of milk for computing uniform price.
1136.61 Computation of uniform price.
1136.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1136.70 Producer-settlement fund.
1136.71 Payments to the producer-settlement fund.
1136.72 Payments from the producer-settlement fund.
1136.73 Payments to producers and to cooperative associations.
1136.74 Butterfat differential.
1136.75 Plant location adjustments for producers and on nonpool milk.
1136.76 Payments by a handler operating a partially regulated distributing plant.
1136.77 Adjustment of accounts.
1136.78 Charges on overdue accounts.

Administrative Assessment and Marketing Service Deduction

1136.85 Assessment for order administration.
1136.86 Deduction for marketing services.

Authority: Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

Subpart—Order Regulating Handling

General Provisions

§ 1136.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made part of this order.

Definitions

§ 1136.2 Great Basin marketing area.

"Great Basin marketing area" hereinafter called the "marketing area" means all the territory, including all government reservations and installations and all municipalities, within the places listed below:

Utah Counties

Box Elder, Cache (city of Logan only), Carbon, Daggett, Davis, Duchesne, Emery, Grand, Juab, Millard, Morgan, Salt Lake, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Weber.

Nevada Counties

Elko, White Pine.

Wyoming Counties

Uinta (town of Evanston only).

Idaho Counties

Bannock, Bear Lake, Bingham, Bonneville, Franklin, Jefferson, Madison.

§ 1136.3 Route disposition.

"Route disposition" means any disposition of fluid milk products (including through a vendor or disposition from a plant or plant store) classified as Class I milk, except in bulk form to fluid milk plants and except Class II and Class III milk disposition to plants which are not fluid milk plants.

§ 1136.4 [Reserved]

§ 1136.5 Fluid milk plant.

"Fluid milk plant" means a plant:

(a) In which milk or milk products (including filled milk) are processed or packaged and from which there is route disposition during the month in the marketing area, or

(b) In which milk is received or processed and from which milk or skim milk is shipped during the month to a plant described in paragraph (a) of this section.

§ 1136.6 [Reserved]

§ 1136.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A fluid milk plant from which not less than 50 percent in any month of September through February, not less than 45 percent in any month of March and April, and not less than 40 percent in any month of May through August of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant (excluding milk received at such plant from other order plants or dairy farms which is classified in Class III under this order and which is subject to the pricing and pooling provisions of another order issued pursuant to the Act) or diverted therefrom as producer milk to a nonpool plant pursuant to § 1136.13 are disposed of as route disposition, and not less than 15 percent of such receipts are disposed of as route disposition in the marketing area.

(1) For the purpose of determining the qualification pursuant to this paragraph of a fluid milk plant pursuant to § 1136.5(a) operated by a cooperative association, producer milk which such cooperative association causes to be delivered to the pool plant of another handler or diverted therefrom shall be included with receipts of producer milk at such cooperative's plant and the quantity of such milk assigned to Class I pursuant to § 1136.45(d) shall be included as route disposition from such cooperative's plant;

(i) If such a cooperative association operates more than one fluid milk plant as defined in § 1136.5(a), such producer milk and Class I milk shall be included in the computation for whichever plant the cooperative association requests in writing to the market administrator; and

(ii) If no such written request is made, such producer milk and Class I milk shall be prorated among the plants; and

(2) If a handler operates more than one fluid milk plant, the combined receipts and fluid milk products disposition, except filled milk, of any such plants may be used as the basis for qualifying the respective plants pursuant to the preceding computations specified in this paragraph if a handler in writing so requests the market administrator.

(b) A fluid milk plant from which during the month fluid milk products, except filled milk, equal to not less than 50 percent of the total of receipts at the plant from dairy farmers meeting the inspection requirements described in § 1136.12, milk diverted pursuant to § 1136.13 by the handler operating the plant and other fluid milk products, except filled milk, qualified for distribution for fluid consumption received at the plant are shipped to a plant described in paragraph (a) of this section: *Provided,* That a plant which so qualifies in each of the months of August through January as a pool plant shall be a pool plant in each of the following months of February through July unless the operator requests in written notice to the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant; and

(3) Any plant described in paragraph (c)(3)(i) or (ii) of this section shall be exempt from paragraph (a) or (b) of this section, unless the Secretary determines otherwise, if it would be fully regulated subject to the classification and pooling provisions of another order issued pursuant to the Act if not so subject to this part:

(i) Any plant from which there is less route disposition, except filled milk, in the Great Basin marketing area than in the marketing area regulated pursuant to such other order if not so subject to this part; or

(ii) Any plant during the months of February through July which qualifies as a pool plant only pursuant to the proviso of paragraph (b) of this section.

§ 1136.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a fluid milk plant that is neither an other order plant, a producer-handler plant, nor an exempt plant from which there is route disposition in consumer-type packages or dispenser units (other than to a pool plant) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is neither an other order plant, a producer-handler plant nor an exempt plant from which fluid milk products qualified for fluid consumption are shipped during the month to a pool plant.

(e) "Exempt plant" means a governmental agency, Brigham Young University or any approved plant from which the total route disposition is to individuals or institutions for charitable purposes and is without remuneration from such individuals or institutions.

§ 1136.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of its member producers which it causes to be diverted for its account pursuant to § 1136.13.;

(c) A cooperative association with respect to the milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom

the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case the milk is received from producers by the cooperative association;

(d) Any person who operates a partially regulated distributing plant; and

(e) Any other person who operates a fluid milk plant described in § 1136.5(a).

§ 1136.10 Producer-handler.

"Producer-handler" means any person who is an individual, partnership or corporation and who meets all the following conditions:

(a) Operates a dairy farm(s) from which the milk produced thereon is supplied to a plant operated by him in accordance with the conditions set forth in paragraph (b) of this section, and provides proof satisfactory to the market administrator that:

(1) The full maintenance of milk-producing cows on such farm(s) is his sole risk and under his complete and exclusive management and control;

(2) Each such farm is owned or operated by him, at his sole risk, and under his complete and exclusive management and control; and

(3) Only he and no other person (except a member of his immediate family or a stockholder in the case of a corporate farm) employed on such farm(s) own, fully or partially, either the cows producing the milk on the farm or the farm on which it is produced;

(b) Operates a plant in which milk approved by a duly constituted health authority for fluid consumption is processed or packaged and from which there is route disposition during the month in the marketing area: *Provided,* That:

(1) No fluid milk products are received at such plant or by him at any other location except:

(i) From dairy farm(s) as specified in paragraph (a) of this section; and

(ii) From pool plants or other order plants in an amount that is not in excess of the larger of 3,000 pounds, or 5 percent of his Class I sales, during the month;

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive, or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of as route disposition or at the stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions; and

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk.

§ 1136.11 [Reserved]

§ 1136.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means a dairy farmer who produces milk in compliance with the inspection requirements of a duly constituted health authority for fluid consumption (as used in this subpart, compliance with inspection requirements shall include production of milk acceptable for fluid consumption of agencies of the United States Government located in the marketing area) which milk is delivered to a pool plant during the month or diverted to a nonpool plant within the limits set forth in § 1136.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1136.44(a)(8)(iii) and the corresponding step of § 1136.44(b); and

(3) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1136.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a tank truck) which is:

(a) Received from the producers at a pool plant but not including milk received from a handler described in § 1136.9(c);

(b) Received by a handler described in § 1136.9(c); or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an exempt plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the location of the plant to which diverted;

(2) Not less than 6 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) A cooperative association may divert for its account only the milk of member producers: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at all pool plants from member producers in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(4) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided,* That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant from producers who are not members of a cooperative association in any month of March through August, and that exceeds 20 percent of such receipts in any month of September through February, shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (c)(3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk; and

(6) Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their members if each association has filed such a request in writing with the market administrator on or before the 1st day of the month the agreement is effective. The request shall specify the basis for assigning over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator.

§ 1136.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1136.40(b)(1) from any source other than producers, handlers described in § 1136.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1136.40(b)(1);

(c) Products (other than fluid milk products, products specified in

§ 1136.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1136.40(b)(1)) for which the handler fails to establish a disposition.

§ 1136.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1136.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent of more butterfat, with or without the addition of other ingredients.

§ 1136.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1136.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales, or marketing milk or its products for its members; and

(c) To have its entire activities under the control of its members.

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1136.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except, national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices use shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simply average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simply average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

Handler Reports

§ 1136.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1136.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1136.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1136.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1136.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1136.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1136.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1136.32 Other reports.

In addition to the reports required pursuant to §§ 1136.30 and 1136.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

Classification of Milk

§ 1136.40 Classes of utilization.

Except as provided in § 1136.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1136.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragrah (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1136.15; and

(6) In shrinkage assigned pursuant to § 1136.41(a) to the receipts specified in § 1136.41(a)(2) and in shrinkage specified in § 1136.41(b) and (c).

§ 1136.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1136.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1136.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1136.9(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1136.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1136.44(a)(7) or the corresponding step of § 1136.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I untilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be alloeated pursuant to § 1136.44(a) (11) or (12) or the corresponding steps of § 1136.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocted under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different, number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1136.40.

(c) *Transfers to producer-handlers and to exempt plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt plant shall be classified:

(1) As Calss I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant or an exempt plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1136.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and

butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this paragraph.

(e) *Transfers by a handler described in § 1136.9(c) to pool plants.* Skim milk and butterfat transferred in the form of bulk milk by a handler described in § 1136.9(c) to another handler's pool plant shall be classified pursuant to § 1136.44 pro rata with producer milk received at the transferee-plant and the value thereof at the class prices shall be included in his value of milk pursuant to § 1136.60.

§ 1136.43 General classification rules.

In determining the classification of producer milk pursuant to § 1136.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1136.30 and shall compute separately for each pool plant, and for each cooperative association with respect to milk for which it is the handler pursuant to § 1136.9 (b) or (c) that was not received at a pool plant, the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1136.40, 1136.41, and 1136.42. The combined pounds of skim milk and butterfat so determined in each class for a handler described in § 1136.9 (b) or (c) shall be such handler's classification of producer milk;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1136.9(b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1136.44 Classification of producer milk.

For each month the market administrator shall determine for each handler described in § 1136.9(a) for each of his pool plants separately the classification of producer milk and milk received from a handler described in § 1136.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1136.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Clas III milk, the lesser of the poudns remaining or 2 prcent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1136.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This paragraph shall apply only if the pool plant was subject to the provisions of this paragraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1136.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1136.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order or from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1136.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1136.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III conbined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subpargraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and the Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to

paragraphs (a)(7)(vi) and (8)(iii) of this section:

(i) 'Subject to the provisions of paragraph (a)(12) (ii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and Class II and Class III combined, with the quantity prorated to Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1136.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of availablel utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Clas I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1136.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk and milk received from a handler described in § 1136.9(c), subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk and milk received from a handler described in § 1136.9(c) in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1136.45 Market administrator's reports and announcements concerning classification.

The market adminsitrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1136.44(a)(12) and the corresponding step of § 1136.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1136.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant, the class to which such shipments were allocated by the market administrator of the other order on the basis of the report of the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1136.50 Class prices.

Subject to the provisions of § 1136.52, the class prices per hundredweight for the month shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.90.

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1136.51a.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1136.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1136.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

§ 1136.52 Plant location adjustments for handlers.

(a) For milk which is received from producers as a pool plant, or is diverted therefrom, or is delivered by a handler described in § 1136.9(c) to a pool plant and which is assigned to Class I milk, subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to 1136.50(a) shall be reduced as follows:

Distance (miles)	Rate per hundredweight (cents)
150 but not more than 160	22.0
For each additional 10 miles or fraction thereof in excess of 160	1.5

Such distance to be the shortest hard-surfaced highway distance as determined by the market administrator from the plant to the County Courthouse of Salt Lake County, Utah;

(b) In applying such credit to transfers of fluid milk products between pool plants, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) From pounds of skim milk remaining in Class I at the transferee-plant after the computations are made pursuant to § 1136.44(a)(12) subtract the pounds of skim milk in receipts of milk at the transferee-plant from producers and handlers described in § 1136.9(c);

(2) Assign any remaining pounds of skim milk in Class I at the transferee-plant to the skim milk in receipts of fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(3) Compute the total amount of location adjustment credits to be assigned to transferor-plant pursuant to paragraph (b)(2) of this section by the applicable adjustment rate for each such plant, and add the resulting amounts;

(4) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(3) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1136.42(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(5) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b) (1) through (4) of this section.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1136.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for

the following month, the Class III price of the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

§ 1136.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

Uniform Price

§ 1136.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1136.9 (b) and (c) with respect to milk that was not received at a pool plant as follows:

(a) Multiply the pounds of producer milk and milk received from a handler described in § 1136.9(c) that were classified in each class pursuant to §§ 1136.43(a) and 1136.44(c) by the applicable class prices, and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1136.44(a)(14) and the corresponding step of § 1136.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1136.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1136.44(a)(9) and the corresponding step of § 1136.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (i) through (iv) and the corresponding step of § 1136.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(7) (v) and (vi) and the corresponding step of § 1136.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1136.44(a)(11) and the corresponding step of § 1136.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classifed and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1136.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1136.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1136.60 for all handlers who filed the reports prescribed by § 1136.30 for the month and who made the payments pursuant to § 1136.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1136.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1136.60(f); and

(e) Subtract not less than 5 cents nor more than 6 cents per hundredweight. The result shall be known as the uniform price.

§ 1136.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

Payments for Milk

§ 1136.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1136.71, 1136.76, and 1136.77, subject to the provision of § 1136.76 and out of which he shall make all payments pursuant to §§ 1136.72 and 1136.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 1136.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administator the amount, if any, by which the total amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1136.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1136.75, of such handler's receipts of producer milk and milk received from a handler described in § 1136.9(c). In the case of a cooperative association which is a handler, less the amount due from other handlers pursuant to § 1136.73(d), exclusive of differential butterfat values; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1136.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or

more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1136.72 Payments from the producer-settlement fund.

On or before the 15th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1136.71(a)(2) exceeds the amount computed pursuant to § 1136.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

§ 1135.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b), (d), or (e) of this section, each handler shall make payment to each producer from whom milk is received as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 17th day of the following month, for producer milk received during the month, at not less than the uniform price pursuant to § 1136.61 adjusted by the butterfat differential specified in § 1136.74 and location adjustment specified in § 1136.75, subject to the following adjustments:

(i) Less deductions for marketing services pursuant to § 1136.86;

(ii) Less the payment made pursuant to paragraph (a)(1) of this section;

(iii) Plus or minus adjustments for errors made in previous payments to such producer and proper deductions authorized in writing by such producer; and

(iv) If by the date specified, such handler has not received full payment from the market administrator pursuant to § 1136.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which is authorized by its members to collect payment for their milk and which has requested such payment from any handler in writing and has so notified the market administrator, payment for milk received during the month by such handler(s) from producer-members of such association shall be accomplished as follows:

(1) On or before the third day prior to the last day of each month such handler shall pay to such cooperative association not less than 1.2 times the Class III price for the preceding month for the hundredweight of such milk received during the first 15 days of the month; and

(2) On or before the 16th day of the following month such handler shall pay to such cooperative association the sum of the payments computed at the appropriate uniform price with respect to deliveries by producer-members of such association to handlers from whom payments have been requested, less the amounts of payments made to such association pursuant to paragraph (b)(1) of this section, and less the amount retained by handlers as authorized deductions.

(c) Each handler who received milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association and to the market administrator on or before the 7th day of the following month, as follows:

(1) The total pounds of milk received during the month, and if requested, the pounds received from each member-producer;

(2) The amount of payment made pursuant to paragraph (b)(1) of this section and the quantity of milk to which such payment applied; and

(3) The amount or rate and nature of any proper deductions authorized to be made from payments.

(d) Each handler shall pay a cooperative association for milk received by him from such cooperative in its capacity as a handler described in § 1136.9(c) as follows:

(1) On or before the second day prior to the last day of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than the value of such milk at the applicable uniform price, less payment made pursuant to paragraph (d)(1) of this section.

(e) Each handler shall pay a cooperative association for milk received by him from a pool plant operated by such association as follows:

(1) On or before the second day prior to the end of each month, for milk received during the first 15 days of the month an amount per hundredweight not less than 1.2 times the Class III price for the preceding month; and

(2) On or before the 15th day of the following month for milk received during the month, not less than an amount computed by multiplying the minimum prices for milk in each class subject to the applicable location adjustment provided in § 1136.52 and the butterfat differential provided by § 1136.74, by the hundredweight of milk in each class pursuant to § 1136.44, such amount to be reduced in the amount of the payment made pursuant to paragraph (e)(1) of this section.

§ 1136.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1136.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price to be paid for milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1136.52; and

(b) For purposes of computations pursuant to §§ 1136.71 and 1136.72 the uniform price shall be adjusted at the rates set forth in § 1136.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

§ 1136.76 Payments by a handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph

(a) of this section. If the handler submits pursuant to § 1136.30(b) and § 1136.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1136.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1136.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1136.60 for such handler shall include, in lieu of the value of other source milk specified in § 1136.60(f) less the value of such other source milk specified in § 1136.71(a)(2)(ii), a value of milk determined pursuant to § 1136.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the mopth equivalent to the requirements of § 1136.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §§ 1136.30(b) and 1136.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1136.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1136.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpol supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1136.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler; (b) a handler from the market administrator; or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1136.78 Charges on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1136.71, 1136.76, 1136.77 and 1137.85, shall be increased 1 percent for each month or portion thereof beginning with the third day following the date by which such obligation was payable: *Provided,* That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1136.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including milk received from a handler described in § 1136.9(c) but excluding in the case of a cooperative association which is a handler pursuant to § 1136.9(c), milk which was received at the pool plant of another handler) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1136.44(a) (7) and (11) and the corresponding steps of § 1136.44(b), except such other source milk that is excluded from the computations pursuant to § 1136.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1136.76(a)(2).

§ 1136.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers for milk pursuant to § 1136.73, (other than milk of his own production) shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 14th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members. On or before the 15th day after the end of each month, the handler shall pay the aggregate amount of such deductions to the cooperative association, furnishing a statement showing the amount of the deductions and the quantity of milk on which the deduction was computed from each producer.

Signed at Washington, D.C., on June 18, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16987 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1137, 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1134, 1135, 1136 and 1139

[Docket Nos. AO-326-A21-R01, et al.]

Milk in the Eastern Colorado and Certain Other Marketing Areas; Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments To Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

7 CFR part	Marketing area	AO Nos.
1137	Eastern Colorado	AO-326-A21-R01.
1106	Upper Florida	AO-356-A18.
1012	Tampa Bay	AO-347-A21.
1013	Southeastern Florida	AO-356-A29.
1033	Ohio Valley	AO-166-A50.
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A45.
1040	Southern Michigan	AO-225-A34.
1124	Oregon-Washington	AO-368-A11.
1125	Puget Sound, Washington	AO-226-A29-R01.
1133	Inland Empire	AO-275-A32-R01.
1134	Western Colorado	AO-301-A17-R01.
1135	Southwestern Idaho-Eastern Oregon.	AO-380-A2.
1136	Great Basin	AO-309-A23-R01.
1139	Lake Mead	AO-374-A7.

SUMMARY: This decision recommends the establishment of a new procedure for announcing Class II prices under the 14 milk orders involved in this proceeding. As recommended, a tentative Class II price for a particular month would be announced by the 15th day of the preceding month. The final Class II price would be announced by the 5th day after the month and would reflect, if applicable, the use of the Class III (or Minnesota-Wisconsin) price for that month as a "floor" under the Class II price. The proposed procedure is based on industry proposals considered at a public hearing held on February 3, 1982.

DATE: Comments are due on or before July 9, 1982.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Marting J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding: Notice of Hearing: Issued January 4, 1982, published January 7, 1982 (47 FR 814).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid specified marketing areas. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C., 20250, on or before July 9, 1982. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The hearing notice specifically invited interested persons to present evidence concerning the probable regulatory and informational impact of the proposals on small businesses. Most parties subject to a milk order are considered to be a small business. No participants at the hearing testified about any potentially adverse impacts of the proposals on small businesses as a group.

Further, William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that the amendments adopted herein, which are based on the hearing record, would not have a significant economic impact on a substantial number of small entities. The amendments would promote orderly marketing of milk by producers and regulated handlers.

The proposed amendments set forth below are based on the record of a public hearing held at Denver, Colorado, on February 3, 1982, pursuant to the notice thereof issued January 4, 1982 (47 FR 814).

The material issue on the record of the hearing is whether to provide advance Class II price notice for the 14 milk orders included in the hearing proceeding.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

Class II price announcement. The 14 milk orders in this proceeding should provide that on or before the 15th day of the month the market administrators of the respective orders shall announce the tentative Class II price that is to be effective the following month. The Class II price for the month should be the Minnesota-Wisconsin (M–W) price for the second preceding month, as adjusted by an "updating" formula, plus a Class II differential computed from a 12-month moving average of past Class II differentials. The Class II price for any month should not be less than the Class III price for the month, except that in the Upper Florida, Tampa Bay, and Southeastern Florida orders the Class II price should not be less than the basic formula price for the month. The Class II differential, over time, should average out to about the Class III (or basic formula) price plus the current Class II differential of the respective orders. The use of the Class III (or basic formula) price as a floor would require that a final Class II price be announced by the respective market administrators on or before the 5th day of the following month when the Class III (or basic formula) price for the month is known and it can be determined whether such price would apply as a "floor."

Except for the few instances noted herein, the procedures adopted are identical to those that were provided for 29 markets in a decision issued July 8, 1981, and published in the **Federal Register** on July 14, 1981 (46 FR 36151).

In the Oregon-Washington, Puget Sound and Inland Empire orders, where the Class II and Class III prices may be affected by a so-called butter-powder price snubber, a further adjustment should be made in the final Class II price. Whenever the Class III price in these three orders is based on the butter-powder snubber price, the final Class II price should be reduced by the amount that the Class III price is less than the basic formula price, but only to the extent such reduction does not cause the Class II price to be less than the Class III price. This adjustment should result in Class II prices in those three orders that approximate the same relationship between Class II and Class III prices that exists under the present orders.

To achieve the foregoing, the respective orders should provide for a "basic Class II formula price" for the month, which would be the order's basic formula price (i.e., the M–W price) for the second preceding month plus or minus an amount computed from the "updating" formula. In essence, a tentative estimate of the M–W price for the preceding month would be derived from the mechanics of the updating formula. This would permit the Class II price to be based on selected dairy industry data for that month rather than for the second preceding month.

The updating formula would determine first the amounts by which the gross values of milk used to manufacture cheddar cheese and butter-nonfat dry milk for the first 15 days of the preceding month are greater than or less than the respective values of such milk for the first 15 days of the second preceding month using yield factors provided by the Dairy Price Support Program. Then, the relative proportions of milk used in Minnesota and Wisconsin combined in the manufacture of cheddar cheese and butter-nonfat dry milk would be determined from data reported by the Department. From the foregoing data, a weighted average of the changes in gross values per hundredweight of milk would be computed.

The Class II price for the month would be the basic Class II formula price for the month plus a differential that would be the amount by which a 12-month moving average of the basic formula price plus the respective Class II differential of each order exceeds a 12-month moving average of the basic Class II formula prices. This should result in Class II prices that on the average exceed Class III (or basic formula) prices by the respective Class II differential now in each order.

The basic Class II formula price and the tentative Class II price would be computed by the Dairy Division, AMS, and transmitted to the market administrators of the respective orders on or before the 15th day of the preceding month, enabling each market administrator to announce by that time the tentative Class II price for the following month. The final Class II price would be announced on or before the 5th of the following month when it is determined whether such price would be "floored" by the Class III (or basic formula) price for the month and, in the 3 Pacific Northwest orders, whether or not the final Class II price would need to be reduced to reflect the effect of the butter-powder snubber.

At present, the 14 milk orders provide for the market administrator of each order to announce publicly on or before the 5th day of each month the Class II price for the preceding month. The present orders provide for Class II prices that are:

5 cents above the M–W price in Western Colorado.

10 cents above the M–W price in Ohio Valley, Eastern Ohio-Western Pennsylvania and Southwestern Idaho-Eastern Oregon.

15 cents above the M–W price in Southern Michigan, Eastern Colorado, Great Basin, Lake Mead, Upper Florida, Tampa Bay and Southeastern Florida. The Upper Florida and Tampa Bay orders provide for only two classes of utilization.

25 cents above the Class III price in Oregon-Washington, Puget Sound and Inland Empire. In these 3 orders the the Class III price is the lower of the M–W price or a butter-powder snubber price.

Milk Industry Foundation, the International Association of Ice Cream Manufacturers, and the National Milk Producers Federation proposed a procedure for announcing the Class II prices of the 14 milk orders that was largely the same as the procedure provided herein.

The Milk Industry Foundation (MIF) is a trade association representing fluid milk processors, some of which are regulated by the 14 milk orders in this proceeding. Members of the MIF operate some 750 milk processing plants and process about 75 percent of the fluid milk packaged in the United States. The MIF also represents members who manufacture various Class II products, including cottage cheese, yogurt, dips, dressings, and cream.

The International Association of Ice Cream Manufacturers (IAICM) is a trade association that represents manufacturers of frozen desserts, including some who are regulated by the 14 orders in question. Products processed include ice cream, ice milk, sherbets, mellorine, milkshakes and other Class II products. Members operate some 600 plants and manufacture about 85 percent of the frozen desserts manufactured in the United States.

The National Milk Producers Federation (NMPF) is an organization which represent dairy cooperative associations and federations of such associations. At the hearing NMPF

represented 12 member cooperatives that market milk under 8 of the 14 milk orders in this proceeding.

The proposals. The MIF/IAICM proposed that the Class II prices of the 14 milk orders in this proceeding be announced by the market administrators of the respective orders on or before the 15th day of the month prior to the month in which they apply. The associations proposed that the Class II price be based on a formula that updates the M–W price of the second preceding month, plus a Class II differential computed from a 12-month moving average of past Class II differentials to maintain a Class II price that averages the respective order Class II differential over the M–W price. Also, the resulting Class II price of any month could not be less than the Class III (or basic formula) price for that month.

The NMPF proposed a procedure for announcing Class II prices that was largely the same as the procedure proposed by the MIF/IAICM.

A witness for the MIF/IAICM said that the 14 milk orders need to be changed as proposed because handlers are having difficulty in making price changes under the prevailing marketing conditions. He outlined how price changes are made beginning with the notification of a milk price change by a handler and ending with a retail price change at a store. The witness said that the entire process requires at least 15 days from the time the Class II price is changed until it is reflected in the prices of Class II products at stores.

The witness said that providing advance notice of Class II prices has been an objective of the MIF/IAICM for many years. He noted that advance Class II pricing is now being provided for 29 federal milk orders and should be provided for the 14 milk orders in this proceeding. He said that the proposal for the 14 orders is identical to that which is already provided for the 29 orders except for some technical differences to accommodate certain pricing procedures such price snubbers and Class II differentials in some of the 14 orders.

The witness said that one aspect of the proposed formula is that a month's Class II price should not be lower than the same month's Class III or basic formula price. He said that for most of the orders that provide for 3 classes of utilization the Class III price and the basic formula price are identical (the M–W price). However, he noted, the Southeastern Florida milk order has a special Class III price, which is the Chicago Grade A butter price times 1.25, plus four cents, times 3.5. To be consistent with the provisions of the 29 milk orders, the handler groups proposed that for the Southeastern Florida order the floor be the basic formula price instead of the unique Class III price now provided for the order.

The second handler modification of the 29-market procedure involves the Puget Sound, Inland Empire and Oregon-Washington milk orders. Persently, the Class III price formulas for these orders contain a butter-powder snubber. The Class II prices are equal to the Class III prices plus 25 cents. In the computation of the Class II differential, the present 29-market procedure uses the term "basic formula price" rather than the Class III price in the calculation of the 12-month moving average. However, the basic formula price does not reflect the butter-powder snubber price. Accordingly, in the calculation of the 12-month moving average the handlers proposed that the term "basic formula price" be changed to "Class III price." The proponents would also have this change apply to the Western Colorado milk order which also provides for a butter-powder snubber.

The witness testified further that during the summer of 1981 a hearing was held to consider merging the Puget Sound and Inland Empire milk orders. He said that one of the proposals at that hearing would eliminate the snubber from the Class III price. The witness said that the MIF/IAICM takes no position in this reopened hearing on whether the snubber should or should not be eliminated. He said that if the Department decides to eliminate the snubber, it should also be removed from the pricing of Class II milk under those orders, which would require a further modification of the order language proposed in this proceeding.

Concerning the need for advance Class II price notice, the spokesman for MIF/IAICM said that raw dairy product cost makes up from 30 percent to well over 80 percent of handlers' total cost for most of the products classified as Class II. He said that any change in this cost element is extremely important to handlers. He noted that currently the cost of milk bought at the beginning of the month is not known to the handler until up to 36 days later. The witness said that handlers have most often bought the raw milk, manufactured the various Class II products from it and sold them to their customers without even knowing the cost of the most important ingredient—the raw milk. In his view, this creates undue business risks and difficulties without generating any benefit to consumers or anyone else.

The spokesman for the MIF/IAICM said that regulated handlers would not be disadvantaged by the proposed advance Class II price notice. He said that it would provide a Class II price almost identical with the present Class II price. In his view, the variance in the price that would prevail under the proposed formula would be quite minimal. He stressed that the use of the moving average adjustment to the Class II differential would assure that over time the new formula and the present Class II pricing method would render almost identical results.

The witness testified that the proposed Minnesota-Wisconsin "floor" price would prevent regulated handlers from having any possible advantage over unregulated handlers. In his view the "floor" is akin to the present pricing practice wherein the Class III price is the minimum price level throughout the federal milk order system.

Another witness representing a proprietary handler testified in favor of the MIF/IAICM proposal. The handler operates six fluid milk plants regulated by orders included in the hearing. The plants are located at Miami, Winter Haven and Jacksonville, Florida; Cleveland and Findlay, Ohio; and Colorado Springs, Colorado. The plants are regulated by the Southeastern Florida, Tampa Bay, Upper Florida, Eastern Ohio-Western Pennsylvania, Ohio Valley and Eastern Colorado milk orders, respectively.

The witness said that advance Class II price notice is needed for a handler to know the cost of the raw material used to make a product in order to determine the selling price intelligently. He said that under present order provisions the handler must estimate the following month's price. He said that this has resulted in customers being undercharged at times and overcharged at other times relative to raw milk costs. He said further that in his view the fact that advance Class II price notice is now provided in 29 milk orders provides further reason for adopting it in the 14 milk orders in this hearing. He testified that handlers regulated by the 29 milk orders have one basic advantage over handlers who are not regulated by those orders. They know the cost of Class II milk 15 days before the first sale of Class II products in a month instead of 35 days after. He testified further that month-to-month variations in the advance Class II prices relative to the present Class II prices were anticipated when the system was proposed and adopted for the 29 markets. He said that they can be expected to continue.

A third witness representing a proprietary handler testified in favor of the MIF/IAICM proposal. The handler distributes milk and dairy products in eight of the markets included in the hearing. He said that adoption of the proposal would be a great improvement over the 35-day "retroactive" announcement procedure that is now provided for the 14 milk orders in this hearing. He said that the practice of giving reasonable advance notice of impeding cost changes is universally followed in the sale and purchase of goods. He said that in their operation such practice provides for adequte time to prenotify their retail outlets to allow for necessary changes in advertising and pricing programs that affect the retail outlets and their customers. He wants the proposal to be adopted to prevent the artificial distortions that arise when any segment of an interdependent supply system operates on the basis of incomplete or inaccurate data.

The witness is associated with a proprietary handler that produces Class II dairy products at a regulated plant and then distributes them through retail stores to consumers. He presented testimony about the procedure. For example, on shipments of yogurt from a Salt Lake City plant to store outlets in Denver, the plant must compute the new product cost when a change in the raw milk price in announced. The new price is then applied to yogurt to be shipped to Denver. When the yogurt is received in Denver, the new price must be transmitted to the buying office. That office, in turn, transmits the new price information to the computer section where new price lists are printed. The new price lists are then mailed to retail stores. At the store, prices are changed on new inventory received; it is not changed on existing stock. Stores get twice-a-week shipments of yogurt, so they may have 3 days' inventory on hand. The witness testified that the entire process takes about two weeks.

A spokesman for another proprietary handler testified in favor of the MIF/IAICM proposal. The handler operates 12 dairy plants in six of the federal milk order markets in this hearing. Many of the plants are significant distributors of Class II products. The witness said that the adoption of the proposal would help all the handler's plants in knowing their costs accurately and in making price changes on a timely basis. The spokesman testified that the handler's plants that are operating under the 29 orders with advance Class II notice are enthusiastic about the benefits that have resulted from advance Class II price notice. He said that the plants had operated under the change for about 5 months and unanimously supported the provisions that were adopted. He said that the handler's plants at Topeka, Kansas, Champaign, Illinois, and Tulsa, Oklahoma, process substantial quantities of Class II products and have found that advance Class II price notice has been especially helpful for them.

The witness testified that adoption of the MIF/IAICM proposal will contribute to orderly marketing because handlers will be able to plan and effectuate production and marketing decisions more accurately than is now the case. He sail that while the proposal will benefit handlers particularly, it will not be detrimental to producers or consumers.

A proprietary handler who is regulated by the Eastern Colorado milk order testified in favor of the MIF/IAICM proposal for advance Class II price notice. He said that it is now very difficult to determine costs and to price Class II products. He said that with the present order provisions concerning Class II price notice and requirements of the State of Colorado concerning advance notice of prices to customers, he has to project sales prices considerably into the future without knowing actual costs.

A witness for the National Milk Producers Federation testified on behalf of 12 member cooperatives that supply milk to eight of the 14 marketing areas in this proceeding. The witness supported the proposal to include advance Class II price notice in the eight orders. He expressed no position on the issue relative to the other six orders.

The witness said that a number of factors, such as class prices, utilization, and differentials, go into determining the farm price of milk. He indicated that most of the factors are not known to a dairy farmer when he is making his production decision, or to his cooperative when making its marketing decisions. The witness said that advance Class II price notice will give dairy farmers and their cooperatives an additional piece of factual information to use in making their management decisions. He said that if the proposal is adopted dairy farmer income would not be changed by it.

The representative of a cooperative that supplies milk to the Southwestern Idaho-Eastern Oregon market testified in favor of advance Class II price notice. The cooperative manufactures Class II products and considers the present delayed pricing of up to 35 days as a serious problem in timing price changes to customers. The witness said that since the provisions can be changed with no disadvantage to producers the proposal should be adopted. He testified that the provisions of the formula should not be different from those provided in the 29 orders. He indicated that if it is found later that a change in the formula is desirable it can be made for all the orders affected. The witness said that regardless of the month-to-month price changes that can occur from the formula, the provision for advance Class II price notice overrides whatever Class II price variation is likely to occur.

A witness for a cooperative that supplies milk to the Great Basin market also testified in favor of the proposal to provide advance Class II price notice. The cooperative manufacturers Class II products and believes it is important to know the cost of raw milk used in Class II products before the products are priced to customers. In his view present provisions are not adequate in this respect.

A spokesman testified on behalf of three cooperatives that are the major suppliers of milk to the Upper Florida, Tampa Bay and Southeastern Florida milk orders. He said that the cooperatives do not have any strong objection to advance Class II price notice but that they have some reservations about it. The witness said that adoption of the proposal would interject a considerable degree of price instability into the program that is not the case with the Minnesota-Wisconsin price series. He said that the formula results would give false signals which would be more important to the major processors of Class II products than to dairy farmers because the quantity of Class II milk represents a small proportion of the total amount of milk sold. The witness said that a price series which shows much more volatility and much more movement plus and minus than the Minnesota-Wisconsin price series may not serve the purposes of the Act. Also, he stated, there is a risk factor involved in the reliability of what the new pricing formula would do in the future. He said that producers ought not to assume that responsibility.

The witness noted that the cooperatives he represents are not Class II manufacturers. He said that adoption of the formula would not affect blend prices to producers in any significant way. This is because Class II is such a minor element in the three markets. He said that the important issue is how reliable the formula will be, not whether the farmers are going to get a penny less or two cents more. He testified that handlers have a right to a relatively stable price, and that has been one of the benefits of the program over the

years. The witness stated that if the proposed formula is adopted for the 14 orders, the final Class II price under the three Florida orders should be not less than the M–W price plus 15 cents.

A witness appeared on behalf of a federation of cooperatives supplying milk to markets in Oregon, Washington, Idaho and Montana, and a marketing agency for the federation. Also, he represented a cooperative association that supplies milk to the Puget Sound, Oregon-Washington and Inland Empire markets. The marketing agency operates a pool plant under the Puget Sound milk order, two pool plants under the Inland Empire milk order and four pool plants under the Oregon-Washington order.

The witness testified in opposition to the proposal to provide advance Class II price notice for the three Northwest orders. He said that the limited experience with advance Class II pricing in the 29 milk markets where it was recently adopted demonstrates its undesirability. He claims that the procedure was a failure in August and September of 1981 when the tentative Class II price exceeded the M–W plus 10 cents by 28 cents and 19 cents, respectively. He argued that there was no need to rush into a nationwide adoption of a procedure that, in his opinion, has such obvious weaknesses.

The witness said that the cooperative association handlers he represents feel more strongly about the need to know the Class III price in advance. In his view it makes no sense to predict one and not the other. He urged the Department to delay consideration of the proposal, at least in the three Northwest milk orders, until such time as a proposal can be developed for determining and announcing Class III prices in advance so the Class I and Class II prices can be determined from that price.

In opposing adoption of the MIF/IAICM proposal for the three Northwest milk orders, the witness said that the pricing and announcement provisions of the three orders are satisfactory and are not causing undue hardship to any handlers. In his view it is possible for handlers to estimate accurately the level of the Class II price for use in determining Class II product costs.

The witness testified that if the Department adopts advance Class II pricing for the three Northwest orders, some alternative provisions should be included. He said that any amended order shoud provide a Class II price at the same approximate level—Class III price plus 25 cents—as is currently provided by these three orders. He said that the butter-powder snubber price should be retained in the computation of the Class II price. He said that the M–W price for the past 33 months has been less than the snubber price and it is expected to continue that way for the foreseeable future. (The three orders provide that the Class III price shall be the lower of the M–W price or the snubber price.) The witness testified further that the three orders should provide that the Class II price shall be not less than the Class III price plus 15 cents per hundredweight.

The witness also opposed the modification of the Class II formula price that was made at the hearing by handlers for the three Northwest orders. As described previously, proponents stated that in calculating the monthly Class II differential for these three orders, the 12-month moving average should be based on the average Class III price plus 25 cents rather than the average basic formula (M–W) price plus 25 cents. The witness opposing this change claimed that the modification would have a "double-lowering" effect upon Class II prices in these three orders whenever the butter-powder snubber price was the Class III price. He said the butter-powder snubber price not only would reduce the Class II price for the month in which it was the effective price but that it also would reduce tentative Class II prices for the next 12 months if it was used in the calculation of the Class II differential.

Discussion of the issue. It is concluded from the testimony and data submitted by witnesses that the adoption of the proposal for advance notice of the Class II price is a reasonable means of assisting handlers in the marketing of milk. It was the view of most of the hearing witnesses that the dairy industry is somewhat unique in that regulated handlers process and sell products without knowing the cost of the raw materials. This causes them problems in adjusting resale prices to changes in ingredient costs. To them this is an unwarranted and unnecessary situation which creates undue business risks and other difficulties without any real benefit to others.

The provision for advance price notice under these orders will contribute to more orderly marketing for the processors of Class II products. They will be in a better position to plan their processing and marketing strategies with the advance knowledge of their raw milk costs. Also, the advance price notice will enable the handlers to establish and adjust resale prices of Class II products more currently relative to changes in ingredient costs. This is in contrast to the present system whereby a multitude of handlers make numerous estimates with varying results of how anticipated milk costs should be reflected in the resale prices.

Concern was expressed by representatives of several cooperative associations in Florida and in the three Northwest markets that the advance price notice procedure would not maintain orderly marketing conditions for the industry. Their testimony was based on alleged price volatility that might result if the advance price notice procedure were adopted. In this connection, for 1981 the total fluctuation (21 cents) under the formula that was adopted for the 29 markets, as mentioned previously, would have been 1.6 percent of the average final Class II price in both the 15-cent and 25-cent differential markets, which encompass the Florida orders and those in the Northwest. The present Class II price formulas in these orders had the same 21-cent total fluctuation for 1981. This fluctuation was 1.6 percent of the average Class II price in the 25-cent differential markets and 1.7 percent of the average Class II price in the 15-cent differential markets. This cannot be considered the severe volatility or price instability about which the two witnesses were apprehensive.

There is no persuasive evidence in the record that the adoption of the procedures provided herein would adversely affect any handlers, producers or consumers in the 14-market area. The advance price notice will not impair the continued maintenance of orderly marketing conditions for producers and handlers. Instead, it will tend to effectuate the declared policy of the Act.

Adopted procedure. The procedure provided herein for announcing a tentative Class II price for a month on or before the 15th day of the previous month is the same as that proposed by most of the witnesses in this proceeding. It provides that the market administrator shall announce publicly on or before the 15th day of each month a tentative Class II price for the following month. Such price would be provided to the administrators of the respective orders by the Dairy Division and would be determined from the method of computation specified in the orders.

As provided in the attached order, the announced tentative Class II price for the month would be the sum of the following price components: (A) The basic Class II formula price; and (B) the Class II differential.

A. *Basic Class II formula price.* The basic Class II formula price, which would be used in computing the Class II price that is announced for the month, would be determined by the Dairy

Division, AMS, on or before the 15th day of the preceding month. Under the formula provided herein, it would be computed by increasing or decreasing the M–W price of the second preceding month by an amount that reflects changes in the gross value of milk used to produce cheddar cheese (including returns from whey fat and whey solids-not-fat), butter, nonfat dry milk and edible whey powder during the first 15 days of the preceding month compared to the first 15 days of the second preceding month. The gross value of milk used to produce these products would be determined by multiplying the price of each product by a yield factor which represents the pounds of product that results from the manufacturer of a hundredweight of milk. The yield factors used in the formula adopted herein would be those that are used under the Dairy Price Support Program for determining similar gross values. Whenever the yield factors are changed, the new yield factors would be used in the formula beginning with the effective date of the announced support price or announced purchase prices.

The yield factors used under the Price Support Program are for milk of average butterfat content of 3.67 percent, while prices under the Federal milk order program are announced for milk containing 3.5 percent butterfat. Milk containing higher proportions of butterfat yield more pounds of product per hundredweight of milk than does milk containing a lower butterfat content. However, using the Price Support Program yield factors in the adopted formula should not appreciably affect the basic Class II formula prices. Only changes in gross values of milk from one month to another would raise or lower the basic Class II formula price. Those changes in gross values of milk should not be much different whether they are based on milk containing 3.67 percent butterfat or 3.5 percent butterfat.

The product prices that are used in the formula adopted herein would be those that are reported and published each week by the Dairy Division, AMS. The butter price would be that of the Chicago Mercantile Exchange for Grade A (92-score) butter. The cheddar cheese price would be that of the National Cheese Exchange for cheddar cheese in 40-pound blocks. The nonfat dry milk price would be the average price per pound (using the midpoint of any price range as one price) for high heat, low heat and Grade A nonfat dry milk for the Central States production area. If any of these nonfat dry milk prices are not reported at some future date, the price used in the formula would be the average of the remaining prices that are reported. The price for whey powder would be the average price per pound (using the midpoint of any price range as one price) reported for edible whey powder (nonhygroscopic) for the Central States production area.

Based on yield factors used currently under the Price Support Program, a hundredweight of milk used to produce cheddar cheese yields 10.1 pounds of cheddar cheese, 0.25 pounds of butter and 5.5 pounds of whey powder. At the time of the hearing, under the Price Support Program, the price of whey powder increased the gross value of milk used to produce cheddar cheese only to the extent of that portion of the price of powder that exceeded 13.5 cents per pound. This was because the processing cost of drying the whey into powder was 13.5 cents. If the price of whey powder were less than 13.5 cents per pound, the processing costs would be absorbed in the price of cheddar cheese. If the price exceeded 13.5 cents, only that portion of the price that exceeded 13.5 cents would contribute to the gross value of milk. Accordingly, in the formula adopted herein the gross value of a hundredweight of milk used to produce cheddar cheese would be the sum of the following computations:

1. The average daily price per pound of cheddar cheese during the first 15 days of each respective month would be multiplied by 10.1. The National Cheese Exchange meets on Friday morning for trading in cheddar cheese. Generally, the prices reported for each session establish the prices of cheddar cheese sold by the dairy industry during the following week. When Friday is a holiday, the Exchange meets on Thursday morning. In the formula adopted herein, a price reported for Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. A work-day would be each Monday through Friday, except national holidays. This definition of work-day would apply also to the other product prices described in the following paragraphs. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

2. The average daily price per pound of butter during the first 15 days of each respective month would be mutiplied by 0.25. The Chicago Mercantile Exchange also meets on Friday morning for trading in butter. When Friday is a holiday, the Exchange meets on Thursday morning. Generally, the prices reported for each session establish the prices of butter sold by the dairy industry in the following week. In the formula provided herein, a price reported on Friday (or Thursday) would be applied to that day plus each work-day of the following week prior to the day the Exchange meets. When there are work-days in a month that precede the first Friday of the month, the last price reported in the previous month would be applied to each such work-day that precedes the first Friday. During a week that the Exchange does not meet, the price applied for the following week would be the last Exchange price that was established.

3. The average daily price per pound of edible whey powder during the first 15 days of each respective month would be reduced by 13.5 cents and any amount remaining would be multiplied by 5.5. The whey powder price is determined by the Department on Thursday of each week and reflects the selling price of whey powder during the preceding 7-day period. When Thursday is a holiday, the price is determined on Wednesday. In the formula adopted herein, a price determined on Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on a Wednesday.

The gross value of a hudredweight of milk used to produce butter and nonfat dry milk would be determined in the following manner. The yield factors presently used by the Price Support Program indicate that one hundredweight of milk yields 4.48 pounds of butter and 8.13 pounds of nonfat dry milk. Thus, the average daily butter price per pound during the first 15 days of each respective month, as determined by the method described in (2) above, would be multiplied by 4.48.

Added to this value would be the value of milk used to produce nonfat dry milk. This would be computed by multiplying the average of the daily prices per pound of high heat, low heat and Grade A nonfat dry milk during the first 15 days of each respective month by 8.13. As with the whey powder prices, the prices of nonfat dry milk are determined on Thursday of each week and reflect the selling prices of nonfat dry milk during the preceding 7-day period. When Thursday is a holiday, the prices are determined on Wednesday. In the formula provided herein, the average of the prices of high heat, low heat and

Grade A nonfat dry milk determined for Thursday (or Wednesday) would be applied to that day plus each previous work-day through the preceding Friday, or Thursday if the previous price reported had been on Wednesday. As described previously, if any of these nonfat dry milk prices are not reported at some future date, the price used in the formula would be the average of the remaining prices that are reported.

The next computation in the formula adopted herein determines the amounts by which the gross values of milk used to produce cheddar cheese and used to produce butter-nonfat dry milk during the first 15 days of the preceding month exceed or are less than the respective gross values during the first 15 days of the second preceding month. This would be done by subtracting the respective gross values during the first 15 days of the second preceding month from the respective gross values during the first 15 days of the preceding month.

The quantity of milk used to produce cheddar cheese in the States of Minnesota and Wisconsin greatly exceeds the quantity used to produce butter-nonfat dry milk. Accordingly, the changes in gross values described in the previous paragraph should be weighted by the relative proportions of milk used to produce cheddar cheese and butter-nonfat dry milk in these two States. This would be done by converting the quantity of American cheese (cheddar cheese accounts for over 70 percent of all American cheese) and, separately, the quantity of nonfat dry milk[1] produced in the two States combined, as reported and published by the Statistical Reporting Service of the Department, into their respective milk equivalents (i.e., dividing the two-State quantity of American cheese produced by the 10.1 yield factor for cheddar cheese and dividing the corresponding quantity of nonfat dry milk produced by its yield factor of 8.13). The percentage that the milk equivalent for each separate product is of the total for the two products combined would be multiplied by the respective change in gross values, as described in the previous paragraph, to determine a weighted change in gross values for milk used to produce cheddar cheese and used to produce butter-nonfat dry milk. The weighted changes in gross values would be combined and this combined value would be used to adjust the second preceding month's M–W price. If the combined value for the first 15 days of the preceding month exceeds the corresponding value for the second preceding month, the M–W price would be increased. If it is lower, the M–W price would be reduced. The adjusted M–W price would be the basic Class II formula price for the month.

The amendatory language accompanying this decision contains a slight revision in the computation of the weighting factors described in the previous paragraph from that proposed at the hearing. Under the hearing proposal, as indicated in § .51a(c) (1) and (2) of the proposed order language, the total American cheese production and nonfat dry milk production for the States of Minnesota and Wisconsin for the third preceding month, as reported by the USDA Statistical Reporting Service (SRS), would have been used in computing the basic Class II formula price for a particular month. In that same section of the attached order language, the words "most recent preceding period" are used rather than the words "third preceding month". This revision is necessary because on March 10, 1982, SRS announced that the Dairy Products report, which had been issued monthly, will be issued quarterly in the future.[2] The unavailability of these milk production data on a monthly basis necessitates the above revision in the computation of the weighting factors. Based on data contained in the hearing record, this change would have had virtually no impact on the level of basic Class II formula prices.

B. *Class II differential.* In the formula adopted herein, the Class II differential would be an amount added to the basic Class II formula price each month to yield a Class II price that, on average, would approximate the amount that the present Class II price in each order exceeds the respective order's Class III (or basic formula) price. It would be computed on or before the 15th day of the preceding month for use in determining the announced Class II price for the month. The differential would be the amount that the average M–W price during the most recent 12-month period plus the current Class II differential of the order exceeds the average basic Class II formula price during the same 12-month period.

In this regard, the provisions adopted herein reflect proposed changes in the levels of the current Class II differentials of the Eastern Colorado, Western Colorado and Great Basin milk orders. The changes are based on the record of a hearing held at Denver, Colorado, on February 2, 1982, under Docket Nos. AO–326–A21, AO–301–A17, and AO–309–A23. The findings and conclusions concerning the changes are discussed in a decision issued concurrently with this decision. The changes involved, which would establish a uniform Class II differential of 10 cents under each order, are noted in this decision for the convenience of interested parties.

For the 45-month period of February 1978 through October 1981, Class II differentials based on the 12-month average comparison that was proposed by proponents (using the M–W price plus 10 cents) would have ranged from a low of 11 cents to a high of 27 cents (a spread of 16 cents), with an average of 18 cents. The 18 cent average Class II differential results in part from inflation and from the updating techniques adopted herein, which caused the 12-month average of the M–W prices during this period to exceed the 12-month average of the basic Class II formula prices by 8 cents. The basic Class II formula price for a particular month is based on data for the preceding month and second preceding month and updates the Minnesota-Wisconsin price to only the 15th day of the preceding month. If inflation subsides in the future, the monthly Class II differentials would approach the intended Class II differential.

The proposed modification of the 29-market formula for the three Northwest orders that would use the 12-month average of the Class III price plus 25 cents in the calculation of the Class II differential rather than the 12-month average of the basic formula price plus 25 cents should be denied. As adopted herein, whenever the Class III price in these three orders is based on the butter-powder snubber price, the final Class II price would be reduced by the amount that the Class III price is less than the basic formula price, but only to the extent such reduction does not cause the Class II price to be less than the Class III price. If the Class III price that was based on the butter-powder snubber price was also used in the calculation of the Class II differential, it would tend to reduce the tentative Class II prices for the next 12 months. This would result in an overall reduction in Class II prices in these orders as compared to the present Class II-Class III price relationship. Such a reduction would be contrary to the intent of the proposed formula that over the long run it neither raise nor lower the Class II price level. Accordingly, the proposal is denied.

The proposed modification of the 29-market formula for a similar butter-powder price adjustment in the Western

[1] Nonfat dry milk is used in the computation because butterfat that is excess to fluid milk operations also is made into butter.

[2] Official notice is taken of the press release (No. 272–82, 3606) issued by the U.S. Department of Agriculture on March 10, 1982, relative to the reporting changes by SRS.

Colorado order also should not be adopted. The Class II price in the present Western Colorado order is not affected by the butter-powder snubber price because the monthly Class II price is the basic formula price for the month, plus 5 cents. It is noted, also, that the butter-powder snubber price would be deleted from the Class III price computation under changes based on the record of a hearing held at Denver, Colorado, on February 2, 1982, under Docket Nos. AO–326–A21, AO–301–A17 and AO–309–A23. A concurrent decision for that hearing was noted herein earlier.

The proposal by cooperative associations in the Northwest that the Class II prices in the three Northwest orders be floored at the Class III price plus 15 cents should be denied. There are no compelling reasons to floor the Class II price at any level except the Class III price level. The record evidence indicates that Class II prices should be floored at the Class III price level to assure handlers that supplies will be made available for Class II use. It is only at the Class III price level that producers lose this incentive to sell milk for Class II uses.

The suggestion by the cooperative associations in Florida that the monthly Class II price in the Florida orders not be less than the M–W price plus 15 cents should not be adopted. Such a provision would represent an increase in the Class II price level for these orders because Class II prices would never be less than the present prices but whenever the tentative Class II price exceeded the M–W price by more than 15 cents the tentative Class II price would be the final Class II price. There is no basis on this record to increase the Class II price level in these three orders. Accordingly, the suggestion is denied.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

List of Subjects in 7 CFR Parts 1137, 1006, 1012, 1013, 1033, 1036, 1040, 1124, 1125, 1133, 1134, 1135, 1136 and 1139

Agricultural Marketing Service, Milk Marketing Orders, Milk, Dairy Products.

Recommended Marketing Agreements and Order Amending the Orders

The recommended marketing agreements are not including in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in each of the respective marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. A new § 1137.17 is added to read as follows:

§ 1137.17 Product prices.

The following product prices shall be used in calculating the basic Class II price pursuant to § 1137.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such

average shall be the daily price for the day that such priceas are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simply average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1137.22(i) is revised to read as follows:

§ 1137.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II prices for the following month.

* * * * *

3. Section 1137.51(b) is revised to read as follows:

§ 1137.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1137.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1137.51a.

* * * * *

4. A new § 1137.51a is added to read as follows:

§ 1137.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1137.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1137.17 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. A new § 1006.19 is added to read as follows:

§ 1006.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1006.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following

work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1006.50(b) is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1006.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1006.51a.

3. A new § 1006.51a is added to read as follows:

§ 1006.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1006.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1006.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 says of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for deterining the butterfat component of the whey value in the cheese price computation; and

(iii) Substract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply and positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross value for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the date included in each of the following subparagaphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. A new § 1012.19 is added to read as follows:

§ 1012.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1012.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does to meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1012.50(b) is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1012.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1012.51a.

3. A new § 1012.51a is added to read as follows:

§ 1012.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1012.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1012.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is

of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. A new § 1013.19 is added to read as follows:

§ 1013.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1013.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were peviously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily priced per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1013.50(b) is revised to read as follows:

§ 1013.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class III formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1013.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1013.51a.

* * * * *

3. A new § 1013.51a is added to read as follows:

§ 1013.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1013.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1013.19 and yield factors in effect under the Dairy Price Support program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the

butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. A new § 1033.21 is added to read as follows:

§ 1033.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1033.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) Edible whey price. "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1033.27(k) is revised to read as follows:

§1033.27 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The final Class II price for the preceding month;

(iii) The Class III price for the preceding month; and

(iv) The butterfat differential for the preceding month;

(2) The 12th day of each month, the uniform price for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1033.519b) is revised to read as follows:

§ 1033.51 Class prices.

(b) *Class II price.* A tentative Class II price shall be computed by the Director

of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average 9rounded to the nearest cent) of the basic formula prices comptued pursuant to § 1033.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1033.51a.

* * * * *

4. A new § 1033.51a is added to read as follows:

§ 1033.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1033.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1033.21 and yield factors in effect under the Dairy Price Support program authorizd by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. A new § 1036.20 is added to read as follows:

§ 1036.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1036.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall

be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Diary Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1036.50(b) is revised to read as follows:

§ 1036.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1036.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1036.51a.

* * * * *

3. A new § 1036.51a is added to read as follows:

§ 1036.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1036.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1036.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. A new § 1040.21 is added to read as follows:

§ 1040.21 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1040.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92–score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40–pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the months, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1040.50(b) is revised to read as follows:

§ 1040.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1040.51 and add 15 cents; and

(2) Determine for the same 12–month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1040.51a.

* * * * *

3. A new § 1040.51a is added to read as follows:

§ 1040.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1040.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed using price data determined pursuant to § 1040.21 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1124—MILK IN THE OREGON-WASHINGTON MARKETING AREA

1. A new § 1124.20 is added to read as follows:

§ 1124.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1124.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and

published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1124.22(i) is revised to read as follows:

§ 1124.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 14th day of each month, the uniform prices and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month;

* * * * *

3. Section 1124.51(b) is revised to read as follows:

§ 1124.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c) (1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1124.50 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1124.51a.

* * * * *

4. A new § 1124.51a is added to read as follows:

§ 1124.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1124.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1124.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Substract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for

the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1125—MILK IN THE PUGET SOUND, WASHINGTON MARKETING AREA

1. A new § 1125.19 is added to read as follows:

§ 1125.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1125.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1125.50(b) is revised to read as follows:

§ 1125.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1125.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1125.51a.

* * * * *

3. A new § 1125.51a is added to read as follows:

§ 1125.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1125.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1125.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c) (1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1125.53 is revised to read as follows:

§ 1125.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

1. A new § 1133.19 is added to read as follows:

§ 1133.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1133.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding word-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1133.50(b) is revised to read as follows:

§ 1133.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price. If the Class III price for the month is computed pursuant to paragraph (c)(1) through (3) of this section, the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price

to the extent such reduction does not cause the Class II price to be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1133.51 and add 25 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1133.51a.

* * * * *

3. A new § 1133.51a is added to read as follows:

§ 1133.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1133.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1133.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1133.53 is revised to read as follows:

§ 1133.53 Announcement of class prices and handler butterfat differentials.

The market administrator shall announce publicly on or before:

(a) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month; and

(b) The 15th day of each month, the tentative Class II price for the following month.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. A new § 1134.20 is added to read as follows:

§ 1134.20 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1134.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those fo the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1134.22(i) is revised to read as follows:

§ 1134.22 Additional duties of the market administrator.

* * * * *

(i) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differentials for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1134.51(b) is revised to read as follows:

§ 1134.51 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the basic formula price:

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1134.50 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1134.51a.

* * * * *

4. A new § 1134.51a is added to read as follows:

§ 1134.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1134.50 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross value per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1134.20 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month, and separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry mild production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

1. A new § 1135.19 is added to read as follows:

§ 1135.19 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1135.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the

Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Divsion, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1135.50(b) is revised to read as follows:

§ 1135.50 Class prices.

* * * * *

(b) *Class II price.* A tenative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tenative Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basis formula prices computed pursuant to § 1135.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basis Class II formula prices computed pursuant to § 1135.51a

* * * * *

3. A new § 1135.51a is added to read as follows:

§ 1135.51a Basic Class II formula price.

The "Basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1135.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1135.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) determine the amounts by which the gross value per hundredweight of milk used to maufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nofat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this secton in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth

day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

PART 1136—MILK IN THE GREAT BASIN MARKETING AREA

1. A new § 1136.19 is added to read as follows:

§ 1136.19 Product prices.

The following product prices shall be used in calculating the basic Class II price pursuant to § 1136.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Mercantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each preceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1136.22(k) is revised to read as follows:

§ 1136.22 Additional duties of the market administrator.

* * * * *

(k) Publicly announce on or before:

(1) The 5th day of each month:

(i) The Class I price for the following month;

(ii) The Class I butterfat differential for the current month;

(iii) The Class III price for the preceding month;

(iv) The Class II and Class III butterfat differential for the preceding month; and

(v) The final Class II price for the preceding month;

(2) The 12th day of each month, the uniform price and the producer butterfat differential, both for the preceding month; and

(3) The 15th day of each month, the tentative Class II price for the following month.

* * * * *

3. Section 1136.50(b) is revised to read as follows:

§ 1136.50(b) Class prices.

* * * * *

(b) *Class II price.* A tenative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1136,51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1136.51 and add 10 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the Basic Class II formula prices computed pursuant to § 1136.51a.

* * * * *

4. A new § 1136.51a is added to read as follows:

§ 1136.51a Basic Class II furmula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1136.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1136.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following

computations: (i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat day milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the second preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changs in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

PART 1139—MILK IN THE LAKE MEAD MARKETING AREA

1. A new § 1139.19 is added to read as follows:

§ 1139.10 Product prices.

The following product prices shall be used in calculating the basic Class II formula price pursuant to § 1139.51a:

(a) *Butter price.* "Butter price" means the simple average, for the first 15 days of the month, of the daily prices per pound of Grade A (92-score) butter. The prices used shall be those of the Chicago Merchantile Exchange as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday, except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(b) *Cheddar cheese price.* "Cheddar cheese price" means the simple average, for the first 15 days of the month, of the daily prices per pound of cheddar cheese in 40-pound blocks. The prices used shall be those of the National Cheese Exchange (Green Bay, WI), as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each following work-day until the next price is reported. A work-day is each Monday through Friday except national holidays. For any week that the Exchange does not meet to establish a price, the price for the following week shall be the last price that was established.

(c) *Nonfat dry milk price.* "Nonfat dry milk price" means the simple average, for the first 15 days of the month, of the daily prices per pound of nonfat dry milk, which average shall be computed by the Director of the Dairy Division as follows:

(1) The prices used shall be the prices (using the midpoint of any price range as one price) of high heat, low heat and Grade A nonfat dry milk, respectively, for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service.

(2) For each week, determine the simple average of the prices reported for the three types of nonfat dry milk. Such average shall be the daily price for the day that such prices are reported and for each preceding work-day until the day such prices were previously reported. A work-day is each Monday through Friday except national holidays.

(3) Add the prices determined in paragraph (c)(2) of this section for the first 15 days of the month and divide by the number of days for which there is a daily price.

(d) *Edible whey price.* "Edible whey price" means the simple average, for the first 15 days of the month, of the daily prices per pound of edible whey powder (nonhygroscopic). The prices used shall be the prices (using the midpoint of any price range as one price) of edible whey powder for the Central States production area, as reported and published weekly by the Dairy Division, Agricultural Marketing Service. The average shall be computed by the Director of the Dairy Division, using the price reported each week as the daily price for that day and for each proceding work-day until the day such price was previously reported. A work-day is each Monday through Friday except national holidays.

2. Section 1139.50(b) is revised to read as follows:

§ 1139.50 Class prices.

* * * * *

(b) *Class II price.* A tentative Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The tentative Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, except that in no event shall the final Class II price be less than the Class III price.

(1) Determine for the most recent 12-month period the simple average (rounded to the nearest cent) of the basic formula prices computed pursuant to § 1139.51 and add 15 cents; and

(2) Determine for the same 12-month period as specified in paragraph (b)(1) of this section the simple average (rounded to the nearest cent) of the basic Class II formula prices computed pursuant to § 1139.51a.

* * * * *

3. A new § 1139.51a is added to read as follows:

§ 1139.51a Basic Class II formula price.

The "basic Class II formula price" for the month shall be the basic formula price determined pursuant to § 1139.51 for the second preceding month plus or minus the amount computed pursuant to paragraphs (a) through (d) of this section:

(a) The gross values per hundredweight of milk used to manufacture cheddar cheese and butter-nonfat dry milk shall be computed, using price data determined pursuant to § 1139.19 and yield factors in effect under the Dairy Price Support Program authorized by the Agricultural Act of 1949, as amended, for the first 15 days of the preceding month and, separately, for the first 15 days of the second preceding month as follows:

(1) The gross value of milk used to manufacture cheddar cheese shall be the sum of the following computations:

(i) Multiply the cheddar cheese price by the yield factor used under the Price Support Program for Cheddar cheese;

(ii) Multiply the butter price by the yield factor used under the Price Support Program for determining the butterfat component of the whey value in the cheese price computation; and

(iii) Subtract from the edible whey price the processing cost used under the Price Support Program for edible whey and multiply any positive difference by the yield factor used under the Price Support Program for edible whey.

(2) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the butter price by the yield factor used under the Price Support Program for butter; and

(ii) Multiply the nonfat dry milk price by the yield factor used under the Price Support Program for nonfat dry milk.

(b) Determine the amounts by which the gross value per hundredweight of milk used to manufacture cheddar cheese and the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk for the first 15 days of the preceding month exceed or are less than the respective gross values for the first 15 days of the preceding month.

(c) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (b) of this section by determining the relative proportion that the data included in each of the following subparagraphs is of the total of the data represented in paragraph (c)(1) and (2) of this section:

(1) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the price Support Program for cheddar cheese to determine the quantity of milk used in the production of American cheddar cheese; and

(2) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Statistical Reporting Service of the Department for the most recent preceding period, and divide by the yield factor used under the Price Support Program for nonfat dry milk to determine the quantity of milk used in the production of butter-nonfat dry milk.

(d) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (b) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (c) of this section.

4. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month and the final Class II price for the preceding month; and on or before the 15th day of each month the tentative Class II price for the following month.

Signed at Washington, D.C., on June 8, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16986 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1807, 1872, 1901, 1910, 1940, 1941, 1943, 1944, 1945, 1962 and 1990

Truth in Lending—Real Estate Settlement Procedures

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise, redesignate and amend its regulations concerning Truth in Lending disclosure requirements and Real Estate Settlement Procedures. This action is taken to implement provisions of a public law. The intended effect is to exempt all credit transactions primarily for agricultural purposes from the requirements of the Truth in Lending Act, to reduce the number and complexity of the disclosures, to provide for early disclosure in residential mortgage transactions and to make minor nonsubstantive clarifications in the real estate settlement procedures.

DATES: Comments must be received on or before August 23, 1982.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Loan Specialist, Single Family Housing Processing Division, Room 5341-S, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone: 202-382-1480.

SUPPLEMENTARY INFORMATION: This revision implements the Truth in Lending Simplification and Reform Act (Pub. L. 96-221) as required by Regulation Z of the Federal Reserve System and is consistent within the Agency's authority. This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor. The reasons for this determination are that this action will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs or prices for consumers; individual industries, Federal, State or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Options and projected rules considered were:

1. Leave the present regulation as it stands, in which case FmHA would not be in full compliance with the Truth in Lending Act, as amended, and would be disclosing more credit information than is required by the act, or is necessary for consumers to make credit decisions.

2. Change only those items to bring the present regulation into compliance with the Truth in Lending Act, as amended, with regard to format and timing of credit and rescission disclosure, but to continue making complete, detailed disclosure to applicants and borrowers. The complex and numerous disclosures previously required have been shown to be confusing and of no real benefit to credit consumers. In addition, the cost to FmHA of the time for preparation and explanation to applicants would be excessive for actions not required by law and of no benefit to applicants.

3. Completely revise the present regulation to comply with but not to exceed the requirements of the Truth in Lending Act, as amended. This will implement the maximum benefits intended by the Truth in Lending Simplification and Reform Act (Pub. L. 96-221) to both credit consumers and the Agency. This option was selected to comply with the act, as amended, and for the other reasons stated above.

It has been determined that this change is cost effective since it exempts loans for agricultural purposes from the Truth in Lending requirements and reduces the number and complexity of disclosures for non-exempt loans, thereby substantially reducing the paperwork burden imposed on FmHA, as a lending agency. Simplified disclosures will benefit consumers by providing a more useful basis for credit decisions. This instruction does not directly affect any FmHA programs or projects which are subject to A–95 clearinghouse review.

The Catalog of Federal Domestic Assistance programs affected are 10.404, Emergency Loans, 10.406, Farm Operating Loans, 10.407, Farm Ownership Loans, 10.410, Low to Moderate Income Housing Loans, 10.413, Recreation Facility Loans, 10.415, Rural Rental Housing Loans, 10.416, Soil and Water Loans, 10.417, Very Low-Income Housing Repair Loans and Grants, and 10.432, Biomass Energy and Alcohol Fuels Loan and Loan Guarantees.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

FmHA proposes to revise and redesignate Subpart I of Part 1901 to a new Subpart I of a new Part 1940 and to amend various sections of Part 1807, Subpart A of Part 1872, Subparts A and B of Part 1910, Subpart A of Part 1941, Subparts A, B, and C of Part 1943, Subparts A and E of Part 1944, Subparts B, C, and D of Part 1945, Subpart A of Part 1962, and Subpart A of Part 1990, Chapter XVIII, Title 7, Code of Federal Regulations. These revisions are made to implement the provisions of the "Truth in Lending Simplification and Reform Act," Pub. L. 96–221, which was enacted on March 31, 1980, and to make minor editorial clarifications.

List of Subjects in 7 CFR Part 1901

Administrative practice and procedure,
Credit,
Federal reserve system,
Legal services,
Mortgages,
Truth in lending.

Therefore, as proposed, Chapter XVIII of Title 7, Code of Federal Regulations, is amended as follows:

PART 1807—TITLE CLEARANCE AND LOAN CLOSING

§ 1807.1 [Amended]

1. Section 1807.1(j) is amended by changing the reference from "§ 1901.406(c)" to "§ 1940.406(c)".

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note—Only Cases

2. Section 1872.18 (g)(2)(iii) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate", and inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," and by removing the reference to Form FmHA 440–43, "Notice of Right to Rescind," and inserting the reference to Form FmHA 1940–43, "Notice of Right to Cancel," by adding a reference to footnote 3 beside Form FmHA 1940–43, and by revising footnotes 7 and 8 to read as follows:

§ 1872.18 Transfer of real estate security.

* * * * *

(g) *Processing transfer by assumption of indebtedness.* * * *

(2) *Preparation and distribution of transfer docket.* * * *

(iii) *Distribution of transfer docket forms.* * * *

[7]In right to cancel cases, original and sufficient copies for each person who has the right to cancel in accordance with Part 1940.

[8]Original and 1 copy to transferee: 2 copies to each other person who has the right to cancel in accordance with Part 1940. If the person exercises the right to cancel, she/he will sign one copy of the form and return it to the County Office. * * *

* * * * *

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart I—Truth in Lending—Real Estate Settlement Procedures [Reserved]

3. Subpart I is removed and reserved.

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

4. In § 1910.3, paragraph (k) is added and reads as follows:

§ 1910.3 Receiving applications.

* * * * *

(k) For loans, assumptions and credit sales to individuals for household purposes and subject to the Real Estate Settlement Procedures Act (RESPA), Form FmHA 1940–41, "Truth in Lending Disclosure Statement," completed with "good-faith" estimates, will be delivered or placed in the mail to the applicant within 3 business days of receipt of the written application in the County Office.

Subpart B—Credit Reports (Individual)

§ 1910.62 [Amended]

5. Section 1910.62(a) is amended by removing the reference to Form FmHA 440–41, "Disclosure Statement for Loans Secured by Real Estate," and inserting the reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement" and in the last line changing the word "Issue" to "Insert."

PART 1940—GENERAL

6. Title 7, Chapter XVIII is amended to add a new Part 1940—General.

7. A new Subpart I is added to Part 1940, and reads as follows:

Subparts A–H [Reserved].

Subpart I—Truth in Lending—Real Estate Settlement Procedures

Sec.
1940.401 Truth in lending.
1940.402–1940.405 [Reserved]
1940.406 Real estate settlement procedures.
1940.407–1940.450 [Reserved]

Subparts A–H [Reserved]

Subpart I—Truth in Lending—Real Estate Settlement Procedures

§ 1940.401 Truth in lending.

(a) *General.* This section provides instructions for compliance with the Truth in Lending Act, as implemented by Regulation Z of the Federal Reserve System, to assure that individual Rural Housing (RH) applicants are informed of:

(1) The cost and terms of credit, and

(2) Their right to cancel certain credit transactions resulting in a lien or mortgage on their home.

(b) *Scope.* This section applies to all individuals who apply for loans, assumptions, or credit sales (hereafter described as transactions) for household purposes.

(1) Special rules for the right to cancel transactions not for purchase, acquisition or initial construction of a home broaden the scope of this section to include individuals who have an ownership interest in, and reside in as a principal dwelling, property which will be security for a mortgage, even though they may not execute the promissory note or assumption agreement. Such persons have the right to receive credit disclosures and the notice of the right to cancel and may cancel the transaction.

(2) This section does not apply to:

(i) Applicants who are corporations, associations, cooperatives, public bodies, partnerships, or other organizations;

(ii) Individual applicants for multiple family housing transactions (rural rental or labor housing), unless for a two-family dwelling in which the applicants will reside, and other business and commercial type loans; or

(iii) Applicants involved in credit transactions primarily for agricultural purposes.

(c) *Disclosure of the cost and terms of credit.* (1) *Form and content.* Form FmHA 1940–41, "Truth in Lending Disclosure Statement", will be used to provide the following required disclosures:

(i) Annual percentage rate;

(ii) Finance charge;

(iii) Amount financed;

(iv) Total of payments;

(v) Total sale price (required for credit sales only);

(vi) Payment schedule;

(vii) A separate itemization of the amount financed, if the applicant requests it. Normally this required disclosure will have been met in transactions subject to the Real Estate Settlement Procedures Act (RESPA) by providing the applicant with Form FmHA 440–58, "Estimate of Settlement Costs";

(viii) The lender's identity;

(ix) Prepayment or late payment penalties;

(x) Security interest;

(xi) Insurance requirements;

(xii) Assumption policy; and

(xiii) Referral to other loan documents.

(2) *Timing, use of estimates and required redisclosure.* (i) In transactions for the purchase or construction of a home subject to RESPA, Form FmHA 1940–41, completed using "good faith" estimates based on the best information available, will be delivered or placed in the mail to the applicant no later than three (3) business days after receipt of a written application in the County Office.

(ii) In transactions not subject to RESPA, such as RH section 502 transactions for repairs or refinancing or RH section 504 transactions, Form FmHA 1940–41, completed using the actual terms of the transaction, will be delivered to each applicant (and in transactions which are subject to cancellation, each non-applicant with the right to cancel) at the time of approval.

(iii) In the event of a change in rates and terms between the time of initial disclosure and closing, whereby the annual percentage rate varies by more than one-eighth of one percent, redisclosure must be made. This may be done by entering the changes on all copies of the initial Form FmHA 1940–41, or by preparing a new Form FmHA 1940–41. When required, redisclosure may be made at the time the transaction is approved or at the time of the change, but the form must be delivered to the applicant before the signing of the promissory note or assumption agreement.

(3) *Special instructions for assumption, reamortization, refinancing and multiple transactions.* (i) Assumptions, within the scope of paragraph (b) of this section, at new rates and terms or of existing obligations which were for purchase, acquisition or initial construction of a residence, require new credit disclosure before the assumption occurs. Since assumptions are not subject to RESPA, early disclosure is not required.

(ii) Reamortization, as described in § 1944.37(g) of Subpart A of Part 1944 and § 1951.314 of Subpart G of Part 1951 of this chapter when the borrower is in default or delinquent, does not require new credit disclosure. In all other cases reamortization requires new credit disclosure.

(iii) Refinancing of debts in accordance with § 1944.22 of Subpart A of Part 1944 of this chapter, though not subject to RESPA or early disclosure, does require credit disclosure at the time the transaction is approved.

(iv) Multiple transactions.

(A) When a subsequent loan is financed along with another transaction and both transactions require credit disclosure, a separate Form FmHA 1940–41 will be prepared for each transaction.

(B) transactions with multiple advances will be treated as one transaction for the purpose of credit disclosure, in accordance with the Forms Manual Insert (FMI) for Form FmHA 1940–41.

(d) *Notice of the right to cancel.* The right to cancel applies only to transactions within the scope of paragraph (b) of this section, which are not for purchase, acquisition or initial construction of and which result in a mortgage on an individual's principal residence such as RH Section 502 transactions for refinancing, repairs or rehabilitation or RH Section 504 transactions.

(1) *Form and Content.* Form FmHA 1940–43, "Notice of Right to Cancel", will be used to notify individuals of their right to cancel those transactions, within the scope of paragraphs (b) and (d) of this section, which result in a mortgage on their principal residence except when the transaction is for its purchase or initial construction. This notice will identify the transaction and disclose the following:

(i) The acquisition of a security interest in the individual's principal residence.

(ii) The individual's right to cancel the transaction.

(iii) How to exercise the right to cancel the transaction, with a form for that purpose.

(iv) The effects of cancellation.

(v) The date the cancellation period expires.

(2) *Timing.*

(i) Two copies of Form FmHA 1940–43, and one copy of Form FmHA 1940–41, in accordance with the Forms Manual Inserts (FMI's), will be given to each individual entitled to cancel, not later than loan closing.

(ii) Any entitled individual may cancel the transaction until midnight of the third business day following whichever of the following events occurs last:

(A) The date the transaction is closed.

(B) The date Truth in Lending credit disclosures were made.

(C) The date notice of the right to cancel was received.

(3) *Disbursement of funds.* In a transaction subject to cancellation funds will not be disbursed, other than to a designated attorney or title insurance company preparatory to closing, until:

(i) Forms FmHA 1940–43 have been given to the appropriate individuals,

(ii) The three-day cancellation period has expired, and

(iii) The loan approval official is reasonably assured that the transaction has not been cancelled. This assurance may be obtained by:

(A) Waiting a reasonable period of time after the expiration of the cancellation period to allow for the delivery of a mailed notice, or

(B) Obtaining a written statement from each individual entitled to cancel that the right has not been exercised.

(iv) This delay may be waived in cases of a bonafide personal financial emergency, which must be met within the cancellation period, when the individual submits a signed and dated statement describing the nature of the emergency and waiving the right to cancel. Such a statement must be signed by all individuals entitled to cancel.

(4) *Effects of cancellation.*

(i) When an individual cancels a transaction, the mortgage securing the transaction becomes void and the borrower will not be liable for any amount, including any finance charge.

(ii) Within twenty (20) calendar days after receipt of a notice of cancellation the loan approval official will:

(A) Notify all interested parties of the cancellation;

(B) Return, and/or request the return of any money or property given to anyone in connection with the transaction; and

(C) Take the necessary action to terminate the mortgage.

(iii) Once evidence has been presented to the borrower that the mortgage has been terminated, the borrower must return any funds advanced by FmHA to the FmHA County Office or surrender any property at his/her residence within twenty (20) calendar days.

(e) *Advertisements.* An "advertisement" is defined as a commercial message in any medium that promotes, directly or indirectly, a credit transaction. Advertisements for credit sales of Government inventory property, within the scope of paragraph (b) of this section, are subject to the following requirements.

(1) If an advertisement states specific credit terms, it shall state only those terms that actually are or will be arranged or offered.

(2) If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term.

(3) Terms requiring additional disclosures.

(i) If any of the following terms is set forth in an advertisement:

(A) The amount of percentage of any down payment,

(B) The number of payments or period of repayment,

(C) The amount of any payment, or

(D) the amount of any finance charge,

(ii) The advertisement must also state:

(A) The amount or percentage of the down payment,

(B) The terms of repayment, and

(C) The "annual percentage rate," using that term.

§§ 1940.402–1940.405 [Reserved]

§ 1940.406 Real estate settlement procedures.

(a) *General.* This setion provides the instructions for compliance with the Real Estate Settlement Procedures Act (RESPA), as amended, and regulation X of the Department of Housing and Urban Development.

(b) *Scope.* (1) This section applies to loans and credit sales, including section 502 Rural Housing, 1–4 family Rural Rental Housing, 1–4 family Labor Housing, and Farm Ownership involving tracts of less than 25 acres, whether made to an individual, corporation, partnership, association or other entity, which meet the following requirements:

(i) The proceeds of the loan or the credit extended are used in whole or in part to finance the purchase and transfer of title of the property to be mortgaged by the borrower, and

(ii) The loan or credit sale is secured by a first lien covering real estate on which is located a structure designed principally for the occupancy of from 1–4 families, or on which a structure designed principally for the occupancy of from 1–4 families is to be constructed using proceeds of the loan.

(2) Exempt transactions include:

(i) Loans for repairs, improvements, or refinancing if the proceeds are not used to finance the purchase of the property.

(ii) Loans to finance the construction of a 1–4 family structure if the tract of land is already owned by the applicant/borrower.

(iii) Asumptions or transfers.

(c) *Actions required.* (1) The information booklet entitled "Settlement Costs," will either be given to the applicant at the time the completed application is received, or mailed to the applicant no later than three (3) business days after receipt of the application in the County Office.

(i) Form FmHA 440–58, "Estimate of Settlement Costs", is to be used to provide a "good faith" statement of estimated closing costs. Form FmHA 440–58 will be completed by the County Supervisor and mailed or delivered to the applicant with the Settlement Costs booklet. Costs will vary between geographic areas; therefore, information supplied on this form must be based upon (A) the County Supervisor's best estimate of charges the borrower will pay for each service in connection with the transaction, or (B) a range of charges at which such service is available to the borrower from all providers in the area.

(ii) Form FmHA 440–58 does not replace Truth-in-Lending forms. Appropriate forms listed in § 1940.401 will be used for Truth in Lending purposes.

(2) Form FmHA 440–59 (HUD–1), "Settlement Statement," will be completed as indicated in the form and FMI by the designated attorney or title company for all transactions described in paragraph (b) of this section. The purpose of this form is to provide a uniform settlement statement prescribed by RESPA.

(i) During the business day immediately preceding the date of settlement, the closing agent, if requested by the applicant, must permit the applicant to inspect the settlement statement, completed for those items which are then known to the closing agent.

(ii) A copy will be given to both the borrower and seller at the time of closing or settlement or will be mailed as soon as practicable if the borrower or seller are not present at closing.

§§ 1940.407–1940.450 [Reserved]

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

§ 1941.23 [Amended]

8. § 1941.23 (a)(4) is removed.

Exhibit A [Amended]

9. In EXHIBIT A, the paragraph entitled "Docket Preparation" is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

10. In § 1943.23, paragraphs (e) and (g)(1) are revised to read as follows:

§ 1943.23 General provisions

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 apply when FO funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.32 [Amended]

11. Section 1943.32(a) is amended by removing reference to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

12. Section 1943.73(e) is removed, paragraphs (f) and (g) are redesignated to (e) and (f) respectively, and (f)(1) is revised to read as follows:

§ 1943.73 General provisions.

* * * * *

(f) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing construction; diverting, appropriating, and using water including use for domestic purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.82 [Amended]

13. Section 1943.82(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

Subpart C—Insured Recreation Loan Policies, Procedures, and Authorizations

14. Section 1943.123 (e) and (g)(1) are revised to read as follows:

§ 1943.123 General provisions.

* * * * *

(e) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 apply to any applicant when Recreation Loan (RL) funds are used and less than 25 acres of land are involved, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located,

* * * * *

(g) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations including those governing building construction; diverting, appropriating, and using water including use for domestic or recreational enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

§ 1943.132 [Amended]

15. Section 1943.132(a) is amended by removing references to Forms FmHA 440–41, FmHA 440–42, and FmHA 440–43.

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.30 [Amended]

16. Section 1944.30(a) is amended by removing the reference to Form FmHA 440–41 and inserting reference to Form FmHA 1940–41, "Truth in Lending Disclosure Statement," by removing the reference to Form FmHA 440–42, and by removing the reference to Form FmHA 440–43 and inserting reference to Form FmHA 1940–43, "Notice of Right to Cancel."

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1944.233 [Amended]

17. Section 1944.233(b)(1)(iii) is amended by changing the reference from "§ 1901.406 of Subpart I of Part 1901 (FmHA Instruction 1901–I)" to "§ 1940.406 of Subpart I of Part 1940".

PART 1945—EMERGENCY

Subpart B—Emergency Loan Policies, Procedures and Authorizations for Those Applications Associated With Disaster Designations Having a Beginning Incidence Period Date Prior to May 26, 1981

18. Section 1945.73 (f) and (h)(1) are revised to read as follows:

§ 1945.73 General provisions—compliance requirements.

* * * * *

(f) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 apply when EM funds are used involving tracts of less than 25 acres, if:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

* * * * *

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with applicable Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes; installing facilities for draining land; and making changes in the use of land affected by zoning regulations.

* * * * *

Exhibit A [Amended]

19. Exhibit A, paragraph IV.D., is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440–43.

Subpart C—Economic Emergency Loans

20. In Exhibit A to Subpart C of Part 1945, the paragraph entitled Docket Preparation is amended by removing the references to Forms FmHA 440–41, FmHA 440–41A, and FmHA 440.43.

PART 1945—EMERGENCY

Subpart D—Emergency Loan Policies, Procedures, and Authorizations for Applications Associated with FmHA Disaster Designations Having a Beginning Incidence Period Date On or After 26, 1981

§ 1945.173 [Amended]

21. § 1945.173(f) is amended by changing the reference from "1901.406" to "1940.406".

PART 1962—PERSONAL PROPERTY

Subpart A—Servicing and Liquidation of Chattel Security

§ 1962.34 [Amended]

22. In § 1962.34, paragraphs (f) (10) and (11) are removed and subparagraphs (12) and (13) are redesignated to (10) and (11), respectively.

PART 1980—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

Subpart A—General Provisions

23. Section 1980.23(g) is revised to read as follows:

§ 1980.23 Compliance with statutes and regulations.

* * * * *

(g) *Real Estate Settlement Procedures Act.* Procedures for compliance with the Real Estate Settlement Procedures Act stated in § 1940.406 of Subpart I Part 1940 will apply to this part.

* * * * *

(Pub. L. 96–221, 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: June 1, 1982.

Ruth A. Reister,

Acting Under Secretary for Small Community and Rural Development, Farmers Home Administration.

[FR Doc. 82-17110 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-32]

Ohio Citizens for Responsible Energy Filing of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Ohio Citizens for Responsible Energy.

SUMMARY: The Commission is publishing for public comment this notice of receipt of a petition for rulemaking filed before the Commission on March 22, 1982, by Ohio Citizens for Responsible Energy. The petition, which has been assigned Docket No. PRM-50-32, requests that the Commission amend its regulations in 10 CFR Part 50 to require applicants for construction permits and operating licenses for nuclear power plants to provide for design features to protect against the effects of electromagnetic pulse (EMP).

DATE: Comment period expires August 23, 1982.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments concerning any portion, substantive or procedural, of the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7086, or Toll Free: 800-368-5642.

SUPPLEMENTARY INFORMATION: The petitioner states that electromagnetic pulses are generated by high altitude nuclear explosions and can induce current or voltage through electrically conducting materials, thereby either destroying or temporarily disrupting control systems in a nuclear power plant that are essential for safety.

The petitioner requests that 10 CFR Part 50 be revised in the following manner:

1. *"Section 50.13*

This section should be amended to read as follows:

Attacks and destructive acts by enemies of the United States; and defense activities

(a) An applicant for a license to construct and operate a production or utilization facility, or for an amendment to such license, is not required, with the exception of (b) below, to provide for design features or other measures for the specific purpose of protection against the effects of (*i*) attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or (*ii*) use of deployment of weapons incident to U.S. defense activities.

(b) Such applicant must, however, provide for design features to protect against the effects of electromagnetic pulse from whatever source."

"Appendix A of Subpart 50

This portion of the regulations should be amended to read as follows:

Criterion 4—Environmental and missle design bases. Structures, systems, and components important to safety shall be designed to accommodate the effects of and to be compatible with the environmental conditions associated with normal operation, maintenance, testing, and postulated accidents, including loss-of-coolant accidents. These structures, systems, and components shall be appropriately protected against dynamic effects of missiles, pipe whipping, and discharging fluids, that may result from equipment failures and from events and conditions outside the nuclear power unit including, but not limited to electromagnetic pulses."

In support of its proposed amendments, the petitioner indicates that if OCRE's proposed regulations are adopted a serious loophole in nuclear power plant safety design would be closed with little hardship worked upon applicants since EMP-hardening circuitry can be incorporated without great expense.

Finally, the petitioner is an intervenor party in a nuclear power plant licensing proceeding currently before the Commission's Atomic Safety and Licensing Board Panel (*In the Matter of Cleveland Electric & Illuminating Co. et al.*—Perry Nuclear Power Plant, Docket Nos. 50-440 and 50-441). The petitioner requests that the Commission, pursuant to § 2.802(d) of its regulations, suspend those portions of the Perry licensing proceeding related to safety pending disposition of petition for rulemaking PRM-50-32.

List of Subjects in Part 50

Administrative practice and procedure, Antitrust, Classified information, Emergency medical services, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting Requirements.

Dated at Washington, D.C., this 16th day of June, 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-17087 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01

10 CFR Part 50

Mandatory Property Insurance for Decontamination of Nuclear Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On March 31, 1982 the Nuclear Regulatory Commission (NRC) published in the **Federal Register** (47 FR 13750) an interim final rule requiring utility licensees to purchase on-site property insurance to be used for decontamination expenses arising from an accident. The NRC subsequently published a report on property insurance prepared by Dr. John D. Long, Professor of Insurance at Indiana University (NUREG-0891). This advance notice of proposed rulemaking requests comments on that report and other questions relating to property insurance for nuclear utilities.

DATES: Comment period expires September 22, 1982. Comments received after the expiration date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments filed on or before that date.

ADDRESSES: Written comments should be submitted to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the comments may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Copies of the report entitled "Nuclear Property Insurance: Status and Outlook," NUREG-0891, may be obtained under the NRC/GPO Sales

Program at a cost of $6.00 by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555. This report is also available for inspection and copying at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Wood, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–9885.

SUPPLEMENTARY INFORMATION: Recently, the NRC published a report, "Nuclear Property Insurance: Status and Outlook" (NUREG–0891), by Dr. John D. Long, Chairperson and Professor of Insurance at Indiana University. This report was written as an outgrowth of the Three Mile Island–2 accident after it became apparent that nuclear utilities may need more property insurance than has been available. The NRC staff asked Dr. Long to write the report, in part, to answer six questions as follows:

1. What has been the development of each principal source of nuclear property insurance used as of early 1982 by nuclear utilities in the United States?

2. What are some of the distinguishing features of nuclear property insurance as offered by the principal sources?

3. How much nuclear property insurance was offered by each of these sources as of January 1, 1982?

4. Assuming that present plans come to fruition, how much nuclear property insurance is likely to be offered by each of these sources as of January 1, 1983.

5. What, if any, principal sources of nuclear property insurance are likely to emerge in the private sector by January 1, 1983?

6. What problems serious enough to warrant action of the U.S. Nuclear Regulatory Commission exist with respect to nuclear property insurance and what action should NRC take in response to each problem?

While this report was being prepared, the NRC issued an interim final regulation which, for the first time, requires utility licensees to purchase on-site property damage insurance to be used for decontamination expenses and other expenses arising from an accident. The new regulation, 10 CFR 50.54(w), was published in the **Federal Register** on March 31, 1982 (47 FR 13750) and requires electric utility licensees to carry both the maximum amount of property insurance offered as primary coverage by either American Nuclear Insurers/ Mutual Atomic Energy Reinsurance Pool (ANI/MAERP) or Nuclear Mutual Limited (NML) plus any excess coverage in an amount no less than that offered by either ANI/MAERP or Nuclear Electric Insurance Limited (NEIL). Insurance will be required to be carried as of June 30, 1982. Electric utility licensees will be required on April 1, 1983 and annually thereafter to report on their coverage.

Because of matters raised in the report that were not addressed in the final rule and because the NRC desires the widest possible public input on the issues raised in NUREG–0891, we encourage interested parties to respond to the following questions. We also welcome comments on any other issues relating to property insurance for nuclear utilities, whether or not they have been raised in NUREG–0891. The comments will be considered by the Commission as it develops a proposed rule.

The NRC is particularly interested in receiving comments on the following questions:

1. What dollar limits of property insurance coverage should the NRC require? Professor Long recommended that the NRC require its commercial reactor licensees to carry whatever primary on-site coverage is offered both by ANI/MAERP and by NML plus whatever excess coverage is offered in the markets. Currently, if the capacities offered by these sources were simply added together, they would exceed $1.2 billion. Another possibility would be to require primary coverage either from ANI/MAERP or NML plus the total of whatever excess coverage is offered in the markets. At the present time, such a proposal would result in coverage of about $860 million, an amount between Dr. Long's recommendation and the current NRC property insurance requirement.

Alternatively, the NRC could retain its current property insurance requirements, and in addition, could publish annually the amount of coverage carried by each commercial reactor licensee. (The present regulation requires each licensee to report its insurance coverage to NRC annually (10 CFR 50.54(w)(4)). This information could then serve as a focus for decision-making by State regulatory bodies and other interests on the management judgment exercised by each utility regarding the purchase of nuclear property insurance coverage. Thus, after meeting a given minimum property insurance requirement of the NRC (i.e. the current requirement of the regulations), the decision to purchase any further property insurance could be resolved through the market mechanism by the licensee, its insurers, its customers, public utility commissions, equity and debt holders, and other interested parties. This approach raises the question of whether the NRC should increase the frequency of its reporting requirements relating to property insurance coverage. Comments are invited on how well these proposed mechanisms, or alternatives to them, will result in arriving at the proper level of coverage.

Finally, should the amount of insurance required be based on TMI-type accident recovery cost estimates or on some other technical basis?

2. If the NRC changes its requirements for property insurance, should there be special provisions for certain types of licensees? For example, should all power reactors regardless of authorized power level be required to purchase the same amount of insurance? Should the NRC exempt from applicable portions of property insurance requirements those utilities prohibited by state law from obtaining coverage from certain types of insurers? Should utilities with multiple-reactor sites be required to obtain coverage for each unit separately or is site coverage sufficient?

3. To what extent, if any, should the NRC become involved with the structure and terms and conditions of the property insurance offered? The regulations currently in effect are limited to NRC licensees and license applicants. So far, the NRC has imposed no requirements impinging on the business operations of the insurers. However, Professor Long has made certain recommendations that would put the NRC in the position of requiring utility licensees to maintain property insurance coverage acceptable to the NRC. As an example, Professor Long cites the practice of one insurer that does not discount its premiums when an insured buys co-extensive coverage both from it and another insurer. He recommends that the NRC accept no insurance that does not include such discounted premium provisions. Would that and similar NRC policies represent an unreasonable burden on insurers?

Professor Long suggests that the use of retroactive assessments may be reaching the limits of sound insurance practice and recommends that retroactive insurance be eliminated from any future coverage.

Should the NRC refuse to accept such coverage to satisfy its requirements? Is concern with overuse of retroactive assessments warranted?

As a corollary issue, should the NRC address the issue of whether, as a matter of public policy, it should require that all proceeds from property insurance be used to pay for

decontamination after an accident before claims of creditors and owners are satisfied? What would be the legal basis for such a requirement?

4. Should the NRC become involved in regulating the replacement power insurance program as currently offered by NEIL and described in NUREG–0891? Would more capacity for property insurance become available if replacement power insurance were no longer issued? Is replacement power insurance necessary, or is it sufficient and relatively equitable to collect such charges through rates?

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting equirements.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, as amended, 42 U.S.C. 2201)

Dated at Bethesda, Maryland this 15th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82–17101 Filed 6–23–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 82–ANE–23]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Proposed Amendment to Description of Block Island, R.I., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Block Island, Rhode Island 700-foot transition area to provide additional airspace protection for aircraft executing Very High Frequency Omni Range (VOR) Runway 10 or VOR Runway 28 original Standard Instrument Approach Procedure (SIAP). This amendment is needed to provide controlled airspace for aircraft executing an approach to land at Block Island State Airport, Block Island, Rhode Island.

DATE: Comments must be received on or before July 30, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Excutive Park, Burlington, Massachusetts 01803. All communications received on or before July 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8065. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island. This action will provide additional controlled airspace protection for aircraft executing the VOR Runway 10 or VOR Runway 28 Standard Instrument Approach Procedure.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700-foot transition area at Block Island State Airport, Block Island, Rhode Island, as follows:

Block Island, Rhode Island

Delete:

"within a 5 mile radius."

Insert in lieu thereof:

"within a 6.5 mile radius."

(Sec. 307(a) of the Federal Aviation Act of 1958 [49 U.S.C. 1348(a); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61)])

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criterja of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 10, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17100 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82–ANE–22]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Proposed Amendment to Description of Mansfield, Mass., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Mansfield, Massachusetts 700-foot transition area to provide additional controlled airspace to protect aircraft executing the Non-Directional Beacon (NDB) Runway 32 original Standard Instrument Approach

Procedure (SIAP) at Mansfield Municipal Airport, Mansfield, Massachusetts.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Operations, Procedures and Airspace Branch, ANE–530, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. The docket may be examined at the following location: Federal Aviation Administration, 12 New England Executive Park, Burlington Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7285.

Comments Invited

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, ANE–530, Operations, Procedures and Airspace Branch, ANE–530, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before July 30, 1982, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the 700-foot transition area at Mansfield Municipal Airport, Mansfield Massachusetts. This action will provide additional controlled airspace protection for aircraft executing the NDB Runway 32 Standard Instrument Approach Procedure.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by amending the 700-foot transition area at Mansfield Municipal Airport, Mansfield, Massachusetts, as follows:

Mansfield, Massachusetts

Delete:

"excluding that portion that coincides with the Boston, Massachusetts transition area."

After "to the VOR" insert:

"and within 3 miles each side of the 327 magnetic bearing (312 true) from the Mansfield (IHW) NDB extending from the 5-mile radius area to 8.5 miles southeast of the Mansfield NDB excluding those portions that coincide with the Boston and Taunton, Massachusetts transition area."

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61)))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is certified that this (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 11, 1982.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 82–17038 Filed 6–22–82; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 82-ASW-37]

Proposed Designation of Transition Area; Grove, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes designation of a transition area at Grove, OK. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing new instrument approach procedures to the Grove Airport, OK. This action is necessary to provide protection for aircraft executing RNAV approaches to Runways 18 and 36 and a VOR/DME approach using the Neosho VORTAC. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received by July 26, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: James L. Owens, Airspace and Procedures Branch, ASW–536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, § 71.181 as republished in Advisory Circular AC 70–3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Grove, OK, will necessitate an amendment to this subpart. This amendment will be required at Grove, OK, since there are proposed new IFR procedures to the Grove Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications sould identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-37." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

Index Terms

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Grove, OK [New]

That airspace extending from 700 feet above the surface within a 6.5-mile radius of the Grove Airport (latitude 36°34'14"N., longitude 94°44'19"W.) and within 2 miles each side of the Neosho VORTAC 226° radial extending from the 6.5-mile radius to 7.5 miles northeast of the airport and within 2.5 miles each side of a 180° bearing and 360° bearing from the runway thresholds extending from the 6.5-mile radius to 8.5 miles south and 8.5 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on June 15, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-17089 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 3, 375 and 381

[Docket No. RM82-35-000]

Fees Applicable to General Activities

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission under its jurisdictional statutes. The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) to establish fees for services and benefits it provides. The fees are being proposed in a series of proposed rules, each rule relating to a different type of regulated entity or jurisdictional subject area.

This proposed rule would establish fees for general activities in Part 381 of the Commission's regulations. The rule would require the payment of a fee upon the filing of (1) a petition for a declaratory order, (2) a request for interpretation by the Office of the Chief Accountant, (3) a request for review of a DOE remedial order, and (4) a request for review of a DOE denial of adjustment.

DATE: Comments must be submitted to the Secretary of the Commission by July 30, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8400.

Issued: June 15, 1982.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations to establish fees for services and benefits provided by the Commission in the administration of its statutory responsibilities. The fees are being proposed in a series of proposed rules, each relating to a different type of regulated entity, or jurisdictional subject area. By proposing fees in a series of individual rulemakings, the Commission intends to identify clearly each category of fees and to focus public comments. Nevertheless, the proposals are the product of a comprehensive examination of potential fees structures associated with all the different functions and services performed by the Commission. The Commission will consider issuing a consolidated final rule establishing fees for all services and benefits.

This proposed rule would establish fees in a new Part 381, other than fees for FOIA requests. Specifically, the rule would require the payment of a fee upon the filing of (1) a petition for a declaratory order, (2) a request for interpretation by the Office of the Chief Accountant, (3) a request for review of a DOE denial of adjustment, and (4) a request for review of a DOE remedial order. In addition, the proposal would amend the fees to be charged for Freedom of Information Act requests to provide for an annual adjustment to reflect changes in average personnel costs.

The Commission is authorized by the Independent Offices Appropriations Act of 1952 (IOAA) [1] to establish fees for services and benefits it provides. The IOAA provides in pertinent part:

[A]ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-

[1] 31 U.S.C. 483a.

sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefore such fee, charge, or price, if any, which he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration the direct and indirect costs to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amounts so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts * * *

The principal agency interpretation of the IOAA is Bureau of the Budget Circular A-25 [2] which states that a fee should be assessed against each identifiable recipient of a measurable unit or amount of Government service or property from which such recipient derives a special benefits.[3]

In accordance with the IOAA and authoritative interpretations of that statute, the Commission, in establishing any fee, must:[4]

A. Identify the service for which the fee is to be assessed;

B. Explain why that particular service benefits an identifiable recipient more than it benefits the general public;

C. Base the fee on as small a category of service as practical; and

D. Demonstrate what direct and indirect costs are incurred by the Commission in rendering the service, and show those costs are incurred in connection with the service rendered the beneficiary.

[2] Bureau of the Budget Circular A–25 (September 23, 1959). This interpretation has been quoted by the U.S. Supreme Court as "the proper construction of the act," in FPC v. New England Power Co., 415 U.S. 345, 351 (1974).

[3] Budget Circular A–25 at 1–2:

General Policy. A reasonable charge * * * should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit." * * * For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

a. Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than which accrue to the general public (*e.g.*, receiving a patent, crop insurance, or a license to carry on a specific business); or

b. Provides business stability or assures public confidence in the business activity of the beneficiary (*e.g.*, certificates of necessity and convenience for airline routes, or safety inspections of craft). * * *

[4] *See* National Cable Television Association, Inc. v. United States, 415 U.S. 336 (1974); FPC v. New England Power Co., 415 U.S. 345 (1974); Mississippi Power & Light v. NRC, 601 F.2d 223 (5th Cir. 1979) *cert. denied*, 444 U.S. 1102 (1980); National Cable Television Association, Inc. v. FCC, 554 F.2d 1094 (D.C. Cir. 1976); Electronic Industries Association v. FCC, 554 F.2d 1109 (D.C. Cir. 1976); National Association of Broadcasters v. FCC, 554 F.2d 1118 (D.C. Cir. 1976); Capital Cities Communications, Inc. v. FCC, 554 F.2d 1135 (D.C. Cir. 1976).

II. Discussion

The Commission believes that the fees set forth in this proposed rule would meet the four requirements outlined above.

A. *Identification of Services.* The categories of services and benefits for which the Commission would propose a fee are the following:

1. Declaratory orders requested in accordance with § 1.7;

2. Interpretations rendered by the Office of the Chief Accountant requested in accordance with § 3.8;

3. Review of appeals from DOE denial of adjustments requested in accordance with § 1.40; and

4. Review of appeals from DOE remedial orders requested in accordance with § 1.41.

B. *Special Benefits to Identifiable Recipients.* The IOAA provides that an agency may collect fees for "any work, service, publication, report, document, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * *"

In delineating the services or benefits for which agencies are permitted to charge under the terms of the IOAA, Budget Circular A–25 state that a fee may be charged to an identifiable recipient who derives a special benefit from a Government service." [5] In addition, the circular indicates that a "special benefit" has accrued if the recipient obtains "more immediate or substantial gains or values * * * than those which accrue to the general public." [6] Any fee charged under the IOAA is not rendered invalid because the public may also enjoy incidental benefits which flow from the service provided the recipient by the agency.[7] However, an agency may not charge for its services "when the identification of the ultimate beneficiary is obscure and the service can be considered as benefitting broadly the general public." [8]

The proposed rule complies with these requirements because the services for which the Commission proposes fees would be charged under this rule provide special benefits to the applicants who invoke the Commission's procedures. A declaratory order is issued in the discretion of the Commission and provides the applicant with the assurance that the Commission will act in accordance with what is set forth in the declaratory order.

An interpretation by the Office of the Chief Accountant is made only at the request of the applicant and benefits the applicant by providing a staff opinion as to the application of the Commission's Uniform Systems of Accounts, reporting requirements, and records retention requirements to the particular facts or circumstances raised by the applicant.

A review of a DOE denial of adjustment by the Commission provides the applicant with another opportunity to seek relief from otherwise applicable rules or orders. In addition, section 504(b) of the Department of Energy Organization Act (42 U.S.C. 7194(b)) requires any person aggrieved by the denial of a request for adjustment to seek review of such a denial by the Commission before that person seeks judicial review. Therefore, such reviews by the Commission are made only upon request and afford the requester with either the relief being sought or an opportunity for judicial review.

A review of a DOE remedial order by the Commission provides the applicant subject to the remedial order with an opportunity to obtain revocation or modification of the remedial order. In addition, section 503(c) of the Department of Energy Organization Act (42 U.S.C. 7193(c)) requires Commission review of the remedial order before judicial review may be sought. Therefore, the Commission review provides the requester with either relief from the remedial order or an opportunity for judicial review.

In these cases, the Commission believes that each identifiable applicant for these kinds of Commission services derive more substantial benefits than those benefits accruing to the general public. The Commission will assess against any individual or entity seeking these services a fee designed to recover the costs associated with providing the service.

The Commission is not proposing in this rulemaking to charge fees for other general actions it takes relating to its jurisdictional statutes. These actions include preliminary and formal enforcement investigations, settlement and administrative litigation, news releases, and litigation in the courts. Generally, the recipients of these services are not readily identifiable.[9]

[5] Budget Circular A–25 at 1–2.

[6] *Id.* at 2.

[7] *See* Mississippi Power & Light v. NRC, 601 F.2d 223, 227–28 (5th Cir. 1979) *cert. denied*, 444 U.S. 1102 (1980); Electronic Industries Association v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976).

[8] Budget Circular A–25 at 2; quoted with approval in FPC v. New England Power Co., 415 U.S. 345, 350 (1974).

[9] The Commission is considering, in other rulemakings, fees which recover the costs of certain rulemakings. In these cases where a fee is proposed, the Commission believes that there are special benefits provided to identifiable recipients.

C. *Smallest practical unit.* In designing a fee schedule, the IOAA requires the Commission to base the fees on the smallest unit of category of service or benefit practical. In remanding fees estalished by the Federal Communications Commission, the Court of Appeals for the D.C. Circuit set forth the general rule:

> [W]e interpret the statute and the Supreme Court decisions to require reasonable particularization of the basis for the fees, accomplished by an allocation of costs to the smallest unit that is *practical.* In most cases, we expect this unit will be classes of carriers or applicants or grantees or services which the Commission has already singled out for separate treatment in its 1975 fee schedule. Classification is always a difficult problem, involving as it does the drawing of lines; but the solution is not to group dissimilar entities together. The Commission must examine its expenses and set forth the maximum particularization of costs which it conveniently can make, so that the correctness of its actions can be reviewed. * * *
>
> Many of the expenses will no doubt separate naturally among classes of carriers and services * * * (emphasis added).[10]

The Commission recognizes that there may be significant differences in the costs incurred for individual petitions or requests which are submitted for Commission action. Some filings are more complex or controversial than others or may require more time to process. The Commission is proposing to establish fees based on categories of activities sharing common charateristics. Fee categories are generally delineated according to the nature of the service or benefit provided. For example, petitions for declaratory orders are not grouped with requests for review of DOE remedial orders, or with requests for interpretations by the Office of the Chief Accountant.

A fundamental consideration in developing a fee structure under the IOAA is the practicality of establishing fees which relate, not just to categories of services, but also to subcategories of services or even individual agency services. This problem relates to the accessibility of cost data and the expense incurred in collecting the data. The Commission believes it has the authority to establish separate fees for any filing, that initiates a proceeding and any filing, that requires the Commission to undertake additional steps in a proceeding, such as petitions for rehearings, interventions or appeals. However, because the time spent in subsequent stages of a proceeding is not separately recorded by the Commission, the Commission does not have data at this time which is detailed enough to permit it to establish a separate fee for each stage of a proceeding. Therefore, the Commission is proposing here to establish only one fee for a proceeding or application process because the Commission believes that the entire process is the smallest unit practical on which to base a fee. It nevertheless requests comments on whether the fee categories should be established for smaller classes of applicants, or separate stages of a proceeding and the nature of the data which would be necessary to support such fee categories.

D. *Basis of Cost Recovery.* 1. *Direct and indirect costs included.* The fee schedule proposed by the Commission will be designed to account for all types of recoverable costs associated with the processing of the specified petitions, applications, and requests. The costs attributable to a particular Commission service are not merely the salaries of the employees who review the petitions, applications, and requests. As the Fifth Circuit observed, in *Mississippi Power and Light* v. *NRC,* employees "must be supplied working space, heating, lighting, telephone service and secretarial support. Arrangements must be made so that [they are] hired, paid on a regular basis and provided specialized training courses. Those and other costs such as depreciation and interest on plant and capital equipment are all necessarily incurred in the process of reviewing an application."[11] The following description indicated what actual costs are incurred when the Commission supplies the identified services and benefits.

The processing of petitions for declaratory orders requires an analysis by staff of the facts presented in the petition. If the facts presented are inadequate, more information is requested. Then, based on an analysis of the facts and the particular issues raised, the Office of the General Counsel, in consultation with other Commission offices, drafts a proposed order. The order drafted by the Office of the General Counsel must then be considered and evaluated by the Commission and is placed on the Commission's agenda in order that the Commission may act on it. If the order is issued, the Commission notices it in the **Federal Register.**

The processing of a request for an interpretation from the Office of the Chief Accountant requires that office to research and analyze the particular issues raised by the request. Then, it must draft a formal response advising the requester how the Uniform Systems of Accounts or other regulations pertain to a particular situation.

Appeals of DOE denials of adjustments and appeals of DOE remedial orders are considered and processed similarly in the Commission's Office of Opinions and Review (OOR). Upon receipt, both types of appeals require a review of the filing by OOR to determine if it is complete. If complete, the filing is noticed in the **Federal Register.** During the course of reviewing both requests, OOR staff must review and analyze arguments and may be requested to conduct discovery, an evidentiary hearing or an oral argument. After all evidence and arguments are presented and considered, OOR staff must prepare and issue a proposed order for comment by the parties. If comments on the proposed order are filed, OOR staff must consider them and prepare a final order. This final order is then considered and evaluated by the full Commission which determines whether or not to issue it.

Commission review of DOE remedial orders is a phase of DOE enforcement proceeding and the Commission is not proposing to establish fees for any phase of its own enforcement proceedings. The Commission is, nevertheless, proposing a fee for review of DOE remedial orders. However, it requests comments on how the Commission might reduce the fee in specific circumstances so that it would not substantially discourage appeals of remedial orders.

2. *Methodology.* The Commission's calculation of the costs incurred to perform each of the services for which a fee is proposed is directly related to the amount of Commission time spent on providing each of these services. The proposed rule relies on information obtained through the Commission's management information system (MIS), which provides the amount of time spent on all the Commission functions. This data is recorded on a periodic basis. The functions are grouped into categories which represent the Commission's various programs, including gas wellhead pricing, gas pipeline rates, gas pipeline certificates, gas producer rates, gas producer certificates, oil pipeline regulation, hydropower regulation and electric power regulation.

The supervisor in each organizational unit periodically reports to the MIS the amount of time spent by staff on each function, in terms of "work-months". A "work-month" is the unit of work represented by one employee's devotion of 100% of his or her time for one month. With respect to each function, the

[10] Electronic Industries Association v. FCC, 554 F.2d 1109, 1116–17 (D.C. Cir. 1976).

[11] 601 F.2d at 232.

supervisor records the number of projects intiated (receipts) and completed (completions) in a particular time period, insofar as the nature of the function involves the intiation and completion of projects. Most Commission functions can be measured in terms of the number of projects initiated and completed. In accordance with Commission practice, these projects are generally assigned docket numbers and, for purposes of this discussion, will be referred to as "docketed activities".

Other support functions regularly undertaken, with respect to any program, may not be measured in terms of receipts and completions and are not docketed. The nature of these functions makes impractical any measurements in terms of receipts and completions, but staff time is nevertheless spent performing these functions. This time is also allotted and reported by unit supervisors.

These support functions will be referred to as "support activities" and can be divided into three categories. First, there are activities that involve general supervision, personnel management, and routine administrative functions such as maintenance of time and leave records, the handling of property and supplies, staff meetings, and the planning and organizing of leave.

Second, support staff responds to requests for information that do not contribute directly to the completion of a docketed activity. Examples include requests for information from the public, from the Congress, from the General Accounting Office, and from other governmental agencies.

Third, support staff establishes or reviews certain Commission operations and procedures. These activities include work on the Commission's budget, management information systems, and program development functions such as special studies or briefings not identified with a docketed activity.

As previously discussed, the Commission engages in approximately 9 docketed activities which fulfill general functions—that is, they are undertaken with respect to the administration of any of the Commission's statutory responsibilities. The activities for which a fee is proposed in this rulemaking are declaratory orders, interpretations by the Office of the Chief Accountant, review of DOE denials of adjustments, and review of DOE remedial orders. The other docketed activities, for the which the Commission is not proposing to establish fees, include preliminary investigations, formal investigations, Federal litigation, news releases, and settlements and administrative litigation.

In addition, there are general functions performed by the Commission, such as reviewing applications for rehearing, petitions for waiver and interventions, motions, protests, and complaints which are not separately classified as either docketed activities or support activities but are performed in the process of considering a docketed activity. The costs incurred in considering petitions, motions and complaints will be considered in the context of the docketed activity for which a fee is proposed.

The Commission's proposed fee schedule is based on the direct costs (reflected by the number of work-months reported for each docketed activity), as well as a pro-rata share of indirect costs (reflected by the work-months reported for support activities) incurred by the Commission in performing each function represented by the above-mentioned fee categories.

The Commission uses the following method to determine the cost of providing any service or benefit.

First, the work-months or WM's reported for a specific docketed activity are added to a pro-rata share of the work-months reported for the relevant support activities.[12] This figure, representing the total number of work-months dedicated to a given function for a year, is divided by the number of completions for that year for the given activity. The resulting quotient represents the average number of work-months required to complete each activity.

Second, the Commission uses the following figures provided by the Office of Program Management to derive the average cost of a work-month, based on the Commission's FY 1982 budget.

Average annual salaries and fringe benefits (including the overhead for retirement and benefit insurance)	$37,518
Administrative overhead for one year per employee (including printing, communication, office space, rent, etc.)	8,488
Contracts for overhead services for one year per employee (microfilm, etc.)	2,405
Estimated average cost per employee for FY 1982	$48,392

The total is divided by 12 to yield an average work-month cost of $4,032.67.

Third, in order to determine the cost of the activity, the Commission multiplies the average cost per work-month by the average number of work-months required to complete the activity.

The Commission proposes to update the fees each year so that the computations reflect current Commission costs. An updated fee schedule would be published in the **Federal Register** each year. The updated fee would be the product derived by multiplying each fee that is effective for the current fiscal year by the ratio of the average budgeted costs per employee for the next fiscal year to the average budgeted costs per employee for the current fiscal year. An applicant would be obliged to pay either the updated fee or, if the updated fee is not yet effective, the fee that is currently effective at the time of filing.

In addition, the Commission is proposing to update annually the fees contained in the final rule establishing fees relating to Freedom of Information Act (FOIA) requests, Docket No. RM81-40, issued May 19, 1982. This update of FOIA fees would be made in accordance with the same methodology, described above, as would be employed to update the fees established in this proposal.

E. *Exceptions to Full-Cost-Recovery.* As a general policy, the Commission intends to establish fees which include all the recoverable costs associated with a particular benefit or service provided by the Commission. The Commission recognizes, however, that there may be instances in which a fee has an undesired effect on an applicant or other person requesting a service or benefit or otherwise proves unfeasible. In such cases, the Commission may exercise discretion to reduce the fee for a category of services. Generally speaking, the Commission does not expect this issue to arise with regard to any service which is necessary to participation in a regulated business and continues to consider the possiblity of full-cost recovery for each category of service for which it proposes fees. The Commission specifically requests comments on this fundamental approach.

The primary concern presented by the establishment of fees is to ensure that the benefits and services provided by the Commission under its jurisdictional statutes remain reasonably available to interested persons. Any consideration of whether to establish a less than full-cost-recovery fee under new Part 381 for a category of service would initially depend on a threshold determination that a full-cost-recovery fee may discourage use of the service for which the fee is assessed. If it appears to the Commission that a full-cost-recovery fee would discourage filings or use of

[12] The Commission has excluded from its cost calculations the work-months associated with the second category of support activities because those functions do not constitute a part of the total cost of providing a special benefit.

Commission services, it would then consider a reduction in the relevant fee. The determination of how far to reduce a fee will depend on four specific factors.

1. *Disproportionate economic burden.* The Commission may reduce the fee by a factor of forty to sixty-five percent, if it is shown that the individuals or entities the Commission expects to predominate in the potential class of payers are of the type on which the full-cost-recovery fee could be expected to impose a disproportionate economic burden. If the Commission service does not pertain to small entities or involve any particular economic hardship, but would nevertheless impose a full-cost-recovery fee that would discourage use of service, the Commission would be inclined to reduce the fee by a smaller amount, not to exceed fifty percent of the full cost of the service, depending upon other considerations which may arise.

2. *Encouraging use of a service.* The Commission may reduce the fee by twenty percent, if a service or procedure is of a type that the Commission wishes to encourage or if the Commission prefers that service or procedure to be used more often than others which would provide essentially the same benefit.

3. *Use of Commission time.* Related to the consideration of encouraging one service over another is a consideration of whose time and effort is required to provide the particular service. Commission time is more valuable and limited than staff time. Therefore, a reduction of five percent may be made if a service requires only staff time in the normal course of processing, not including appeals to the Commission.

4. *Reduction of processing time.* There may be some services the Commission provides with which the Commission has had little experience. Therefore, its data may not be as indicative of the average costs of providing that service over a longer period of time as its data for the costs of services it has been providing for many years. As the Commission gets more familiar with the processing or review of such an application of filing, processing the application or otherwise providing the service may become more efficient, thereby reducing the amount of time required to provide service. To reflect this possibility, the Commission may reduce the fee by five percent if the service requested is one with which the Commission has had little experience.

III. Fees Proposed

The following table summarizes the average number of work-months (WM's) and average costs incurred in rendering the services for which the Commission proposes fees:[13]

Service	Total WM's	Total completions	Average number WM's per completion	Average cost per completion
Declaratory orders	116.34	29	4.000	$18,130.88
Interpretations by the Office of the Chief Accountant	5.5	40	.138	556.51
Review of DOE denials of adjustments and review of DOE remedial orders	146.3	158	0.95	[1]3,631.04

[1] Review of DOE Denials of Adjustments and Remedial Orders involve similar classes of applicants, similar proceedings, and consideration of similar issues. MIS reports on these two activities are based on the assumption that, on the average, they take the same amount of time and expense to process. Because the two activities involve the same class of applicants, the same proceedings, consideration of similar issues, and, essentially the same costs, the data for the two activities has been combined to arrive at an average cost per completion.

The Commission believes that the cost of a declaratory order is such that to revover it fully through fees would substantially discourage the use of this service. Declaratory orders may be requested by a broad spectrum of regulated entities, and there are a substantial number of small businesses and other organizations within this class. The Commission, therefore, has reduced the fee for declaratory orders from costs by appoximately fifty-five percent.

The following fees are therefore proposed:[14]

Service:	Fee
Declaratory orders	$7,800
Interpretations by the Office of the Chief Accountant	500
Review of DOE denial of adjustments	3,800
Review of DOE remedial orders	3,800

Furthermore, the Commission is proposing procedures whereby the Commission may waive or reduce fees prescribed by this proposal. These procedures would give the Commission the discretion to waive or reduce fees in order to avoid imposing an undue economic burden.

IV. Procedures for Paying Fees

In order to be consistent with the assessment of fees relating to general activities, the Commission proposes to amend its current regulations regarding the procedures applicable to each of the petitions and applications covered by the proposed fee schedule. The amended procedures would require that a certified check for the appropriate amount, made payable to the United States Treasury, be included with each petition and application. In addition, the proposal provides that any application or petition which is not accompanied by the appropriate fee will not be processed by the Commission.

Furthermore, in the areas where the Commission presently charges fees, it follows a policy of no refunds, with minor exceptions. The Commission expects to apply this no refund policy to all fees proposed under the IOAA, in this series of rulemakings as well.

V. Direct Billing Alternative

As discussed above, the methodology that would be used to establish the proposed fees is based on the average cost of processing the average filing. The Commission occasionally receives filings which are not representative of these average filings. These filings may be so extensive in scope and present issues of such complexity of difficulty that the Commission must devote an extraordinary amount of time and effort to processing them. The standard fees would bear no reasonable relationship to the actual cost of processing these extraordinary filings. Moreover, if the costs of processing these extraordinary filings were included in the average costs associated with average filings, persons submitting the extraordinary filings. Therefore, the Commission is proposing that in the case of an extraordinary filing, it would order a direct billing procedure.

Under this direct billing procedure, the Commission would periodically bill the person who submitted the filing for all the direct and indirect costs incurred by the Commission in processing the filing. The filing would then be processed like other filings, but the manpower devoted to processing the filing would be separately recorded and would not be averaged with the time devoted to processing the average filing.

VI. Summary of Proposed Rule

This proposed rule would establish fees for general activities in proposed

[13] The Commission is placing in the public file for this docket more detailed data relating to the costs incurred by the Commission which form the basis of the proposed fees.

[14] Fees are established by taking actual costs and rounding *down* to: (1) The nearest $5 increment, if the total cost is $100 or less and (2) The nearest $100 increment, if the total cost is more than $100.

Part 381 of Chapter 1 of Title 18 of the code of Federal Regulations.

Proposed § 381.103 provides that each filing must be accompanied by the proper fee or the filing will be considered deficient, which could result in rejection of the filing. Section 381.103 also provides that if a filing for one service or benefit may be considered as falling within two or more fee categories, the higher or highest the applicable fees must be paid.

Proposed § 381.104 requires the Commission to publish a revised fee schedule each year to reflect an increase or decrease in costs.

Proposed § 381.106 provides that the Commission may waive or reduce fees if to do so is necessary to prevent undue economic burden.

Proposed § 381.107 provides that the Commission may order any filing, the processing of which requires an extraordinary amount of time and staff resources, to be assessed fees under a direct billing procedure. Any fees paid under Part 381 upon submission of the filing would be credited against the direct bill.

Proposed § 381.201 establishes a $7,600 fee payable upon submission of a petition for the issuance of a declaratory order.

Proposed § 381.202 establishes a $500 fee payable upon request for an interpretation of the Uniform Systems of Accounts by the Office of the Chief Accountant.

Proposed § 381.203 establishes a $3,800 fee payable upon submission of an appeal from a DOE denial of adjustment.

Proposed § 381.204 establishes a $3,800 fee payable upon submission of an appeal from a DOE remedial order.

This proposed rule also amends Parts 1 and 3 of the Commission's regulations [15] relating to the above-mentioned categories of services, to require each petitioner, applicant, or requester to file the proper fee with the petition, application, or request.

In addition, this proposed rule amends § 3.8 of Chapter 1 of Title 18 CFR by adding a new paragraph (k)(7) in order to provide for the annual updating of fees relating to FOIA requests.

VII. Initial Regulatory Flexibility Analysis

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, to publish a general notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, to prepare and make available for public comment an initial regulatory flexibility analysis if the proposed rule will have a significant economic impact on a substantial number of small entities. The broad purpose of the RFA is to ensure more carefull and informed agency consideration of rules that may significantly affect small business and small government entities and to encourage consideration of alternative approaches that may better resolve any unnecessarily costly or adverse effects on these small entities.

Under section 603, an initial regulatory flexibility analysis must set forth the reasons, objectives, and legal basis for the proposed rule. The analysis must describe the impact the proposed rule will have on small entities, and any significant alternatives minimizing the impact. The analysis must also examine any compliance requirements of the proposed rule, and any other rules that duplicate, overlap, or conflict with the proposed rule.

In this preamble the Commission presents its reason for this agency action, its objectives, and the legal basis for this rulemaking. As discussed, the proposed rule would establish a schedule of fees to be paid to the Commission for certain benefits it provides. The proposed rule would not impose any reporting, recordkeeping or compliance requirements, nor are there other conflicting, overlapping, or duplicative rules.

During the past year, approximately 40 petitions for declaratory orders, 40 requests for interpretations of the Uniform System of Accounts, 77 requests for review of DOE remedial orders, and 77 requests for review of DOE denials of adjustment were filed with the Commission. These requests and petitions have been submitted by all types of entities regulated by the Commission as well as entities and individuals which are not regulated by the Commission. The Commission regulates oil pipelines, natural gas pipelines, natural gas producers, electric utilities, and hydroelectric facilities.

The Small Business Administration's (SBA) regulations do not establish specific size standards for each of the entities regulated by the Commission that would be subject to the proposed rule. *See* 13 CFR 121.3–10(d)(1), (d)(11). Most natural gas and oil pipelines and electric utilities are large businesssses, yet a small proportion of this group would probably be considered small. A majority of natural gas producers and hydroelectric facility licensees, however, would most likely be classified as small businesses. In addition, within the class of individuals and entities not regulated by the Commission but which could be expected to seek the services covered by this proposal, there may be a significant number of small businesses. For instance, this proposal will also affect those individuals and entities which seek Commission review of DOE denials of adjustment and DOE remedial orders. These entities include retailers, resellers, refiners, and oil producers, and within these various classes of entities the Commission believes there may be a significant number of small businesses. Therefore, the Commission believes this rule may have a significant economic impact on a certain, but not necessarily substantial, number of small entities, that is, small producers, small electric utilities, small hydroelectric licensees, permittees, small retailers, small resellers, and small refiners.

Where a proposal may have a significant economic impact on a substantial number of small entities, RFA section 603(c) requires the Commission to discuss significant alternatives to the proposal. The Commission has already attempted to minimize any disproportionate burden the proposal would have on a small entities. The fee for declaratory orders has been reduced from costs by more than fifty percent because the potential class of payers is expected to include a number of smaller businesses. The proposal also contains a provision for waiver or reduction of those fees to further protect any individuals or entities subject to the fees from economic hardship. The Commission could, of course, consider reducing the fees further, or even eliminating the fees, with respect to small businesses. However, in proposing the present fee schedule, the Commission is also attempting to satisfy the statutory directive of the IOAA to be "self-sustaining to the full extent possible." The Commission believes the rule, as proposed, represents a fair balance which will satisfy the purposes of both the IOAA and the RFA. The Commission also requests comments on the above initial regulatory flexibility analysis.

VIII. Written Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 30, 1982. Each

[15] On April 28, 1982, the Commission issued, in Docket No. RM78–22, revised Rules of Practice and Procedure which establish the Commission's procedural rules in a new Part 385. 47 Fed. Reg. 19014 (May 3, 1982). A final rule in this docket will be conformed to that change.

person submitting a comment should indicate that the comments are being submitted in Docket No. RM82–35–000, and should give reasons, including any supporting data, for any recommendations. Comments should also indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Commission. All comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7; E.O. 12009, 3 CFR 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 483a)

List of Subjects

18 CFR Part 1

General definitions, Rules of construction.

18 CFR Part 3

Administrative practice and procedure, Freedom of information, Freedom of information fees, Organization and functions (Government agencies).

18 CFR Part 375

Authority delegations, Seals and insignia, Sunshine Act.

18 CFR Part 381

General fees.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18 Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Chapter 1 is amended in its table of contents by adding in the appropriate numerical order, a new part and heading, to read as follows:

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

* * * * *

SUBCHAPTER W—REVISED GENERAL RULES

Part

* * * * *

381 Fees

* * * * *

PART 1—RULES OF GENERAL APPLICABILITY

2. Section 1.7 is amended in paragraph (c) by adding a new sentence at the end thereof to read as follows:

§ 1.7 Petitions.

* * * * *

(c) *For declaratory orders.* * * * Each Petition for issuance of a declaratory order must be accompanied by the fee prescribed by § 381.201 of this chapter.

* * * * *

3. Section 1.38 is amended in paragraph (f)(2)(i) by adding a new sentence at the end thereof, to read as follows:

§ 1.38 Commission review of remedial orders.

* * * * *

(f) *Pleadings* * * *

(2) *By the petitioner.* (i) * * * Each answer filed with the Secretary of the Commission by the petitioner, in accordance with this paragraph, must be accompanied by the fee prescribed by § 381.204 of this chapter.

* * * * *

4. Section 1.40 is amended by adding new paragraphs (d)(3) and (d)(4), to read as follows:

§ 1.40 Commission review of adjustment request denials.

* * * * *

(d) *Commencement of proceedings.* * * *

(3) Each petition for review filed with the Secretary of the Commission must be accompanied by the fee prescribed by § 381.203 of this chapter.

(4) Upon receiving a petition for review and the fee required in paragraph (d)(3) of this section, the Commission or its designee will designate a presiding officer for the proceedings.

* * * * *

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUEST

5. Section 3.8 is amended in paragraph (h) by adding a new sentence at the end thereof, to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(h) * * * Each inquiry directed to the Chief Accountant which requires a formal written response interpreting the Uniform Systems of Acounts must be accompanied by the fee prescribed by § 381.202 of this chapter.

* * * * *

6. Section 3.8 is amended by adding a new paragraph (k)(7) at the end thereof to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(k) *Fees for Freedom of Information Act requests.* * * *

(7) *Annual Adjustment of fees.*

(i) *Definition.* For purposes of this section, "work year cost" means the ratio of the Commission's budgeted expenses for salaries during any given fiscal year to the authorized full time equivalent staff level for that fiscal year.

(ii) *Update and Publication.* Beginning in fiscal year 1983, fees established in this section are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(iii) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a Freedom of Information Act request for which a fee is established in this section must pay the updated fee under this section or, if the fee has not been updated at the time of the filing of the request, the currently effective fee.

(iv) *Formula.* The fee applicable to any Freedom of Information Act search in each fiscal year is the fee for the previous fiscal year for a Freedom of Information Act search, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to the work year cost for the previous fiscal year.

(v) *Effective date of fee.* Any fee updated under this section is effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the first day of the fiscal year for which the fee is updated, whichever is later.

7. Subchapter W is amended by adding a new Part 381 to read as follows:

SUBCHAPTER W—REVISED GENERAL RULES

PART 381—FEES

Subpart A—General Provisions

Sec.

381.101 Purpose.
381.102 Definitions.
381.103 Filings.
381.104 Annual adjustment of fees.
381.105 Method of payment.
381.106 Reductions and waivers.
381.107 Direct billing.

Subpart B—Fees Applicable to General Functions

381.201 Declaratory orders.
381.202 Interpretations by the Office of the Chief Accountant.
381.203 Review of DOE denials of adjustment.

Sec.
381.204 Review of DOE remedial orders.

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

Authority: Department of Energy Organization Act (42 U.S.C. 7101–7352); E.O. 12009, 3 CFR Part 442 (1978); Independent Offices Appropriations Act (31 U.S.C. 483a).

Subpart A—General Provisions

§ 381.101 Purpose.

The purpose of this Part is to set forth the fees that the Commission has established for services and benefits provided by the Commission.

§ 381.102 Definitions.

For purposes of this part, the following definitions apply.

(a) "Person" means any person, group, association, organization, partnership, corporation, or business, except those engaged in the transaction of official business of the Government.

(b) "Work year cost" means the ratio of the Commission's budgeted expenses during any given fiscal year to the authorized staff level for that fiscal year.

(c) "Filing" means any application, petition, request, or motion submitted to the Commission in connection with any of the services or benefits for which a fee is established in this part.

§ 381.103 Filings.

(a) *Submittal of fees.* Except as provided in § 381.106, a fee in the amount set forth in this part must accompany each filing for which a fee has been established.

(b) *Deficiencies.* (1) Any filing that is not accompanied by either the fee established for that filing or a request for reduction or waiver in accordance with § 381.106 is deficient.

(2) The Secretary will inform any person who submits a deficient filing that:

(i) Such filing will be rejected, unless the appropriate fee is submitted within a specified time;

(ii) The Commission will not process any filing that is deficient under this paragraph; and

(iii) The date of filing will be deemed the date on which the Commission receives the appropriate fee.

(3) This provision does not preclude a determination that a filing is deficient for any other reason.

(c) *Choice of two fees.* If a filing for one service or benefit may be considered as falling within two or more categories of service for which a fee is established, that filing must be accompanied by the higher or highest of the applicable fees.

§ 381.104 Annual adjustment of fees.

(a) *Update and publication.* Beginning in fiscal year 1983, fees established in this part are updated annually, in accordance with this section. Updated fees are published in the **Federal Register** and as an appendix to this part.

(b) *Payment of updated fees.* Any person who, after fiscal year 1982, submits a filing for which a fee is established in this part must pay the updated fee under this section or, if the fee has not been updated at the time of the filing, the currently effective fee.

(c) *Formula.* The fee applicable to a fee category in each fiscal year is the fee for the previous fiscal year for that category, multiplied by the ratio of the work year cost for the fiscal year for which the fee is determined to be the work year cost for the previous fiscal year. The fee is rounded to the nearest five dollar increment.

(d) *Effective date of fee.* Any fee updated under this section becomes effective on the thirtieth day after publication in the **Federal Register** of the revised appendices to this part, or the date of the fiscal year for which the fee is updated, whichever is later.

§ 381.105 Method of payment.

Fee payments must be made by certified check or money order payable to the Treasurer of the United States.

§ 381.106 Reductions and waivers.

(a) *When to request.* At the time that a filing is submitted to the Commission, the applicant may request a waiver or reducton of the fee prescribed in this part.

(b) *Basis.* The applicant must show that waiver or reduction of the fee is necessary to prevent imposition of an undue economic burden.

(c) *Commission action.* The Commission or its delegatee will notify the applicant within 21 days of the decision to grant or deny the request for waiver or reduction. The filing will not be processed until disposition of the waiver request.

§ 381.107 Direct billing.

(a) *Applicability.* If a filing presents issues of fact or law, procedural difficulty, or technical complexity, which require an extraordinary amount of Commission time and effort to be devoted to processing that filing, the Commission will institute a direct billing procedure for that filing. Fees assessed by a direct billing procedure in accordance with this section will supersede the fees established in this part for the appropriate category of service.

(b) *Procedures.* (1) If the Commission determines that a filing meets the standards prescribed in paragraph (a), the Commission may order that the full cost of processing the filing be recovered under a direct billing procedure. The Commission will make a direct billing determination under this paragraph not later than one year after the filing is accepted for filing by the Commission.

(2) Direct billing will not be instituted with respect to any filing until the person who submitted the filing is notified that direct billing will be applied to the filing in lieu of the fees established under this part.

(3) Any fee submitted with the filing will be applied, as a credit, to the amount billed directly for processing costs. The Secretary will thereafter periodically bill the person who submitted the filing for the actual direct and indirect costs of processing the filing which are incurred after the Commission orders the direct billing procedure instituted.

Subpart B—Fees Applicable to General Functions

§ 381.201 Declaratory orders.

The fee established for a petition for a declaratory order is $7,600.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.7(c).

§ 381.202 Interpretations by the Office of the Chief Accountant.

The fee established for an inquiry directed to the Chief Accountant which requires a formal written response interpreting the Uniform Systems of Accounts is $500.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 384.104. Such fee must be submitted in accordance with Subpart A of this part and § 3.8.

§ 381.203 Review of DOE denials of adjustment.

The fee established for a petition for

review of a DOE adjustment request denial is $3,800.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.40.

§ 381.204 Review of DOE remedial orders.

The fee established for an answer filed for review of a DOE remedial order is $3,800.00 for fiscal year 1982 and, for subsequent fiscal years, is the fee established by § 381.104. Such fee must be submitted in accordance with Subpart A of this part and § 1.38(f)(2).

Subpart C—Fees Applicable to the Natural Gas Policy Act of 1978 [Reserved]

Subpart D—Fees Applicable to the Natural Gas Act and Related Authorities [Reserved]

Subpart E—Fees Applicable to the Federal Power Act [Reserved]

Subpart F—Fees Applicable to the Public Utility Regulatory Policies Act of 1978 [Reserved]

Subpart G—Fees Applicable to the Interstate Commerce Act and Related Authorities [Reserved]

PART 375—THE COMMISSION

8. Section 375.302 is amended by adding a new paragraph (u) at the end thereof, to read as follows:

§ 375.302 Delegations to the Secretary

* * * * *

(u) Waive or reduce the fees prescribed by § 381.201 of this chapter.

9. Section 375.303 is amended by adding a new paragraph (g) at the end thereof, to read as follows:

§ 375.303 Delegations to the Chief Accountant.

* * * * *

(g) Waive or reduce the fees prescribed by § 381.202 of this chapter.

10. Section 375.310 is amended by adding a new paragraph (b) at the end thereof, to read as follows:

§ 375.310 Delegations to the Director of the Office of Opinions and Review.

* * * * *

(b) Waive or reduce the fees prescribed by §§ 381.203 and 381.204 of this chapter.

[FR Doc. 82-17086 Filed 6-22-82; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Permanent State Regulatory Program of Oklahoma

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is considering modifying the deadline for the State of Oklahoma to meet conditions of its approved State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Oklahoma requested an extension of its schedule to meet the conditions of its approval because the State needs addtional time to complete the necessary legislative and rulemaking procedures. Based on Oklahoma's request, the Secretary is proposing to extend the schedule for Oklahoma to comply with the Secretary's conditions of its program approval. In addition, Oklahoma has provided a set of Rules of Practice and Procedure submitted toward meeting the requirements of one of its conditions. OSM is requesting public comment at this time on the adequacy of those rules.

DATE: Comments on the proposed extension and the Oklahoma Rules of Practice and Procedure must be received on or before 4:00 p.m. c.s.t. on July 26, 1982 at the address below.

ADDRESSES: Written comments must be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103.

See "Supplementary Information" below for addresses where copies of Oklahoma's extension request and Rules of Practice and Procedure are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Oklahoma State Office, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Availability of Copies

Copies of Oklahoma's extension request, Rules of Practice and Procedure and the administrative record of this rulemaking are available for public inspection and copying during normal business hours at:

Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105

II. Background on the Oklahoma Program and Conditional Approval

Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State has initiated and is proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

The Oklahoma program was approved on January 19, 1981 (46 FR 4902). In that document the Secretary published a schedule for resolving the four conditions of approval. However, a series of events, including the rescission of the State's approved rules, necessitated an extension of time from the schedule outlined at the time of the Secretary's approval. On February 18, 1982, OSM extended the deadlines for Oklahoma to meet its four conditions until May 15, 1982.

On April 8, 1982, the Oklahoma Departmet of Mines indicated in a letter to OSM that additional time will be needed by the State to meet the conditions and requested that the deadlines be extended to May 15, 1983. (See OK-409). On April 27, 1982, the Oklahoma Department of Mines provided OSM additional information concerning actions Oklahoma has taken thus far, and expects to take in the future, to meet each condition (See OK-414).

Based on the information provided by the State, it is apparent that Oklahoma needs additional time to complete the necessary legislative and rulemaking procedures to meet its conditions.

Accordingly, the Secretary proposes to allow the State until May 15, 1983, to meet all four conditions.

The Secretary is continuing to review with Oklahoma all of the outstanding conditions of its program. The final revised deadline may, in response to public comment, be different than the one proposed today.

III. Details of Public Comments on Oklahoma's Rules of Practice and Procedure

On May 13, 1982, Oklahoma provided OSM a copy of a set of Rules of Practice and Procedure intended to meet the requirement of one of its conditions (30 CFR 936.11(b)). *See* OK–415. OSM is presently reviewing the adequacy of these rules and is inviting public comment on them at this time. The details for the public comment period are provided above under the "DATE" and "ADDRESSES" sections of this notice. If these rules are found to meet the requirements of 30 CFR 936.11(b), the Secretary will consider removing that condition. If the rules are found to be incomplete, or to contain deficiencies, the Secretary would then proceed, as outlined above, to provide Oklahoma an extension (until May 15, 1983) to resubmit its rules. In that event, an additional opportunity for public comment would also be provided.

IV. Other Information

On August 23, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) an exemption from Sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve, State regulatory programs, actions, or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact analysis and regulatory review by OMB.

The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this action.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 30 CFR 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

PART 936—OKLAHOMA

Accordingly, 30 CFR Part 936 is proposed to be amended as set forth herein.

Dated: June 10, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

1. The Authority Citation for Part 936 is

(Sec. 503, Pub. L. 95–87, 91 Stat. 407 (30 USC 1253).)

936.11 [Amended]

2. In Part 936, § 936.11 is proposed to be amended by substituting "May 15, 1983" for "May 15, 1982," each time the latter date appears.

[FR Doc. 82–17127 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[Gen. Docket 79–144]

Responsibility of the Commission To Consider Biological Effects of Radiofrequency Radiation When Authorizing the Use of Radiofrequency Devices; Potential Effects of a Reduction in the Allowable Level of Radiofrequency Radiation on FCC Authorized Communications Services and Equipment; Order Extending Time for Filing Comments and Replies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comments/reply period.

SUMMARY: In response to a filed motion, the Office of Science and Technology has extended the period for comments and reply comments in Docket 79–144, concerning "Responsibility of the Federal Communications Commission to consider biological effects of radiofrequency radiation when authorizing the use of radiofrequency devices; Potential effects of a reduction in the allowable level of radiofrequency radiation on FCC authorized communications services and equipment."

DATES: Comments must be submitted on or before August 16, 1982. Reply comments must be submitted on or before October 18, 1982.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Dr. Robert F. Cleveland, Federal Communications Commission, Office of Science and Technology, 2025 M Street, N.W., Room 7336, Washington, D.C. 20554, (202) 632–7073.

In the matter of Responsibility of the Federal Communications Commission to consider biological effects of radiofrequency radiation when authorizing the use of radiofrequency devices. Potential effects of a reduction in the allowable level of radiofrequency radiation on FCC authorized communications services and equipment.

Order Extending Time for Filing Comments and Reply Comments

Adopted: June 14, 1982.

Released: June 15, 1982.

1. On June 7, 1982, the Association for Broadcast Engineering Standards, Inc. (ABES), pursuant to § 1.46 of the Commission's Rules and Regulations, 47 CFR 1.46, filed a motion to extend the time for filing comments and reply comments to August 16, 1982 and October 18, 1982, respectively, in the above-captioned matter.

2. The petitioner indicates that "[b]ecause of the magnitude and scope of the underlying technical studies and the demands on the time of ABES officers of other, equally pressing proceedings, we find it necessary to request this brief extension. ABES believes that the grant of the extension requested herein will not unduly delay Commission action in this rule making proceeding. On the contrary, the additional time can be well used by ABES and other interested parties in the preparation of comments which will be more concise and of greater value to the record herein."

3. Although not mentioned by the petitioner, another matter has arisen which justifies an extension of time for comments. On May 28, 1982, the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor published in the **Federal Register** (47 FR 23477) a notice of its proposal to revoke its advisory standard for exposure of workers to nonionizing radiation. Since the Commission's Notice of Proposed Rule Making in the above-captioned matter relies on the OSHA standard for guidance, this recent development could impact the Commission's proceeding. Therefore, it is reasonable that respondents be given additional time to modify their comments, if necessary, to reflect this recent development.

4. It is not the policy of the Commission routinely to grant extensions of time. However, we believe that the complexity and far-reaching consequences of this matter require full and complete comments to guide the Commission in its decision.

5. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's Rules and Regulations, that the date for filing comments in this proceeding be extended to August 16, 1982. The date for filing reply comments is extended to October 18, 1982.

Federal Communications Commission.

Robert S. Powers,

Deputy Chief Scientist.

[FR Doc. 82-17074 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 82-321; RM-4051]

FM Broadcast Stations in Canyon, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute commercial FM Channel 300 for Channel 296A at Canyon, Texas, in response to a request from Canyon Broadcasting, Inc., licensee of Station KHBQ–FM in Canyon. Also the license is proposed to be modified to specify the new channel.

DATES: Comments must be filed on or before August 2, 1982, and reply comments on or before August 17, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Canyon, Texas); BC Docket No. 82–321, RM–4051.

Adopted: June 14, 1982.

Released: June 17, 1982.

1. Canyon Broadcasting, Inc. ("petitioner"), licensee of Stations KHBJ(AM) and KHBQ(FM), Canyon, Texas, filed with the commission a request to substitute Class C FM Channel 300 for FM Channel 296A in Canyon and to modify the license of Station KHBQ to specify operation on Channel 300. Petitioner filed its request as a counterproposal in BC Docket No. 81–583, a rule making proceeding to add a sixth commericial FM assignment to Amarillo, Texas.

2. Petitioner states that the city limits of Canyon and Amarillo are only 9.4 miles apart and that its station provides principal city coverage to Amarillo, Texas. Petitioner further states that all of the FM stations in Amarillo are Class C stations and that for Station KHBQ to be viable and effectively compete with them it needs to be upgraded from a Class A to a Class C channel.

3. Canyon (population 10,724) [1] is the seat of Randfall County (population 75,062) and is located approximately 24 kilometers (15 miles) south of Amarillo. The population of Canyon is said to have increased 28 percent since the 1970 Census. Canyon is the home of West Texas State University with an enrollment of 6,400 students.

4. Canyon has two commercial local broadcast services, *i.e.*, KHBJ (AM daytime only) and KHBQ(FM). Canyon also receives service from stations licensed to Amarillo. Petitioner states that its existing Class A station covers an area of approximately 706 square miles with a population of 138,000, whereas operating on a Class C channel, it would cover approximately 3,509 square miles with a population of 169,078.

5. Petitioner contends that Canyon and Amarillo should be considered the same market and that a Class C channel should be assigned as petitioner proposes so that Station KHBQ can compete with the other Class C stations in the market.

6. According to petitioner, the assignment of Channel 300 to Canyon would cause preclusion on Channels 297, 298, 299 and 300 in a number of communities with a population over 1,000. Petitioner fails to name the communities or list alternative channels.

7. As for petitioner's request for a modification of license, it is the Commission's established policy that, when a superior Class C channel is substituted for a Class A channel on which it is operating the public interest is best served by affording other interested parties an equal opportunity to file an application and be given consideration for the new channel. *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976). Only in the absence of an expression of interest by the comment deadline could the modification take place.

8. In view of the petitioner's showing herein, we believe that it is appropriate to solicit comments on the proposed amendment of the FM Table of Assignments, § 73.202(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Canyon, Texas	296A	300

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference here.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before August 2, 1982, and reply comments on or before August 17, 1982, and are advised to read the Appendix for the proper procedures.

11. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 198– do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

12. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitute an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who file the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281(b)(6) and 0.204(b) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule

[1] Population figures are taken from the 1980 U.S. Census; Advance Report.

Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-17073 Filed 6-23-82; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

Budget of Expenses of Administrative Committee and Rate of Assessment for the 1982 Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically produced peanuts (30 FR 9402), and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1982 and for the crop year beginning July 1, 1982, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the crop year beginning July 1, 1982, shall be in the total amount of $630,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the Terms and Conditions of Indemnification Applicable to 1982 Crop Peanuts, effective July 1, 1982, are estimated at, but may exceed $3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with § 48 of the marketing agreement, an assessment of the rate of $1.42 per net ton of farmers stock peanuts received or acquired other than those described in § 31 (c) and (d) ($0.42 for adminfstrative expenses and $1.00 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to § 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the $1.42 rate and not expended in providing indemnification on the 1982 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments; they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industry-wide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 18, 1982.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82–17091 Filed 6–23–82; 8:45 am]
BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

Construction and Operation of Khapra Beetle Laboratory, Hoboken, New Jesey; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared and environmental assessment for the construction and operation of a Khapra Beetle Methods Development Laboratory. Construction of this laboratory will involve altering about 2,000 square feet of interior space at the APHIS-owned Hoboken Methods Development Center, 209 River Street, Hoboken, New Jersey 07030. This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of the environmental assessment have been sent to the Environmental Protection Agency and other appropriate Federal, State, and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank M. Kotulak, Head, Energy and Environmental Staff, APHIS, U.S. Department of Agriculture, Room 267, 6505 Belcrest Road, Hyattsville, Maryland 20782, Area Code (301) 436–8950.

SUPPLEMENTARY INFORMATION: Since October 1980 there have been several minor infestations of khapra beetle in the United States. Currently, these infestations are treated by chemical fumigation. In order to develop improved methods of detecting and eradicating the khapra beetle, a methods development laboratory needs to be constructed in the United States. All khapra beetle investigations are now conducted outside of the United States.

In order to prevent the accidental release of khapra beetles from the proposed laboratory several quarantine measures will be taken. The khapra beetle laboratory will be in a location with a cold winter climate and far removed from the major grain production areas. The interior walls of the khapra beetle laboratory will be seamless and all outlets, switches, receptacles and fixtures will be sealed to prevent escape of beetles. The

laboratory will have a self-contained heating and cooling system with special filters on the exhaust ducts. The small quantity of khapra beetles raised in the laboratory will be carefully controlled by count beginning with the rearing phase thru disposal. Upon completion of laboratory studies, the khapra beetles will be placed in an autoclave and destroyed.

The proposed laboratory will have no significant impact on the environment because of the type and limited nature of the research being conducted. Approximately 500 khapra beetles will be reared each day and a variety of tests will be conducted using EPA approved pesticides and fumigants. Other tests will evaluate various biological control measures. All testing will be performed in a self-contained laboratory where the release of odors and chemical fumes to the outside environment will be minimal or non-existent. Disposal of residue chemicals, pesticides and other wastes will be accomplished in full compliance with Federal, State, and local regulations.

Implementation of the proposed project will not be initiated until 30 days after publication of this notice in the **Federal Register.**

Done at Washington, DC, this 17 day of June, 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-17082 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-34-M

Bird Quarantine Facility; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for the construction and operation of a Bird Quarantine Facility at Miami International Airport, Florida. The proposed 21,000 square foot building will be constructed by Metropolitan Dade County and leased to APHIS. This assessment indicates that the proposed project will not cause any significant local, regional or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of this environmental assessment have been sent to privately owned commercial bird quarantine facilities in the Miami area, Environmental Protection Agency, and appropriate State and local agencies.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Frank Kotulak, Head, Energy and Environmental Staff, APHIS, U.S. Department of Agriculture, Room 267, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436-8958.

SUPPLEMENTARY INFORMATION: The environmental assessment indicates that the proposed facility will have a minimal impact on traffic, utilities, and air quality; no significant social or economic impact. Odors and noise will be largely confined to the interior of the building, and liquid wastes from the facility will be discharged into the municipal sewer system. The proposed facility will fully comply with zoning codes. No endangered species of fish, wildlife, or plants will be affected by the proposed facility and there are no recorded properties in the vicinity of the proposed facility that are on or eligible to be placed on the National Register of Historic Places.

Implementation of the proposed project will not be initiated until July 26, 1982.

Done at Washington, D.C., this 17th day of June 1982.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 82-17114 Filed 6-23-82; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

[Docket 40759]

Altair Airlines, Inc., Enforcement Proceeding, Compliance With Parts 241 and 250; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., June 18, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-17144 Filed 6-23-82; 8:45 am]

BILLING CODE 6320-01-M

Orders Concerning Mail Rates

Order 82-6-89, June 15, 1982, Docket 37392, proposes final international service mail rates for the last half of calendar year 1982.

Order 82-6-95, June 15, 1982, Docket 37294, proposes final domestic service mail rates for the last half of calendar year 1982.

Copies of the orders are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-17145 Filed 6-23-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register.**

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 82-00188. Applicant: Colorado State University, Solar House 2, Fort Collins, Colorado 80523. Article: Evacuated Tube Heat Pipe Solar Collector. Manufacturer: N. V. Philips, The Netherlands. Intended use of article: The article will be used to test the performance of the heating and cooling units under actual operating conditions in a real setting with variable heating and cooling loads including day/night variations. The experiment will begin with the cooling season in June 1982 and continue through several heating and cooling seasons to evaluate the long-

term/reliability and durability of solar systems. The experiments will determine the capability of the solar energy system to heat and cool a residential-size building on a daily basis as well, and the evaluations will lead to determination of the economic feasibility of these new components in future solar energy systems in the U.S. The knowledge gained from the research in solar systems is incorporated into public information through writing of technical and non-technical books which in turn are being used to educate thousands of students throughout the country. Application received by Commissioner of Customs: May 10, 1982.

Docket No. 82–00189. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Straining Stage for EM 7 Electron Microscope. Manufacturer: Materials Management, United Kingdom. Intended use of article: The article is intended to be used in an investigation to determine the mechanism(s) of the interactions of gliding dislocations with defect loops in neutron-irradiated, pure- and O-doped-Nb single crystals having two different orientations. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00190. Applicant: University of Hawaii at Manoa, Procurement and Property Management Office, Bachman Hall Annex #3, 2444 Dole Street, Honolulu, Hawaii 96822. Article: Miniature Propeller Flowmeter. Manufacturer: Delft Hydraulic Laboratory, The Netherlands. Intended use of article: The article is intended to be used for the research project entitled, "The Effects of the Wave Induced Resultant Bottom Shear Stress on Wave Set-Up." The objective of the study is to obtain scientific information and to train graduate students. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00192. Applicant: Duke University, Marine Laboratory, Pivers Island, Beaufort, NC 28516. Article: Lipoprep Apparatus, 110 Volts AC, 60 Hz. Manufacturer: Dianorm-Gerate, West Germany. Intended use of article: The article is intended to be used for studies of transport of chemicals through membranes made of phospholipids. The chemicals will include various acids, bases, drugs, hormones, and toxic chemicals. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00193. Applicant: North Carolina State University, Purchasing Department, Box 5935, Raleigh, NC 27650. Article: Digital Oxygen Electrode System. Manufacturer: Rank Brothers, United Kingdom. Intended use of article: The article is intended to be used in research on photosynthesis and photorespiration of higher plant chloroplasts. Initial experiments will involve the regulation of glycolate synthesis (photorespiratory reaction with oxygen) by selected oxygen and carbon dioxide levels, and by the nutrient environment of the chloroplast suspension. The overall objective of the research is to develop a method for quantitative partitioning of oxygen uptake by choloroplasts among several competing biochemical reactions, using oxygen-18 as a tracer. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00196. Applicant: New York State Police Crime Laboratory, Building #22, State Campus, Albany, New York 12226. Article: Video Spectral Comparator and Accessory. Manufacturer: Foster & Freeman Ltd., United Kingdom. Intended use of article: The article is intended to be used in the detection of alterations, erasers and substitutions in evidential material, in the deciphering of charred documents and in viewing obliterated text. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00198. Applicant: Community Hospital of Indianapolis, Inc., 1500 N. Ritter Avenue, Indianapolis, Indiana 46129. Article: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studying the drug effects on skeletal muscle of patients with multiple sclerosis. Experimental drugs will be used to treat patients with multiple sclerosis and it will be the purpose of the laboratory to examine skeletal muscle biopsies with ultra-thin sections to study the ultrastructural variations induced in any subcellular organelle, for example, mitochondrial changes due to drug induced variation. This will be correlated with the clinical effect of the drug on the patient to try to draw a direct correlation between causes of multiple sclerosis, drug effects on skeletal muscle and the response in patients with multiple sclerosis on these drug effects. Electron microscopy will also be used to do ultra-thin sections on benign and malignant tumors which affords the pathologist the ability to mass information regarding tissues of origin of tumors. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00199. Applicant: Yale University School of Medicine, 333 Cedar Street, New Haven, CT 06510. Article: Extracellular Patch Clamp System L/M–EPC–5 and one Electrode Holder. Manufacturer: List-Electronic, West Germany. Intended use of article: The article is intended to be used to elucidate kinetic properties, and densities of excitable channels on nerve cells. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00202. Applicant: University of Tennessee Center for the Health Sciences, Charles B. Stout, Mass Spectrometry Laboratory, 800 Madison Avenue, Memphis, Tennessee 38163. Article: FAB11NF FAB–GG Field Ion Source. Manufacturer: Ion Tech, United Kingdom. Intended use of article: The article is intended to be used for studies of biologic extracts from brain tissue, tooth pulp tissue and cerebral spinal fluid tissue in order to define molecular mechanisms involved in pain. High performance liquid chromatography will produce purified peptide fractions. After characterization and identification, quantification at the part per billion level will be performed which will allow regional mapping of molecules in brain regions. The article will also be used for educational purposes in the course "Basic Mass Spectrometry of Biologically Important Compounds." The objectives of the course include introduction of the student to basic mass spectrometry; use of mass spectrometry in biochemical, clinical, chemical, biologic experimentation; gain facility to elucidate structures and rationalize basic fragmentation processes occurring in mass spectra. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00203. Applicant: Rensselaer Polytechnic Institute, 110 Eight Street, Troy, New York 12181. Article: Excimer Laser-pumped Dye Laser System. Manufacturer: Lambda Physik GmbH, West Germany. Intended use of article: The article is intended to be used on research done for the U.S. Air Force related to the further development of solid propellant and air breathing rock propulsion systems. Unique apparatus (high-temperature fast-flow reactors) is being constructed to allow study of the kinetics of refractory free radical species involved in the rocket combustion processes. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00204. Applicant: Dartmouth College, Radiophysics Laboratory, Hanover, New Hampshire 03755. Article: Ionosonde, Model LPS–42. Manufacturer: KEL Aerospace Pty., Ltd., Australia. Intended use of article: The article is intended to be used for studies of traveling ionospheric disturbances. Research has found that these disturbances propagate over long

distances and this additional ionosonde will allow extension of the station-chain to follow them to greater distances. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00205. Applicant: Loma Linda University, School of Medicine, Department of Anatomy, Loma Linda, CA 92350. Article: Electron Microscope, Model EM 10CAS. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for observing biological material which has been fixed, dehydrated, embedded and thin sectioned. This material will include the following:

(a) Rat visual cerebral cortex and optic nerve.

(b) Rat and guinea pig pineal gland.

(c) Retina and lamina ganglionaris (optic brain) of the crab *Hemigrapsus nudus.*

(d) Pons (brachium pontis) of the rat brain stem.

(e) Meissner's corpuscles in mice.

The article will also be used by students taking a course in electron microscopy (Anatomy 546, Electron Microscopy). Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00206. Applicant: Wayne State University, 540 E. Canfield, Detroit, MI 48201. Article: Electron Microscope, Model JEM–100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out both medium as well as high resolution fine structural investigation. These biological, cytochemical and biochemical studies will be carried out by a number of vision scientists in the following areas: cornea, lens retina, and the maintenance of Visual Connections. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00207. Applicant: The Aerospace Corporation, P.O. Box 92957, Los Angeles, CA 90009. Article: Model EMG 101 Excimer Multi-Gas Laser. Manufacturer: Lambda Physics, West Germany. Intended use of article: The article is intended to be used to provide a high power, repetitive pulsed short wavelength source of coherent radiation. The short pulses (15ns) will be used for "free-framing" supersonic flow fields by employing laser-induced flourescence or laser Raman spectroscopy to study laser molecules (I_2, IF, HF) or chemical laser fuels (H_2, D_2). The high repetition rate (50Hz) will be used to do signal averaging of weak 2–d flourescent images. The high peak power will be used to perform uv multiphoton ionization on polyatomic molecules in supersonic flows and to map the dissociation fragments by spontaneous emission. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00208. Applicant: University of Texas Health Science Center, 5323 Harry Hines Boulevard, Dallas, TX 75235. Article: Dermovac Suction Blister Device. Manufacturer: Laakintasahko Instrumentarium, Finland. Intended use of article: The article is intended to be used to remove cells from the surface of normal skin to evaluate for possible reimplantation into skin areas which have suffered epithelial damage. The primary function is the non-surgical removal of viable skin cells. Use of the article will be educational in that medical residents, physicians and other personnel will study its applications for harvest of living cells, by a non-surgical method for applications in tissue culture and grafting. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00210. Applicant: U.S. Department of Energy, P.O. Box 550, Richland, Washington 99352. Article: HB501 Scanning Transmission Electron Microscope with Field Emission Source and Accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of article: The article is intended to be used for analysis of neutron irradiated alloys and ceramics in support of U.S. programs for fast breeder and fusion reactor materials development. Other applications may include development of glass/ceramic media for nuclear waste storage and analysis of nuclear materials for defense related projects. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00211. Applicant: University of California, Lawrence Livermore National Laboratory, 7000 East Avenue, P.O. Box 5012, Livermore, CA 94550. Article: Ceramic Resistor Assembly. Manufacturer: Allen Bradley Electronics Ltd., United Kingdom. Intended use of article: The article is intended to be used in this country's most advanced effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using a constructed NOVA multi-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reaction of as many as 10 neutrons per microexplosion. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00212. Applicant: The Medical College of Wisconsin, Inc., 8701 Watertown Plank Road, Milwaukee, Wisconsin 53226. Article: Electron Microscope, Model JEM 100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to perform medium and high resolution ultrastructural studies in a variety of cell biological areas, being performed by a number of different investigators. The phenomena to be studied will include neuromuscular junction development in rat skeletal muscles, organization and connections of primate visual system, functionally related enzymatic changes in the central nervous system, and microsomal electron transport in liver and heart. The article will also be used in training graduate students in the latest "State of the Art" ultrastructural techniques for utilization in their research studies required for masters and doctoral thesis. Application received by Commissioner of Customs: May 11, 1982.

Docket Number 82–00215. Applicant: SRI International, Physical Sciences Division, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Pulsed Gas Laser Kits. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for studies of reactive mixtures of fuel and oxidants. Application received by Commissioner of Customs: May 10, 1982.

Docket Number 82–00216. Applicant: U.S. Dept. of Agriculture, Agricultural Research Service, PPI, Insect Pathology Laboratory, Building 011A, Rm. 214, BARC–W, Beltsville, Maryland 20705. Article: Electron Microscope-TEM–SEM–STEM Analytical System. Manufacturer: Philips Electron Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to:

(a) Study and identify microorganisms causing diseases in insects;

(b) Study the pathogenesis of insect microbial control agents in insect tissues and in insect cell cultures;

(c) Monitor and develop isolation and purification procedures for insect pathogens; and

(d) Study the effects of modifications of insect cell media on the insect cells and on insect pathogen production.

Application received by Commissioner of Customs: May 14, 1982.

Docket Number 82–00219. Applicant: National Bureau of Standards, Bldg. 223, Room B266, Washington, D.C. 20234. Article: Electron Microscope, Model EM 400T with Accessories. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used to study microstructural characteristics of metals and also certain non-metals including oxides, glasses and ceramics.

It will be used extensively in a program designed to develop advanced metallurgical processing techniques. A critical part of that program is concerned with the correlation between processing variables and microstructure. Additional studies will be concerned with developing and understanding of the relationships that exist between mode of deformation, crystal structure, composition, second phase constituent type and morphology, mechanical behavior (wear, fracture, fatigue, creep), chemical behavior (corrosion, oxidation) and physical properties (electrical, magnetic, elastic). Application received by Commissioner of Customs: May 14, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-17052 Filed 6-23-82; 8:45 am]
BILLING CODE 3510-25-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidate decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number 82-00100. Applicant: Howard University, Ernest E. Just Laboratory of Cellular Biology, College of Medicine, Department of Anatomy, 520 W. Street, NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 410 and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of article: See Notice on page 13394 in the **Federal Register** of March 30, 1982. Article ordered: November 17, 1981.

Docket Number 82-00111. Applicant: Gladstone Foundation for Cardiovascular Disease, Gladstone Foundation Labs, 2550 23rd Street, Bldg. 40, San Francisco, CA 94110. Article: Electron Microscope, Model JEM-100CXII with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13395 in the **Federal Register** of March 30, 1982. Article ordered: October 31, 1981.

Docket Number 82-00114. Applicant: Orlando Regional Medical Center, Inc., 1414 S. Kuhl Avenue, Orlando, Florida 32806. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 13396 in the **Federal Register** of March 30, 1982. Article ordered. Application received by Commissioner of Customs: February 18, 1982.

Docket Number 82-00115. Applicant: Lenox Hill Hospital, 100 East 77th Street, New York NY 10021. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 13396 in the **Federal Register** of March 30, 1982. Article ordered: January 14, 1982.

Docket Number 82-00118. Applicant: North Carolina State University, Electron Microscope Center, Raleigh, North Carolina 27650. Article: Electron Microscope, Model JEM 100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: January 27, 1982.

Docket Number 82-00120. Applicant: South Bend Medical Foundation, 531 North Main Street, South Bend, Indiana 46601 Article: Electron Microscope, Model H-300 with Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: December 23, 1981.

Docket Number 82-00121. Applicant: University Hospitals of Cleveland, University Circle, Cleveland, Ohio 44106. Article: Electron Microscope, Model JEM 100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 13393 in the **Federal Register** of March 30, 1982. Article ordered: December 20, 1981.

Docket Number 82-00127. Applicant: University of Maryland School of Medicine, Department of Neurology, 655 W. Baltimore Street, Baltimore, MD 21201. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15819 in the **Federal Register** of April 13, 1982. Article ordered: January 20, 1982.

Docket Number 82-00130. Applicant: The University of Texas at Dallas, Biology Program, Box 688, Richardson, TX 75080. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 15819 in the **Federal Register** of April 13, 1982. Application received by Commissioner of Customs: March 4, 1982.

Docket Number 82-00132. Applicant: U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, Bryan Dairy Road, St. Petersburg, FL 33733. Article: Electron Microscope, Model JEM-100CX. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15820 in the **Federal Register** of April 13, 1982. Application received by Commissioner of Customs: March 4, 1982.

Docket Number 82-00135. Applicant: Harvard University, Department of Biochemistry, 7 Divinity Avenue, Cambridge, MA 02138. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 15820 in the **Federal Register** of April 13, 1982. Article ordered: January 25, 1982.

Docket Number 82-00138. Applicant: NASA Lewis Research Center, 21000 Brookpark Rd., Cleveland, Ohio 44135. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use of article: See Notice on page 16160 in the **Federal Register** of April 28, 1982. Article ordered: December 30, 1981.

Docket Number 82-00139. Applicant: Northwestern University Medical School, Department of Cell Biology and Anatomy, 303 East Chicago, IL 60611. Article: Electron Microscope, Model JEM 200CX/SEG and Accessory. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 16161 in the **Federal Register** of April 28, 1982. Article ordered: March 30, 1981.

Docket Number 82-00141. Applicant: University of Miami, School of Medicine, Dept. of Neurology (D4-5), P.O. Box 016960, Miami, FL 33101. Article: Electron Microscope, Model EM10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 16161 in the **Federal Register** of April 28, 1982. Article ordered: February 17, 1982.

Docket Number 82-00146. Applicant: Temple University, School of Dentistry, 3223 N. Broad Street, Philadelphia, PA 19140. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 20837 in the **Federal**

Register of May 14, 1982. Article ordered: February 4, 1982.

Docket Number 82-00148. Applicant: U.S. Army Natick Res. & Dev. Labs., Directorate for Procurement, Attn: DRDNA-PB, Kansas St., Natick, MA 07160. Article: Analytical Electron Microscope, Model H-600-1 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: See Notice on page 20837 in the Federal Register of May 14, 1982. Article ordered: December 29, 1981.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-17051 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Fair Lawn Fashions, Inc., 1424 E. Elizabeth Avenue, Linden, New Jersey 07036, producer of women's dresses, blouses, skirts, jackets and slacks (accepted May 21, 1982); (2) Plainville Engineering Specialties Corporation, 299 South Street, Plainville, Massachusetts 02760, producer of eyeglass frames (accepted May 26, 1982); (3) Allyn Manufacturing Company, Inc., Route 539, Whiting, New Jersey 08759, producer of decorative foliage products (accepted May 27, 1982); (4) Pennsylvania Wilton Carpets, Inc., 30 Galesi Drive, Wayne, New Jersey 07470, producer of woven carpeting (accepted May 28, 1982); (5) Del-Met Corporation, 44 West Street, Walton, New York 13856, producer of automotive wheel covers (accepted June 4, 1982); (6) Elm Systems, Inc., 1101 Brown Street, Wauconda, Illinois 60084, producer of machine tool components (accepted June 7, 1982); (7) Marxman Industries, Inc., 160 Georgetown Street, Hazlehurst, Mississippi 39083, producer of men's, women's and children's pants (accepted June 7, 1982); (8) Brighton-Best Socket Screw Manufacturing, Inc., 400 North Street, Teterboro, New Jersey 07608, producer of screws (accepted June 8, 1982); (9) Valtex Industries, Inc., 171 Madison Avenue, New York, New York 10016, producer of women's brassieres (accepted June 10, 1982); (10) Paul's Auto Ignition, Inc., 500 Saw Mill River Road, Yonkers, New York 10701, producer of stators for automobile alternators (accepted June 11, 1982); (11) Chelsea Clock Company, Inc., 284 Everett Avenue, Chelsea, Massachusetts 02150, producer of clocks and barometers (accepted June 14, 1982); and (12) Sol Sportswear, Inc., 4593 East 10th Avenue, Hialeah, Florida 33012 a producer of men's and boys' shirts and pants.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Certification Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice. The Catalogue of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 82-17088 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Wire Nails From the Republic of Korea; Antidumping: Final Determination of Sales at Less Than Fair Value and Exclusions From Final Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Determination of Sales at Less Than Fair Value and Exclusions from Final Determination.

SUMMARY: We have determined that certain steel wire nails from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value. Nails manufactured by Samchok Industrial Company, Ltd., and Jin Heung Iron and Steel Co., Ltd., are excluded from this determination. The U.S. International Trade Commission ("ITC") will determine within 45 days of the publication of this notice whether these imports at less than fair value are materially injuring, or threatening to materially injure, a U.S. industry.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Lim or Richard Rimlinger, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202-377-1279).

SUPPLEMENTARY INFORMATION: A previous antidumping investigation on certain steel wire nails from Korea was self-initiated on April 4, 1979. The final determination made by the Department of Commerce on May 23, 1980, was that certain steel wire nails from Korea were being sold to the United States at less than fair value (45 Fed. Reg. 34941). However, on August 13, 1980, the ITC published a determination that sales of this merchandise at less than fair value were not injuring, nor were likely to injure, a U.S. industry (45 FR 53924). This ITC final negative determination ended that earlier antidumping

proceeding before the Department of Commerce.

On July 2, 1981, the Department of Commerce published a notice (46 FR 34615) announcing that, on the basis of information developed under the "Trigger Price Mechanism" (TPM) for steel mill products, we were self-initiating a new antidumping investigation to determine whether imports of certain steel wire nails from Korea are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The TPM was a monitoring device used by the Department of Commerce to determine those basic steel mill products most likely to be sold at less than fair value in the United States. In accordance with section 731(b) of the Act, we notified the U.S. International Trade Commission (the "ITC") of our action.

On August 17, the ITC found that there is a reasonable indication that imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the **Federal Register** on August 26, 1981 (46 FR 43117).

On November 23, 1981, the Department published a notice announcing that this investigation is extraordinarily complicated and that the preliminary determination was being postponed from December 9, 1981, to no later than January 28, 1982 (46 FR 57336).

On February 3, 1982, the Department published a notice (47 FR 5028) announcing a preliminary determination of sales at less than fair value and the exclusion of one of the Korean nail producers, Samchok Industrial Company, Ltd., from this determination. The notice also indicated that the overall weighted-average margin on all sales compared was 4 percent. Subsequently, on March 19, 1982, the Department published an amendment to our preliminary determination (47 FR 11916) which indicated that we had corrected an error in our comparisons for one of the firms investigated, Jin Heung Iron and Steel Co., Ltd. As a result of the correction, that firm's weighted-average dumping margin was reduced from 2.4 to 0.19 percent which is *de minimis*, and the firm was excluded from our preliminary determination of sales at less than fair value. Also, the overall weighted-average dumping margin was reduced from 4.0 to 3.6 percent. Our preliminary determination notice gave interested parties an opportunity to submit views in writing and orally and on March 11, 1982, we held a public hearing.

Finally, on April 9, 1982, the Department published a notice (47 FR 14745) announcing that the period for our final determination was being extended, and that our final determination would be made no later that June 18, 1982.

Scope of the Investigation

The types of nails covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are classified under items 646.25 and 646.26 of the Tariff Schedules of the United States. We investigated sales of these nails which were made by fifteen Korean producers and sold for exportation to the United States during the period of investigation, January 1, 1981, through June 30, 1981. The firms investigated were:

1. Ah Ju Steel Co., Ltd. (Ah Ju).
2. Dae-A Steel Wire Ind., Co., Ltd. (Dae-A).
3. Gaya Metal Ind., Co., Ltd. (Gaya).
4. Han Duk Ind., Co., Ltd. (Han Duk).
5. Han Kuk Steel Wire Ind., Co., Ltd. (Han Kuk).
6. Je Il Steel Co., Ltd. (Je Il).
7. Jin Heung Iron and Steel Co., Ltd. (Jin Heung).
8. Kabul Ltd. (trading for Dong-A Nails Manufacturing Co., Ltd.).
9. Korea Ill Dong Co., Ltd. (Korea Ill Dong).
10. Korea Nippon Seisen Co., Ltd. (Korea Nippon Seisen).
11. Kuk Dong Metal Ind., Co., Ltd. (Kuk Dong).
12. New Korea Nails Ind., Co., Ltd. (New Korea).
13. Samchok Ind., Co., Ltd. (Samchok).
14. The Tan's Metal Ind., Co., Ltd. (Tan's Co.).
15. Young Sin Metal Ind., Co., Ltd. (Young Sin).

Sales by the above firms accounted for approximately 85 percent of all nail sales to the United States during the period of investigation.

Methodology of Fair Value Comparisons

In making fair value comparisons for Dae-A, Jin Heung, Kuk Dong, New Korea, and Samchok we compared U.S. price based on purchase price with foreign market value based on home market price. In the case of Korea Nippon Seisen, we determined that the special rule for certain multinational corporations, section 773(d) of the Act, was applicable, and so we sought the foreign market value of nails sold in Japan by its related company, Nippon Seisen Co., Ltd. Nippon Seisen did not provide the requested information so we compared U.S. price based on purchase price with the best information otherwise available regarding foreign market value in Japan (information supplied under the TPM). For all other firms investigated, there were insufficient sales above cost in either the home market or to third countries to provide an adequate basis for comparison, so we compared U.S. price based on purchase price with foreign market value base on the contructed value of the imported merchandise.

U.S. Price

All Korean producers sold nails either directly to unrelated U.S. importers or to unrelated trading companies which sold to U.S. importers. Since the price of nails to unrelated United States importers was agreed to before the nails were imported into the United States, we used purchase price as defined in section 772(b) of the Act as the U.S. price for all firms investigated.

We calculated purchase price on the basis of the FOB, C&F, or CIF prices to U.S. importers, or, where appropriate, to the trading companies which resold to U.S. importers. We made deductions for all shipping and port charges.

Foreign Market Value

In the cases of Dae-A, Jin Heung, Kuk Dong, New Korea, and Samchok, there were sufficient sales in the home market above the cost of production to allow us to use home market price, as provided in section 773(a)(1)(A) of the Act, to determine foreign market value. We calculated home market price on the basis of the delivered or ex-factory prices to unrelated home market customers. Where appropriate, we deducted shipping charges and adjusted for differences in payment terms and physical differences between domestic and export nails. We also adjusted for differences between domestic and export packing.

In calculating our weighted-average home market price we took into consideration section 773(b) of the Act, which directs that sales below cost, which are made over an extended period of time, in substantial quantities and at prices which do not permit recovery of all costs over a reasonable period of time, will be disregarded. In this investigation we have followed the precedent established in the 1977–78 investigations involving carbon steel plate and welded stainless steel pipe and tubing from Japan in which sales below cost were disregarded when they amounted to 10 percent or more of total home market sales during the

investigative period (but without there being sufficient sales below cost to disregard home market sales as a basis for foreign market value).

Korea Nippon Seisen, which is located in the Masan Free Trade Zone and is wholly owned by a Japanese firm that also has nail producing facilities in Japan, is subject to the special rule for certain multinational corporations, section 773(d) of the Act, which states:

Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) Merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm or corporation which also owns or controls, directly or indirectly, other facilities for the production of such or similar merchandise which are located in another country or countries;

"(2) The sales of such or similar merchandise by the company concerned in the home market of the exporting country are nonexistent or inadequate as a basis for comparison with the sales of the merchandise to the United States; and

"(3) The foreign market value of such or similar merchandise produced in one or more of the facilities outside the country of exportation is higher than the foreign market value of such or similar merchandise produced in the facilities located in the country of exportation,

It shall determine the foreign market value of such merchandise by reference to the foreign market value at which such or similar merchandise is sold in substantial quantities by one or more facilities outside the country of exportation.

We attempted to obtain information from a related Japanese nail producer, Nippon Seisen Co., Ltd. (Nippon Seisen), Osaka, Japan, concerning the cost of production and prices of nails sold in the Japanese home market. However, Nippon Seisen did not respond to our request for this information. Section 776(b) of the Act states that whenever any party refuses or is unable to produce information requested, the Commerce Department may use the best information otherwise available for determining the existence of less than fair value sales. We have used the relevant trigger prices for steel wire nails as the best available information of the foreign market value for nails produced by Nippon Seisen in Japan. We determined that the relevant trigger prices were those for the first and second quarter of 1981. We later adjusted our first quarter trigger prices downward by nine percent. Since these trigger prices are greater than the foreign market value which would otherwise be used for Korea Nippon Seisen, section 773(d) is applicable. Therefore, we compared the purchase price to the foreign market value of Nippon Seisen in Japan, as represented by trigger prices. Furthermore, since Nippon Seisen failed to supply cost data, we made no adjustments to trigger prices to reflect differences in the cost of production between Japan and Korea.

With respect to all remaining firms investigated, we used constructed value, as defined in section 773(e) of the Act, to determine the foreign market value of the nails. Only one of these companies, Dong-A, had adequate sales of such or similar merchandise in the home market or to third countries. The one exception, Dong-A (which sold nails to the United States using the name of its parent firm Kabul, which is a Korean trading company), had sales of this merchandise in the home market. However, there were insufficient sales above the cost of production to use home market sales as the basis of foreign market value.

Therefore, in accordance with section 773(e), we calculated constructed value by adding raw material costs, fabrication costs, general expenses, profit and packing costs. For materials, fabrication and packing costs, we used each firm's actual cost figures. These cost items were broken-down on a quarter-by-quarter basis. During the verifications, we determined that there was at least a one quarter lead time from the time materials are delivered to the factory to the time finished nails are exported to the United States. Therefore, we used the material and fabrication costs one quarter prior to the quarter in which merchandise sold to the United States was exported. For general expenses, we used each firm's actual cost figures allocated over its respective nail production. In cases in which the actual general expenses were less than the statutory minimum amount of 10 percent of the total cost for materials and fabrication, we used 10 percent for general expenses. We calculated profit on the basis of the statutory minimum of 8 percent of materials, fabrication and general expenses. We used the statutory minimum profit, because data submitted by the Korean producers indicated that the usual profit on sales of this merchandise in the Korean home market was less than the statutory minimum.

In calculating foreign market value, we made currency conversions from Korean won to U.S. dollars using certified daily rates compiled by the Federal Reserve Bank of New York for this case.

Verification

We verified, to the extent possible, all information used in making this final determination. We were granted access to the books and records of the fifiteen foreign manufacturers investigated and Kabul, a related company trading for Dong-A. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and rendomly selected documents containing relevant information.

Results of Investigation

We made fair value comparisons on approximately 86 percent of the total sales to the United States made by the fifteen manufacturers under investigations. We found margins on 42 percent of the sales compared. The margins range from 0.1 to 55.7 percent. The overall weighted-average margin on all sales compared is 3.8 percent. On a firm-by-firm basis, the results for the purposes of this determination are as follows:

Manufacturers	Percent of sales compared	Percent of comparisons with dumping margins	Percent weighted-average margin on all sales compared
Ah-Ju	77.2	38.5	2.1
Dae-A	100	40.3	1.1
Gaya	99.0	96.9	13.0
Han Duk	81.6	31.1	0.6
Han Kuk	86.2	44.6	3.8
Je Il	77.5	11.2	0.6
Jin Heung	100	1.1	0.1
Kabul or Dong-A	89.8	52.5	6.1
Korea Il.L Dong	93.4	62.9	3.0
Korea Nippon Seisen	97.6	100	25.8
Kuk Dong	82.6	74.1	5.4
New Korea	85.4	10.4	0.6
Samchok	97.3	0	0
Tan's Co.	97.3	3.5	0.7
Young Sin	100	100	8.3

Since Samchok had no sales at less than fair value, and Jin Heung's weighted-average margin was only 0.1 percent which is *de minimis*, both firms are excluded from this final determination of sales at less than fair value.

Issues

The major, outstanding issues raised at our public hearing of March 11, 1982, and in the written comments submitted, are as follows:

Issue

Both counsel for the domestic industry and respondents objected to the use of unofficial average monthly exchange rates to make currency conversions for the preliminary determination.

DOC position

Section 353.56(a), Commerce Regulations (19 CFR 353.56(a)), requires all foreign currency conversions to be made in accordance with the provisions of section 522 of the Act (31 U.S.C. 372).

Section 522 essentially requires the Department to utilize rates as certified by the Federal Reserve Bank of New York (FRB). At the time of the preliminary determination, the FRB had not yet completed the certification of won-dollar exchange rates. To make necessary conversions, we relied on unofficial average monthly rates which were supplied to the Department by the FRB and used as the best available information. Subsequent to the preliminary determination, we received certified conversion rates from the FRB. All currency conversions for this final determination have been made using the FRB certified rates.

Issue

Counsel for the respondents has objected to the Department excluding home market sales made below cost by Kabul, Kuk Dong, and North Korea from the computation of fair value, and counsel for the domestic industry has objected to the Department including home market sales made below cost by Dae-A, and Samchok in the computation of fair value.

DOC position

In calculating weighted average home market prices, the Department took into consideration the provisions of section 773(b) of the Act which directs that home market sales below cost which are made over an extended period of time and in substantial quantities at prices which do not permit recovery of all costs over a reasonable period of time will be disregarded in the determination of foreign market value. Section 773(b) further states that:

> Whenever sales are disregarded by virtue of having been made at less than the cost of production and the remaining sales, made at not less than cost of production, are determined to be inadequate as a basis for the determination of foreign market value * * * the administering authority shall employ the constructed value of the merchandise to determine its foreign market value.

Thus, there are two stages in the calculation of foreign market value where there are sales below cost. First, the Department must determine whether to disregard below-cost sales. Second, if it does disregard them, it must determine whether the remaining, above-cost sales provide an adequate basis for comparison.

In determining whether to disregard below-cost sales, we have followed the precedent set in the 1977–78 antidumping investigations involving carbon steel plate and welded stainless pipe and tubing from Japan in which, for the steel industry, sales below cost were disregarded when they amounted to 10 percent or more of total home market sales. In the cases of Kabul, Kuk Dong, and New Korea, more than 10 percent of total home market sales were below cost, so below-cost sales were disregarded in the computation of foreign market value. With respect to Kabul, disregarding home market sales below cost left insufficient sales above cost to form an adequate basis for the determination of foreign market value, so the Department used the constructed value of the merchandise to determine the foreign market value of nails exported by Kabul. In the cases of Dae-A and Samchok, less than 10 percent of total home market sales were below cost, so none of the below-cost sales were disregarded in the computation of foreign market value.

Issued

Counsel for domestic industry has contended that where Korean firms have limited and unrepresentative home market sales, constructed value should be used in determining fair value. In the cases of New Korea, Jin Heung and Kuk Dong, home market sales price was used to determine foreign market value even though each of these companies sold less than 10 percent of its nails in the home market. Moreover, the nails sold in Korea are bright nails principally; sales to the U.S. included coated and galvanized nails, as well.

DOC position

In past cases, including the previous antidumping investigation involving certain steel wire nails from Korea, home market or third country sales amounting to 5 percent or more of the quantity shipped to the United States were considered to be an adequate basis for determining foreign market value. In the final determination notice for the previous nail investigation (45 FR 34942), the following statement was made:

> The use in this case of the 5% benchmark for deciding whether sales to the home market or to third countries are adequate for determining foreign market value does not establish a rigid rule of general application. The 5% benchmark does provide a guideline from which our analysis begins but in some cases there may be particular facts that require another result in order to implement the purposes of the Act. In this case there are no such special facts.

In this investigation, as in the previous one, we have concluded there are no special facts and have continued to use the 5 percent guideline to determine whether home market sales were an adequate basis for determining foreign market value. Furthermore, our 5 percent guideline is applied to the aggregate of all such or similar merchandise sold during the period under investigation. Since we considered bright, coated and galvanized nails to be such or similar merchandise within the meaning of section 771(16) of the Act, all sales of these nails were considered on an aggregate basis.

Issue

Counsel for respondents claims that the Department erred in not allowing claimed interest expense adjustments for Jin Heung and Kuk Dong which are attributable to differences in payment terms between U.S. and home market sales.

DOC position

It is the Department's policy to make this adjustment only if the respondent can demonstrate that its total actual short-term interest expense is not less than the amount claimed. Since the preliminary determination, both Jin Heung and Kuk Dong have demonstrated this through supporting documentation and we have made the adjustment for both firms in reaching this final determination.

Issue

Counsel for respondents and counsel for a U.S. importer, So-Cal Commercial and its DBA, Commercial Steel Co. (So-Cal) of Los Angeles, Ca., have contested the failure of the Department to adjust trigger prices, which were used to compute foreign market value for Korea Nippon Seisen, to take into account differences in the cost of production between Japan and Korea.

Counsel for So-Cal further contests the failure of the Department to adjust first-quarter 1981 trigger prices downward based on data received by the Department indicating that these prices were overstated.

DOC position

Pursuant to the requirements of section 773(d) of the Act, the Department attempted to obtain home market sales data and cost of production data from the related Japanese firm, Nippon Seisen. Since Nippon Seisen did not respond to our request for information, we were forced to use trigger prices as the best information otherwise available of that firm's sales prices in Japan.

Section 773(d) provides that the Department shall make adjustment for differences between the costs of production of the merchandise under investigation in the plants of the

respondent firm in the country of exportation and in the plants of the related company in plants outside the country of exportation "* * * if such differences are demonstrated to its satisfaction." Since Nippon Seisen failed to provide cost information, there is no way for us to know what the cost differences are between Korea Nippon Seisen and Nippon Seisen, and thus no way for such differences to be demonstrated to our satisfaction.

Use of trigger price component data as the basis for such an adjustment, as suggested by repondents, would be improper. The trigger price data is aggregate in nature while section 773(d) clearly requires company-specific comparisons (between facilities of related firms in different countries). Additionally, acceptance of respondent's contention would result in the use of Korea Nippon Seisen's reported Korean costs (the measure of foreign market that would have been used if section 773(d) had not been applicable). To allow a respondent to benefit from a failure to provide required costs and price information would frustrate the statutory scheme of section 773(d).

With respect to the first-quarter 1981 trigger prices, the Department has concluded that a nine percent reduction is warranted in accordance with the Department's trigger price revision notice of February 26, 1981 (46 FR 14284), which stated:

> The base trigger price for wire nails for second-quarter 1981 will be $477, $46 lower than their first-quarter levels. Wire nail trigger prices for previous quarters were estimated from the trend in the costs of the intergrated producers. This method significantly overstated the increase in the cost of producing wire nails. Prices for the second quarter are based on production costs supplied by the five major Japanese wire nails producers.

Accordingly, we have adjusted first-quarter trigger prices downward by nine percent for purposes of this final determination.

Issue: Counsel for domestic industry contends that the Department incorrectly computed foreign market value by failing to account for differences in quality between nails exported to the U.S. and nails sold in the home market.

DOC position: Of those Korean firms with home market nail sales, only Kuk Dong was found to have more significant quality control tolerances for export nails than for home market nails. The cost differences attributable to Kuk Dong's quality control procedures were duly reflected in the adjustments we made for differences in the merchandise between export and domestic nails.

Issue: Counsel for domestic industry asserts that the Department's verifications fail to explain wide differences among the cost figures reported by the Korean firms and raise questions concerning the reliability of the information provided.

DOC position: In certain instances, domestic counsel's citings of cost variances were not entirely accurate. For example, in citing the range of prices paid for rod, the high price cited represented a purchase of wire, not rod. Also, the variations in the cost figures reported to the Korean firms reflect different business practices and degrees of efficiency which are normal within any given industry. Based on our verification of the submitted cost figures, we were satisfied that the information provided was credible.

Issue: Counsel for domestic industry asserts that a 90-day lead time used by the Department to calculate the material and fabrication cost elements of constructed value was excessive, and that a one-and-a-half months lead time was more proper.

DOC position: During verification, Department officials established from source documents of the Korean manufacturers that on the average a period of approximately 90 days elapses between the time materials are delivered to the factory to the time a finished product is exported. Since fabrication costs can begin immediately after delivery of materials, we also applied a 90-day lead time to this cost element as well. However, since fabrication costs did not vary significantly from quarter to quarter, there would have been virtually no change in constructed value if we applied a shorter lead time in calculating fabrication costs. We believe that a 90-day lead time is not excessive.

Final Determination

Based on our investigation and in accordance with section 735(a) of the Act, we have reached a final determination that, with the exception of those nails produced by Jin Heung and Samchok, certain steel wire nails from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act.

Continuation of Suspension of Liquidation

Liquidation will continue to be suspended on all entries of nails, with the exception of those nails produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption. The U.S. Customs Service will continue to require the posting of a cash deposit bond, or other security for all entries of nails from Korea except for nails produced by Jin Heung and Samchok, in the amount of the weighted-average margin of the FOB price for the listed firms investigated and 3.8 percent of the FOB price for all other Korean producers. The security amounts established in our preliminary determination of February 3, 1982, are no longer in effect.

ITC Notification

We are notifying the ITC and making available to it all nonprivileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on certain steel wire nails from Korea (with the exception of those nails produced by Jin Heung and Samchok) entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Gary N. Horlick,

Acting Assistant Secretary for Trade Administration.

June 18, 1982.

[FR Doc. 82-17146 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

Yale University; Decision on Application for Duty-Free Entry of Scientific Article

Correction

In FR Doc. 82-16366, published on page 26179, on Thursday, June 17, 1982, in the first column, in the third paragraph, in the first line, "Docket No.

92–00037." should be corrected to read "Docket No. 82–00037."

BILLING CODE 1505-01-M

Preliminary Affirmative Countervailing Duty Determination for Certain Steel Wire Nails From the Republic of Korea

June 18, 1982.

AGENCY: International Trade Administration, Commerce.

ACTION: Preliminary affirmative countervailing duty determination.

SUMMARY: We have preliminarily determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of certain steel wire nails (nails) as described in the "Scope of the Investigation" section of this notice. The estimated net subsidy is 3 percent of the FOB value of the imported merchandise. Therefore, we are directing the U.S. Customs Service to suspend liquidation of all entries, of merchandise, entered or withdrawn from warehouse, for consumption of nails and to require a cash deposit, bond, or other security in an amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by September 1, 1982.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Steven Lim, or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377–1276.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we have preliminarily determined that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended ("the Act"), are being provided to manufacturers, producers, or exporters in Korea of certain steel products, as described in the "Scope of Investigations" section of this notice. The following programs are preliminarily found to be subsidies: (1) preferential export financing; (2) preferential tax incentives; (3) special benefits for manufacturers located in the Masan Free Export Zone; and (4) preferential wire rod rates. We estimated the net subsidy to be 3 percent of the FOB value of the imported merchandise.

Case History

On January 19, 1982, we received a petition from counsel for Armco Inc., and Tree Island Steel, Inc., and from counsel for Atlantic Steel Co., Florida Wire and Nails, New York Wire Nails, and Virginia Wire and Fabric, on behalf of the U.S. industry producing certain steel wire nails. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided directly or indirectly to the manufacturers, producers, or exporters in Korea of nails.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on February 12, 1982, we published a notice of "Initiation of Countervailing Duty Investigations" in the Federal Register (47 FR 6458). We stated that we expected to issue a preliminary determination by April 14, 1982. We subsequently determined that the investigation is "extraordinarily complicated." As defined in section 703(c) of the Act, and on March 30, 1982, we postponed our preliminary determinations for 65 days, until June 18, 1982 (47 FR 13392). On March 5, 1982, the U.S. International Trade Commmission (ITC) found that there is a reasonable indication that these imports of certain steel wire nails from Korea are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the Federal Register on March 16, 1982 (47 FR 11336).

We presented questionnaires concerning the allegations to the government of Korea in Washington, D.C. By April 23, 1982, we had received responses from the government of Korea, and fourteen Korean nail manufacturers which are believed to account for all current nail exports to the United States.

An antidumping investigation involving this merchandise, which was initiated by the Department on July 2, 1981 (46 FR 34615), resulted in a preliminary determination of sales at less than fair value (with two nail producers excluded), which was published in the Federal Register on February 3, 1982 (47 FR 5028), and amended on March 19, 1982 (47 FR 11916). A final determination in that case is due no later than June 18, 1982.

Scope of the Investigation

The merchandise covered by this investigation are nails of one piece construction, which are made of round steel wire and which are either less than 1 inch in length and less than 0.065 inch in diameter, or 1 inch or more in length and 0.065 inch or more in diameter. Such nails are currently classified under items 646.25 and 646.26 of the Tariff Schedules of the United States, respectively.

The period covered by our investigation is 1981. In addition to receiving a questionnaire response from the government of Korea, we have also received questionnaire responses from the following fourteen Korean producers:

Ah Ju Steel Co., Ltd. (Ah Ju)
Dae-A Steel Wire Ind., Co., Ltd. (Dae-A)
Gaya Metal Ind., Co., Ltd. (Gaya)
Han Duk Ind., Co., Ltd. (Han Duk)
Han Kuk Ind., Co., Ltd. (Han Kuk)
Hyung Jin Ind., Co., Ltd. (Hyung Jin)
Je Il Steel Co., Ltd. (Je Il)
Jin Heung Iron and Steel Co., Ltd. (Jin Heung)
Kabul Ltd. (Kabul-trading for Dong-A Nail Mfg., Co., Ltd. (Dong-A))
Kuk Dong Metal Ind., Co., Ltd. (Kuk Dong)
New Korea Nails Ind., Co., Ltd. (New Korea)
Samchok Ind., Co., Ltd. (Samchok)
The Tan's Metal Ind., Co., Ltd., (Tan's Co.)
Young Sin Metal Ind., Co., Ltd., (Young Sin)

Of the firms listed above, only Hyung Jin was not included in our current antidumping investigation involving nails from Korea. Two other firms involved in the antidumping investigation, Korea Ill Dong Co., Ltd., and Korea Nippon Seisen Co., Ltd., are no longer in business.

Analysis of Programs

The following programs were alleged in the petition to be subsidies: (1) Preferential export financing; (2) preferential tax incentives; (3) special benefits for manufacturers located in the Masan Free Export Zone; (4) preferential wire rod rates; (5) preferential utility rates; (6) tariff incentives; and (7) favorable foreign currency exchange rates. Based on our experience in other Korean cases, we also included in our investigation the Foreign Capital Inducement Law, which provides benefits to companies which are wholly, or partially, foreign-owned.

In their responses, the government of Korea and the fourteen Korean nail producers provided data for the applicable period. Based upon our preliminary analysis of the petition and responses to our questionnaires, we have preliminarily determined the following:

Programs Preliminarily Determined To Be Subsidies

We have preliminarily determined that subsidies are being provided to manufacturers, producers, or exporters

in Korea of certain steel wire nails under the programs listed below.

Preferential Export Financing

Under the "Regulations for Export Financing," promulgated by the Korean government on February 25, 1972, short-term financing of up to 90 days is provided to exporters at interest rates which are less than the generally available commercial rates. During 1981, the interest rate for short-term export financing was 12 percent (27 percent if late payment is made), as opposed to normal commercial rates, which ranged between 15–20 percent for most of 1981. This rate also varies depending on the credit rating of the borrower. Medium and long-term loans are said not to be available to exporters at preferential interest rates.

Export financing is available for production expenses and for the purchase of raw materials for export production. A loan ceiling for short-term export loans is established based upon the value of a company's total exports in a preceding period.

The government's response indicates that financing is provided by individual private foreign exchange banks and not by the Korean government. The response states that the banks act autonomously in conformance with the regulations. We preliminarily determine that, regardless of the private ownership of the banks, this program is countervailable because the preferential financing is the direct result of a government mandate.

All firms investigated, with the exception of Young Sin, took advantage of this program. In order to calculate the amount of the benefit to each nail producer, we computed the total difference between the amount of interest paid on all export loans which were transacted in 1981, and the amount of interest that the firm would have had to pay on a comparably timed and sized loan under normal commercial financing. The amount of the total benefit received under this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. On an overall basis we found that the net benefit to the Korean nail industry, attributable to this program, was 0.35 percent of the FOB value of the imported merchandise.

Preferential Tax Incentives

Article 51 of the Korean Enforcement Decree to the Corporate Tax Law permits a firm earning more than 50 percent of its total proceeds from foreign exchange to increase its normal depreciation by 30 percent. In addition, Article 12 of the Corporate Tax Law provides for the deduction from taxable income of a number of different reserves relating to export activities.

Although none of the individual nail producers under investigation reported using the accelerated depreciation provision based upon export exchange earnings, several firms did report using reserve funds for export losses and overseas market exploration expenses.

Under the program governing export losses, a corporation engaged in export or tourist activities may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve funds. If there are no offsets for export losses, the reserve is credited to income and taxed, after a one-year grace period, over a three-year period. Under the program governing overseas market exploration expenses, a corporation engaged in export activities may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in exploring overseas markets are offset from the reserve fund. As in the case of the export loss reserve fund, if there are no offsets for expenses the reserve is credited to income and taxed, after a one-year grace period, over a three year period.

The balance in both reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either by means of offsetting export losses or by the expiration of the one-year grace period. Both programs serve as an interest free loan to the corporation of the tax savings on these funds. Accordingly, we have quantified the benefits from these reserve funds to each applicable nail producers by calculating the amount of taxes that normally would be due on these funds under Korean law, and applying a rate of interest which the firm would have had to pay on a comparably timed and sized loan under normal commercial financing, The amount of the total benefit received under this program was divided by that firm's total value of export sales for 1981 to determine the *ad valorem* subsidy to that firm. Of the firms investigated, only Han Kuk, Kabul, and Samchok reported using either or both reserve funds. Although Young Sin's response indicated that the firm had not benefited from these programs, its 1981 balance sheet indicated both export loss and overseas market development reserves. We have therefore calculated an estimated subsidy for Young Sin based on best available information. The export reserve fund programs resulted in a total subsidy to the nail industry of 0.09 percent of the FOB value of the imported merchandise.

Masan Free Export Zone

The government's response indicates that the benefits granted to firms located in the Masan Free Export Zone are, essentially, tax incentives of a temporary nature. Of the fourteen nail firms investigated, only Ah Ju, Gaya, Han Duk, and Je Il are located in the Masan Free Export Zone. Han Duk is the only firm to report a benefit by reason of its location in Masan. The firm received a tax exemption which amounted to only 0.01 percent of the FOB value of the imported merchandise.

Preferential Wire Rod Rates

Petitioners alleged that the Pohang Iron and Steel Co., Ltd. (POSCO), which is largely government owned, was selling wire rod to Korean nail producers at preferential prices, and that these preferential rates took several forms. First of all, petitioners alleged that POSCO itself is being subsidized and that these subsidies are being passed on to nail producers in the form of lower rod prices which may be lower than POSCO's cost of production. Secondly, petitioners alleged that the steel wire nail and other steel product industries are benefiting from preferential rod rates from POSCO. Finally, petitioners alleged that steel wire nail exports are being stimulated through a preferential export pricing system in which POSCO charges a lower price for rod to be used to fabricate an export product, as opposed to rod to be used to fabricate a product sold domestically.

Although POSCO is substantially owned by the Korean governmnet or its agencies, the questionnaire response received from the Korean government states that the firm is not controlled by the government. The response states that POSCO is incorporated as a commerical company under Korea's commercial code, rather than as a government company under a special law, and that. POSCO has full control over pricing, marketing and other aspects of its operations. Responses received from individual Korean nail producers indicate that POSCO's prices are comparable to, or higher than, prices charged by other domestic wire rod producers which are not government-owned and, as indicated in one response, higher than the prices of imported rod. There is no evidence on

the record indicating that POSCO charges preferential prices to one steel product industry over another.

The responses indicate that POSCO has a dual pricing system. Rod is purchased on a cash or local letter of credit basis. The letter of credit price is stated in U.S. dollars but paid for in Korean won at the official Bank of Korea exchange rate prevailing on the date of delivery. All cash purchases are made in Korean won. Wire rod purchased on the basis of a local letter of credit is for export use, while rod purchased on a cash basis can be used for both domestic or export sales. Therefore, different prices are offered depending upon whether the sale is exclusively for export or for domestic or export use. The letter of credit price is generally lower than the cash price, although there are exceptions. The government of Korea attributes the differences in prices in both markets to Korea's import duties. The Korean domestic market for wire rod is protected by tariff. The market for wire rod used for export production, however, is unprotected as a result of a duty drawback system which results in the export market being generally more price competitive.

Based on this information, it appears that this dual pricing system as implemented by POSCO could constitute a subsidy on the merchandise under investigation. This issue, however, involves interrelated questions of ownership, control, market structure and pricing policy. We must seek further clarification regarding this matter. Based on available information we preliminarily determine that POSCO's dual pricing system constitutes a subsidy of approximately 2.6 percent of the FOB value of the imported merchandise.

Progams Preliminarily Determined Not To Be Subsidies

We have preliminarily determined that subsidies are not being provided to manufacturers, producers, or exporters in Korea of certain steel wire nails under the following programs.

Tariff Incentives

Article 29 of the Korean Foreign Trade Enforcement Ordinance authorizes rebates of tariffs to cover wastage on imported rod and other raw materials to be manufactured into export items. Petitioners alleged that wastage allowances are being claimed which are higher than the actual wastage levels.

The rebate of duties on imported raw materials used to make exported merchandise is known as "drawback" and is normally not countervailable unless the drawback is excessive. Only one of the Korean nail producers imported small quantities of raw materials during the investigatory period, and we have preliminarily found no evidence of excessive drawback attributable to wastage for this firm.

Favorable Foreign Currency Exchange Rates

The petitioners allege that foreign currency is loaned to or purchased by Korean nail producers for the purchase of imported raw materials, and equipment at fixed rates of exchange that are more favorable than official or actual exchange rates.

Based on the questionnaire responses received to date, the Department has found no evidence of the existence of such a program.

Programs Preliminarily Determined Not To Be Utilized

We have preliminarily determined that the following programs are not utilized by the manufacturers, producers, or exporters in Korea of certain steel wire nails.

Preferential Utility Rates

Petitioners alleged that Korean steel wire nail producers are eligible for reduced rates for utilities and related services as "designated companies" under the Iron and Steel Industry Rehabilitation Order (Presidential Decree No. 10,002, August 23, 1980). It is further alleged that nail producers qualify for a deferred payment plan with the Korea Electric Company.

The questionnaire responses received by the Department indicate that Korean nail manufacturers or exporters do not qualify for preferential utility rates and have not utilized this program.

Foreign Capital Inducement Law

The Foreign Capital Inducement Law (FCIL) provides benefits to Korean companies which are wholly or partially foreign owned. These benefits take various forms.

The questionnaire responses received by the Department indicate that no Korean nail manufacturers or exporters utilized this program.

Verification

In accordance with section 776(a) of the Act, we will verify data used in making our final determination.

Preliminary Results of Investigation

Based on our investigation, we have preliminarily determined that all Korean nail producers investigated have received subsidies under at least one of the four programs found to be preliminarily countervailable. The overall total subsidy to the nail industry was preliminarily estimated to be 3 percent of the total FOB value of the imported merchandise.

Suspension of Liquidation

As a result of the Department's antidumping preliminary determination of sales at less than fair value published in the **Federal Register** of February 3, 1982 (47 FR 5028) and March 19, 1982 (47 FR 11916), liquidation was suspended on all entries of nails, with the exception of those nails produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption. Suspension of liquidation will continue to be in effect until further notice. In addition, in accordance with Section 703 of the Act, we are directing the U.S. Customs Service to suspend, as of the publication date of this notice, all entries of nails, produced by Jin Heung and Samchok, which are entered into the United States, or withdrawn from warehouse, for consumption.

As of the date of publication of this notice, a cash deposit, bond, or other security must be posted for all entries of nails produced by all firms in the amount of 3 percent of the FOB price of imported nails. This security is required in addition to any other security required as a result of the antidumping investigation involving this merchandise.

ITC Notification

In accordance with section 703(d)(3) of the Act, we will notify the ITC of this action and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under any administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations (19 CFR 355.35), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on August 5, 1982, at the U.S. Department of Commerce, Room 3080, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import

Administration, Room 3099B, at the above address within ten days of this notice's publication. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 1, 1982. Oral presentations will be limited to issues raised in the briefs.

All written views should be filed in accordance with 19 CFR 355.43, within thirty days of this notice's publication, at the above address and in at least ten copies.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 18, 1982.

[FR Doc. 82-17137 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Modification of Permit No. 370(P66F)

Notice is hereby given that, pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), permit No. 370 issued to the Alaska Department of Fish and Game, P.O. Box 3–2000, Juneau, Alaska 99802 on March 2, 1982 (47 FR 10071) is modified in the following manner:

Section B. is modified to add:

"8. Blood samples may be collected, as described in the modification request, from up to 50 of the 700 animals authorized in Section A.1(a) and (b)."

"9. Skin and blubber samples may be collected, as described in the modification request, from up to 20 of the 200 animals to be radio tagged as authorized in Section A.1.(a)."

The modification is effective June 24, 1982.

The Permit, as modified, is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: June 17, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals & Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17119 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name: Dr. Warren M. Zapol and Dr. Robert C. Schneider (P120A); b. Address: Department of Anesthesia, Massachusetts General Hospital, Boston, Massachusetts 02114.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Weddell seals (Leptonychotes weddelli), 25.

4. Type of Take: Capture, study and release.

5. Location of Activity: McMurdo Sound Antarctica.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before July 26, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Glouscester, Massachusetts 01930.

Dated: June 17, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17120 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Export Visa Requirement for Down and Feather-Filled Apparel From the Republic of Singapore

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Requiring an export visa for down and feather-filled apparel in Categories 353, 354, 653, and 654, produced or manufactured in the Republic of Singapore and exported on and after August 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5928), and May 13, 1982 (47 FR 20654).)

SUMMARY: By an exchange of letters dated May 17 and May 20, 1982, the Governments of the United States and the Republic of Singapore have agreed to amend further the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, to include down and feather-filled apparel in Categories 353, 354, 653 and 654. Accordingly, on and after the effective date of this action it will be necessary for shipments of these products to be visaed by the Government of the Republic of Singapore in the same manner as other categories of textile products subject to the agreement are currently required to be visaed.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On February 9, 1981, there was published in the Federal Register (46 FR 11571) a letter dated February 4, 1981 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs which permitted entry, effective on February 9, 1981 and until further notice, of down and feather-filled jackets, coats and vests in Categories 353, 354, 653 and 654, produced or manufactured in certain specified countries, including Singapore, without an export visa. The bilateral agreement with Singapore has now been

amended to include down and feather-filled apparel in these four categories. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements amends the directive of February 4, 1981 to the Commissioner of Customs to require an export visa for these products, effective on August 1, 1982.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce,
International Trade Administration,
Washington, D.C.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of February 4, 1981, which directed you to waive, effective on February 9, 1981 and until further notice, the export visa requirement for feather-filled apparel in Categories 353, 354, 653 and 654 from designated countries.

Effective on August 1, 1982 and until further notice, an export visa will be required for merchandise in Categories 353, 354, 653 and 654, produced or manufactured in Singapore and exported on and after that date.

This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1982.

[FR Doc 82-17040 Filed 6-23-82; 8:45 am]
BILLING CODE 3510-25-M

Amending the Visa Requirement for Textile Products From Brazil

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the existing visa requirement, established for cotton textiles and cotton textile products, produced or manufactured in Brazil and exported to the United States, to include man-made fiber textile products in Categories 600–669, including down and feather-filled apparel in Categories 653 and 654, and in Categories 353 and 354. A new, circular visa stamp has also been adopted for use with both cotton and man-made fiber textile products.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Paragraph 19 of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982 between the Government of the United States and the Federative Republic of Brazil provides that man-made fiber textile products in Categories 600–669 shall be visaed in the same manner as cotton textiles and cotton textile products in Categories 300–369 are currently required to be visaed. Inasmuch as down and feather-filled apparel are now required to be visaed by virtue of the agreement of March 31, 1982, the procedure for requiring visas is being extended to include them also. A new, round visa stamp will replace the square stamp previously used to visa cotton textiles and cotton textile products.

EFFECTIVE DATE: August 1, 1982 for man-made fiber textile products exported on and after that date. Cotton textiles and cotton textile products exported prior to August 1, 1982 which are visaed using the previously authorized visa stamp shall not be denied entry. The new stamp will be required for both cotton and man-made fiber textile products exported on and after August 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On July 8, 1972, there was published in the **Federal Register** (37 FR 13498) a letter dated June 29, 1972 which established an export visa requirement for cotton textiles and cotton textile products, produced or manufactured in Brazil and entered for consumption, or withdrawn from warehouse for consumption, in the United States. The letter published below from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Custom amends the directive of June 29, 1972 to provide that textile products in Categories 353 and 354 and 600–669, produced or manufactured in Brazil and exported to the United States, must also be visaed using the new stamp, effective on August 1, 1982.

A list of officials authorized to issue visas follows this notice. A facsimile of the new visa stamp is published as an enclosure to the letter to the Commissioner of Customs.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1982.

Officials of the Government of the Federative Republic of Brazil Authorized to Issue Visas for Certain Cotton and Man-Made Fiber Textile Products Exported to the United States

Antonio Brambilla
Adir de Oliveria Meirelles
Adolfo Lueders Junior
Amos Lima de Santana
Antonio Bezerra de Figueiredo
Antonio Carlos Bastos Junior
Antonio Santos
Arnaldo Nogueira Junior
Ary de Oliveira Seabra
Carlos Coelho de Alvarenga Netto
Carlos Edwardo Zaina
Carlos Leon Finger
Eduardo Ramos
Ernio Antonio Thiming
Eudes Izar
Fernando Antonio Ferreira de Medeiros
Flavio Eduardo Patricio Ribeiro
Flavio Scottini
Francisco Ursino Pilho
Helio Ribeiro Lopes
Humberto Stumpf
Irineu Coimbra
Joao Cadmo Cavalcanti
Jorge Luiz Pessoa Morado
Jose Alkindar Xavier Balbe
Jose Carlos de Araujo
Jose Luiz Daniel
Jose Mango de Leao Brasil
Jose Nicolao Turnes
Jose de Souza Neto
Juvenal Jose de Oliveira
Lea Josefina Lionco Bassanesi
Luiz Alberto Lopes
Luiz Cezar Cotta
Luiz Estanislau Enoch
Mariglei Tosati
Mario Emilio Kreibich
Mario Otto Schwchow
Milson de Souza Melo
Nazur Castro Vasconellos
Newton Cerqueira Melo
Paulo Cesar Curado Cabral
Pedro Adelino Dantas Filho
Pedro Motta
Publio Jackson Furiatti
Roberto Varella
Rubens de Azeredo
Rui Fra
Ruy Carlos Cury
Sinesio Pereira Campos
Thomaz Januzzi
Vicente Antonio Nucci
Vidal Santos
Victor Angelo Pinto Ferreira

June 21, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of June 29, 1972, which directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in Brazil, for which that government had not issued an appropriate export visa.

Effective on August 1, 1982, the directive of June 29, 1972 is further amended to extend the export visa requirement to include cotton and man-made fiber textile products in Categories 353 and 354 and 600–669 (formerly Categories 200–243), produced or manufactured in Brazil. A new visa stamp, fully described below, will replace the square stamp currently in use. On and after August 1, 1982, both cotton and man-made fiber textile products shall be visaed using the new stamp. Cotton textiles and cotton textile products, exported before August 1, 1982, which are visaed using the previously authorized square visa stamp shall not be denied entry.

The new visa will be an original circular stamped marking in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice when such form is used) and will include the date and signature of the official authorized to issue visas. A facsimile of the new stamp is enclosed.

Non-commercial shipments of cotton and man-made fiber textile products which are imported for the personal use of the importer, not for resale, do not require and export visa, regardless of value.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton and man-made fiber textiles and textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements.

Enclosure.



BANCO DO BRASIL S. A. - CACEX
R. Sen. da Lapa Metr. - SP
(Código - 62020-3)

[FR Doc. 82-17089 Filed 6-23-82; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 16, 1982.

The USAF Scientific Advisory Board Strategic Cross-Matrix Panel will meet at the Pentagon on July 20 and 21, 1982. The purpose of the meeting will be to review M–X basing. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-17160 Filed 6-23-82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of Section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee has been rescheduled from 30 June as follows:

Friday, 30 July 1982, Plaza West, Rosslyn, Virginia

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on Soviet naval trends.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 21, 1982.

[FR Doc. 82-17090 Filed 6-23-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed 1982 Wholesale Power Rate Adjustment; Close of Comment Period

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Close of Comment Period on Proposed 1982 Wholesale Power Rate Adjustment.

SUMMARY: On March 31, 1982, BPA announced its proposed 1982 wholesale power rate adjustment (47 FR 13710). Public hearings on this proposal began on April 12, 1982; cross-examination on all parties' rebuttal testimony is scheduled to end on or about June 25, 1982, with a final pubic comment opportunity scheduled for June 28, 1982. June 30, 1982, is the last day written comments will be accepted for consideration in the final rate adjustment proposal.

ADDRESSES: Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donnal L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–3478. Oregon callers may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Information is also available from the following BPA Area and District offices:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE., Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 208, 211 East Seventh Street, Eugene, Oregon 97401, 503–345–0311.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Gordon H. Brandenburger, Kalispell District Manager, P.O. Box 758, Kalispell, Montana 59901, 406–755–6202.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extenson 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Tom Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington, 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

SUPPLEMENTARY INFORMATION: On March 31, 1982, BPA announced its proposed 1982 wholesale power rate adjustment (47 FR 13710). Hearings on the proposed wholesale power rates began April 12, 1982, in Portland, Oregon. BPA invited interested persons to review the proposed rates and the supporting studies, to participate in the hearings, and to submit written comments until the close of comment period was announced by a specific Federal Register notice. This Notice establishes the last day for receipt of

written comments as June 30, 1982. During the development of the final rate proposal, BPA will evaluate all written and oral comments received in this process. Due to consideration of public comments and information gained through the formal hearing process, the final rate proposal will likely differ from the rates proposed in the original notice.

Issued in Portland, Oregon, June 21, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82-17289 Filed 6-23-82; 10:21 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-012]

Public Service Electric and Gas Co.; Application for Recertification of the Use of Natural Gas to Displace Fuel Oil

On July 25, 1981, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 81-CERT-015). The certificate was made effective on issuance, and involved the purchase of natural gas from Equitable Gas Company for use by Public Service at its electric generating facilities in New Jersey. These purchases are being delivered pursuant to the ERA certification in Docket No. 81-CERT-015. The ERA certificate expires on July 24, 1982.

On June 9, 1982, Public Service filed an application for recertification for one year of an eligible use of natural gas to displace fuel oil at its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton, pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file and available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In its application, Public Service states that the volume of natural gas for which it requests recertification is up to 7.0 billion cubic feet per year. This volume is estimated to displace the use of approximately 1,057,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 28,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year.

The quantities at each location are subject to considerable variation with changes in demand and availability of the various generating units, but estimated gas usage and resulting oil displacement volumes are listed below:

Location	Estimated vol. (BCF)	Estimated oil displacement (000 bbl)	
		0.3% sulfur No. 6 oil	0.2% sulfur No. 2 oil or 0.1% sulfur kerosene
1. Bergen Generating Station, Ridgefield, NJ	0.6	472	
2. Essex Generating Station, Newark, NJ	0.1		14
3. Hudson Generating Station, Jersey City, NJ	2.7	417	
4. Kearny Generating Station, Kearny, NJ			
5. Linden Generating Station, Linden, NJ			
6. Sewaren Generating Station, Sewaren, NJ	1.1	168	
7. Edison Generating Station, Edison, NJ	0.1		14
8. Mercer Generating Station, Trenton, NJ			
Totals	7.0	1,057	28

The eligible seller is Equitable Gas Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipeline Corporation, P.O. Box 1396, Houston, Texas 77001, all of which are interstate natural gas pipelines.

Public Service has in effect certifications by the ERA which authorize purchases of natural gas from various eligible sellers for use at the electric generating stations named in this certification as follows:

ERA Docket No.	Amount	Remarks
81-CERT-008	7.3 Bcf/Yr.	Effective June 24, 1981.
81-CERT-009	10.7 Bcf/Yr.	Effective June 24, 1981.
81-CERT-013	5.0 Bcf/Yr.	Effective July 21, 1981.
81-CERT-015	7.0 Bcf/Yr.	Effective July 25, 1981.
82-CERT-008	3.0 Bcf/Yr.	Effective May 24, 1982.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 6144, RG-631, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, Attention: Paula A. Daigneault, within ten (10) calendar day of the date of publication of this notice in the **Federal Register**.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Public Service and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C., June 18, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-17093 Filed 6-23-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 6282-000]

City of Boulder; Notice of Application for Preliminary Permit

June 18, 1982.

Take notice that the City of Boulder (Applicant) filed on May 3, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6282 to be known as the Boulder Project located on the North Boulder Creek Watershed Basin and City of Boulder's water distribution system in the City of Boulder, Boulder County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Karl F. Kumli, Moses, Wittemeyer, Harrison and Woodruff, P.C., P.O. Box 1440, Boulder, Colorado 80306.

Project Description—The proposed project located partially within the Roosevelt National Forest would utilize an existing system of lakes, dams, conduits and water treatment facilities described as follows: (A) The North Boulder Creek Basin Collection System consisting of the following listed reservoirs and dams: See attached.

(B) An existing pipeline system supplied by the above dams and reservoirs described as follows: (1) The 20-inch diameter, 2,400-foot long Boulder City Conduit; (2) the 22-inch diameter, 31,900-foot long and 18-inch diameter, 18,200-foot long Lakewood Raw Water Transmission Line; (3) the 18-inch diameter, 18,000-foot long Silver Lake Raw Water Transmission Line; (4) the 30-inch diameter, 8,900-foot long Sunshine Treated Water Line; and (5) the 16 to 24-inch diameter, 15,000-foot long Orodell Treated Water Line.

(C) Proposed powerhouses located at existing water treatment plants or pressure relief stations and described as follows: (1) The Boulder City conduit station with turbine-generators with a total rated capacity of 2 MW producing 5,900,000 kWh annually; (2) the Lakewood Raw Water conduit station containing turbine-generators with a total rated capacity of 2 MW producing up to 10,700,000 kWh annually; (3) the Sunshine pressure relief station containing turbine-generators with a total rated capacity of 800 kW producing up to 3,600,000 kWh annually; (4) the Oredell Pressure relief Station containing turbine-generators with a total rated capacity of 500 kW producing up to 1,200,000 kWh annually; and (5) the 6th and Canyon Pressure relief station with turbine-generators with a total rated capacity of 150 kW producing up to 900,000 kWh annually. The above facilities would tie-in to adjacent transmission lines. In addition Applicant would study, in a comprehensive way, the feasibility of constructing other powerhouses at the above-mentioned system of dams and conduits. Energy produced at the project would be sold to Public Service Company of Colorado or other consumers. The Applicant owns the above-named facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plan, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. The cost of the studies under preliminary permit has been estimated by the Applicant to be $150,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 20, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 9, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or § 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

	Surface area (acres)	Storage capacity (acre feet)	Surface elevation (feet)	Composition/dam height/length
North Boulder Creek:				
Green Lake #1	11	175	11260	Earth fill/steel face/23/310.
Green Lake #2	12	332	11180	Earth fill/steel face/40/285.
Green Lake #3	15	285	11340	Earth fill/steel face/28/370.
Green Lake #4	14	none	11670	None.
Green Lake #5	13	none	11860	None.
Lake Albion	58	1111	10980	Rock fill/timber crib/gunnite face 38/620.
Goose Lake	48	1036	10550	Concrete/30/380.
Triple Lakes	30	none	10580	None.
Island Lake	38	330	10302	Concrete/6/450.
Silver Lake	104	3987	10210	Earth fill/63/1450.
Lakewood Reservoir	10	40	8200	None.

[FR Doc. 82-16970 Filed 6-23-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2154-8]

Agency Forms Under OMB Review

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 requires the Agency to publish in the Federal Register notice of proposed information collections.The purpose of this notice is to inform the public of proposed information requirements that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Kuhn, Information Management Section, U.S. Environmental Protectiion Agency, telephone number (202) 382-2742 or FTS (8) 382-2742.

SUPPLEMENTARY INFORMATION:

• Title: Mobile Source Emission Factor Survey (EPA ID 0619)

Abstract: A sample of motor vehicle owners will be asked to describe their car or truck maintenance practices and to permit EPA to measure the emission levels of their vehicles. The data from this annual survey are used to evaluate existing standards and control strategies.

Respondent: Individuals or households

• Title: New Source Performance Standards (NSPS) for Rotogravure Printing (EPA ID 0657)

Abstract: Owners or operators of rotogravure printing facilities subject to the NSPS must notify EPA of their startup date and initial performance test results. Facilities are required to maintain records of emission levels for review and analysis by EPA to determine compliance.

Respondent: Business or other institutions with SIC Code 275

Hazardous Waste

• Title: State Priorities for Remedial Action (EPA ID 0331)

Abstract: States must submit a list of sites where hazardous substances have been released. The sites must be ordered by specific characteristics. EPA will use these lists to set national priorities for actions to clear these sites and will publish them as part of the National Contingency Plan.

Respondent: State and local governments

• Title: Cooperative Agreements for Remedial Planning/Implemetation (EPA ID 0864)

Abstract: These agreements are between a state and EPA for remedial actions to be taken at sites that have released hazardous substances. The agreements contain workplans and cost estimates and detail federal and state responsibilities. The plans must be submitted to EPA before any remedial action can begin.

Respondent: State and local governments

This notice is the first of its type published by EPA. Comments on the format of this notice or on the information collections should be sent to:

David Kuhn, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), 401 M Street, S.W., Washington, D.C. 20460

and

Robert Shelton, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503.

Dated: June 15, 1982.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 82-17004 Filed 6-23-82; 8:45 a.m.]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket 18921; RM-1197; RM-1218; RM-1330]

Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services; Order Extending Time for Filing Oppositions to Petitions for Reconsideration

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration; extension of time for filing oppositions.

SUMMARY: The Federal Communications Commission is extending the time to file oppositions to certain petitions for reconsideration in this proceeding in order to avoid duplicative or piecemeal treatment of issues.

DATES: See last paragraph of this document.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, (202) 632-7597.

SUPPLEMENTARY INFORMATION:

Order

Adopted: June 11, 1982.
Released: June 15, 1982.

In the matter of Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules to Adopt New Practices and Procedures for Cooperative use and Multiple Licensing of Stations in the Private Land Mobile Radio Services,[1] Docket No. 18921, RM-1197, RM-1218, RM-1330, (5-28-82; 47 FR 23558).

Telocator Network of America (hereinafter Telocator) has filed a motion seeking an extension of time to file a consolidated opposition to petitions for reconsideration in this proceeding.

The Report and Order in this proceeding, Private Land Mobile Radio Services, 89 FCC 2d 766 (April 13, 1982), was published in the Federal Register on May 6, 1982, (47 FR 19527). Thus, pursuant to § 1.429(d) of the Rules, petitions for reconsideration were accepted for filing through June 7, 1982.

Petitions for reconsideration were filed by AGS Electronics, Inc. and by Commercial Communications, Inc., on May 14, 1982, and May 17, 1982, respectively. Notice of these petitions was published in the Federal Register on May 28, 1982. Oppositions to these petitions are currently due by June 14, 1982. See 47 CFR 1.429(f).

Additional petitions for reconsideration have been received. Telocator represents that it has been informed by the Secretary that all such petitions will be held until the deadline for filing has expired and will be listed together on Public Notice, and that such Public Notice will be published in the Federal Register at a date yet to be determined. Oppositions to these petitions will be due fifteen days after such publication.

Telocator seeks to have all deadlines for oppositions and replies run concurrently, to avoid duplicative or piecemeal treatment of issues.

Telocator's point is well-taken. Accordingly, pursuant to 47 U.S.C. Section 4(j) and pursuant to 47 CFR 0.331, 1.46 and 1.429, the date for filing oppositions to the petitions of AGS

[1] Parts 89, 91 and 93 have been consolidated under new Part 90, 47 CFR Part 90.

Electronics, Inc. and Commercial Communications, Inc. is extended from May 28, 1982, to a date fifteen (15) days after publication in the **Federal Register** of the next public notice listing additional petitions for reconsideration filed in this proceeding.

Federal Communications Commission.

James C. McKinney,

Chief, Private Radio Bureau.

[FR Doc. 82-17147 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Advisory Committee and its Allocations and Technical Subgroups; Meetings Scheduled To Resume

The Advisory Committee on Radio Broadcasting and its Technical and Allocations Subgroups have scheduled the resumption of their continuing meetings on the following dates:

Monday, June 21, 1982, 9:30 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Technical Subgroup will resume its continuing meeting on FM receivers, and will consider further the preparation of a report on FM receiver characteristics and their bearing on FM allocations.

Tuesday, June 29, 1982, 9:30 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Allocation Subgroup will resume its continuing meeting on service needs, statutory requirements and related considerations bearing on the rules concerning FM allocations.

Wednesday, June 30, 1982, 10 am, Room 5119, 2025 M Street, N.W., Washington, D.C.—The Technical Subgroup will resume its continuing meeting on preparations for bilateral discussions being conducted between the United States and Canada concerning AM broadcasting.

Wednesday, July 7, 1982,* 9:30 am, Room 856, 1919 M Street, N.W., Washington, D.C.—The full Advisory Committee on Radio Broadcasting will meet to consider reports by its Technical and Allocations Subgroups on the above-stated matters, and prepare to submit recommendations to the FCC concerning them.

* Please note that the July 7, 1982, meeting of the full Committee is a rescheduled date. (The meeting was previously scheduled for July 13, 1982.)

All meetings of the Advisory Committee and its Subgroups are open for participation by all interested persons. For further information call the Committee chairman, Louis C. Stephens at FCC Headquarters, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17108 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

TIAG Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Wednesday, July 7, 1982. The meeting will be held at 10:00 a.m. in Hearing Room Two (24th Floor) of the New York State Public Service Commission offices located at Two World Trade Center, New York, New York, and will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Discussion of Major Aspects of GAAP and Their Impact on Regulated Enterprises.
III. Preliminary Analysis of GAAP as it Applies to USOA.
IV. Further Assignment of Tasks.
V. Other Business.
VI. Presentation of Oral Statements.
VII. Adjournment.

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statement, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658-1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17102 Filed 6-23-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service; Performance Awards; Schedule for Awarding Bonuses

In accordance with the Office of Personnel Management directive dated July 21, 1980, the Federal Home Loan Bank Board hereby gives notice that SES bonuses will be awarded on or after July 9, 1982.

For Further Information Contact: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377-6050.

J. J. Finn,

Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 82-17122 Filed 6-23-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Banks, Inc.*, Middleton, Wisconsin; to acquire 100 percent of the voting shares of Badger Bankshares Corporation, Monona, Wisconsin, and thereby to indirectly acquire 54 percent of the voting shares of Monona-Grove State Bank, Monona, Wisconsin. Comments on this application must be received not later than July 18, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fourth Financial Corporation*, Wichita, Kansas; to acquire 24.98 percent of the voting shares and 100 percent of the nonvoting preferred shares of Coffeyville Bancshares, Inc., Coffeyville, Kansas, and, indirectly acquire 100 percent of the voting shares of The First National Bank of Coffeyville, Coffeyville, Kansas. Comments on this application must be received not later than July 18, 1982.

C. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Texas Commerce Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Texas Commerce Bank-Westlake Park, National Association, Houston, Texas. This application may be inspected at the Federal Reserve Bank of Texas. Comments on this application must be received not later than July 18, 1982.

Board of Governors of the Federal Reserve System, June 18, 1981.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17064 Filed 6-23-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Farmers and Merchants Corporation*, Columbia, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Farmers and Merchants National Bank of Columbia, Columbia, Tennessee. Comments on this application must be received not later than July 18, 1982.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Oliver Bancorporation*, Center, North Dakota; to become a bank holding company by acquiring 80 percent of the voting shares of State Bank of Oliver County, Center, North Dakota. Comments on this application must be received not late than July 18, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *United American Bancshares, Inc.*, Palestine, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Palestine, Palestine, Texas. Comments on this application must be received not later than July 18, 1982.

Board of Governors of the Federal Reserve System, June 18, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17065 Filed 6-23-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 82-11773, appearing on pages 18673-18675 in the issue of Friday, April 30, 1982, make the following correction:

On pages 18673, 18674 and 18675, the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases was identified as (HND). The identifier for the Institute and its substructure should have read (HNK).

Dated: June 18, 1982.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 82-17148 Filed 6-23-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona, Safford District, Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Safford District Grazing Advisory Board will be held on Friday, July 23, 1982.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546.

The agenda for the meeting will include:

1. Management of riparian Areas;
2. Report on boundary fence needs;
3. New range improvements proposed for FY 83;
4. Report on monitoring studies;
5. BLM/Grazing Advisory Board public relations efforts;
6. BLM management update;
7. Business from the floor.

The meeting will be open to the public. Interested persons may make oral statements to the Board between 10:00 a.m. and 11:00 a.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the Board's consideration. Anyone wishing to make oral statements must notify the District Manager, Bureau of Land Management, 425 E. 4th Street, Safford, Arizona 85546, by 4:15 p.m. Thursday, July 22, 1982.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Vernon L. Saline,

Acting District Manager.

June 18, 1982.

[FR Doc. 82-17171 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

California Desert District; Motorized Vehicle Use Designation of the Jacumba Outstanding Natural Area; Designation of the Myer Valley Special Area

Notice is hereby given relating to the use of motorized vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, regulations contained in 43 CFR Part 8340 and 43 CFR Part 8370, and Section 701 of the Federal Land Policy and Management Act.

The affected lands are contained within the area identified by the Bureau of Land Management (BLM) as the Jacumba Outstanding Natural Ara. The Outstanding Natural Area encompasses a total of approximately 32,500 acres in the southwest corner of Imperial County, California, and includes Smugglers Cave, Myer Valley, Pinto Canyon, Davies Valley, and Skull (Little Davies) Valley. Most of the affected lands also lie within the boundaries of BLM Wilderness Study Area (WSA) CDCA-368, also called the Jacumba Mountains (In-Ko-Pah Mountain) WSA.

This vehicle use designation is the result of land use decisions made in the 1980 California Desert Conservation Area (CDCA) Plan and the 1980

Jacumba Recreation Activity Management Plan. Comments received from public meetings as well as written responses influenced these decisions. The affected lands have been assigned to Multiple Use Class "C" (recommended suitable for wilderness designation) and Multiple Use Class "L" (limited use) by the CDCA Plan. Vehicle use designations for this area are designed to provide for public access while protecting sensitive resources and wilderness suitability during interim management.

This designation order incorporates or amends all previous vehicle use designations for the affected lands, and has been prepared in conjunction with the CDCA Plan route approval process. These designations will remain in effect until rescinded or modified by the authorized officer of the Bureau of Land Management or by Congressional action on the wilderness proposal for the area.

Limited Area Designations

Lands hereby designated as "limited to motorized vehicle use on approved routes of travel" include all lands administered by the Bureau of Land Management in the area of Smugglers Cave and the Elliot Mine in:

San Bernardino Meridian, California

T. 16 S., R. 9 E.,
Sec. 4, S½;
Secs. 5, 7, 8, and 9.

And in Davies Valley and the mountains north and east of Davies Valley in:

San Bernardino Meridian, California

T. 17 S., R. 9 E.,
Sec. 1;
Sec. 11, E½E½;
Secs. 12 and 13;
Sec. 14, E½E½;
Secs. 19 and 20, all portions thereof situated south and/or east of Interstate Highway 8;
Sec. 24;
Sec. 25, E½;
Sec. 29, W½, W½E½;
Sec. 30, all portions thereof situated east of Interstate Highway 8;
Sec. 32, NW¼.
T. 17S., R. 9½ E.,
Secs. 1 and 2, all portions thereof situated south of State Highway 98.
T. 17 S., R. 10 E.,
Secs. 4 through 9, inclusive;
Sec. 15, W½;
Secs. 17 through 20, inclusive;
Sec. 21, N½;
Sec. 22, E½E½SE¼;
Sec. 23, W½W½SW¼; NW¼;
Sec. 29, W½;
Secs. 30 and 31;
Sec. 32, W½.

Approved routes are posted open with signs and identified on maps available from the BLM sources listed at the end of this notice. Routes not posted open for use are closed.

Wayside parking is permitted along approved routes, with the following limitations:

a. Parking is restricted to the area 25 feet on either side of the centerline of routes posted open for vehicular travel, except in washes (desert watercourses). Unless otherwise posted, in cases where approved routes follow washes, vehicles may be parked anywhere within the wash as long as this can be accomplished in accordance with limitation b.

b. Parking shall not be accomplished in a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural or vegetative resources, or other authorized uses of the public lands. "Significant undue damage" shall not include the disturbance of the soil in washes, but does include running over, crushing, or otherwise damaging native vegetation, wildlife, or cultural resources.

c. The authorized officer may close sections of routes to wayside parking should it be determined that such closure is necessary for the protection of lands from erosion or unnecessary destruction of plant life or wildlife habitat. The authorized officer will effect such closure by posting sections of routes so closed, and by taking other appropriate measures to identify such sections to the public.

Special Myer Valley Limitations

The California Desert District Manager has determined that special control measures are necessary to protect natural and wilderness values in the Myer Valley area. In addition, no legal access into this area from Interstate Highway 8 has existed in the past, resulting in unsafe conditions as vehicles enter and exist the area directly from the freeway lanes. In order to institute the measures necessary to protect the area's sensitive values, and to meet the access requirements of the California Department of Transportation, this area is hereby designated as "limited to motorized vehicle use on approved routes of travel," and is further designated as the Myer Valley Special Area under authority contained in 43 CFR 8370 regulations. Lands within the Special Area include all lands administered by the Bureau of Land Management within:

San Bernardino Meridian, California

T. 17 S., R. 9 E.,
Secs. 2, 3, and 10, those portions thereof situated in the dry streambed of Myer Creek north and/or west of the eastbound lanes of Interstate Highway 8;
Secs. 10, 15, 16 and 21, those portions thereof situated south and/or east of the eastbound lanes of Interstate Highway 8;
Sec. 22;
Sec. 23, SW¼NW¼, SW¼SE¼, SW¼;
Secs. 26 and 27;
Sec. 28, E½W½, E½;
Sec. 33, NE¼NW¼, N½NE¼;
Sec. 35, N½.

Persons wishing to enter the Myer Valley Special Area by vehicle must first obtain written authorization from the Area Manager, El Centro Resource Area, Bureau of Land Management. All authorizations issued will contain such stipulations as the authorized officer of the Bureau of Land Management considers necessary to protect the lands and the resources involved, and the public interest in general.

Wayside parking limitations for the Myer Valley Special Area are identical to those stated previously in this notice for other limited areas of the Jacumba Outstanding Natural Area. Boundaries of the Myer Valley Special Area are posted with barricades, gates, and signs as appropriate.

Closed Area Designations

Lands hereby designated "close to motorized vehicle use" include all lands administrated by the Bureau of Land Management in the areas west, south, and east of Myer Valley in:

San Bernardino Meridian, California

T. 17 S., R. 9 E.
Secs. 2 and 3, all portions thereof situated south and/or east of Interstate Highway 8;
Sec. 11, W½, W½E½;
Sec. 14, WE½, W½E½;
Sec. 23, NW¼NW¼, E½NW¼, NE¼, N½SE¼, SE¼SE¼;
Sec. 25, W½;
Sec. 26, W½W½;
Sec. 29, E½E½;
Sec. 32, E½, SW¼;
Sec. 33, NW¼NW¼, S½NW¼, S½NE¼, S½;
Sec. 34;
Sec. 35, S½;
Sec. 36.
T. 18 S., R. 10 E.,
Secs. 1, 2, and 3;
Sec. 4, N½;
Secs. 10, 11, and 12.

and in the Skull Valley area in:

San Bernardino Meridian, California

T. 17 S., R. 10 E.,
Sec. 21, S½;
Sec. 22, N½, SW¼, W½SE¼, W½E½SE¼;
Sec. 23, E½SW¼, E½W½SW¼, S½SE¼;
Secs. 26, 27, and 28;
Sec. 29, E½;
Sec. 32, E½;
Secs. 33, 34, and 35.

Closed area boundaries are posted where appropriate with signs and/or barricades.

For Futher Information

The affected lands and approved routes are identified on the Imperial Valley South Motorized Vehicle Interim Access Guide (see both the main map and the special Jacumba Outstanding Natural Area map on the reverse side). Additional information concerning the Myer Valley Special Area is available from BLM Rangers patrolling the Jacumba Outstanding Natural Area and at the following offices:

Bureau of Land Management, El Centro Resource Area, 333 South Waterman Avenue, EL Centro, CA 92243, Hours: 7:45 a.m. to 4:30 p.m., Monday through Friday

Bureau of Land Management, California Desert Distict Office, 1695 Spruce Street, Riverside, CA 92507, Hours: 7:45 a.m. to 4:30 p.m., Monday through Friday

The public lands affected by these vehicle use designations will remain open to other resource and recreation uses. All designations are effective immediately and will remain in effect until further notice. Any person who violates or fails to comply with these designations is subject to arrest as prescribed in 43 CFR 8340.0–7. Penalties for violations may be a fine of not more than $1,000.00 or imprisonment of not more than 12 months, or both.

Dated: June 14, 1982.

Gerald E. Hillier,

District Manager.

[FR Doc. 82-17170 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[C-0118328, C-0118329, and C-0120057]

Colorado; Sodium Preference Right Lease Applications; Lands in Rio Blanco County; Public Hearing; Availability of Environmental Assessment and Request for Public Comment

The Department of the Interior, Bureau of Land Management, Colorado State Office, Denver, Colorado, hereby gives notice that a public hearing will be held on July 15, 1982, at 7:00 p.m. at the Fairchild Center, 200 Main Street, Meeker, Colorado 81641. Applications have been made to the United States that it lease non-competitively sodium resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment covering the three applications. Written requests to testify orally at the July 15, 1982, public hearing should be received at the Craig District Office, Bureau of Land Management, P.O. Box 248, Craig, Colorado 81625, prior to the close of business July 14, 1982. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearing, but speakers will be limited to a maximum of three or five minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to the Craig District Office at the above address, prior to close of business on July 23, 1982. Substantive comments, whether written or oral, will receive equal consideration prior to any lease issuance.

The sodium resources to be leased are located in the following decribed lands approximately 20 miles southwest of Meeker, Colorado:

C-0118328 (Yankee Gulch Joint Venture)

T. 1 S., R. 97 W., 6th P.M.,
Sec. 15, NW¼NW¼, E½NW¼, SW¼SW¼, E½SE¼;
Sec. 16, all;
Sec. 17, all;
Sec. 18, all (E½, E½W½, Lots 1, 2, 3, 4);
Sec. 21, NW¼, NW¼NE¼, NE¼SW¼.

The area described contains 2401.60 acres.

C-0118329 (Yankee Gulch Joint Venture)

T. 1 S., R. 97 W., 6th P.M.,
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, all;
Sec. 21, S½SW¼, E½SE¼;
Sec. 22, lots 1–14, incl.;
Sec. 28, W½NW¼, SW¼NE¼, E½NE¼;
Sec. 29, N½.

The area described contains 2552.88 acres.

C-0120057 (L.P. Nielsen, Hogle Investment Co., B.J.J. Hunter, E.N. Juhan and J.P. Juhan)

T. 2 S., R. 96 W., 6th P.M.,
Sec. 3, lots 6, 9, 10, 11;
Sec. 4, all (includes Lots 5 thru 20);
Sec. 5, lots 1, 2, 3, S½NE¼, SE¼, E½SW¼, SW¼SW¼, SE¼NW¼;
Sec. 8, all;
Sec. 9, NW¼, W½NE¼, NE¼NE¼.

The area described contains 2,196.71 acres.

The draft Environmental Assessment will be available for review in the following offices:

Colorado State Office, 1037 20th Street, Denver, Colorado 80202

Craig District Office, 455 Emerson Street, Craig, Colorado 81626

White River Resource Area Headquarters, 317 E. Market Street, Meeker, Colorado 81641

William J. Norton II,

Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 82-17176 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-09518]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands—Correction

June 17, 1982.

In FR Doc. 82–14103 appearing on page 23026 in the issue of Wednesday, May 26, 1982, the notice should read as follows:

"Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 7:45 a.m. on June 21, 1982, relieved of the segregative effect of the above-mentioned application.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 82-17172 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-030670, Nev-030671, Nev-031071, Nev-030435, Nev-031075, Nev-030835]

Nevada; Realty Action Sale of Public Land

June 14, 1982.

The following described parcels of land have been determined to be suitable for disposition by non-competive sale at fair market value under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Serial No.	Legal description	Acres	Fair market value
	T. 22 S., R. 61 E., MDM Section 32		
Nev-030670	S½NE¼NE¼SW¼	5	$50,000
Nev-030671	S½NW¼NE¼SW¼	5	50,000
Nev-031071	N½SW¼NE¼SW¼	5	50,000
Nev-030435	S½NW¼NW¼SW¼	5	50,000
Nev-031075	N½NE¼SW¼SW¼	5	50,000
Nev-030835	S½SE¼SW¼SW¼	5	50,000

These parcels are situated in the southern portion of the Las Vegas Valley and have potential for residential development. Each parcel has been encumbered for several years by a Small Tract application filed pursuant to the Act of June 1, 1938, as amended (43 U.S.C. 682a). The Small Tract applications could not be processed due to mining claim litigation which was

resolved March 23, 1981 in favor of the United States. The Small Tract Act was repealed in 1976; therefore, the provisions of that Act no longer apply. Accordingly, the Small Tract parcels will be offered under current sale authority, as cited in the opening paragraph of this notice.

The parcels will be offered for sale at fair market value to the pending Small Tract applicants. Prior to issuance of patent, the purchasers will also have an opportunity to buy the locatable and saleable mineral interest in the land in accordance with 43 CFR Part 2720.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets and roads, both existing and proposed, in accordance with the Clark County road plan.

3. All land that is sold will be subject to applicable Clark County ordinances.

On or before August 9, 1982, interested persons may submit comments regarding this sale to the State Director (N-943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-17130 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[N-521]

Nevada; Termination of Airport Lease Involving Lands in Elko County

June 15, 1982.

Notice is hereby given that the Town of Wendover has relinquished its airport lease involving the following described lands:

Mount Diablo Meridian, Nevada

T. 33 N., R. 69 E.
Sec. 24, SE¼.
T. 33 N., R. 70 E.
Sec. 19, SW¼;
Sec. 30, N½, SE¼ except military withdrawal.

The segregative effect of the airport lease is hereby removed upon publication of this notice in the **Federal Register**. (June 24, 1982)

Charles E. Hancock,

Acting Chief, DNision of Operations.

[FR Doc. 82-17131 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[N-30383]

Nevada; Termination of Airport Lease Application Involving Lands in Nye County

June 15, 1982.

Notice is hereby given that airport lease N-30383, involving the following described lands, has been rejected:

Mount Diablo Meridian, Nevada

T.17 S., R. 49 E.
Sec. 11, E½.

The segregative effect of the airport lease application is hereby removed upon publication of this notice in the **Federal Register**. (June 24, 1982)

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82-17132 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[N-FN24886]

Nevada; Termination Of Airport Lease Application Involving Lands in Washoe County

June 15, 1982.

Notice is hereby given that airport lease application N-24886, involving the following described lands has been denied:

Mount Diablo Meridian, Nevada

T. 36 N., R. 18 E.
Sec. 14, Tract 45, Lots A, B, C and D.

The segregative effect of the airport lease application is hereby removed upon publication of this notice in **Federal Register** (June 24, 1982).

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82-17133 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

Planning Criteria for Coast Resource Management Plan (RMP) in the Hollister Resource Area, Bakersfield District, California

June 17, 1982.

In accordance with 43 CFR 1601.3, notice is hereby given of the availability of the Planning Criteria to direct the Coast Resource Management Plan (RMP) in the Hollister Resource Area.

The Bakersfield District of the Bureau of Land Management has prepared the initial Planning Criteria to direct this planning effort in the Hollister Resource Area. The Plan will involve the public lands located in Fresno, San Benito, Monterey, Merced, Stanislaus and Santa Clara Counties and will carry out the requirements of the Federal Land Policy and Management (FLPMA) of 1976.

As new information surfaces during the planning process, and/or from public input, additional planning criteria will be developed for future guidance of this planning effort.

This initial planning criteria is available for review at the following locations: Bakerfield District Office, 800 Truxtun Avenue, Room 302, Bakersfield, California, 93301, (805) 861-4191; and Hollister Resource Area Office, 402 Parkhill Road, P.O. Box 365, Hollister, California, 95023, (408) 637-8183.

For further information contact David E. Howell, Hollister Resource Area Manager at the Hollister address listed above.

H. Edward Lynch, Jr.,

Acting District Manager.

[FR Doc. 82-17121 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 12321]

California; Classification of Public Lands for State Indemnity Selection Correction

The following corrections are made in FR Document 82-15625 appearing on pages 25415, and 25416 in the issue of June 11, 1982. 1. On page 25415, third column, 15th line, "Sec. 32, E½NE¼, NW¼NE¼, NE¼>N/W¼," should read "Sec. 32, E½NE¼, NW¼NE¼, NE¼NW¼, ".

2. On page 25416, first column, 5th line, "Sec. 19, Lots 1-3, 5, 8, NW¼NE¼, SE¼SE¼;" should read "Sec. 19, Lots 1-3, 5, 6, 8, NW¼NE¼, SE¼SE¼;".

3. On page 25416, first column, 7th line, "Sec. 21, SE¼SW¼, NE¼NE¼;" should read "Sec. 21, SW¼SW¼, NE¼SE¼;".

Dated: June 18, 1982.

Van W. Manning,

Ukiah District Manager.

[FR Doc. 82-17150 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-81-M

[Group 792]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted June 1, 1982, will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, California

Tps. 47 & 48 N., R. 3 E.

2. This plat, represents the dependent resurvey of a portion of the Township 48 North, Range 3 East, and a portion of the swamp and overflowed land segregation

line in Township 47 and 48 North, Range 3 East, Mount Diablo Meridian.

3. This plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open file and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau and the Bureau of Reclamation.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–17151 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 770]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted May 28, 1982, will be officially filed in the California State Office, Sacramento, California, effective immediately:

San Bernardino Meridian, California

T. 11 N., R. 32 W.

2. This plat, represents the dependent resurvey of the South and East boundaries, portions of the West and North boundaries, a portion of the Rancho de Suey, and a portion of the subdivisional lines of T. 11 N., R. 32 W., San Bernardino Meridian.

3. The plat will immediately become the basic record for describing the lands for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau, and at the request of Santa Barbara County.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Section of Records and Data Management.

[FR Doc. 82–17106 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[Group 477]

California; Filing of Plat of Survey

June 14, 1982.

1. A plat of survey of the following described land accepted May 18, 1982, will be officially filed in the California State Office, Sacramento, California, effective immediately:

Mount Diablo Meridian, California

T. 37 N., R. 9

2. This plat represents the corrective dependent resurvey of the subdivisional lines of T. 37 N., R. 9 W., Mount Diablo Meridian. The plat of the dependent resurvey of portions of T. 37 N., R. 9 W., Mount Diablo Meridian, was suspended August 27, 1980. This suspension is now lifted.

4. This survey was executed to meet certain administrative needs of the Bureau of Land Management and the U.S. Department of Agriculture, Forest Service.

5. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E–2841, Cottage Way, Sacramento, California 95025.

Herman J. Lyttge,

Chief, Section of Reords & Data Management.

[FR Doc. 82–17108 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

Montana; Invitation, Coal Exploration License Application M 55503

June 16, 1982.

Members of the public are hereby invited to participate with Meridian Land & Mineral Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in McCone County, Montana:

T. 20 N., R. 45 E., P.M.M.,
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
Sec. 10: All.
662.97 acres.

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107, and Meridian Land & Mineral Company, 700 First Northwestern Bank Center, P.O. Box 2521, Billings, Montana 59103. Such written notice must refer to serial number M 55503 and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of this Notice in the Circle Banner, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the U.S. Minerals Management Service, 2525 4th Avenue North, Billings, Montana, and the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at either of these offices at the addresses given.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82–17155 Filed 6–23–82; 8:45 am]

BILLING CODE 4310–84–M

[M 54006]

Montana; Realty Action—Direct, Non-Competitive Sale of Public Land in Fallon County, Montana

June 14, 1982.

The following described lands have been determined to be suitable for public sale under the authority of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, 1713):

T. 7 No., R. 59 E., P.M.M.,
Sec. 15: All.
The area described contains 640 acres.

The above described public land will be sold at the appraised fair market value non-competitively to Fallon County, the local government entity located in the county seat of Baker, Montana. The United States will reserve the right to explore, prospect for, mine, and remove all minerals under appropriate laws and regulations.

The purpose of the sale is to allow for urban expansion of the city of Baker, Montana. The sale is consistent with 43 CFR 2710.0–3(a)(2) and is consistent with the recommendations in the New Prairie Management Framework Plan (MFPL–5.1), Departmental, State and District policy and meets the criteria of serving an important public objective such as the expansion of the city of Baker.

The terms and conditions applicable to the sale are:

1. The sale will be non-competitive, since a direct sale to a local government entity will best serve the public interest.

2. The conveyance document will contain a reservation to the United States of all minerals.

3. All valid existing rights such as right-of-way and mineral leases shall be

recognized and will enjoy all rights granted in the initial grant.

4. A right-of-way for ditches and canals constructed under the authority of the Act of August 30, 1960, 26 Stat. 391, will be reserved to the United States.

Information concerning this sale is available for review at the Miles City District Office, west of Miles City, Montana.

For a period of 45 days after issuance of this "Notice," interested parties may submit comments to the Miles City District Manager, P.O. Box 940, Miles City, Montana 59301. Any comments will be evaluated by the District Manager and forwarded to the State Director for final determination.

Michael J. Penfold,

State Director.

[FR Doc. 82-17152 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

New Mexico; Public Hearing on Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public hearing.

SUMMARY: The Bureau of Land Management, New Mexico State Office, will hold a public hearing concerning the proposed protective withdrawal of certain lands located in the San Juan Basin area of northern New Mexico as announced in the **Federal Register**, Vol. 47, No. 73, Thursday, April 15, 1982, page 16218, and Vol. 47, No. 43, Thursday, March 4, 1982, pages 9290–9291.

The public hearing will be held on July 21, 1982, at the Pueblo Pintado Chapter House, Pueblo Pintado, New Mexico, beginning at 1:00 p.m. The hearing is open to the public and no preregistration is required.

ADDRESS: All communications regarding the proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501. Communications regarding the public hearing should be directed to the contact listed below.

FOR FURTHER INFORMATION CONTACT: Al Pack, Bureau of Land Management, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87501. Phone: (505) 988–6028, (FTS) 476–6028.

Charles W. Luscher,

State Director.

[FR Doc. 82-17186 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-017324, et al.]

Nevada; Notice of Realty Action Sale of Public Land

June 14, 1982.

The following described lands have been determined to be suitable for disposition by non-competitive or competitive sale at not less than fair market value under Pub. L. 96–586 and in accordance with section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1716:

Parcel and serial No.	Legal description—T. 20 S., R. 60 E., MDM	Acres
	SECTION 15	
82-01 Nev-030909	NW¼NE¼NW¼NE¼	2.5
82-02 Nev-023614	SE¼SE¼NW¼NE¼	2.5
82-03 Nev-023399	NW¼NE¼SW¼NE¼	2.5
82-04 Nev-042952	SE¼NW¼SW¼NE¼	2.5
82-05 Nev-030007	NE¼SW¼SW¼NE¼	2.5
82-06 Nev-025877	NW¼SE¼SW¼NE¼	2.5
82-07 Nev-024165	NE¼NE¼SE¼NE¼	2.5
82-08 Nev-029859	NW¼SE¼SE¼NE¼	2.5
82-09 Nev-029857	SW¼SE¼SE¼NE¼	2.5
82-10 Nev-024579	SE¼NE¼NE¼NW¼	2.5
82-11 Nev-025544	NW¼NW¼NE¼NW¼	2.5
82-12 Nev-030096	NE¼NE¼NW¼NW¼	2.5
82-13 Nev-033635	NW¼NE¼NW¼NW¼	2.5
82-14 Nev-028364	NW¼SW¼NW¼NW¼	2.5
82-15 Nev-043168	NE¼NE¼SE¼NW¼	2.5
82-16 Nev-043169	SW¼NE¼SE¼NW¼	2.5
82-17 Nev-043166	SE¼NE¼SE¼NW¼	2.5
82-18 Nev-024561	NW¼SW¼SE¼NW¼	2.5
82-19 Nev-024562	SW¼SW¼SE¼NW¼	2.5
82-20 Nev-029460	SW¼SE¼SE¼NW¼	2.5
82-21 Nev-025104	SE¼NE¼NE¼SW¼	2.5
82-22 Nev-029044	SE¼SW¼NE¼SW¼	2.5
82-23 Nev-025232	SW¼NE¼NW¼SW¼	2.5
82-24 Nev-025305	NW¼SW¼NW¼SW¼	2.5
82-25 Nev-024830	NE¼SE¼NW¼SW¼	2.5
82-26 Nev-025751	SW¼SE¼NW¼SW¼	2.5
82-27 Nev-024788	SE¼SE¼NW¼SW¼	2.5
82-28 Nev-024287	SW¼SW¼SW¼SW¼	2.5
82-29 Nev-024806	SE¼SW¼SW¼SW¼	2.5
82-30 Nev-026095	NW¼SE¼SW¼SW¼	2.5
82-31 Nev-023335	NE¼NE¼SE¼SW¼	2.5
82-32 Nev-024294	NE¼SE¼SE¼SW¼	2.5
82-33 Nev-024291	NW¼SE¼SE¼SW¼	2.5
82-34 Nev-023127	SE¼SE¼SE¼SW¼	2.5
82-35 Nev-026794	SW¼NE¼NE¼SE¼	2.5
82-36 Nev-024878	SW¼NW¼NE¼SE¼	2.5
82-37 Nev-022561	NE¼SE¼NE¼SE¼	2.5
82-38 Nev-022818	SW¼SE¼NE¼SE¼	2.5
82-39 Nev-024360	NW¼NW¼NW¼SE¼	2.5
82-40 Nev-022947	NW¼SW¼NW¼SE¼	2.5
82-41 Nev-023250	NW¼SE¼NW¼SE¼	2.5
82-42 Nev-022854	SW¼SE¼NW¼SE¼	2.5
82-43 Nev-031079	SW¼NE¼SW¼SE¼	2.5
82-44 Nev-022584	NW¼NW¼SW¼SE¼	2.5
82-45 Nev-025864	NW¼SW¼SW¼SE¼	2.5
82-46 Nev-040863	NW¼SW¼SE¼SE¼	2.5
82-47 Nev-026241	NW¼SE¼SE¼SE¼	2.5
82-48 Nev-022094	SE¼SE¼SE¼SE¼	2.5
	SECTION 22	
82-49 Nev-030626	NW¼NW¼NW¼NW¼	2.5
	SECTION 27	
82-50	NE¼NE¼NE¼SW¼	2.5
82-51 Nev-033242	NW¼NE¼NE¼SW¼	2.5
82-52 Nev-033243	SW¼NE¼NE¼SW¼	2.5
82-53 Nev-030335	SE¼NE¼NE¼SW¼	2.5
82-54	E½NW¼NE¼SW¼	5.0
82-55	W½NW¼NE¼SW¼	5.0
82-56	NE¼SW¼NE¼SW¼	2.5
82-57	W½SW¼NE¼SW¼	5.0
82-58 Nev-033109	SE¼SW¼NE¼SW¼	2.5
82-59	E½SE¼NE¼SW¼	5.0
82-60 Nev-024640	NW¼SE¼NE¼SW¼	2.5
82-61	SW¼SE¼NE¼SW¼	2.5
82-62	SW¼NE¼NW¼SW¼	2.5
82-63	SE¼NE¼NW¼SW¼	2.5
82-64 Nev-033567	SE¼NW¼NW¼SW¼	2.5
82-65	E½SW¼NW¼SW¼	5.0
82-66 Nev-029643	NW¼SW¼NW¼SW¼	2.5
82-67	SW¼SW¼NW¼SW¼	2.5
82-68	NE¼SE¼NW¼SW¼	2.5
82-69	W½SE¼NW¼SW¼	5.0
82-70	SE¼SE¼NW¼SW¼	2.5
82-71	E½NE¼SW¼SW¼	5.0
82-72	W½NE¼SW¼SW¼	5.0
82-73	NE¼NW¼SW¼SW¼	2.5
82-74	W½NW¼SW¼SW¼	5.0
82-75 Nev-027848	SE¼NW¼SW¼SW¼	2.5
82-76	NE¼SW¼SW¼SW¼	2.5
82-77	W½SW¼SW¼SW¼	5.0
82-78 Nev-026146	SE¼SW¼SW¼SW¼	2.5
82-79 Nev-026140	NE¼SE¼SW¼SW¼	2.5
82-80 Nev-025881	NW¼SE¼SW¼SW¼	2.5
82-81 Nev-026242	SW¼SE¼SW¼SW¼	2.5
82-82 Nev-026663, Nev-026139.	SE¼SE¼SW¼SW¼	2.5
82-83	E½NE¼SE¼SW¼	5.0
82-84	W½NE¼SE¼SW¼	5.0
82-85 Nev-025036	NE¼NW¼SE¼SW¼	2.5
82-86	W½NW¼SE¼SW¼	5.0
82-87	SE¼NW¼SE¼SW¼	2.5
82-88	E½SW¼SE¼SW¼	5.0
82-89	W½SW¼SE¼SW¼	5.0
82-90 Nev-024766	NE¼SE¼SE¼SW¼	2.5
82-91	W½SE¼SE¼SW¼	5.0
82-92	SE¼SE¼SE¼SW¼	2.5
82-93	SW¼NW¼NE¼SE¼	2.5
82-94	NW¼SW¼NE¼SE¼	2.5
82-95 Nev-031821, Nev-031859.	SW¼SW¼NE¼SE¼	2.5
82-96 Nev-033430	NE¼NE¼NW¼SE¼	2.5
82-97	NW¼NE¼NW¼SE¼	2.5
82-98	SW¼NE¼NW¼SE¼	2.5
82-99	SE¼NE¼NW¼SE¼	2.5
82-100	NE¼NW¼NW¼SE¼	2.5
82-101	NW¼NW¼NW¼SE¼	2.5
82-102	SW¼NW¼NW¼SE¼	2.5
82-106	SE¼NW¼NW¼SE¼	2.5
82-104	NE¼SW¼NW¼SE¼	2.5
82-105	NW¼SW¼NW¼SE¼	2.5
82-106	SW¼SW¼NW¼SE¼	2.5
82-107	SE¼SW¼NW¼SE¼	2.5
82-108 Nev-052097	NE¼SE¼NW¼SE¼	2.5
82-109	NW¼SE¼NW¼SE¼	2.5
82-110	SW¼SE¼NW¼SE¼	2.5
82-111	SE¼SE¼NW¼SE¼	2.5
82-112 Nev-030608	NE¼NE¼SW¼SE¼	2.5
82-113	NW¼NE¼SW¼SE¼	2.5
82-114	SW¼NE¼SW¼SE¼	2.5
82-115	SE¼NE¼SW¼SE¼	2.5
82-116	NE¼NW¼SW¼SE¼	2.5
82-117	NW¼NW¼SW¼SE¼	2.5
82-118 Nev-028218	SW¼NW¼SW¼SE¼	2.5
82-119	SE¼NW¼SW¼SE¼	2.5
82-120	NE¼SW¼SW¼SE¼	2.5
82-121 Nev-023065	NW¼SW¼SW¼SE¼	2.5
82-122 Nev-029273	SW¼SW¼SW¼SE¼	2.5
82-123	SE¼SW¼SW¼SE¼	2.5
82-124	NE¼SE¼SW¼SE¼	2.5
82-125 Nev-030265	NW¼SE¼SW¼SE¼	2.5
82-126 Nev-024832	SW¼SE¼SW¼SE¼	2.5
82-127	SE¼SE¼SW¼SE¼	2.5
82-128 Nev-024023	NW¼NW¼SE¼SE¼	2.5
82-129	SW¼NW¼SE¼SE¼	2.5
82-130	NW¼SW¼SE¼SE¼	2.5
82-131 Nev-024263	SW¼SW¼SE¼SE¼	2.5
	SECTION 28	
82-132 Nev-028671	E½SW¼NE¼SE¼	5.0
82-133 Nev-027841	W½SE¼NE¼SE¼	5.0
82-134	E½SE¼NE¼SE¼	5.0
82-135	W½NE¼SE¼SE¼	5.0
82-136	E½NW¼SE¼SE¼	5.0
82-137	E½SW¼SE¼SE¼	5.0
Total acres		397.5

These parcels are situated in the northwest portion of the Las Vegas Valley and have potential for urban-suburban development. The above identified parcels have either been

encumbered for several years by pending small tract applications (shown by Serial No.) filed pursuant to the Act of June 1, 1938, as amended (43 U.S.C. 682a) or selected by the Bureau in lieu of a parcel under small tract application situated in a flood-plain or major road right-of-way which would prohibit development (no Serial No. shown). The small tract applications could not be processed due to mining claim litigation which was resolved March 23, 1981 in favor of the United States. The Small Tract Act was repealed in 1976; therefore, the provisions of that Act no longer apply. Accordingly, the small tract parcels will be offered under current sale authorities, as cited in the opening paragraph of this notice.

The above parcels will be first offered on a non-competitive basis at not less than fair market value to the pending small tract applicants. Prior to issuance of patent the pruchasers will also have an opportunity to buy the locatable and saleable mineral interest in the land in accordance with 43 CFR Part 2720.

Acceptable forms of payment consist of personal or certified check, money order or cash for either the competitive or non-competitive sale. Only U.S. citizens and legally chartered U.S. corporations are eligible to purchase land offered through the competitive process.

General terms and conditions of the sale are:

1. The land will be sold subject to all valid existing rights such as power transmission and telephone line easements and federally issued oil and gas leases.

2. The land will be sold subject to reservations for streets and roads, both existing and proposed, in accordance with the Clark County road plan.

3. All land that is sold will be subject to applicable Clark County ordinances.

The parcels not purchased by the small tract applicants will be offered on a competitive bidding basis, utilizing oral bidding procedures, at a later date. The minimum acceptable bid on these parcels will be the fair market appraised value established for the small tract applicants. Specific information regarding the land offered through competitive bidding procedures will be published in a sale brochure and made available to the public at least three weeks prior to the sale.

For a period of 45 days from the date of the notice, interested persons may submit comments regarding this sale to the State Director (N-943), P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc. 82-17028 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

[INT DEIS 82-37]

Draft Roseburg Timber Management Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a draft environmental impact statement for the Roseburg EIS area. The proposal involves implementing a 10-year timber management plan on public lands in the Douglas and South Umpqua Sustained Yield Units of the Roseburg District in Western Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and C Streets NW., Washington, D.C. 20240
Bureau of Land Management, Office of Public Affairs, 825 N.E. Multnomah St., Portland, OR 97232
Bureau of Land Management, Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, OR 97470
Oregon State Library, State Library Buidling, Salem, OR 97310
Oregon State University Library, Government Document Section, Corvallis, OR 97331
Portland State University Library, 724 S.W. Morrison, Portland, Oregon 97201
University of Oregon Library, Government Document Section, Eugene, OR 97403
Lane Community College Library, 4000 E. 30th Ave., Eugene, OR 97405
Linn-Benton, Community College Library, Albany, OR 97321
Umpqua Community College Library, P.O. Box 956, Roseburg, OR 97470
Riddle Library, 637 1st Ave., Riddle, OR 97469
Yoncalla Library, 161 Front St., Yoncalla, OR 97499
Douglas County Library, Courthouse, 1036 S.E. Douglas, Roseburg, OR 97470
Oakland Public Library, Locust Street, Oakland, OR 97460
Winston Library, 201 N.W. Highway 42, Winston, OR 97496
Canyonville Library, 1st & Pine St., Canyonville, OR 97417
Drain Library, 2nd & C Streets, Drain, OR 97435
Glendale Library, 3rd & Willis, Glendale, OR 97442
Myrtle Creek Library, 231 Division, Myrtle Creek, OR 97457.

A limited number of copies are available upon request from the Bureau of Land Management, Oregon State Office, or the Roseburg District Office, at the above addresses. An informal public meeting will be held during the review period to address questions and assist in the review process. A public hearing will also be held to accept oral and/or written testimony. Dates, locations and times have not been set, but will be announced prior to each meeting.

Written comments on the DEIS will be accepted by the Roseburg District Manager until August 20, 1982.

Dated: June 2, 1982.

Philip C. Hamilton,

Chief, Division of Resources.

[FR Doc. 82-17021 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

Proposed Livestock Grazing Management for the Bodie-Coleville Planning Units, Bishop Resource Area, Bakersfield District, California

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement concerning a proposed grazing management program for the Bodie-Coleville Planning Units in Mono County in eastern California. The proposed action allocates 14,977 AUMs to livestock, 685 AUMs to deer, and 121 AUMs to wild horses. The alternatives analyzed include no grazing, no action (continue present management with 19,604 AUMs to livestock), maximization of livestock production (17,404 AUMs to livestock), maximization of environmental quality protection (10,999 AUMs to livestock) and a multiple use compromise (11,732 AUMs to livestock).

Comments on this draft environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by August 9, 1982 to the Area Manager, Bishop Resource Area, Bureau of Land Management, 873 N. Main Street, Suite 201, Bishop, CA 93514.

A limited number of copies of this document are available upon request at the Bishop Resource Area, (714) 873-

4861 and the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541.

In addition to the above offices, copies of this EIS are available for public reading and review at:

Division of Rangeland Management, Bureau of Land Management, Premier Building, Room 909–H, 1725 I Street NW., Washington, D.C. 20006

Bakersfield District Office, Bureau of Land Management, Federal Building, Room 304, 800 Truxtun Street, Bakersfield, CA 93301.

Dated: June 17, 1982.

Ed Hastey,

State Director.

[FR Doc. 82-17020 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 28, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 9, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

SOUTH CAROLINA

Lexington County

Batesville, *Old Batesbury Grade School, (Batesburg-Leesville MRA)*, 306 E. Columbia Ave.

[FR Doc. 82-17134 Filed 6-23-82; 8:45 am]

BILLING CODE 4310-70-M

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: This notice lists new sites added to the National Registry of Natural Landmarks since the last publication of the entire Registry in the **Federal Register** on December 1, 1980 (45 FR 79698). This list, along with certain changes in site information published in the **Federal Register** on October 16, 1981 (46 FR 51196), should be considered as a supplement to the entire National Registry of Natural Landmarks. Copies of the entire Registry are available upon request.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Stewart, Chief, Natural Landmarks Division, National Park Service, U.S. Department of the Interior, Washington, D.C. (202–523–5152).

SUPPLEMENTARY INFORMATION: The National Natural Landmarks Program was established in 1962 to identify and encourage the preservation of areas which represent nationally significant examples of the ecological and geological features of the Nation. Potential natural landmarks are identified through studies conducted by the National Park Service (NPS), evaluated by natural scientists and, if deemed nationally significant, designated as National Natural Landmarks by the Secretary of the Interior. Once a natural landmark is designated, it is include on the National Registry of Natural Landmarks, which now lists 543 areas.

The act of designating an area as a natural landmark is not a land withdrawal and in no way affects the ownership of the site or the landowner's property rights.

Federal agencies should consider the location and significance of natural landmarks in project planning and environmental review.

A complete description of the National Natural Landmarks Program policies and procedures is found at 36 CFR Part 62.

The National Registry of Natural Landmarks

The National Registry of Natural Landmarks includes nationally significant ecological and geological features in 48 States, American Samoa, Guam, Puerto Rico, and the Virgin Islands. The following list includes six new natural landmarks which have been added to the Registry since December 1, 1980, and one enlargement of an existing natural landmark. A description of the landmark's location, natural values, designation date, ownership, and owner agreement status is provided. Each landmark's designation date is enclosed in parentheses. More than one date indicates that the area's boundary was changed after its original designation. Ownership data is arranged in the following order and does not reflect the relative amount of land owned by any party: Federal, State, County, Municipal, Private. An asterisk indicates that the owner(s) of the landmark have entered into a voluntary agreement with NPS to protect the area's significant natural values.

Because many landmarks are privately owned and/or not managed for public access, landowner permission must be obtained before a visit is made to a natural landmark. The specific location of some landmarks in not provided because of the owner's request for minimum publicity and/or because of the fragility of the landmark's natural values.

The following list is not inclusive of all 543 National Natural Landmarks currently listed on the National Registry of Natural Landmarks. Copies of the entire Registry (45 FR 79698 and 46 FR 51196) are available upon request.

Russell E. Dickenson,

Director, National Park Service.

California

Contra Costa County

Mt. Diablo State Park—31 miles east of Berkeley. Contains the best examples of diapiric (igneous intrustion) geologic processes in the South Pacific Border natural region. One of the few places in the region where geologic strata of Jurassic, Cretaceous, and Tertiary age can be seen in an aggregate thickness of 42,000 feet. The park also possesses a great diversity of native plant species and associations. (May 1982) Owner: State

Connecticut

Litchfield County

Cathedral Pines—Near the southeast corner of Cornwall in the Berkshire Hills region. An old growth white pine and hemlock forest which is the most massive single stand identified in the New England-Adirondacks natural region. (May 1982) Owner: Private

New Hampshire

Cheshire County

Rhododendron Natural Area—13 miles south of Keene. A portion of Rhododendron State Park in the New England-Adirondacks natural region, this is the largest and most viable stand of rhododendron known at the northern extension of the species' range. (May 1982) Owner: State

New Mexico

Chaves County

Mathers Natural Area—41 miles east of Roswell. The best example of shinnery oak-sand prairie community in the southern Great Plains natural region. (May 1982) Owner: Federal.

Mescalero Sands South Dune—41 miles east of Roswell. The best example of an active sand dune system in the southern Great Plains natural region. A

variety of successional stages from active dunes to a climax shinnery oak-sand prairie community are represented. (May 1982) Owner: Federal, Private

Texas

Blanco County

Little Blanco River Bluff—The best example of the few remaining Edwards Plateau limestone bluff plant communities in the Great Plains natural region. The area supports a diverse flora, including an estimated 250 species in 25 families. (May 1982) Owner: Private

Virgin Islands

St. Thomas

West End Cays—A group of cays off the western coast of St. Thomas Island. A high quality nesting area for many sea birds with different nesters on each cay. (February 1980, May 1982) Owner: Virgin Islands Government

[FR Doc. 82-17115 Filed 6-23-82; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-102

Decided: June 15, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 61440 (Sub-219), filed June 7, 1982. Applicant: LEE WAY MOTOR FREIGNT, INC., P.O. Box 12750, Oklahoma City, OK 73157. Representative: T. M. Brown, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Phillips Petroleum Co., of Bartlesville, OK, and its subsidiaries, Phillips Chemical Co., Applied Automation, and Drilling Specialities, Inc., all of Bartlesville, OK; Phillips Drisco Pipe, of Dallas, TX; Interplastic Corporation, of Minneapolis, MN; H. P. Smith Paper Co., of Chicago, IL; Phillips Products Co., of Streamwood, IL; Phillips Fibers Corporation, of Startex, SC, and Sealright Corp., of Kansas City, MO.

MC 85530 (Sub-13), filed June 8, 1982. Applicant: BLALOCK TRUCK LINE, INC., P.O. Box 734, Charleston, SC 29402. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., N.W., Washington, DC 20005, (202) 296-5188. Transporting (1) *lumber and wood products;* and (2) *building materials,* between points in the U.S., under continuing contract(s) with Georgia-Pacific Corporation, of Augusta, GA.

MC 98761 (Sub-1), filed June 7, 1982. Applicant: CONTINENTAL VAN LINES, INC., 3151 N.W. 12th St., Oklahoma City, OK 73107. Representative: Clarence H. Scott (same address as applicant), (405) 942-1776. Transporting *household goods,* between points in LA, AR, MO, KS, CO, NM, TX, and OK.

MC 103051 (Sub-493), filed June 7, 1982. Applicant: FLEET TRANSPORT COMPANY, 934 44th Ave., North, Nashville, TN 37209. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566-5639. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Savannah Foods & Industries, Inc., of Savannah, GA, and its subsidiaries: (1) Everglade Sugar Refinery, of Charleston, FL; (2) Transales Corporation, of Savannah, GA; (3) Wells Pet Food Corporation, of Monmouth, IL; (4) Sunaid of Florida, Inc., of Miami, FL; and (5) Food Carrier, Inc., of Port Wentworth, GA.

MC 103721 (Sub-28), filed June 9, 1982. Applicant: INDIAN VALLEY BULK CARRIERS, INC., Ridge Road, Tylersport, PA 18971. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. Transporting *general commodities* (except classes A and B explosives and household goods), between those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 129510 (Sub-18), filed June 7, 1982. Applicant: ENGLUND EQUIPMENT COMPANY, 740 Old Stage Rd., Salinas, CA 93908. Representative: John Paul Fischer, 100 Bush St., Suite 410, San Francisco, CA 94104, (415) 421-6743. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Polychrome Corporation, of Yonkers, NY.

MC 139410 (Sub-5), filed June 8, 1982. Applicant: MIKE PHILLIPS ENTERPRISES, INC., 301 S. Third St., Phoenix, AZ 85004. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *such commodities* as are dealt in or used by a manufacturer of beverages, between points in the U.S. (except AK and HI), under continuing contract(s) with Shasta Beverages, Inc., of Phoenix, AZ.

MC 144821 (Sub-17), filed May 20, 1982, previously published in the Federal Register issue of June 4, 1982. Applicant: FREEDOM FREIGHTWAYS, INC., 9060 Latty Ave., St. Louis, MO 63134. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting (1) *such commodities* as are dealt in or used by retail department, variety and speciality stores, between points in the U.S. (except AK and HI); (2) *chemicals and machinery,* between points in Ouachita Parish, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *lumber and wood products, and petroleum, natural gas and their products,* between points in Dent County, MO, and Lunenburg County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate embraces the transportation of liquefied petroleum gas, it shall be limited to 5 years from the date of its issuance.

Note.—The purpose of this republication is to correct the territorial description in part (2) of the application to reflect Ouachita Parish, LA, in lieu of Ouachita Parish, PA.

MC 145230 (Sub-13), filed June 1, 1982. Applicant: H & S MOTOR LINES, INC., P.O. Box 248, Wesson, MS 39191. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting *furniture and fixtures,* between points in Lee County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146551 (Sub-15), filed June 6, 1982. Applicant: TAYLOR TRANSPORT, INC., Route 2, State Rte 66N, Defiance, OH 43512. Representative: Owen B. Katzman, 1828 L. Street, N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *general commodities* (except class A and B explosives, household goods and commodities in bulk), between points in the U.S. (except HI), under a continuing contract(s) with Marine Cooperative Association, of Portland, OR.

MC 151480 (Sub-4), filed June 1, 1982. Applicant: SUNBELT EXPRESS, INC., 727 W. Sidney Avenue, Florence, SC 29504. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE, and Southeastern Shippers Association, Inc., of Florence, SC; (2) *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Machine Co., Inc., of Florence, SC; and (3) *pulp, paper and related products,* between points in the U.S (except AK and HI), under continuing contract(s) with Consolidated Fibres, Inc., of Buffalo, NY, and Stone Container Corp., of Florence, SC.

Note.—To the extent that any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall expire 5 years from its date of issuance.

MC 152441 (Sub-2), filed June 8, 1982. Applicant: WILSON LEASING, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, 4444 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402, (612) 339–4546. Transporting *lumber and wood products and forest products,* between points in CA, ID, MT, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157061 (Sub-2), filed June 10, 1982. Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 900, Memphis, TN 38103, (901) 526–4114. Transporting *greeting cards and related commodities,* (1) between Mississippi County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) between points in Greene County, TN, Cuyahoga County, OH, Whitley and Knox, Counties, KY, Neshoba County, MS, and Woodruff and Poinsett Counties, AR.

MC 157180, filed June 9, 1982. Applicant: ROSS TRUCKING CORPORATION, 4213 N.W. 23rd, Suite 208, Oklahoma City, OK 73107. Representative: David B. Schneider, 401 West Sheridan, Suite 200, Oklahoma City, OK 73102, (405) 232–9990. Transporting *Mercer commodities and pipe,* between points in KS, LA, MS, NM, OK, and TX.

MC 157921 (Sub-1), filed June 7, 1982. Applicant: BLT'S WHARF WAREHOUSES, INC., 936 Fell Street, Baltimore, MD 21231. Representative: Robert K. Goren, Suite 1025, 1875 Eye Street, N.W., Washington, DC 20006, (202) 463–8400. Transporting *general commodities* (except classes A and B explosives commodities in bulk, and household goods), between points in Baltimore, MD, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, OH, IN, IL, MI, WI, DE, VA, WV, NC, SC, GA, KY, FL, and DC.

MC 161281, filed June 7, 1982. Applicant: A CUPIDO HAULAGE, LIMITED, 1035 Howard Rd., Burlington, Ontario, Canada L7R 3X5. Representative: Robert D. Kolken, 500 Elmwood Ave., Buffalo, NY 14222, (716) 883–3212. Transporting *agricultural limestone,* between ports of entry on the International Boundry line between the U.S. and Canada at Buffalo, Niagara Falls and Lewiston, NY, on the one hand, and, on the other, points in Albany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Clinton, Columbia, Cortland, Delaware, Erie, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oswego, Onedia, Onondoga, Ontario, Orleans, Otsego, Saratoga, Schenectady, Schuyler, Steuben, Seneca, Tompkins, Warren, Wayne, Wyoming and Yates Counties, NY, and Crawford County, PA, under continuing contract(s) with Lime It, of Grand Island, NY.

MC 161350, filed June 7, 1982. Applicant: E.I.G. INC., Rural Route 1, Clinton, IA 52732. Representative: James M. Hodge, 3720 Ingersoll Avenue, Des Moines, IA 50312, (515) 274–4985. Transporting *Fertilizer,* (1) between points in Whiteside County, IL and Walworth County, WI, on the one hand, and, on the other, points in IA, and (2) between points in Clinton County, IA, on the one hand, and, on the other, points in IL.

MC 161420, filed June 7, 1982. Applicant: AL STOVER d.b.a. AL STOVER TRUCKING, Box 204, Webster, SD 57274. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, (605)–339–3629. Transporting *beer and malt beverages,* between points in SD, on the one the hand, and, on the other, points in the U.S. (except AK and HI).

MC 161980, filed June 9, 1982. Applicant: TERS, INC., d.b.a. TRANSPORT ELECTRIC, P.O. Box 2266, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 1026, Lubbock, TX 79408, (806) 763–9555. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between points in CA, MO, IL, KS, IA, FL, and AZ, and points in Hale, Deaf Smith, Randall, Potter and Parmer Counties, TX.

MC 162070, filed June 7, 1982. Applicant: JIM HARDY, JR., Rt. 2 Box 279, Senatobia, MS 38668. Representative: Jim Hardy, Jr. (same address as applicant), (601)–562–5645. Transporting (1) *metal products;* (2) *machinery;* and (3) *Mercer commodities,* between points in Shelby County, TN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with National Machines Works, Inc., of Memphis, TN.

MC 162091, filed June 7, 1982. Applicant: ACMA ENTERPRISES, INC., 511 Legion Drive, Warrenton, GA 30828. Representative: John P. Tucker, Jr., Suite 222, Lenox Towers, 3390 Peachtree Road, NE., Atlanta, GA 30326, (404) 231–3583. Transporting (1) *rubber and plastic products,* (2) *textile mill products,* (3) *chemicals and related products,* (4) *recyclable materials and acoustical materials,* (5) *machinery* used in the textitle and acoustical industries, and (6) *such commodities* as are dealt in or used by manufacturers and distributors of automobiles, between points in GA, MA and MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, OK and TX.

MC 162300, filed June 1, 1982. Applicant: RODMAN ENTERPRISES, 522 Box Elder, Paonia, CO 81428. Representative: C. Joseph Croker, 725 Rood Ave., Grand Junction, CO 81501, (303) 245–4601. Transporting (1) *heavy equipment;* (2) *coal and coal products;* and (3) *ores and minerals,* (a) between points in Delta County, CO, on the one hand, and, on the other, points in NV, CA, WY, UT, AZ, NM, TX, OK, MT, OR, WA, ID, KS and NE; and (b) between points in NV, CA, WY, UT, AZ, NM, TX, OK, MT, OR, WA, ID, KS and NE, under continuing contract(s) with Pacific Basin Coal & Carbon, of Irvine, CA, and Blue Ribbon Coal Company, of Delta, CO.

MC 162361, filed June 7, 1982. Applicant: G. P. EXPRESS, INC., 1175 Woodmen Tower Building, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1220. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, IA, KS, MI, MN, MO, MT, ND, NE, SD, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162380, filed June 8, 1982. Applicant: CMM TRANSPORTATION, INC., Abbott Park, North Chicago, IL 60064. Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Abbott Laboratories, of North Chicago, IL, and its subsidiaries: (1) Abbott Chemicals, Inc.; (2) Abbott Energy, Inc.; (3) Abbott Export Co.; (4) Abbott Hospitals, Inc.; (5) Abbott International, Ltd.; (6) Abbott Laboratories International Co.; (7) Abbott Laboratories Pacific Ltd.; (8) Abbott Laboratories Service Corp.; (9) Abbott Laboratories Utilities Corp.; (10) Abbott Pharmaceuticals, Inc.; (11) Abbott Universal Ltd.; (12) AHI Holding Co.; (13) The Murine Company, Inc.; (14) M & R Dietetic Laboratories, Inc.; (15) Ross Laboratories, Inc.; (16) Swan-Myers, Incorporated; and (17) Tobal Products Incorporated, each of North Chicago, IL, and Sorenson Research Co., Inc., of Taylorsville, UT.

MC 162381, filed June 8, 1982. Applicant: TRI-MODAL DISTRIBUTION SERVICES, INC., 725 W. Anaheim St., Long Beach, CA 90813. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, (213) 483–4700. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CA.

MC 162390, filed June 7, 1982. Applicant: QUALITY DELIVERY SERVICE, 3943 Forest Lake Dr., Jackson, MS 39212. Representative: Robert D. Forbes (same address as applicant), (601) 373–8132. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AR, LA, MS, TN, and TX.

MC 162400, filed June 10, 1982. Applicant: TRI-FRIDGE CORP., 3300 West 93rd Street, Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 South LaSalle Street, Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *chemicals and related products,* between Chicago, IL, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 162401, filed June 9, 1982. Applicant: BOISE TRUCK & EQUIPMENT, INC., 7920 Overland Rd., Boise, ID 83709. Representative: Craig Farmer, (same address as applicant), (208) 376–6070. Transporting *Wrecked or disabled vehicles,* between points in the U.S. (except AK and HI).

MC 162410, filed June 9, 1982. Applicant: NORBRI TRANSIT, INC., 91 Fessler's Lane, Nashville, TN 37210. Representative: Daniel C. Sullivan, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Georgia Boot-Durango, Division of U.S. Industries, Inc., of Franklin, TN.

Volume No. OP2–126

Decided: June 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 22182 (Sub-43), filed June 11, 1982. Applicant: NU–CAR CARRIERS, INC., P.O. Box 172, Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *transportation equipment,* between points in the U.S. (except AK and HI), under continuing contract(s) with (1) Nissan Motor Corporation in U.S.A., of Carson, CA, (2) Volvo of America Corporation, of Rockleigh, NJ, (3) Subaru Atlantic, Inc., of Columbia, MD, and (4) Toyota Motor Sales U.S.A., Inc., of Torrance, CA.

MC 108393 (Sub-157), filed June 7, 1982. Applicant: SIGNAL DELIVERY SERVICE, INC., 1010 Jorie Blvd. Suite 200, Oakbrook, IL 60521. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216–566–5639. Transporting *plastic and plastic products,* between points in the U.S., under continuing contract(s) with Complas Division/Ferro Corporation, of Evansville, IN.

MC 121222 (Sub-7), filed June 1, 1982. Applicant: KING MOTOR LINE, INC., P.O. Box 7456, Montgomery, AL 36107. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, 205–254–3880. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, MS, LA, GA, TN, and FL.

MC 129712 (Sub-75), filed June 7, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., NE, Atlanta, GA 30328, 404–237–6472. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Portland, ME, Boston, MA, New York, NY, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, Savannah, GA, Jacksonville, Miami, Tampa, and Port Everglades, FL, Mobile, AL, New Orleans, LA, Galveston and Houston, TX, Los Angeles, Long Beach, and San Francisco, CA, Seattle and Tacoma, WA, Portland, OR, and

Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143433 (Sub-19), filed June 7, 1982. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South 1st Ave., Stroud, OK 74079. Representative: Greg E. Summy, 208 Century Center Plaza, 100 West Main St., Oklahoma City, OK 73102, 405–235–3661. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143702 (Sub-21), filed June 3, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, 816–444–7474. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 146723 (Sub-9), filed June 1, 1982. Applicant: J. C. BANGERTER & SONS, INC., 1265 North Main St., Bountiful, UT 84010. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, 801–581–0322. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI).

MC 148263 (Sub-2), filed June 3, 1982. Applicant: FLEETWOOD TRUCKING CO., Route #1, Spalding, MI 49886. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, 616–459–6121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Minneapolis, MN.

MC 153723 (Sub-11), filed June 1, 1982. Applicant: A & M ENTERPRISES, INC., P.O. Box 884, Springdale, AR 72764. Representative: George Spencer, 7 North Block, Fayetteville, AR 72701, 501–442–0585. Transporting *evaporative air coolers and accessories*, between points in Pulaski County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159062, filed June 8, 1982. Applicant: CENTRAL TRUCKING, INC., 137 Burgess Lane, Charlottesville, VA 22901. Representative: Carroll B. Jackson, 1610 Vincennes Rd., Richmond, VA 23229, 804–282–3809. (1) Transporting *coal and expanded shale lightweight aggregates*, between points in VA and WV; and (2) *industrial filler, lime, limestone, sand, and stone*, between points in VA, on the one hand, and, on the other, points in NC, SC, and WV.

MC 159123, filed June 11, 1982. Applicant: GIN–ER, INC., 1212 Dolton Dr., Dallas, TX 75207. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with the John Deere Company, of Moline, IL.

MC 161173 (Sub-1), filed June 7, 1982. Applicant: BESTWAY SYSTEMS, INC., P.O. Box 597, Lilburn, GA 30247. Representative: David P. Clark (same address as applicant), 404–921–2378. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 161282, filed June 7, 1982. Applicant: CHAPARRAL TOURS, INC., 148 E. Worthington Rd., Imperial, CA 92251. Representative: Donald R. Hedrick, P. O. Box 4334, Santa Ana, CA 92702, 714–667–8107. Transporting *passengers and their baggage*, in the same vehicle with passengers, in roundtrip special and charter operations (1) beginning and ending at points in Imperial County, CA, and extending to points in AZ, NV, NM, UT, ID, CO, and WY, and (2) beginning and ending at Yuma, AZ, and extending to points in NV.

MC 162392, filed June 8, 1982. Applicant: SIMMS TRUCKING, INC., Rte. 5, Box 81, Festus, MO 63028. Representative: Edward P. Bocko, P. O. Box 496, Mineral Ridge, OH 44440, 216–652–2789. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Houck Industries, of Tulare, CA.

Volume No. OP4–219

Decided: June 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 29957 (Sub-98), filed June 7, 1982. Applicant: TRAILWAYS SOUTHERN LINES, INC., 327 Gayoso, Memphis, TN 38103. Representatives: George W. Hanthorn, 1500 W. Hanthorn, 1500 Jackson St., Dallas, TX 75201, (214) 655–7937. Over regular routes, transporting *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, serving the intermediate point of Blytheville, AR and the off-route points of Sikeston, MO.

Note.—Applicant states he intends to tack this authority with its existing operating rights.

MC 129326 (Sub-40), filed June 8, 1982. Applicant: CHEMICAL TANK LINES, INC., P. O. Box 437, Mulberry, FL 33860. Representative: Charles A. Webb, 606 London House, 1001 Wilson Blvd., Arlington, VA 22209, (703) 528–2266. Transporting *chemicals and related products* and *commodities in bulk*, between points in AL, AR, DE, FL, GA, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, TX, VA, IL, NY, OK, and WV.

MC 142186 (Sub-10), filed June 8, 1982. Applicant: WHEELS WEST, INC., 11631 Waddell Creek Rd. SW., Olympia, WA 98502. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *transportation equipment*, between points in the U.S., under continuing contract(s) with American Equipment & Trailer, Inc., of Amarillo, TX.

MC 147676 (Sub-11), filed June 8, 1982. Applicant: KEATON TRUCK LINES, INC., 100 S. Lelia St., P.O. Box 1187, Texarkana, TX 75504. Representative: Patsy R. Washington (same address as applicant), (214) 792–3351. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Kast Metal Corporation and its divisions, of Shreveport, LA, AMmrican Lignite Products, of Ione, CA, and The Vendo Company, of Pinedale, CA.

MC 154276 (Sub-1), filed June 8, 1982. Applicant: DIAL–A–WAGON, 396 Ashford Ave., Dobbs Ferry, NY 10552. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NY, NJ, Ct, and PA.

MC 158736, filed June 8, 1982. Applicant: POPLAR BLUFF EXPRESS, 1006B South Broadwway, P.O. Box 1034, Poplar Bluff, MO 63901. Representative: George E. Russell (same address as applicant), (314) 785–7773. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between St. Louis, MO, and points in Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Ripley, Scott, Stoddard, Pemiscott, and Wayne

Counties, MO, and (2) between those points named in (1) above, on the one hand, and, on the other, points in Alexander County, IL, Ballard, McCracken, Graves, and Marshall Counties, KY, and points in AR, MS, and TN.

MC 161056 (Sub-1), filed June 8, 1982. Applicant: AMERICAN HIGHWAYS, INC., P.O. Box 203, Moreland, ID 83256. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting (1) *lumber and wood products, metal and metal products,* and *building materials,* (a) between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA, and WY, and (b) between points in CA, ID, MT, OR and WA, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE, NM, ND, OK, SD, TX, and WI, and (2) *minerals and chemicals,* (a) between points in CO, ID, IA, KS, MO, NE, NM, OK, OR, and TX, and (b) between points in ID, OR and WA, on the one hand, and, on the other, points in AZ, CA, ID, MT, NV, OR, UT, WA, and WI.

MC 161266, filed June 8, 1982. Applicant: IRISH & LaCOUNT TRUCKING, INC., Rt. 2, Box 19A, Krakow, WI 54137. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Fox Valley Beef, Inc., of Green Bay, WI.

MC 162356, filed June 7, 1982. Applicant: MIKE H. LANDOLT, 5805 SW Tucker St., Beaverton, OR 97005. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *commodities in bulk,* between points in OR and WA.

Volume No. OP4–224

Decided: June 18, 1982.

By the Commission, Review Board No. 2, members Carleton, Fisher, and Williams.

MC 59666, (Sub-23), filed June 10, 1982. Applicant: TRAFIK SERVICES, INC., 25 Esten Ave., Pawtucket, RI 02860. Representative: Robert A. Mega (same address as applicant), (401) 724–1200. Transporting *plastic and plastic products,* and *building materials* between points in the U.S. (except AK and HI), under continuing contract(s) with Cooley, Inc., of Pawtucket, RI.

MC 145716, (Sub-8), filed June 7, 1982. Applicant: INTERNATIONAL TRANSPORTATION SERVICE, INC., 3300 Northeast Expressway, Suite 1–M, Atlanta, GA 30341. Representative: Brian Weir (same address as applicant), (404) 455–1050. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Sherwin-Williams Co.

MC 155236, (Sub-1), filed June 10, 1982. Applicant: POTTLE'S TRANSPORTATION, INC., P.O. Box 164, Carmel, ME 04419. Representative: Clifton E. Pottle (same address as applicant), (207) 848–2485. Transporting (1) *malt beverages, wine, and liquors,* between points in the U.S. (except AK and HI), under continuing contract(s) with McLaughlin & Moran Inc., of Providence, RI, Calmont Beverage Company of Barre, VT, The Gallo Company, of Goshen, CT, and G & G Beverage, of North Haven, CT, and (2) *rims, wheels, brakes and parts,* between points in the U.S. (except AK and HI), under continuing contract(s) with New England Wheel and Rim Co., Inc., of Boston, MA.

MC 155256, (Sub-1), filed June 11, 1982. Applicant: KASSEL TRANSFER, INC., Rt. 1, Letts, IA 52754. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products,* between points in Des Moines County, IA, on the one hand, and, on the other, points in CO, IN, KS, KY, MI, MN, MO, NE, ND, OK, SD, and WI.

MC 157186 (Sub-2), filed June 11, 1982. Applicant: U.S. TRANSPORT, INC., 14307 Still Meadow, Houston, TX 77079. Representative: Robert J. Birnbaum, 3636 Executive Center Dr., Suite 151, Austin, TX 78731, (512) 346–4800. Transporting *Mercer commodities,* between points in TX, on the one hand, and, on the other, points in AZ, AR, OK, NE, SD, ND, MT, WY, NV, and CA.

MC 162406, filed June 10 1982. Applicant: SFZ TRANSPORTATION, INC., 14600 Detroit Ave., P.O. Box 2675, Lakewood, OH 44107. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639 Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with The Scott & Fetzer Company, of Lakewood, OH, Melben Products Co., Inc., of Harrison, OH, Advanced Chemical Products, Inc., and The Sherwin-Williams Co., both of Cleveland, OH, and National Carrier Service, of Anaheim, CA.

Volume No. OP5–134

Decided June 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF–498 (Sub-1), filed June 7, 1982. Applicant: RITEWAY OVERNIGHT TRANSPORT, INC., 2131 West Roosevelt, Phoenix, AZ 85009. Representative: Robert R. Digby (same address as applicant), (602) 258–6851. To operate as a freight forwarder of *general commodities* (except household goods, commodities in bulk and classes A and B explosives) between points in the U.S. (except AK and HI).

MC 68898 (Sub-11), filed June 7, 1982. Applicant: HANOVER TRANSFER CO., 409 East Hanover Street, Hanover, PA 17331. Representative: Barry Roberts, 600 Maryland Avenue NW., Washington, D.C. 20024, (202) 484–0090. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between Baltimore, MD, and points in Carroll County, MD, York, Adams, and Dauphin Counties, PA, on the one hand, and, on the other, points in Loudoun, Fairfax, Arlington Counties, VA, Montgomery, Prince Georges and Howard Counties, MD, and DC.

Note.—Applicant intends to tack this authority with its existing authority.

MC 105159 (Sub-49), filed May 14, 1982. Initially published in the **Federal Register** on June 1, 1982. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main St., Red Wing, MN 55066. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *such commodities* as are dealt in or used by manufacturers of life jackets and outerwear, between points in MN, on the one hand, and, on the other, points in CT, IL, IN, MA, NJ, NY, and RI.

Note.—This application is republished to indicate common carrier authority is sought rather than contract.

MC 118838 (Sub-96), filed June 9, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S. 6th St., Minneapolis, MN 55402, 612–333–1341. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of plastic and wood products, and paper and paper products, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 118838 (Sub-97), filed June 11, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 687, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 6th St., Minneapolis, MN 55402, 612–333–1341. Transporting *machinery and agricultural implements,* between points in MN and ND on the one hand, and, on

the other, points in the U.S. (except AK and HI).

MC 118830 (Sub-98), filed June 11, 1982. Applicant: GABOR TRUCKING, INC., P.O. Box 667, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting (1) *metal products,* and (2) *building and construction materials,* between points in ND on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 121288 (Sub-2), filed June 9, 1982. Applicant: STATE FREIGHT, INC., 666 Summer St., Boston, MA 02205. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458, 212–733–6965. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 129788 (Sub-22), filed June 9, 1982. Applicant: NASS TRUCK LINES, INC., Box H, Wenona, IL 61377. Representative: Walter E. Nass (same address as applicant), (815) 853–4612. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Kansas City, KS, Omaha, NE, Memphis, TN, and points in IL, IN, IA, KY, MI, MN, MO, OH, and WI.

MC 143259 (Sub-6), filed May 27, 1982. Applicant: TOM DURKIN, d.b.a. TOM DURKIN TRUCKING, 36 East Chestnut St., Walla Walla, WA 99362. Representative: Steve Van Wyk, 12012 NE Lonetree, Poulsbo, WA 98370, (206) 779–5789.Transporting (1) *such commodities* as are dealt in or used by wholesale, retail and chain groceries and food business houses, between points in the U.S. (except AK and HI), and (2) *alcoholic beverages and related products,* (a) between points in Jefferson County, CO, on the one hand, and, on the other, points in WA, ID, and MT, and (b) between points in Walla Walla County, WA, on the one hand, and, on the other, points in Los Angeles and San Joaquin Counties, CA and (c) between points in FL on the one hand, and, on the other, points in WA.

MC 144449 (Sub-12), filed June 11, 1982. Applicant: A & A MOVING & STORAGE, INC., d.b.a. A & A CONTRACT CARRIERS, 2412 Blue Smoke Court South, Fort Worth, TX 76105. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *restaurant fixtures, furnishings and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with H & K of Dallas, Dallas, TX.

MC 147019 (Sub-8), filed June 7, 1982. Applicant: WENGERT TRANSPORTATION INC., d.b.a., CITY DELIVERY, 651 58th Avenue Court, S.W., Cedar Rapids, IA 52404. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50310, (515) 274–4985. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Black Hawk, Linn, Scott, Des Moines, Wapello and Polk Counties, IA on the one hand, and, on the other, points in IA.

MC 148529 (Sub-2), filed June 7, 1982. Applicant: A. ANASTASIO & SONS TRUCKING CO., INC. 169 South End Road, East Haven, CT 06512. Representative: John E. Fay, 663 Maple Ave., Hartford, CT 06114, (203) 525–2661. Transporting *building materials* (except lumber) and *lumber,* between points in CT, MA, ME, NH, RI, VT, DE, MD, NJ, NY, and PA.

MC 149269 (Sub-3), filed June 11, 1982. Applicant: PALMER INDUSTRIES, INC., Box 839, Macon, GA 31202. Representative: Virgil H. Smith, 74 Highway N., (404) 969–1980. Transportating *rubber and plastic products* between points in Warren County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150339 (Sub-47), filed June 11, 1982. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Ronald D. Endzel (same address as applicant), (301) 673–7151. Transporting *food and related products* between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., of Arden Hills, MN.

MC 150568 (Sub-7), filed June 9, 1982. Applicant: CASE CARRIAGE CO., 715 South Sugar Street, Celina, OH 45822. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of foodstuffs and related products (except in bulk), between Des Moines, IA, Nashville, TN, points in Crawford County, IL, Floyd County, GA and Outagamie County, WI, and points in OH and IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152669 (Sub-3), filed June 9, 1982. Applicant: C & C TRUCKING, INC., Rt. 9, Box 222A, Statesville, NC 28677. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. Transporting (1) *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Manufactures Consolidation Service, Inc., of Memphis, TN, and (2) *chemicals and related products,* between points in the U.S., under continuing contract(s) with Piedmont Explosives, Inc., of Statesville, NC.

MC 152779 (Sub-3), filed June 7, 1982. Applicant: KFM TRANSPORT, INC., 222 E. 5th Ave., Naperville, IL 60540. Representative: Norman A. Cooper, 145 West Wisconsin, Neenah, WI 54956, (414) 722–2848. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with Luxor-Springs Corp.; Luxor-Springs Corp and Furniture by Fillippi, and Luxor-Springs Corp. d/b/a Kroeler Furniture Division of Bradley, IL, all of Bradley, IL.

MC 154368 (Sub-1), filed June 7, 1982. Applicant: TRUC-WAY, INC., P.O. Box 8, Collingswood, NJ 08108. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, 215–365–5141. Transporting *food and related products,* between points in Gloucester, Salem and Middlesex Counties, NJ, on the one hand, and, on the other, points in MD, NJ, NY and PA.

MC 157388, filed June 10, 1982. Applicant: FREEMAN CONTRACT SERVICES, INC., 426 Springview Court, Concord, NC 28025. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204, (704) 372–6730. Transporting *steel and aluminum products,* between points in the U.S., under continuing contract(s) with Edgcomb Metals Company, of Tulsa, OK.

MC 159399 (Sub-1), filed June 7, 1982. Applicant: JAMES D. OLSON, d.b.a. TREE LINE TRANSPORTATION, 8061 Jordan, S.E., Salem, OR 97301. Representative: James D. Olson (same address as applicant), (503) 371–1414. Transporting (1) *food and related products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Cal Pacific, Inc., of San Carlos, CA, Keeler Foods Distribuco, Inc., of Santa Ana, CA, and Kerr Concentrates, Inc., of Salem, OR; and (2) *paper and related products,* between points in the U.S., (except AK and HI), under continuing contract(s) with Precision Business Systems Inc., of Redmond, WA.

MC 161968 (Sub-1), filed June 10, 1982. Applicant: RAY HALEY TRUCKING, 7301 Bridge Lane, Redding, CA 96001. Representative: Jim Pitzer, 15 South

Grady Way, Suite 321, Renton, WA 98055–3273, 206–235–1111. Transporting (1)*calcium chloride*, and (2) *salt*, between points in CA, OR, WA, ID, and UT.

MC 162428, filed June 10, 1982. Applicant: DUJAC EXPRESS, LTD., 9415 South Western Ave., Chicago, IL 60620. Representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, IL 60603, 312–236–0548. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Cook, Du Page, Lake, Will, Kane, Kendall, Grundy and McHenry Counties, IL and Lake and Porter Counties, IN, and extending to points in the U.S. (except AK and HI).

MC 162439, filed June 10, 1982. Applicant: UNC'S INC., 15660 S.E. 303rd Pl., Kent, WA 98031. Representative: Samuel C. Walter (same address as applicant), 206–631–6758. Transporting *chemicals and related products*, and *solvents*, between points in OR, WA, and CA.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-17084 Filed 6-23-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 270]

Motor Carriers; Permanent Authority Decisions; Restriction Removals

Decided: June 17, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers for Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,
Secretary.

MC 79577 (Sub-42)X, filed June 9, 1982. Applicant: OILFIELDS TRUCKING COMPANY, P.O. Box 751, Bakersfield, CA 93302. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017. Subs 30 and 41F. Broaden: petroleum products and contaminated and returned shipments thereof, in Sub 30, and gasoline and distillate fuel oils, in Sub 41, to "petroleum and petroleum products"; Daggett facilities to San Bernardino County, CA in Sub 41; and remove in bulk, in tank vehicles restrictions and broaden to radial authority in both Subs.

MC 134872 (Sub-20)X, filed May 28, 1982. Applicant: GOSSELIN EXPRESS, LTD., 1669 Smith Boulevard, North, C.P. 248, Thetford Mines, Quebec, Canada G6G 5S5. Subs 1, 4, 10, 11F, 12F, 14F, 16F, 18F (1) broaden, Subs 1, 4, 16F and 18F to "recreational transportation equipment" from snowmobiles; Subs 10, 11F and 14F to "clay, concrete, glass or stone products," from asbestos in bags, and to "machinery," from lawnmowers, tractors (other than road-tractors) and attachments therefor, snow blowers, hand-operated rotary tillers and self-propelled machinery parts; Sub 12F to "machinery," from agricultural implements and parts and accessories for agricultural implements (2) broaden to ports of entry on US-Canada boundary line in MI, NY, VT and ME from ports of entry on the United States-Canada boundary line located in Michigan, New York and Vermont, and near Jackman, Maine, Sub 1; Sub 4 to Adams, Arapahoe, Jefferson, Boulder and Clear Creek Counties, CO from Denver; to ports of entry on the international boundary line between the United States and Canada in NY and MI from ports of entry on the international boundary line between the United States and Canada located at Champlain, NY and Detroit and Sault Ste. Marie, MI; to Paulding County, OH from Paulding; to Calumet and Manitowoc Counties, WI from Brillion, Sub 10; to ports of entry on the international boundary between the United States and Canada in NY and VT from ports of entry on the international boundary between the United States and Canada, at Champlain, NY and Highgate Springs and Derby Line, VT; and to Belknap County, NH from Meredith; and to Montgomery and Philadelphia Counties, PA from Norristown, Sub 11; to ports of entry on the international boundary line between the United States and Canada in NY, VT and MI from ports of entry on the international boundary between the U.S. and Canada located at Champlain, NY, Derby Line, VT, and Detroit, port Huron and Sault Ste. Marie, MI, Sub 12; ports of entry on the international boundary line between the United States and canada in NY and MI from ports of entry on the international boundary line between the U.S. and Canada located at Champlain, NY, Detorit, Sault Ste. Marie and Port Huron, MI, Sub 14; (3) remove the restriction against transportation of shipments originating at or destined to points in Beauce, Frontenac, and Kemouraska Counties, Quebec, and points in the Province of Ontario, Canada, Sub 7, and (4) to radial authority.

MC 144030 (Sub-15)X, filed June 9, 1982. Applicant: DRUE CHRISMAN, INC., P.O. Box 284, Lawrenceburg, IN 47025. Representative: Norbert B. Flick, 2250 Beechmont Ave., Cincinnati, OH 45230. Sub 12F certificate, remove restrictions against "commodities in bulk and those requiring special equipment" in the radial general commondities authority between points in OH and IN, and, points in the US.

[FR Doc. 82-17083 Filed 6-23-82; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 106]

Motor Carrier; Permanent Authority Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement

in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 154761 (republication), filed September 21, 1981, previously noticed in the **Federal Register** issue of October 6, 1981. Applicant: WALT WILSON TRUCKING, INC., 2307 East Carson St., Carson, NV 89810. Representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, CA 90650. A Decision by the Commission, Division 1, Acting as an Appellate Division, decided April 22, 1982, and served April 28, 1982 finds on appeal that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), (1) between ocean ports in California, Oregon, and Washington, and (2) between ocean ports in California, Oregon, and Washington, on the one hand, and, on the other, points in California, Oregon, and Washington. Applicant is fit, willing, and able properly to perform such service and to conform to statutory and administrative requirements. The purpose of this republication is to broaden the territorial description.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17068 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP3-094]

Motor Carriers; Republications of Grants of Operating Rights Authority Prior to Certification; Permanent Authority Decision

The following grants of operating rights authorities are republished by order of the Commission to indicate a broaden grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 159474 (republication), filed November 30, 1981, published in the **Federal Register** issue of December 16, 1981, and republished this issue. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock, AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. A Decision by the Commission, Division 2 Acting as an Appellant Division, decided May 14, 1982, and served May 21, 1982, finds that the performance by applicant of the service will serve a useful public purpose, responsive to a public demand or need to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the United States (except Alaska and Hawaii): That applicant is fit, and willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to reflect applicant's actual grant of authority.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17069 Filed - -82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-155)]

Rail Carriers; the Baltimore & Ohio Railroad Co.; Exemption for Contract Tariff ICC-BO-C-0037

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Baltimore and Ohio Railroad Company (BO) filed a petition on June 4, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-BO-C-0037 filed on June 4, 1982 to become effective on one day's notice. The contract involves the movement of copper products.

Under 49 U.S.C. 10713(e), contracts must be filed on not less that 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. The transportation contract accompanying Tariff BO-C-0037 can be used only in conjunction with already effective contracts filed by various Western carriers. These Western contracts restrict the shipper's total tonnage to contract movement, but apply only to gateway points and not to the final destination. Without the benefit of petitioner's contract, the shipper will be unable to supply its receiver's plant, as no suitable proportional tariff rates exist east of the gateways. Short notice effectiveness of the contract will insure an uninterrupted supply of material to the receiver's facility, thereby enabling it to continue operating at present capacity. We find this to be the type of exceptional circumstances which warrants a provisional exemption.

Petitioner's contract ICC-BO-C-0037 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 17, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17061 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-139)]

Rail Carriers, Chicago & North Western Transportation Co.; Abandonment, in Dane County, WI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Reivew Board Number 3, has issued a certificate authorizing the Chicago and North Western Transportation Company to abandon its rail line between milepost 89.9 near Verona and milespost 106.0 near Mt. Horeb, a distance of 16.1 miles, in Dane County, WI, subject to certain conditions. Since no investigation was instituted, the requirement of Section 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17062 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-157)]

Rail Carriers; the Texas Mexican Railway Co.; Exemption for contract Tariff ICC-TM-C-21

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The Texas and Mexican Railway Company (TM) filed a petition on June 7, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC-TM-C-21 filed on June 7, 1982, to become effective on one day's notice. The contract provides for allowances on movements of iron or steel plate.

Under 49 U.S.C. 10713(e), contracts must be filed on no less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition shall be granted. Short notice effectiveness of the contract will allow for the expeditious shipment of the involved plate to Mexico, where it is urgently needed, and curtail the accumulation of storage charges. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC-TM-C-21 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register.**

This action will not significantly affect either the quality of the human environment or conservation of energy resouces.

(49 U.S.C. 10505)

Dated: June 18, 1982.

By the Commission, Division 1, Commissioners Sterrett, Gilliam, and Andre.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17060 Filed 6-23-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1982 aggregate production quotas.

SUMMARY: This notice establishes revised 1982 aggregate production quotas for controlled substances in Schedule II, as required under the Controlled Substances Act of 1970.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Acting Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On April 30, 1982, a notice of the proposed revised 1982 aggregate production quotas for certain controlled substances in Schedule II was published in the **Federal Register** (47 FR 18692). All interested parties were invited to comment on or object to these proposed aggregate production quotas on or before June 1, 1982.

One comment and objection was received from Knoll Pharmaceutical Company of Whippany, New Jersey. Regarding hydromorphone, Knoll stated that the proposed revised aggregate production quota for this substance of 132 kg was inadequate to meet the legitimate medical needs. Knoll also requested a hearing on the matter if the Drug Enforcement Administration denied its request to revise the 1982 aggregate production quota for hydromorphone to 155 kg. Concurrently, Knoll has made a separate presentation regarding issues related to the

hydromorphone quota. Both the objection to the proposed revised 1982 aggregate production quota for hydromorphone and the separate presentation are currently under review. Therefore, the Drug Enforcement Administration's response to this matter will be the subject of a future Federal Register notice. It is intended that this notice will appear in the Federal Register no later than July 26, 1982. In the interim, the 1982 aggregate production quota will be established at 132 kg.

No other comments and objections were received.

Pursuant to sections 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Acting Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedule I and II controlled substances is mandated by law and by the international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Therefore, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby orders that the 1982 revised aggregate production quotas be established as follows:

Basic class	Established revised 1982 aggregate production quota (expressed as grams of anhydrous base)
Schedule II	
Amobarbital	4,759,000
Amphetamine	700,000
Codeine	98,483,000
Codeine (for conversion)	4,437,000
Diphenoxylate	1,156,000
Hydrocodone	1,217,000
Hydromorphone	[1] 132,000
Levorphanol	18,500
Meperidine	11,000,000
Methadone	1,486,000
Morphine	835,000
Morphine (for conversion)	63,513,000
Opium (powdered, extract, tincture, etc., expressed in terms of USP powdered opium)	2,253,000
Oxycodone (for conversion)	8,000
Oxymorphone	4,000
Pentobarbital	16,345,000
Secobarbital	6,391,000
Thebaine (for conversion)	2,906,000

[1] Interim aggregate production quota established pending disposition of an objection and request for hearing made by Knoll Pharmaceutical Company, Whippany, New Jersey.

Dated: June 15, 1982.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 82-17057 Filed 6-23-82; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

June 21, 1982.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on July 15, 1982.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to the first drafting of the Agency's 1984 budget to be submitted to the Office of Management and Budget.

The meeting will begin at 9:30 a.m. and will be held in the Shoreham Building, 806 15th Street, NW., Room 1023, Washington, D.C. The meeting will be closed to the public pursuant to subsection (9)(B) of section 552b of Title 5, United States Code, because the Council will consider information that may disclose information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-17104 Filed 6-23-82; 8:16 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-373]

Commonwealth Edison Co.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-11, issued to Commonwealth Edison Company, which revised Technical Specifcations for operation of the La Salle County, Station, Unit No. 1 (the facility) located in Brookfield Township, La Salle County, Illinois. The amendment is effective as of the date of issuance except that the effective date of one change is June 3, 1982.

The amendment consists of changes to the Technical Specifications. There are 5 modifications and 2 additions to the Technical Specifications. The changes to the Technical Specifications were as follows: (1) Modify Technical Specification 4.6.6.1(b)(2) from 1200 F ± 9 F to 1200 F ± 25 F; (2) change the main steam isolation valve scram setpoint from a nominal value of 94 percent open to a nominal value of 92 percent open; and (3) modify Technical Specification 3/4.10.7 so as to permit performance of the confirmatory flow induced vibration test with one low pressure core injection loop isolated. In addition, some Technical Specification inputs and changes were submitted as a result of our review and reported in our Supplements to our Safety Evaluation Reports in order to fulfill licensee's commitment. These Technical Specifications were: Revised list of snubbers pursuant to the provision of 2.C.5(a) of the license, a list of tendon surveillance schedules pursuant to the provision of 2.C.7 of the license, and finally increase the number of fire detection instrumentation as a result of our requirement to install a general sprinkler system in the diesel-generator corridor.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR

51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 24, 1982, June 1, 1982, June 7, 1982 and June 14, 1982, (2) Amendment No. 1 to License NPF-11 dated June 16, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and the Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82-17138 Filed 6-23-82; 8:15 am]

BILLING CODE 7590-01-M

[Docket No. 50-295]

Commonwealth Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR-39 issued to the Commonwealth Edison Company (the licensee), which revised Technical Specifications for operation of Zion Station, Unit 1 (the facility) located in Zion, Illinois. The amendment is effective as of the date of issuance.

The amendment changes the total peaking factor and the normalization factor for core height and adds a provision for monitoring and reporting steam generator leakage during the Unit 1 cycle 7 operation period.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendments dated May 21, 1982 as supplemented by letter dated June 2, 1982 and by letter dated June 18, 1982, (2) Amendment No. 74 to License No. DPR-39 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-17139 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270 and 50-287]

Duke Power Co.; Oconee Nuclear Station, Units Nos. 1, 2, and 3; Exemption for Operation While Irradiating Reactor Vessel Surveillance Specimens at Crystal River Unit No. 3 (Appendix H to 10 CFR 50)

The Nuclear Regulatory Commission (the Commission) has granted an Exemption to the Duke Power Company (the licensee) for the Oconee Nuclear Station, Units 1, 2 and 3 (located in Oconee County, South Carolina), from the requirement for a continuing in-vessel material surveillance program as set forth in Appendix H to 10 CFR 50. The Exemption is effective for a period of five years from the date of issuance.

In granting this exemption, the Commission determined that it is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission also determined that granting this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details, see (1) the licensee's request by letter dated January 14, 1982, and (2) the Commission's letter to the licensee dated June 16, 1982. These items can be reviewed at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 16th day of June 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-17140 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-33]

Iowa Electric Light and Power Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center (DAEC), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate certain requirements of Regulatory Guide 1.52 concerning control room ventilation and standby gas treatment system high-efficiency particulate air (HEPA) replacement filters and filter adsorbent material and delete extraneous references to these requirements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required

since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 16, 1977, (2) Amendment No. 76 to License No. DPR-49, and (3) the Commission's letter to Iowa Electric Light and Power Company dated June 15, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 15th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-17141 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.46, "Standard Format and Content of License Applications, Including Environmental Reports, for In Situ Uranium Solution Mining," provides specific guidance on the format and content of an application, including an environmental report, for an in situ uranium solution mining facility license.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the Current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a)

Dated at Silver Spring, Maryland this 17th day of June 1982.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 82-17143 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California.

This amendment (1) changes the auxiliary feedwater system load sequence response time to include the diesel generator starting time, (2) corrects an error in the required number of operable cold leg high pressure safety injection flow channels, (3) deletes an erroneous requirement for testing the steam driven auxiliary feed pump prior to entering a mode wherein steam first becomes available to the pump, and (4) corrects the list of valves and valve response times associated with required testing of the response time of component cooling water system isolation valves.

Items (1), (2), and (3), above were authorized by telephone on May 20, 1982, and confirmed by letter dated May 21, 1982. Item (4), above, was authorized by telephone on May 22, 1982, and confirmed by letter dated May 26, 1982.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letters dated May 19, 20, 21, and 22, 1982, (2) NRC letters to Southern California Edison Company dated May 21, and May 26, 1982, (3) Amendment No. 3 to Facility Operating License No. NPF-10 and (4) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC, and the San Clemente Library, 242 Avenida Del Mar, San Clemente, California 02672. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June 1982.

For the Nuclear Regulatory Commission.

B. C. Buckley,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-17142 Filed 6-23-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHNAGE COMMISSION

[Release No 22540; 31-785]

Avatar Holdings, Inc. et al.; Application for Exemption Pursuant to Section 3(a)(3)

June 16, 1982.

In the Matter of Avatar Holdings Inc., Avatar Utilities Inc., Avatar Utilities Inc. of Florida, 201 Alhambra Circle, Coral Gables, Florida 33134.

Avatar Holdings Inc. ("Avatar"), a Delaware corporation, its wholly-owned subsidary Avatar Utilities Inc. ("AUI"), a Delaware corporation, and Avatar Utilities, Inc. of Florida ("AUF"), a Delaware corporation and a wholly-owned subsidary of AUI, have filed with this Commission an application and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act") requesting an order of exemption under Section 3(a)(3). All interested persons are referred to the amended application, which is summarized below, for a description of applicants and a statement of the basis upon which the exemption is sought.

Avatar is engaged, indirectly through subsidiaries, in land development, water and sewage services, title insurance services, cable television operations and mortgage banking. At December 31, 1981, Avatar reported consolidated assets of $342,428,000 and for the year then ended, consolidated revenues of $80,879,000 and net income of $1,411,000. Avatar is now developing four Florida communities and one community in Arizona, and holds land for further development in Florida and California.

AUI, through its subsidiaries, operates 39 water plants and 12 wastewater treatment plants serving 25 communities in Indiana, Michigan, Missiouri, Ohio, and Florida. The Florida operations are conducted through AUF, which serves three of Avatar's developments in that state. At December 31, 1981, AUI reported consolidated assets of $138,883,000 and for the year then ended consolidated operating revenues of $24,164,000 and net income of $2,700,000. As of the same date AUF reported consolidated assets of $12,737,000 and for the year then ended, consolidated operating revenues of $985,000 and net income of $277,000.

One of Avatar's Florida developments is a 1,024 acre mobile home community at Barefoot Bay, which is located in Brevard County on Florida's east coast. It is stated that in order for the mobile home sites to be developed for sale, it was necessary for the developer to provide a gas distribution system for the community since no gas utility system was close enough to provide service. Barefoot Bay Propane Gas Company ("BBP"), a wholly-owned subsidiary of AUF, was created for this purpose. It distributes at retail liquid propane gas through pipes to each of the approximately 5,000 mobile home sites at Barefoot Bay. The liguid propane gas operations of BBP do not constitute a utility service under Florida law. BBP does not hold a franchise for furnishing such service, does not have eminent domain authority, and its rates are not subject to state regulation. At December 31, 1981, BBP reported assets of $815,000 and for the year then ended, operating revenues of $189,000 and a net loss of $75,000. None of the securities of BBP are publicly held.

It is stated that the provision of retail gas service by BBP is accessory to the development of Avatar's community at Barefoot Bay. Avatar, AUI and AUF request an order of exemption pursuant to Section 3(a)(3) of the Act. That section provides that the Commission shall exempt a holding company if "such holding company is only incidentally a holding company being primairly engaged" in non-utility businesses, and (1) not deriving a material part of its income from public-utility subsidiaries or (2) deriving a material part of its income from public-utility subsidiaries if substantially all of the outstanding securities of such companies are owned by such holding compnay.

The application and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as ameneded or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17107 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 18, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Puget Sound Power and Light Co., Common Stock, No Par Value (File No. 7-6247)

TDK Electronics Limited, American Depository Receipts, Representing Two Shares of Common Stock, 50 Yen Par Value (File No. 7-6248)

William Electronics, Inc., Common Stock, $.50 Par Value (File No. 7-6249)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 12, 1982 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary for the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17108 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22542; 70-6476]

The Columbia Gas System, Inc. and Columbia Gulf Transmission Co.; Proposed Credit Support Undertakings by Subsidiary and Assurance by Holding Company of Debt Obligations of Overthrust and Trailblazer Pipeline Companies; Elimination of Limitation on Partnership Participation

June 18, 1982.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and Columbia Gulf Transmission Company ("Columbia Gulf"), 3805 West Alabama Avenue, Houston, Texas 77027, a wholly-owned natural gas transmission subsidiary of Columbia, have filed with this Commission a post-effective amendment to an application-declaration previously filed and amended pursuant to Sections 6(b), 9 and 10 of the Public Utility Holding

Company Act of 1935 ("Act") and Rule 51 promulgated thereunder.

By prior order dated December 5, 1980 (HCAR No. 21822), Columbia Gulf was authorized to enter into partnership agreements with four other unaffiliated natural gas transmission companies relating to the construction and ownership of a new 800 mile natural gas pipeline system, to be known as the Trailblazer system. New supplies of natural gas being developed in Wyoming, Utah, Idaho, Nebraska and Colorado will be transported, directly and by displacement, through this pipeline system to the mid-western and eastern markets owned by the partners. The partners are Colorado Interstate Gas Company ("Colorado"), Columbia Gulf, Mountain Fuel Resources, Inc. ("Resources"), Natural Gas Pipeline Company of America ("Natural"), and Northern Natural Gas Company ("Northern"), (collectively, the "Companies"). The Trailblazer system, which is estimated to cost a total of $533 million, will be comprised of three segments: the 88 mile western segment, the Overthrust Pipeline; the 264 mile middle segment, the Colorado Interstate Pipeline; and the 445 mile eastern segment, the Trailblazer Pipeline, estimated to cost $57 million, $195 million and $281 million, respectively. Columbia Gulf was authorized to participate in the construction and ownership of the Overthrust and Trailblazer Pipeline segments of the Trailblazer system through its membership in the Overthrust Pipeline Company General Partnership Agreement ("Overthrust Pipeline Company") with the four other Companies and the Trailblazer Pipeline Company General Partnership Agreement ("Trailblazer Pipeline Company") (collective, the "Partnerships"), with Natural and Northern. Columbia Gulf's equity contributions to the Partnerships, estimated to be $3.4 million and $28.1 million, respectively, will be its proportionate share of the equity to be invested by all partners in each segment. The portion of the construction costs not covered by equity contributions will be financed by debt securities issued by the Partnerships. Such debt securities were to be obligations of the Partnerships, not Columbia Gulf or the other partners. Columbia Gulf was authorized to finance its participation in the Partnerships through the issuance and sale to Columbia of up to $33 million of either 20 year installment promissory notes and/or 7 year floating rate terms notes.

By post-effective amendment, Columbia and Columbia Gulf state that lenders will not provide funds to the Partnerships on a nonrecourse basis unless credit worthy entities ("Sponsors") provide credit support for the loans until such time as construction of the pipeline system is completed, the pipeline is placed in service and the tariff is substantially final and non-appealable to the satisfaction of the lenders (the "Completion Date"). Columbia Gulf seeks authorization to enter into undertakings, along with the other Sponsors, to provide the Partnerships with sufficient funds to meet their costs until the Completion Date. The funds will be supplied either through equity contributions or subordinated loans. If the Completion Date does not occur prior to a date certain or if the project is abandoned before the Completion Date, the Sponsors will undertake to purchase the Partnerships assets or take such other action as may be agreed upon by the Partnerships and the lenders. In addition, Columbia seeks authorization to execute a letter assuring that Gulf will comply with its undetakings as Sponsor.

It is further requested that limitations on the amounts that Gulf may invest in the Partnerships ($3.4 million for the western Overthrust segment and $28.1 million for the eastern Trailblazer segment) be eliminated to permit Gulf to contribute its proportionate share, as an equal partner, of additional equity which may be required to fund normal construction cost overruns and to permit Gulf to perform under the terms of the completion undertakings if called upon to do so. Construction cost overruns, if any, will be funded on the basis of 30% equity and 70% debt.

The application-declaration as amended by the post-effective amendment and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 12, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendment or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17123 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22541; 70-3816]

Jersey Central Power and Light Co., et al.; Proposed Increased Capital Contributions To Be Made by Subsidiary Utility Companies of a Registered Holding Company to a Non-Utility Subsidiary Company

June 18, 1982.

In the matter of Jersey Central Power and Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960; Metropolitan Edison Company, P.O. Box 542, Reading, Pennsylvania 19603; Pennsylvania Electric Company, 1001 Broad Street, Johnstown, Pennsylvania 15907; Saxton Nuclear Experimental Corporation, P.O. Box 452, Reading, Pennsylvania 19603.

Jersey Central Power and Light Company, Metropolitan Edison Company and Pennsylvania Electric Company ("Utility Companies"), all public utility subsidiaries of General Public Utilities Corporation, a registered holding company, and the Utility Companies' non-utility subsidiary, Saxton Nuclear Experimental Corporation ("Saxton"), have filed with this Commission post-effective amendments to their joint application-declaration, as previously filed and amended pursuant to Sections 2(a)(3), 2(a)(19), 6(a), 7(a), 10, 12(f) and 13 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 7(b), 24(c)(3)(C) and 100 promulgated thereunder.

By prior orders issued in this proceeding dated May 11, 1960 (HCAR No. 14427), May 20, 1968 (HCAR NO. 15481), December 31, 1974 (HCAR No. 18738), and January 18, 1980 (HCAR No. 21399), the Utility Companies were authorized to acquire all of the capital stock of Saxton and to make capital contributions to Saxton aggregating $10,100,000 through December 31, 1984. Saxton was organized as a nonprofit stock corporation to construct, operate, and maintain a small experimental nuclear reactor and the capital contributions were to be used for such purposes.

Although Saxton's experimental and research activities have been terminated and its reactor facility has been decommissioned, it is necessary pursuant to regulations of the Nuclear Regulatory Commission ("NRC") that, because of the existence of certain radioactive material, a responsible licensee provide care and surveillance over the decomissioned facility under an NRC license until the facility is dismantled. As a result, Saxton's corporate charter as a non-profit corporation was amended in 1974 to extend Saxton's corporate existence in perpetuity. In addition, Facility Operating License No. DPR–4 which authorizes Saxton to possess but not to operate its properties was extended in 1974 until February 11, 2000. The Utility Companies will continue to make cash capital contributions to Saxton through the extended period of its corporate life, such capital contributions to be used by Saxton to wind up its affairs, to monitor and dispose of its properties or to place and maintain such properties in a safe condition and obtain any and all necessary releases from governmental agencies and others.

By post-effective amendment, the Utility Companies seek authorization due to inflation and unforseen occurrences, to increase their authorized capital contributions to Saxton by $400,000, from $10,100,000 to $10,500,000, through December 31, 1984. It is estimated at the present time that, in the absence of unusual circumstances, surveillance, insurance and maintenance costs through December 31, 1984 will range from approximately $75,000 and $100,000 per year.

The order of May 11, 1980 (HCAR No. 14227) also exempted Saxton's operations and the research agreement between Saxton and the Utility Companies from the requirements of Section 13 of the Act and the rules thereunder. It is requested that such exemption from said section and applicable rules continues in effect.

The application-declaration as amended by the post-effective amendments, and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 12, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended by the post-effective amendments or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17106 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18822; File No. SR–OCC–82–10]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corporation

June 18, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 17, 1982, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

OCC Rule 604(c) allows letters of credit to be deposited with OCC or OCC approved trust companies, to satisfy clearing members' margin requirements. Under that Rule, letters of credit expire at 2:00 p.m. Central Time on either March 1 or September 1 following their issuance. The rule change provides that letters of credit will now expire no earlier than 2:00 p.m. Central Time on the September 1 following issuance. OCC believes that the rule change will benefit OCC clearing members by eliminating paperwork and other administrative burdens that semi-annual expirations cause. By changing the expiration time from 2:00 p.m. to no earlier than 2:00 p.m., OCC will be allowed more time to draw down the letters of credit if necessary.

OCC believes that the rule change is consistent with Section 17A(b)(3)(F) of the Act because it will protect investors and the public interest by enhancing OCC's back-up system for ensuring performance of obligations on options contracts.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before July 15, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–OCC–82–10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17125 Filed 6-23-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18821; SR–MSRB–82–4]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Accelerated Approval of Proposed Rule Change

June 18, 1982.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Ave., N.W., Washington, D.C. 20036, submitted on April 23, 1982, a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder,

amending MSRB Rule A–3 to permit a public member of the MSRB to succeed himself in office if his first term of office was less than eighteen months and he is nominated and elected to a full term on the board. The MSRB proposed the rule change because of the difficulty it has experienced in recruiting public members to fill a vacancy on its Board. Additionally, because most new public members filling vacancies on the Board often take several months to become familiar with the MSRB's regulatory process and issues, the expiration of their shortened term causes the public and MSRB to lose the expertise and services of the public member at the very time he or she is most able to represent the public's intergsts. The MSRB believes that by allowing a public member who completes an unexpired term of less than eighteen months to succeed to a subsequent full term, it will be able to recruit public members to serve on its Board more easily and that the public will benefit by the continued participation of such members on the Board for an additional term.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–18708, May 3, 1982) and by publication in the **Federal Register** (46 FR 24680, June 7, 1982). No comments have been received to date.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Sections 15B(b)(2)(I) and 15B(b)(2)B), and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filling thereof, in that the MSRB has scheduled an election of new Board members for June 21, 1982.

It it therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis

Assistant Secretary.

[FR Doc. 82-17124 Filed 6-23-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-057]

Port Access Route Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study results.

SUMMARY: The purpose of this notice is to publish the results of the Port Access Route Study announced in the **Federal Register** on April 16, 1979 (44 FR 22543) and modified on January 31, 1980 (45 FR 7026). Only the results for study area 22 are published in this notice. Generally, this area includes the coast of southern California.

On the basis of the Port Access Route Study, the following modifications are recommended in area 22:

(a) A lane shift in the western approach to the Los Angeles/Long Beach TSS, reconfiguration of the precautionary area, and designation of the area as a safety fairway;

(b) A lane shift in the Santa Barbara Channel TSS north of Anacapa Island, contingent upon drilling activity;

(c) An extension of the Santa Barbara Channel TSS through a new precautionary area to the 35° N. parallel; and

(d) A modification of the Port Hueneme Fairway.

ADDRESSES: The Eleventh Coast Guard District Port Access Route Study report, on which the present notice is based, is available for inspection and copying at the office of the Marine Safety Council, room 4402, U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, D.C. 20593, between the hours of 8 a.m. and 4 p.m., Monday through Friday. The report is on file under the docket number of this notice [CGD 82–057].

Details of the report are also available from the Eleventh Coast Guard District (mps, Union Bank Building, 400 Oceangate, Long Beach, CA 90822. However, persons seeking a complete copy of the report are requested to contact the above Coast Guard Headquarters address in Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Office of Navigation (G–NSR–3), Room 1408, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593, (202) 245–0108, between 8:00 a.m. and 3:30 p.m., Monday through Friday. Information is also available from Lieutenant Commander Jan Terveen, Eleventh Coast Guard District (mps), Union Bank Building, 400 Oceangate, Long Beach, CA 90822, telephone (213) 590–2301.

Background

The Ports and Waterways Safety Act (PWSA) (Pub. L. 95–474, 92 Stat. 1473; 33 U.S.C. 1223), mandated that the Coast Guard "undertake a study of the potential traffic density and the need for safe access routes." The **Federal Register** for April 16, 1979 (44 FR 22543), announced the scope of the study and included a description of each area to be studied. Coast Guard district staff officers were assigned responsibility for executing the study; and it has been conducted within the standards contained in sections 4 and 5 of the PWSA. As a result of the study, appropriate ships' routing measures, such as safety fairways and traffic separation schemes may be proposed. Where the study indicates that no new routing measures are to be designated in an area, notice of such conclusion is to be published in the **Federal Register.** However, areas for which results are published will be studied again in the future as changes in conditions warrant evaluation.

Results for areas 1–4 (New England) were published in 47 FR 879; for areas 5, 5a and 6 (New York and Delaware approaches and Long Island Sound) in 46 FR 49035; for areas 13 to 20 (coast of South Carolina, Georgia and Florida) in 46 FR 48376; for area 21 (Gulf of Mexico) in 46 FR 49989; for areas 26 to 29 (coast of Oregon and Washington) in 46 FR 59866; and for areas 30 to 32 (Alaska) in 46 FR 61049. Results for the remaining study areas (7 to 12 along the Mid-Atlantic coast, and 23 to 25 along northern California) will be published in a future **Federal Register.**

The Eleventh Coast Guard District performed the study for area 22. Geographically, this area is described as follows:

Southern California

Enclosed by the caost and the line of Mexican jurisdiction from the Mexican/United States border to 32° N latitude, 116°008.0' W longitude; thence a line bearing 270° T to 122° W longitude; thence on a line bearing 000° T to 35° N latitude; thence a line bearing 090° T to the coast.

Study Method and General Findings.

The Port Access Route Study for area 22 was performed in accordance with the requirements of Section 4(c)(3) of the Ports and Waterways Safety Act (PWSA). Local, state, and federal agencies were consulted in the development of study results. The public was invited to participate both thorugh letters soliciting comments from a wide variety of interest groups, and through presentations to several organizations.

Also available to the district study group were the results of vessel boardings, during which pilots and masters were surveyed for routing information.

The study included an evaluation of the existing shipping safety fairway at Port Hueneme, California, as described in 33 CFR 209.138, and of the existing traffic separation schemes "In the Santa Barbara Channel" and "In the Approaches to Los Angeles—Long Beach" as adopted by the International Maritime Organization (IMO) (formerly the Inter-Governmental Maritime Consultative Organization) and described in part B–VII of the IMO publication "Ships' Routing" (sic.).

Following are the general findings which are most relevant to the need for routing measures in study area 22.

A. Activities

Study area 22 embraces the marine environment along the southern California coast, an area where the public attention has been focused on the conflicting uses of offshore waterways. The major activities within that area are described below:

—Four major seaports: Los Angeles, Long Beach, Port Hueneme and San Diego.
—Offshore lighting of oil in an area east of San Clemente Island.
—Offshore oil production platforms and a floating storage facility.
—Offshore exploratory drilling for oil and gas.
—Two traffic separation schemes.
—Major defense-related activities: not only are portions of the area employed for training and operations, the U.S. Navy Missile Test Center at Point Mugu and the Air Force range at Vandenberg AFB demand sea and air space for their operations.
—Commercial fishing and kelp harvesting, although small in terms of national economic impact.
—The Channel Islands National Marine Sanctuary.
—Over 300,000 recreational boaters.
—Numerous public beaches and areas important to tourism and surfing.

This usage is not static. Future developments include plans for construction of a major on-shore liquefied natural gas (LNG) facility just east of Point Conception; increased Outer Continental Shelf (OCS) activity; develoment of a marine sanctuary embracing a significant portion of the offshore area; and a forecast 300% increase in LA–LB cargo over the next 20 years (made in a study for the Army Corps of Engineers).

B. Vessel Traffic Pattern and Projections

The status of vessel routing and traffic densities in the waters off southern California was the subject to two separate Coast Guard vessel traffic surveys which were conducted in 1976 and 1979. In all, over 1500 vessels were boarded at Los Angeles-Long Beach and surveyed to determine, among other things, the route which the vessels had used to arrive at the port and the route that the vessel intended to use to reach its next port of call. The area which showed the most significant change was the Santa Barbara Channel.

Projecting the 1979 survey results through the 1980 vessel arrival statistics indicates that since 1976 the average number of daily vessel transits of the Santa Barbara Channel in each direction has increased from 6.5 to 13. This increase can be attributed to two factors. First, the number of vessel arrivals and departures from the ports of Los Angeles and Long Beach increased by 40 percent over the 4-year period. Second, the percentage of vessels using the Santa Barbara Channel Traffic Separation Scheme (SBCTSS), which had the route as an alternative, increased from 77 to 93 percent as indicated by the results of the two surveys. This second factor seems to indicate that mariners have become more comfortable with the SBCTSS as it has been in existence since 1969.

Certain factors tend to indicate that the cargo tonnage handled at the ports of LA/LB will rise dramatically in the near future while the number of vessels arrivals will rise at a slower rate. One factor in this trend is the Los Angeles Harbor Deepening Project. This project will allow deeper draft vessels to call on the port, thus allowing the cargo tonnage figures to increase without a corresponding increase in the number of vessel arrivals. The project will also create new major facilities which will increase both cargo tonnage and vessel arrivals. Additionally, the continued availability and relatively inexpensive cost of residual fuel will continue to cause a large number of vessels to call on the port only for the purpose of receiving bunker fuel. The effect of an advertised relocation of approximately twenty naval vessels from San Diego to Long Beach would be negligible in terms of the total traffic projections. Table I shows the projected number of vessel arrivals at the various ports and tanker moorings within study area 22.

TABLE I.—TOTAL VESSEL ARRIVALS AT PORTS AND OFFSHORE MOORINGS

	1980	1990	1995
Los Angeles-Long Beach	6,000	7,500	8,000
Port Hueneme	191	250	300
San Diego	304	320	350
Cojo Moorings	1	0	0
Gaviota Moorings	21	25	30
Elwood Moorings	77	80	80
Carpinteria Moorings	20	0	0
Ventura Moorings (2)	62	66	70
Mandalay Moorings	9	10	10
El Segundo	301	310	320
Huntington Beach Moorings	46	40	40

C. Competing Uses of the Waters of Southern California

The conflict with oil and gas exploration and development activities presents the most serious threat to navigational safety among the competing uses of the waters within study area 22. In the past, such activities were confined to the near shore areas of the Santa Barbara Channel and San Pedro Bay, but recent developments indicate a trend toward areas farther offshore. There have been four separate oil and gas lease sales on the Outer Continental Shelf since 1966 in which 148 Federal leases were sold. Additional sales are scheduled for 1982.

There are presently 30 platforms and artifical islands within study area 22. Thirteen of the platforms are located on the Outer Continental Shelf.

D. Description of Proposed Action

The study proposes to retain the existing LA/LB Traffic Separation Scheme (TSS) with slight modifications, and extend the Santa Barbara Channel Traffic Separation Scheme to the west into a precautionary area and then northwest, to route vessels outside areas of high oil and gas interest.

E. Alternatives to the Proposed Actions

The area immediately south of the Channel Islands was investigated in depth for possible port access route designation and is not recommended for a number of reasons. Detailed consulation with personnel from the Pacific Missile Test Center (PMTC) at Pt. Mugu indicates that any route selected in this area would virtually eliminate those operations performed by PMTC which are required to be free of non-participants. The required conditions for such operations could not be duplicated elsewhere at this range or at any other range in the continental United States. Also, the existing aids to navigation capabilities south of the Channel Islands would not meet the IMO criteria for the establishment of a traffic separation scheme. Furthermore,

if a south-of-the-islands route were established it would be an economic penalty, though slight, to shippers in coastwise trade and, if the route were made mandatory for U.S. vessels only, could create an unfair competitive advantage to foreign shipping.

Similarly, if vessels were routed south of the Channel Islands and around the Pacific Missile Range (PMR), as much as 200 additional steaming miles would be added to a journey from Los Angeles/Long Beach to San Francisco. This would result in an economic impact in the form of added fuel and other costs associated with the extra steaming time. In addition, the IMO aids to navigation criteria for the establishment of a TSS would not allow a TSS of sufficient length to route vessels around the sensitive areas of the PMR.

The possibility of designating a separate port access route for inbound laden tankers (ILT) was also investigated and not recommended. It is felt that at the present level of vessel traffic, laden tankers do not present a significantly greater risk or hazard than other commercial vessels. Additionally, any ILT route selected would be constrained by the same disadvantages as described above.

Conclusions and Recommendations

Following are the conclusions and recommendations of the Port Access Route Study for the coast of southern California:

I. Port Hueneme Fairway. The PWSA specifically delegates authority to establish shipping safety fairways to the Coast Guard. The fairway currently at the entrance to Port Hueneme (33 CFR 209.136) was created by the Corps of Engineers to control the erection of structures and provide an obstruction free corridor for vessel traffic. The study team in the Eleventh Coast Guard District has concluded that the present fairway should be retained, with a slight modification to encourage vessels to enter and depart from the Santa Barbara Channel TSS in accordance with Rule 10 of the International Regulations for Preventing Collision at Sea (72 COLREGS). This recommended modification steps the fairway short of its present junction with the TSS to eliminate the appearance of a right angle turn and encourage vessel traffic to join or leave the traffic lanes at a small angle to the general direction of traffic flow.

In order to implement the authority of PWSA, it is necessary for the Coast Guard first to adopt the existing Corps' fairway designation for Port Hueneme (33 CFR 209.136). The mechanics of this adoption will be a notice of proposed rulemaking to bring the Corps' fairway within the authority of PWSA, and to announce amendments to that fairway. Subsequently, the Corps is expected to delete its fairway regulations as appropriate. Although it will be the responsibility of the Coast Guard to designate the fairways, it will continue to be the responsibility of the Corps of Engineers to enforce the regulations by denying permits for structures in the defined areas.

The recommended Port Hueneme Shipping Safety Fairway would be described as follows:

The area enclosed by a line connecting the west jetty light at 34°08'40" N, 119°12'55" W, with the following geographic positions:

Latitude and Longitude

34°08'48" N	119°13'20" W
34°07'46" N	119°14'15" W
34°07'10" N	119°13'19" W
34°08'21" N	119°12'15" W

Thence to the east jetty light at 34°08'34" N, 119°12'40" W.

II. TSS LA/LB. The study concluded that the traffic separation scheme (TSS) into Los Angeles/Long Beach should be modified to alleviate problems of vessel traffic crossing in and near the pilot boarding area at the harbor entrance. Currently, vessels departing from Long Beach turn west at the breakwater and cross through the pilot boarding area to enter the northbound lane of the TSS. The recommended modification would consist of reducing a portion of the TSS separation zone from two miles to one mile in width; relocating the outbound lane one mile to the south; and merging with the existing two-mile separation zone at a slightly adjusted turn point in the TSS. Also, the precautionary area would be reduced in size on its eastern side, thus releasing area to offshore oil and gas activities.

The modified precautionary area, except for the anchorage area, would be designated as a shipping safety fairway to prohibit fixed structures in the junction between the two pairs of traffic lanes. This change is necessary to resolve the potential conflict between vessel navigation and offshore oil and gas activity. Present guidelines on exploratory drilling in the Gulf of Santa Catalina do not expressly prohibit exploratory drilling from taking place within the existing precautionary area. It is the opinion of the Coast Guard that any surface structure within the precautionary area as modified would create a hazard to navigation.

The recommended modifications to the TSS "In the Approaches to Los Angeles-Long Beach" are described as follows:

Western Approach

(a) A separation zone would be bounded by a line connecting the following geographical positions:

Latitude and Longitude

(1) 33°39'42" N	118°17'30" W
(2) 33°38'42" N	118°17'30" W
(3) 33°38'42" N	118°27'36" W
(4) 33°43'12" N	118°36'54" W
(5) 33°44'54" N	118°35'42" W
(6) 33°39'42" N	118°24'54" W

(b) A traffic lane for northbound coastwise traffic would be established between the separation zone and a line connecting the following geographical positions:

Latitude and Longitude

(7) 33°40'42" N	118°17'30" W
(8) 33°40'42" N	118°24'36" W
(9) 33°45'48" N	118°35'06" W

(c) A traffic lane for southbound coastwise traffic would be established between the separation zone and a line connecting the following geographical positions:

Latitude and Longitude

(10) 33°37'42" N	118°17'30" W
(11) 33°37'42" N	118°28'00" W
(12) 33°42'18" N	118°37'30" W

Precautionary Area

The Los Angeles/Long Beach Precautionary area would consist of the water area enclosed by the Los Angeles/Long Beach Breakwater, and a line connecting Point Fermin Light at 33°42'18" N, 118°17'36" W, with the following geographical positions:

Latitude and Longitude

33°37'42"N	118°17'30" W
33°37'42"N	118°06'30" W
33°48'24"N	118°10'48" W

It is recommended that a proposal to amend the existing TSS be submitted for the agenda of the most convenient meeting of the IMO Subcommittee on Safety of Navigation (SUBNAV). The proposal will then be submitted to the IMO Marine Safety Committe for adoption and international recognition.

Shipping Safety Fairway

It is recommended that a proposal to partially overlay the above precautionary area with a shipping safety fairway be published as an NPRM with opportunity for public comment. It would be described as the area enclosed by a line connecting the following geographic positions:

Latitude and Longitude

33°41'44"N	118°17'32"W
33°37'42"N	118°17'32"W
33°37'42"N	118°06'30"W
33°43'23"N	118°10'48"W

33°43'23"N	118°11'10"W
33°42'08"N	118°11'34"W
33°41'40"N	118°13'02"W
33°42'38"N	118°14'38"W
33°41'44"N	118°17'32"W

III. TSS Santa Barbara Channel. Though the present amount of vessel traffic through Santa Barbara Channel is relatively low, the conflict between vessel navigation and other uses, such as fishing, recreational boating, and offshore oil and gas operations, makes some form of designated port access routing a necessity. As a result of the study, the Coast Guard has concluded that the nature of vessel traffic and the accommodation of development of known Outer-Continental Shelf (OCS) oil and gas fields require the following modifications to the existing Santa Barbara Channel TSS:

(a) It is recommended that the existing TSS from Point Fermin to Point Conception be extended to a point which carries traffic west of the area included in OCS lease sale 48 (which adds tracts in and seaward of the entrance to the channel beyond the end of the existing TSS) and offshore of that which will be included in lease sale 58 (contiguous with sale 48 off Point Conception and extending northward into the coastal waters of the Twelfth Coast Guard District, known as the Santa Maria Basin). A generally north-south leg will have the effect of channeling traffic away from likely areas for future OCS development. (The Coast Guard is also considering use of a safety fairway to overlay the proposed extension of the TSS lanes and create an obstruction-free "buffer" of 500 yards on each side of the lanes. This fairway would align with the port access routes being recommended by the Twelfth Coast Guard District in a future Federal Register.)

(b) A precautionary area with a four (4) nautical mile radius is recommended to connect the extension of the existing generally east-west TSS with the new generally north-south TSS. It would also serve as a junction for transpacific traffic and for traffic merging with the Trans-Alaskan Pipeline System (TAPS) Tanker Route.

(c) It is recommended that the existing TSS be modified to accommodate proposed development of a known oil and gas field (Sockeye Field) whose longitudinal axis is approximately under the center of the outbound traffic lane north of Anacapa Island. This would be accomplished by relocation of the TSS approximately one half mile southward at this location, pivoted at the westerly end of this segment of the TSS at the above new precautionary area, with corresponding readjustment of the turnpoint with the existing TSS segment southeast of Anacapa Island. This modification is contingent upon successful exploratory drilling activity in the vicinity.

With the above three recommended modifications, the Santa Barbara Channel TSS and new precautionary area would consist of three parts, described as follows:

Part I

Precautionary Area

A precautionary area with a radius of four (4) nautical miles would be centered upon geographical position 34°27'18" N, 121°02'30" W.

Part II

Between Pt. Sal and Pt. Arguello

(a) A separation zone, two miles wide, would be centered upon the following geographical positions:

Latitude and Longitude

35°00'00" N	121°21'18" W
34°31'00" N	121°04'24" W

(b) A traffic lane, one mile wide, would be established on each side of the separation zone. These lanes may be overlaid by a wide shipping safety fairway.

The main traffic directions would be: 155°–335°.

Part III

Between Pt. Arguello and Pt. Vicente

(a) A separation zone, two miles wide, would be centered upon the following geographical positions:

Latitude and Longitude

34°26'06" N	120°57'54" W
34°03'06" N	119°16'36" W
33°44'06" N	118°36'16" W

(b) A traffic lane, one mile wide, would be established on each side of the separation zone.

The main traffic directions would be: 106°–286° and 120°–300°.

IV. Siting Criteria. The study was performed to determine the routing measures which should be established to provide safe access routes for vessels proceeding to or from the ports in southern California. Wile the objective was to identify the specific designations of safety fairways and TSS's, one of the study's findings was that the siting of structures immediately outside of a designated route can result in a negative impact on navigation safety.

Currently, siting of OCS drilling operations along the existing TSS in Santa Barbara Channel and the Gulf of Santa Cataline is governed by (1) Corps of Engineers regulations [33 CFR 209.138(a)] for exploratory drilling in the Gulf of Santa Cataline; and (2) a "buffer zone" concept which prohibits the location of permanent platforms within a 500 meter area on each side of each traffic lane but allows for temporary drill rigs with special permission. Such a zone is intended to provide a safety margin for the platform, allow attending vessels room to maneuver without concern for passing traffic in the adjoining lane, and prevent the usable portion of the traffic lane from being reduced by permanent structures on the border of the lane.

It is the conclusion of the study group that a follow-up effort in coordination with the Corps of Engineers is necessary to develop formal criteria for the siting of future OCS activities in the vicinity of designated port access routes. This action should address questions such as the siting of exploratory drilling rigs, subsea completions and permanent platforms in or near a traffic lane, separation zone or precautionary area. The following are recommended as guidelines which could be formalized:

(A) Prohibit all forms of obstruction within traffic lanes and precautionary areas. This prohibition would include fixed structures, exploratory drilling units, subsea completions that require installation or periodic workover servicing from within a lane, and the swing of floating facilities sited outside a lane. Anchor chains and subsurface buoys associated with the mooring system of a rig would be allowed if at least 125 feet below the sea surface. Temporary intrusion into a lane would be allowed under controlled conditions for the laying of pipelines and utility cables across a lane following procedures adopted by IMO for offshore TSS's.

(B) Allow exploratory drilling and permanent platforms in the TSS separation zone except where limited by the rules described for "buffer zones" below. Permanent structures would be subject to case by case review to insure appropriate mitigation measures are taken when other structures are located in the vicinity.

(C) Establish "buffer zones" of 500 meters on each side of a TSS traffic lane where no permanent structures would be allowed, but where exploratory drilling would be allowed under the following conditions:

(1) A minimum specific advance notice, such as 90 days to allow timely notice to mariners.

(2) No risk of "gating," i.e., no structures or drilling units on the opposite side of the lane for a transverse distance of the lane width plus two times the buffer zone width (or 1000

meters), and for a longitudinal distance parallel to the lane's axis for a distance of two miles on either side of the proposed site.

In sum, it is recommended that the regulations contained in 33 CFR 209.138(a) be evaluated for continued need and effectiveness, and that formal siting criteria for the offshore areas of southern California be developed by the appropriate government agencies.

On September 19, 1980, the Corps of Engineers published an NPRM which proposed a general permit for OCS structures within areas leased by the Bureau of Land Management as long as the structures are not within desiginated fairways or TSS's (45 FR 62732). The Coast Guard has discussed with the Corps' District Engineer the possibility of excluding those activities which would take place within the buffer of a TSS from the proposed Nationwide Permit Program under the discretionary authority outlined in section 330.7 of the proposed rules. Those activities would then be required to have individual permits to which navigation safety stipulations could be attached.

Comments on siting criteria as related to navigation safety in southern California can be addressed to the attention of Lieutenant Commander Jan Terveen at Commander (m), Eleventh Coast Guard District, Union Bank Building, 400 Oceangate Blvd., Long Beach, CA 90822.

V. Future Review. The recommeded port access routes are subject to future review as provided for by PWSA. Past experience in the Santa Barbara Channel indicates that the needs of exploratory activities can be accommodated without intrusion into the TSS lanes and that modifications to accommodate development should not be entertained until the exploitable oil and gas resources inside the Channel and near its seaward entrance are known.

Implementation

Implementation of the above study results will require the following:

(a) The existing Corps of Engineers shipping safety fairway designation for Port Huemene (33 CFR 209.136) must be adopted by the Coast Guard and modified by notice of proposed rulemaking (NPRM). It is expected that this action can be accomplished by mid 1983.

(b) Modifications to the existing traffic separation scheme (TSS) "In the Approaches to Los Angeles—Long Beach" must be submitted to the International Maritime Organization (IMO) (formerly the Inter-Governmental Maritime Consultative Organization) for adoption. It is expected that this application can be submitted for the Winter 1983 meeting of the Subcommittee on Safety of Navigation (SUBNAV).

(c) Establishment of a safety fairway to overlay the LA/LB precautionary area will be proposed in a NPRM. This action is scheduled for early 1983.

(d) Modifications to the existing TSS in the Santa Barbara Channel, and the extension of that TSS with a new precautionary area, will involve both a notice of proposed rulemaking and an application to IMO for adoption and international recognition of the extended scheme. It is expected that applications for these changes will be submitted to SUBNAV by early 1983. Adoption by the Maritime Safety Committee of IMO may take nine months. Amendments to a routing system can become effective no earlier than four months after IMO adoption.

(e) Promulgation of rules on siting of offshore structures in TSS's will require an NPRM. These rules may be initially proposed in conjunction with changes to the Santa Barabara Channel TSS. Meanwhile, the Coast Guard will communicate with the Corps of Engineers as to an effective means of regulating the siting of structures near TSS's.

Dated: June 21, 1982.

R. A. Bauman,

Rear Admiral, Coast Guard, Chief, Office of Navigation.

[FR Doc. 82-17139 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-14-M

[CGD-82-56]

Small Vessel Towing and Salvage Policy Study

AGENCY: Coast Guard, DOT.

ACTION: Notice of study; request for comments.

SUMMARY: The Chief of Staff of the Coast Guard appointed an Ad Hoc Group to review the Coast Guard's policy on small vessel towing and salvage by private enterprise. This Group solicits written comments from the public. These comments will assist the Group in determining whether the current policy requires revision.

DATE: Written comments should be submitted by July 31, 1982.

ADDRESSES: Comments should be submitted to and will be avilable for inspection at the Marine Safety Council (G-CMC/44), U.S. Coast Guard Headquarters, Room 4402, 2100 Second Street, SW., Washington, D.C. 20593. Normal working hours are 7:00 a.m. to 3:30 p.m., Monday thru Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Anthony, Commandant (G-CPE), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202-426-2430). Normal working hours are 7:00 a.m. to 3:30 p.m., Monday thru Friday, except holidays.

SUPPLEMENTARY INFORMATION: On April 30, 1982, the Chief of Staff of the Coast Guard appointed an Ad Hoc Group to review the Coast Guard's long standing policy on small vessel towing and salvage by private enterprise. The Group is to deliver its recommendations to the Chief of Staff by February 1, 1983.

That policy is contained in section 3 of the U.S. Coast Guard addendum to the National Search and Rescue Manual, (Commandant Instruction M16130.2), (old CG-308). The crux of this policy provides that:

> If, upon arrival at the scene, private enterprise is already there and is rendering assistance, or is willing to render assistance, the Coast Guard shall not interfere with the private activity unless it becomes apparent that private enterprise cannot cope with the situation and that action by the Coast Guard is necessary to prevent loss of life or property.

The Ad Hoc Group is composed solely of members and employees of the Coast Guard. The Group will limit its study to the review of Coast Guard policy on commercial assistance to mariners of vessels of approximately 100 gross tons or less.

Some commercial towing and salvage operators have stated that if more routine towing and salvage work were turned over to private business, the Coast Guard would have more resources to concentrate on saving lives and enforcing laws. These operators often complain that the Coast Guard, in responding to non-emergency calls for assistance, without charge, interferes with private enterprise.

In the first phase of the study, the Ad Hoc Group requests comments from the public. The Group may hold public meetings if the comments received demonstrate that public meetings will be beneficial and cost effective. The Group solicits comments from both commercial towing and salvage operators and vessel and recreational boat owners. The following information is specifically requested:

1. Information regarding the number of commercial towing and salvage operators in the United States, and their locations.

2. The capabilities of these operators.

3. Problems encountered by mariners from use of commercial towing and salvage operators.

4. Problems encountered by the commercial operators in arranging for towing and salvage.

5. Financial considerations.

6. Preferences that mariners have for either commercial or Coast Guard assistance, in terms of availability or responsiveness.

7. Other information considered relevant.

E. L. Sullivan, Capt., USCG,

Chief, Search and Rescue Division.

June 16, 1982.

[FR Doc. 82-16787 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular for Aircraft Simulator and Visual System Evaluation and Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on Proposed Advisory Circular (AC) 121-XX, Aircraft Simulator and Visual System Evaluation and Approval.

SUMMARY: This proposed advisory circular (AC) will establish an acceptable means of compliance for the evaluation and approval of aircraft flightcrew training simulators operated under the provisions of Parts 121 and 135 of the Federal Aviation Regulations (FAR's) and of simulators that can be used for the administration of flight checks described in Sections 61.157 and 61.163 of the FAR's.

DATE: Comments must be received on or before July 22, 1982

ADDRESS: Please submit your comments in duplicate to: Federal Aviation Administration, Flight Standards Division, ASO-205, P.O. Box 20636, Atlanta, Georgia 30320; or deliver to: Room 233, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Fell, Flight Standards Division (ASO-205), Southern Region, Federal Aviation Administration, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763-7773.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Flight Standards Division, ASO-205, P.O. Box 20636, Atlanta, Geogia 30320.

COMMENTS INVITED: Interested parties are urged to submit their comments on the proposed AC. Comments may be inspected at Room 233 between 8:30 a.m. and 5:00 P.m.

Issued in Washington, D.C. on June 16, 1982.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 82-17023 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; San Jose, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in San Jose, California which would construct an interchange at the junction of U.S. 101 and Yerba Buena Road, as well as construct new segments of Yerba Buena Road.

FOR FURTHER INFORMATION CONTACT: David L. Eyres, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809. Telephone: (916) 440-3541; or Glenn Roberts, Transportation Engineer, San Jose City Hall, Room 340, 801 North First Street, San Jose, California 95110. Telephone: (408) 277-5161.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the City of San Jose (CSJ), will prepare an environmental impact statement (EIS) on a proposal to construct an interchange at the intersection of Yerba Buena Road and U.S. 101. Associated with this project is minor widening of Yerba Buena Road and construction of a bridge over Coyote Creek. Upon completion of the project, Yerba Buena Road would be operational between Silver Creek Road on the east and Senter Road on the west. This proposed project would complete Yerba Buena as an arterial in conformance with the San Jose General Plan. The road would service the Evergreen area of San Jose, an area in which large-scale development has occurred and is planned for in the future. Several alternatives are being considered: (a) Yerba Buena underpass at 101 with no interchange (b) Yerba Buena underpass at 101 with full diamond interchange (c) Yerba Buena underpass at 101 with full diamond interchange except that Yerba Buena *west* of 101 will not be constructed and (d) Yerba Buena underpass at 101 with only on and off ramps to the north of Yerba Buena Road and no construction of Yerba Buena *west* of 101.

A community meeting was held on July 6, 1981 to inform area residents of the proposed plans and to solicit public input on the project. Cooperating agencies (including U.S. Department of Interior, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and U.S. Environmental Protection Agency) have been requested to provide their input into the proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to either the FHWA or CSJ at the addresses provided above.

Issued on June 15, 1982.

D. L. Eyres,

District Engineer, Sacramento, California.

[FR Doc. 82-16836 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[Docket No. RFA-305-82-1, Notice No. 4]

Consolidated Rail Corp.; Expedited Supplemental Transaction Proposals; Holyoke and Florence Secondaries; Denial of Petitions for Reconsideration; Corrections to Notice No. 3

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of denial of petitions for reconsideration of administrative determination and order regarding the transfer of Consolidated Rail Corporation's Holyoke and Florence Secondaries in the Commonwealth of Massachusetts; corrections to previous notice.

DATE: This notice is effective on issuance.

ADDRESS: Individual copies of the adminsitrative decision denying petitions for reconsideration filed in this docket may be obtained from the Office of Federal Assistance, FRA (RFA-20), 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: F. Colin Pease, Office of Federal Assistance, FRA (202) 472-9060.

SUPPLEMENTARY INFORMATION: On May 27, 1982, the Federal Railroad Administrator issued an administrative determination and order (decision) under section 305(g) of the Regional Rail Reorganization Act of 1973, as amended

by section 1155 of the Northeast Rail Service Act of 1981 (NERSA), requiring the transfer of the Consolidated Rail Corporation's (Conrail's) Holyoke and Florence Secondaries in the Commonwealth of Massachusetts to a subsidiary of the Pinsly Railroad Company (Pinsly). The decision was published as Notice No. 3 in Docket No. RFA–305–82–1 (47 FR 24683; June 7, 1982).

The FRA has received one petition for reconsideration of the merits of the decision submitted by the Massachusetts Central Railroad Corporation (MC). In addition, the New England Southern Railroad Co. (NES) submitted a letter enclosing copies of a complaint, motion for temporary restraining order, and other papers seeking to set aside FRA's decision that had been filed with the Special Court, Regional Rail Reorganization Act of 1973 (*Nes* ,v. *U.S. DOT et al.*, Civil Action No. 82–17). NES asked that its court filings and letter be treated as a petition for reconsideration only to the extent that NES "is deemed to be required by law" to exhaust its administrative remedies.

In addition, since the decision of May 27, 1982 FRA has discovered some minor corrections that are required to reflect printing errors, one omission of text from the double-spaced version of the decision document delivered for **Federal Register** publication, and one editorial change.

Action on Petitions

FRA has acted to deny the petitions for reconsideration submitted by MC and NES. Further, FRA has denied MC's petition for a stay of the effective date of the decision of May 27, 1982. The reasons for these denials are set forth in a decision document on file in Docket No. RFA–305–82–1, copies of which have been provided to parties of interest. Individual copies of the denial decision are available on request from the address set forth above.

Corrections to Decision of May 27, 1982

The decision of May, 1982, as published in the **Federal Register** of June 7, 1982 (47 FR 24683) is corrected to remedy printing errors as follows:

1. At page 24683, second column, fourth from the last line, delete "the".

2. At page 24686, first column, in the footnote, the text of the footnote beginning "NES' initial capitalization" through the end of the column should have been printed at the top of the first column in the body of the text.

The decision is further corrected by inserting prior to the table captioned "INITIAL CAPITALIZATION" the following subhead and text:

"Proposals"

"The proposals submitted by each of the parties on April 30, 1982 were amended during the negotiating process. All of the amended proposals contemplated essentially identical service frequency, 3 trips per week on the Florence Secondary and 5 trips per week of the Holyoke Secondary. All of the proposals also were based upon substantially the same purchase price and terms of sale with Conrail. A summary of the remaining facets of the proposals based upon the submissions of the prospective purchasers as they stood at the close of negotiations on May 25, 1982 follows. The summary covers only the operation of the Holyoke and Florence Secondaries."

Finally, the decision is corrected at page by adding at the top of column one, page 24687 the following paragraph:

"For the reasons set forth above, the Administrator finds and determines that the Pinsly subsidiary constituted and capitalized according to the Pinsly proposal, as amended, and in keeping with this administrative determination and the order set forth below, will be, at the time transfer, a qualified purchaser and a railroad in the Region within the meaning of section 305(g) of the Regional Rail Reorganization Act of 1973, as amended."

(Sec. 305(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745 745(g)), as amended by section 1155, Pub. L. No. 97–35, 95 Stat. 357, 679; and § 1.49(w) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.49(w)))

Issued in Washington, D.C. on June 17, 1982.

Robert W. Blanchette,

Federal Railroad Administrator.

[FR Doc. 82–16920 Filed 6–23–82; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

[Docket No. EX82–3; Notice 1]

Electric Auto Corporation; Petition for Temporary Exemption From Federal Motor Vehicle Safety Standards

Electric Auto Corporation of America, of Southfield, Michigan, has petitioned for temporary exemption from several Federal motor vehicle safety standards. The basis of the petition is that compliance would cause substantial economic hardship.

Notice of receipt of the petition is published in accordance with NHTSA regulations on this subject (49 CFR 555.7) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Electric Auto Corporation of America ("Electric Auto") is a subsidiary of Electric Auto Corporation Bahamas Limited of Freeport, Bahamas. It has produced ten pre-production prototypes of a passenger car called the "Silver Volt", intended as a luxury automobile. Electric Auto hopes to build 200 vehicles in 1982 and 1200 vehicles in 1983. The base vehicle is the Buick Regal rear wheel drive intermediate station wagon body to which substantial modifications are made. Petitioner offers the information that the Silver Volt is a successor to the Transformer I based on a Chevrolet Chevelle body, whose manufacturer Electric Fuel Propulsion Corp. was granted NHTSA Exemption No. 75–19.

Petitioner has asked for a two-year exemption from portions of eight Federal motor vehicle safety standards at the end of which it believes it will comply fully. The standards are:

1. Standard No. 103, *Defrosting and Defogging Systems.* Silver Volt is fitted with the ESPAR combustion type heater used on Volkswagon Microbus and Beetle models, which have been certified as conforming to Standard No. 103. The unit incorporates a heated water jacket type ESPAR "which has a more effective direct application of heat to the screen for defrosting and defogging using thermal transfer into the existing GM heater core."

Petitioner believes that Silver Volt meets Standard No. 103 but that if it does not, retooling costs of $50,000 will be required.

2. Standard No. 105 *Hydraulic Brake Systems.* Petitioner asks for relief from paragraph S7.3, the first (pre burnish) effectiveness test of the service brake system which "have not been carried out under the required controlled conditions". But Silver Volt may comply as it is based upon a complying GM vehicle, and its GVW is within 5 percent of that of the GM-based Transformer I which met S7.3. Further, Silver Volt "has regenerative braking down to 10 m.p.h. which will assist the hydraulic braking system".

3. Standard No. 201, *Occupant Protection in Interior Impact.* The interior structures of Silver Volt are so similar to those of the GM host vehicle that the vehicle probably conforms.

4. Standard No. 204, *Steering Control Rearward Displacement.* As a result of an independent study of structural integrity, certain structural reinforcements have been made to the Silver Volt chassis, to prevent excessive chassis deformation. Petitioner has also

concluded that the 15-inch extension it makes to the front bodywork "would considerably assist in reducing the severity of damage to the passenger compartment on impact."

5. Standard No. 212, *Winshield Mounting.* The independent study referenced above has concluded that there should be no "serious structural deformation in a crash in the windshield area which would negate the G.M. certification under FMVSS 212".

6. Standard No. 216, *Roof Crush Resistance.* The force to be applied to the roof to demonstrate crush resistance is 5,000 pounds, the same as for the Buick wagon host car. Therefore Silver Volt ought to comply. If modifications are needed, retooling costs in excess of $300,000 would be incurred.

7. Standard No. 219, *Windshield Zone Intrusion.* Petitioner places reliance on performance under this standard for reasons similar to Standard No. 212.

8. Standard No. 301 *Fuel System Integrity.* Silver Volt is equipped with a 5.8 gallon gasoline tank which supplies fuel for the combustion type heater and auxiliary power unit. The tank "is mounted in a well protected central location in the vehicle and is filled through a filler neck located above the off-side wheel well cover underneath the hood".

However, tests and modifications that may be required to show conformance to Standards Nos. 201, 204, 212, 219, and 301 could cost $1,200,000 inclusive. The company's net incomes in 1979 and 1980 were $383,000 and $395,000, respectively.

Petitioner avers that an exemption would be in the public interest and consistent with the objectives of the National Traffic and Motor Vehicle Safety Act because, as an electric vehicle, it is not a contributor to air pollution, and it is an alternative form of transportation which "will reduce the national dependency on foreign oil supply."

Interested persons are invited to submit comments on the petition of Electric Auto Corporation of America, Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 26, 1982.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 18, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-17113 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in May 1982. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2787-X	DOT-E 2787	U.S. Department of Defense, Washington, DC.	49 CFR 173.302(a)(1), 175.3	To authorize use of a non-DOT specification pressure vessel equipped with a regulating valve, a pressure relief valve, and a squibb actuated valve packed in a wooden, metal or polystyrene container for transportation of a certain nonflammable compressed gas. (Modes 1, 2, 3, 4.)
3302-X	DOT-E 3302	Airco Industrial Gases, Murry Hill, NJ	49 CFR 173.302, 175.3	To authorize use of non-DOT specification sampling bottles (cylinders) packed in an outside aluminum or stainless steel portable case, for shipment of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3606-X	DOT-E 3606	Walter Kidde & Company, Incorporated, Belleville, NJ.	49 CFR 173.304, 175.3	To authorize use of a non-DOT specification container for shipment of a nonflammable compressed gas. (Modes 1, 2, 3, 4.)
3737-X	DOT-E 3737	U.S. Department of Defense, Washington, DC.	49 CFR 172.101	To authorize shipment of certain military explosives in appropriate military or DOT specification packaging which have improper markings. (Modes 1, 2.)
4052-X	DOT-E 4052	The Boeing Company, Seattle, WA.	49 CFR 173.305, 173.34(d), 175.3	To authorize shipment of an aerosol formulation pressurized with nitrogen in a DOT Specification 39 seamless aluminum cylinder. (Modes 1, 2, 4, 5.)
4453-X	DOT-E 4453	Gulf Oil Chemicals Company, Overland Park, KS.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4453-X	DOT-E 4453	Cassbier Bulk Transport Co., Inc., Beaver Dam, KY.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4453-P	DOT-E 4453	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.114a(h)(3)	To become a party to Exemption 4453. (Mode 1.)
4453-X	DOT-E 4453	Alamo Explosives Company, Inc., Houston, TX.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-type tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture. (Mode 1.)
4850-X	DOT-E 4850	Ensign Bickford Company, Simsbury, CT	49 CFR 173.100(cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grams per lineal foot of a high explosive. (Modes 1, 2, 4.)
5206-E	DOT-E 5206	Atlas Powder Company, Dallas, TX	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
5243-E	DOT-E 5243	IMC (Comsol Division), Des Plaines, IL	49 CFR 173.103(a), 173.86(g)(1), 177.835(g).	To become a party to Exemption 5243. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
5322-X	DOT-E 5322	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification styrofoam or vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
5454-X	DOT-E 5454	Air Products and Chemicals, Incorporated, Allentown, PA.	49 CFR 173.301(d), 173.304(a)(2)	To authorize shipment of sulfur hexafluoride in DOT Specifications 3A1800, 3AA1800, 3AAX2400 and 3T1800 cylinders. (Modes 1, 3.)
5456-X	DOT-E 5456	J.T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.245, 173.247, 173.263, 173.266, 173.269, 173.272, 173.349.	To authorize transport of certain poison B liquids, liquid corrosive materials and oxidizers in non-DOT specification glass carboys, overpacked in an expanded polystyrene drum. (Modes 1, 2, 3.)
5704-P	DOT-E 5704	Trojan Corporation, Spanish Fork, UT	49 CFR 173.62, 173.93(e)	To become a party to Exemption 5704. (Modes 1, 2, 3.)
5749-X	DOT-E 5749	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.315(a)	To authorize use of an insulated nickelsteel DOT Specification MC-331 cargo tank for transportation of a certain flammable gas. (Mode 1.)
5852-X	DOT-E 5852	South Jersey Gas Company, Folsom, NJ	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated cargo tanks for transportation of certain flammable liquefied compressed gases. (Mode 1.)
5852-X	DOT-E 5852	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated cargo tanks for transportation of certain flammable liquefied compressed gases. (Mode 1.)
5891-X	DOT-E 5891	U.S. Department of Energy, Washington, DC.	49 CFR 173.64(a)(4)	To authorize transport of high explosives in quantities greater than those authorized in 49 CFR in DOT specification 15A wooden boxes. (Mode 1.)
5967-X	DOT-E 5967	Rocket Research Corporation, Redmond, WA.	49 CFR 173.304(a)(2), 175.3	To authorize use of non-DOT specification cylinders (cool gas generators) for the transportation of a nonflammable gas. (Modes 1, 2, 4, 5.)
6016-X	DOT-E 6016	Southern Welding Supply Co., Inc., Bowling Green, KY.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Weiler Welding Company, Incorporated, Dayton, OH.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specificaton portable tanks. (Mode 1.)
6016-X	DOT-E 6016	S.J. Smith Co., Inc. Davenport, IA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Acety-Arc, Inc., Paducah, KY	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Kanweld Welding Equipment & Supplies, Kankakee, IL.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Wilson Welding Supply, Inc., Warren, MI	49 CFR 173.315(a)	To authorize shipment of liquid oxygen nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Huber Supply Company, Mason City, IA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen and argon in non-DOT specification portable tanks. (Mode 1.)
6113-X	DOT-E 6113	Fitchburg Gas and Electric Light Co., Canton, MA.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-X	DOT-E 6113	Bay State Gas Company, Canton, MA	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6113-P	DOT-E 6113	Atlanta Gas Light Company, Atlanta, GA	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6113. (Mode 1.)
6113-X	DOT-E 6113	Northwest Natural Gas Company, Portland, OR.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank for shipment of certain flammable gases. (Mode 1.)
6128-X	DOT-E 6128	Hapag-Lloyd, Ag Hamburg, Germany	49 CFR 173.119, 173.125(a), 173.245(a), 173.346(a).	To authorize use of non-DOT specification intermodal stainless steel portable tanks for shipment of flammable liquids, corrosive materials, Poison B liquids, combustible liquids and oxidizers. (Modes 1, 2, 3.)
6197-P	DOT-E 6197	Atlanta Gas Light Company, Atlanta, GA	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 6197. (Mode 1.)
6197-X	DOT-E 6197	Providence Gas Company, Providence, RI.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specifiosation vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
6197-X	DOT-E 6197	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
6197-X	DOT-E 6197	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum-perlite insulated cargo tank for transportation of certain flammable gases. (Mode 1.)
6225-X	DOT-E 6225	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(g)	To authorize shipment of bromine in a round glass jug packed in a DOT Specification 33A expanded polystyrene case overpacked in a double wall C8 flute or a DOT Specification 15A100 wooden box with zonolite cushioning and absorbent material. (Modes 1, 3.)
6305-X	DOT-E 6305	Ensign Bickford Company, Simsbury, CT	49 CFR 173.113(a)(1)	To authorize the shipment of a certain class C explosive in DOT Specification 23F35 fiberboard boxes. (Modes 1, 2.)
6305-P	DOT-E 6305	IMC (Cornsol Division), Des Plaines, IL	49 CFR 173.113(a)(1)	To become a party to Exemption 6305. (Modes 1, 2.)
6325-X	DOT-E 6325	Mining Services International, Salt Lake City, UT.	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tank or DOT Specification MC-306, MC-307, or MC-312 cargo tanks. (Mode 1.)
6325-X	DOT-E 6325	Austin Powder Company, Cleveland, OH	49 CFR 173.154(a)	To authorize transport of oxidizers in non-DOT specification cargo tank or DOT Specification MC-306, MC-307 or MC-312 cargo tanks. (Mode 1.)
6325-P	DOT-E 6325	Mesabi Powder Company, Hibbing, MN	49 CFR 173.154(a)	To become a party to Exemption 6325. (Mode 1.)
6397-X	DOT-E 6397	Allied Corporation, Morristown, NJ	49 CFR 173.346(a)	To authorize shipment of certain Class B poisonous liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6397-X	DOT-E 6397	Pennwalt Corporation, Philadelphia, PA	49 CFR 173.346(a)	To authorize shipment of certain Class B poisonous liquids in DOT Specification 34 polyethylene containers. (Modes 1, 2.)
6453-X	DOT-E 6453	General Motors Corporation, Detroit, MI	49 CFR 173.302(a)(1), 175.3	To authorize use of a non-refillable, welded steel cylinder built in compliance with DOT Specification 39 with certain exceptions, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 4, 5.)
6464-X	DOT-E 6464	Bay State Gas Company, Canton, MA	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification cargo tanks for shipment of certain flammable gases. (Mode 1.)
6468-X	DOT-E 6468	Ensign Bickford Company, St. Simsburg, CT.	49 CFR 173.68(a)(1), 173.87	To authorize shipment of a Class A explosive in DOT Specification 12H fiberboard boxes. (Mode 1.)
6468-X	DOT-E 6468	Monsanto Company, St. Louis, MO	49 CFR 173.68(a)(1), 173.87	To authorize shipment of a Class A explosive in DOT Specification 12H fiberboard boxes. (Mode 1.)
6571-P	DOT-E 6571	Utilities Board City of Trussville, Trussville, AL.	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6571. (Mode 1.)
6602-P	DOT-E 6602	Dow Chemical Company, Midland, MI	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6602-P	DOT-E 6602	Jones Chemicals, Incorporated, Caledonia, NY.	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)
6614-X	DOT-E 6614	Hill Brothers Chemical Company, Tucson, AZ.	49 CFR 173.263(a)(20), 173.277(a)(6)	To authorize use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box, for transportation of certain corrosive liquids. (Mode 1.)
6637-X	DOT-E 6637	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(26), 173.265(d)(6), 173.266(b)(6), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b), 176.19.	To authorize manufacture, marking and sale of non-DOT Specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, 3.)
6704-X	DOT-E 6704	Dow Chemical Company, Midland, MI	49 CFR 173.245a, 173.249, 173.253, 173.294, 176.340, 176.343.	To authorize use of non-DOT specification cargo tanks for shipment of certain corrosive liquids. (Mode 1.)
6731-X	DOT-E 6731	U.S. Department of Defense, Washington, DC.	49 CFR 173.266(b), 175.3	To authorize an M72E1 simulant chemical agent identification training set, in vials and ampoules which must be cushioned with sufficient absorbent cushioning materials, overpacked in a strong metal container. (Modes 1, 4.)
6743-X	DOT-E 6743	Atlas Powder Company, Dallas, TX	49 CFR 173.114a(h)(3), 173.182	To authorize shipment of an oxidizing material and a blasting agent in DOT Specification 56 or 57 portable tanks. (Mode 1.)
6762-P	DOT-E 6762	Industrial Water Chemicals, Chattanooga, TN.	49 CFR 173.266(b)(2), 175.3	To become a party to Exemption 6762. (Modes 1, 2, 3, 4.)
6765-P	DOT-E 6765	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6765. (Modes 1, 2.)
6768-X	DOT-E 6768	Van De Mark Chemical Company, Inc., Lockport, NY.	49 CFR 172.101, 173.315(a)(1)	To authorize use of a non-DOT specification vacuum insulated cargo tank for shipment of a flammable gas. (Mode 1.)
6787-X	DOT-E 6787	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To authorize manufacture, marking and sale of DOT specification 34 polyethylene drums for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3.)
6805-X	DOT-E 6805	Union Carbide Corporation, Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize use of DOT Specification 3AAX steel cylinders for shipment of a flammable compressed gas. (Mode 1.)
6828-X	DOT-E 6828	American Home Products Corporation, New York, NY.	49 CFR 173.1200(a), 173.244(a)	To authorize use of inside glass bottles in non-DOT specification fiberboard boxes, for shipment of certain corrosive materials. (Modes 1, 2, 3.)
6844-P	DOT-E 6844	American Cyanamid Company, Wayne, NJ.	49 CFR 173.249a	To become a party to Exemption 6844. (Modes 1, 2, 3.)
6859-X	DOT-E 6859	Pyronetics Devices, Incorporated, Denver, CO.	49 CFR 173.302(a)(1), 173.34(d), 175.3	To authorize use of non-DOT specification nonrefillable titanium alloy spherical pressure vessel for shipment of a nonflammable compressed gas. (Modes 1, 3, 4.)
6861-X	DOT-E 6861	Teledyne McCormick Selph, Hollister, CA	49 CFR 173.65(a)	To authorize use of DOT Specification 21P fiber drums with DOT Specification 2SL or 2U polyethylene liners. (Mode 1.)
6919-X	DOT-E 6919	Minnesota Gas Company, Minneapolis, MN.	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification insulated cargo tank for shipment of certain flammable gases. (Mode 1.)
6963-X	DOT-E 6963	I.S.C. Chemicals Limited, Bristol, England	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks for the transportation of hydrofluoric acid and anhydrous hydrofluoric acid. (Modes 1, 3.)
6999-X	DOT-E 6999	U.S. Department of Defense, Washington, DC.	49 CFR 176.120(b)	To authorize cargo loading hatches of vessels being loaded with military-explosives to remain open overnight with certain exceptions. (Mode 3.)
7013-P	DOT-E 7013	Airco Welding Products, Murray Hill, NJ	49 CFR 173.315(a)(1)	To become a party to Exemption 7013. (Mode 1.)
7025-P	DOT-E 7025	Union Carbide Corporation, Danbury, OH	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7025. (Mode 1.)
7025-P	DOT-E 7025	Jack B. Kelley, Inc., Amarillo, TX	49 CFR 172.101, 173.315(a)(1)	To become a party to Exemption 7025. (Mode 1.)
7052-P	DOT-E 7052	Kaman Aerospace Corporation, Bloomfield, CT.	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7052-P	DOT-E 7052	Raytheon Company, Portsmouth, RI	49 CFR 172.101, 173.3	To become a party to Exemption 7052. (Modes 1, 2, 3, 4.)
7060-X	DOT-E 7060	Aerotransit, Incorporated, Danvers, MA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Suburban Airservice, Incorporated, Laurel, MD.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Atlantic Air, Inc., Baltimore, MD	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Federal Express Corporation, Memphis, TN.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Air Charter Services, Inc., Mansfield, MA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Charles R. Wall, d/b/a HZm RAM Air, Cornelius, OR.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Express Airways, Inc., Sanford, FL	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Las Vegas Airlines, Incorporated, Las Vegas, NV.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Sajen Air, Inc., Manchester, NH	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7060-X	DOT-E 7060	Summit Airlines, Inc., Philadelphia, PA	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7072-X	DOT-E 7072	Container Corporation of America, Wilmington, DE.	49 CFR Part 173, Subparts D, E, F	To authorize use of non-DOT specification polyethylene DOT-34-Type containers for shipment of certain hazardous materials. (Modes 1, 2, 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7077-X	DOT-E 7077	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.316(a)(1)	To authorize use of a non-DOT specification portable tank for shipment of certain nonflammable and flammable gases. (Modes 1, 3.)
7218-X	DOT-E 7218	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a), 173.304(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic full composite cylinder, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7485-X	DOT-E 7485	State of Alaska, Dept. of Transportation, Juneau, AK.	49 CFR 173.304, 176.83, 176.905(1), Part 172, Part 176, Subpart H.	To authorize stowage of transport motor vehicles and liquefied petroleum gases aboard passenger vessels. (Mode 3.)
7545-X	DOT-E 7548	U.S. Department of Defense, Washington, DC.	49 CFR 146.29-100	To authorize stowage of explosives on deck of vessel, over the square of the hatch. (Mode 3.)
7595-X	DOT-E 7595	American Cyanamide Company, Wayne, NJ.	49 CFR 173.356, 173.359	To authorize transport of certain poison B liquids in DOT Specification MC-312 cargo tanks. (Mode 1.)
7621-X	DOT-E 7621	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.353, 173.357	To authorize use of an ISO portable tank for shipment of methyl bromide, and chloropicrin. (Modes 1, 2, 3.)
7636-X	DOT-E 7636	Minnesota Valley Engineering, New Prague, MN.	49 CFR 173.304(a), 175.3	To authorize manufacture, marking and sale of DOT Specification 4L cylinders for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4.)
7651-X	DOT-E 7651	Austin Powder Company, Cleveland, OH	49 CFR 173.95(a), 177.834(i)(1)	To authorize shipment of a Class B liquid explosive in non-DOT specification sealed tanks. (Mode 1.)
7654-X	DOT-E 7654	Mallinckrodt, Incorporated, Paris, KY	49 CFR 173.119(l)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7754	Texas Eastman Company, Longview, TX	49 CFR 173.119(l)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7654-X	DOT-E 7654	Eastman Kodak Company, Rochester, NY.	49 CFR 173.119(l)	To authorize use of a glass bottle not exceeding 500 milliter capacity inside a metal container overpacked in a DOT Specification 12B fiberboard box for transportation of a flammable liquid. (Modes 1, 2.)
7674-X	DOT-E 7674	U.S. Department of Defense, Washington, DC.	49 CFR 174.104(a)	To authorize shipment of certain Class A explosives on flat-cars and open-top rail cars. (Mode 2.)
7708-X	DOT-E 7708	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To authorize use of of non-DOT specification girth welded cylinders for shipment of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
7714-X	DOT-E 7714	Suttons International Limited, London, England.	49 CFR 173.119, 173.125, 173.245, 173.346, 173.636, 46 CFR 90.05-35.	To authorize use of of non-DOT specification portable tank for shipment of certain poisonous, corrosive, flammable and combustible liquids and ORM-A commodities. (Modes 1, 2, 3.)
7731-X	DOT-E 7731	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 172.101, 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification super-insulated portable tanks for shipment of pressurized liquid helium. (Modes 1, 3.)
7737-X	DOT-E 7737	Parker Hannifin Corporation, Eastlake, OH.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 175.3, 178.42.	To authorize manufacture, marking and sale of non-DOT specification seamless aluminum cylinders for shipment of compressed gases. (Modes 1, 2, 3, 4.)
7753-P	DOT-E 7753	Mobil Chemical Company, Richmond, VA	49 CFR 173.190(b)(2)	To become a party of Exemption 7753. (Modes 1, 2, 3.)
7777-X	DOT-E 7777	Saunders Chemical Company, Evans, CO	49 CFR 173.248	To authorize use of DOT Specification 34 polyethylene containers, DOT Specification 12B or 12P corrugated fiberboard boxes, or DOT Specification 6D or 37M cylindrical steel overpacked with an inside Specification 28A, polyethylene containers for shipment of spent sulfuric acid. (Modes 1, 2, 3.)
7788-X	DOT-E 7788	Southern Chemical Products Company, Macon, GA.	49 CFR 178.19, Part 173, Subpart F	To authorize shipment of corrosive liquids in 20 and 35 gallon capacity rotationally molded polyethylene drums. (Modes 1, 2, 3.)
7828-X	DOT-E 7828	Alaska International Air, Anchorage, AK	49 CFR 172.101, 175.3	To authorize carriage of a larger quantity of liquid petroleum gas in DOT Specification 51 steel portable tanks. (Mode 4.)
7835-X	DOT-E 7835	Matheson, Secaucus, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7886-X	DOT-E 7886	U.S. Department of Defense, Washington, DC.	49 CFR 173.145, 173.31(a)(4), 179.200-7(d).	To authorize transport of methylhydrazine in DOT Specification 103A-ALW or 103CW tank cars. (Mode 2.)
7909-X	DOT-E 7909	Dow Chemical Company, Midland, MI	49 CFR 172.203, 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.345(a), 173.359(c), 173.364(a), 173.370(b), 173.370(d), 173.377(f), 175.3, 175.33.	To authorize transport of limited quantities of poisonous liquids and solids in non-DOT specification plastic, metal or plastic-coated glass containers. (Modes 1, 2, 4.)
7926-X	DOT-E 7926	State of Alaska, Juneau, AK	49 CFR 172.101	To authorize stowage of certain hazardous materials on the vehicle deck of passenger vessels. (Mode 3.)
7929-X	DOT-E 7929	C-I-L, Inc., Willowdale, Ont., Canada	49 CFR 173.65	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1, 2.)
7945-X	DOT-E 7945	HTL Industries, Incorporated, Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than that prescribed in the regulations in the construction of a cylinder patterned after the DOT Specification 4DS cylinders, with certain exceptions for shipment of a nonflammable compressed gas. (Modes 1, 2, 4, 5.)
7972-X	DOT-E 7972	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of Class A and B explosives in a special shipping container without placarding the vehicle. (Mode 1.)
7988-X	DOT-E 7988	DOW Chemical Company, Midland, MI	49 CFR 173.154	To authorize transport of sodium persulfate in non-DOT specification composite polyethylene-paper bags. (Modes 1, 2.)
8129-P	DOT-E 8129	Environmental Transfer Corporation, Cedar Knolls, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Advanced Environmental Technology Corporation, Morris Plains, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Florida State University, Tallahassee, FL	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Drew Chemical Corporation, Boonton, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Emergency Technical Services Corporation, Morris Plains, NJ.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Bell Laboratories, Murray Hill, NJ	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8133-X	DOT-E 8133	Alpha Chemical Company, Lake Charles, LA.	49 CFR 173.245(a)(31)	To authorize use of DOT Specification MC-306 type 316 stainless steel cargo tanks for the transportation of a corrosive liquid. (Mode 1.)
8156-X	DOT-E 8156	Liquid Carbonic Corporation, Chicago, IL	49 CFR 173.121, 173.302(a)(4), 173.302(f), 173.304(a)(1).	To authorize the shipment of flammable and nonflammable compressed gases and carbon bisulfide in DOT Specification 2S steel cylinders up to 225 cubic inches in volume. (Modes 1, 2.)
8180-X	DOT-E 8180	M&T Chemicals Inc., Rahway, NJ	49 CFR 173.136(a)(3), 173.247(a)(7)	To authorize use of non-DOT specification steel drums for shipment of a corrosive material and a flammable liquid. (Modes 1, 2.)
8184-P	DOT-E 8184	Trojan Corporation, Spanish Fork, UT	49 CFR 173.65	To become a party to Exemption 8184. (Modes 1, 2, 3.)
8258-X	DOT-E 8258	Luxfer U.S.A. Limited, Riverside, CA	49 CFR 173.302(a)(1), 175.3	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8283-X	DOT-E 8283	Allied Corporation, Morristown, NJ	49 CFR 173.273(a)(4), 174.3	To authorize shipment of stabilized sulfur trioxide in DOT Specification 111A60W2 tank cars equipped with standpipe electrical heaters. (Mode 2.)
8299-X	DOT-E 8299	HTL Industries, Incorporated, Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT Specification welded stainless steel cylinder for shipment of compressed gases. (Modes 1, 2, 4, 5.)
8308-P	DOT-E 8308	Medical Emergency Transportation Corp., Califon, NJ.	49 CFR 177.842(a), 177.842(b)	To become a party to Exemption 8308. (Mode 1.)
8308-X	DOT-E 8308	Sky Cab, Inc., East Brunswick, NJ	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	United States Priority Transport Corporation, Huntington, NY.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	New England Nuclear Corporation, Boston, MA.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	Caspersen, Inc., Glencoe, IL	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	MHC Messengers, Inc., Avenel, NJ	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8308-X	DOT-E 8308	Associated Couriers, Inc., Maryland Heights, MO.	49 CFR 177.842(a), 177.842(b)	To authorize carriage of radioactive materials aboard highway vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met. (Mode 1.)
8316-X	DOT-E 8316	Van Camp Sea Food Company, San Diego, CA.	49 CFR 173.171	To authorize the shipment of fish meal containing less than 6% but not less than 5% water in paper bags not provided for in 49 CFR 173.171. (Modes 1, 2, 3.)
8339-X	DOT-E 8339	Eastern Steel Barrel Corporation, Piscataway, NJ.	49 CFR 173.119(a), (b), 173.245(a)(26), 173.245(b)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(26), 173.265(d)(6), 173.266(b)(6), 173.271, 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b), 178.19.	To authorize manufacture, marking and sale of non-DOT specification reusable molded polyethylene container for shipment of certain oxidizers, Class B poisons, corrosive, flammable liquids and a corrosive solid. (Modes 1, 2, 3.)
8361-X	DOT-E 8361	Yellow Spring Instrument Co., Inc., Yellow Spring, OH.	49 CFR 173.861, 173.862, 175.3	To authorize shipment of a temperature measuring device containing small quantity of gallium metal in non-DOT Specification containers. (Modes 1, 2, 4.)
8362-X	DOT-E 8362	Altus Corporation, San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize shipment of batteries containing lithium metal and thionyl chloride in DOT Specification 12B fiberboard boxes and DOT Specification 19B wooden boxes. (Mode 1.)
8363-X	DOT-E 8363	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.93(a)	To authorize shipment of certain solid propellant explosives in metal canisters overpacked in DOT Specification 12H65 fiberboard boxes. (Modes 1, 3.)
8375-X	DOT-E 8375	Sea Containers Inc., New York, NY	49 CFR 173.119, 173.125, 173.245, 173.247, 173.346, 173.347, 46 CFR 90.05-35, 46 CFR 98.35-3.	To authorize use of non-DOT specification portable tanks for shipment of certain flammable, combustible liquids, Poison B, corrosive and ORM-A materials. (Modes 1, 2, 3.)
8379-X	DOT-E 8379	3M Company, St. Paul, MN	49 CFR 173.154	To authorize transport of a flammable solid, n.o.s., in portable tanks complying with DOT Specification 57 except for capacity and specification identification. (Mode 1.)
8393-X	DOT-E 8393	Union Carbide Corporation, Tarrytown, NY.	49 CFR 172.101, 173.315, 176.76(b)	To authorize use of non-DOT specification vacuum insulated cargo tanks for shipment of certain nonflammable gases. (Mode 3.)
8404-X	DOT-E 8404	Minnesota Valley Engineering, Inc., New Prauge, MI.	49 CFR 173.304(a)(2)	To authorize manufacture, marking and sale of DOT Specification 4L vacuum insulated cylinder for shipment of nonflammable gases. (Modes 1, 2, 3.)
8427-X	DOT-E 8427	U.S. Department of Defense, Washington, DC.	49 CFR 173.276	To authorize use of a stainless steel DOT Specification 3A or 3E seamless cylinder for shipment of a flammable liquid. (Mode 4.)
8441-X	DOT-E 8441	General Motors Corporation, Detroit, MI	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	United Space Boosters, Inc., Huntsville, AL.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-P	DOT-E 8441	Plainview Electronics Corporation, Plainview, NY.	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Magnavox Electronics Systems Company, Fort Wayne, IN.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Honeywell Incorporated, Horsham, PA	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Power Conversion, Inc., Mount Vernon, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	U.S. Department of Defense, Washington, DC.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	Electrochem Industries, Inc., Clarence, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8441-X	DOT-E 8441	Battery Disposal Technology, Inc., Clarence, NY.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	U.S. Department of Energy, Washington, DC.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Wilson Greatbatch Ltd., Clarence, NY	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8441-X	DOT-E 8441	Duracell International, Inc., Tarrytown, NY	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-X	DOT-E 8441	Bunker Ramo Corporation, Westlake Village, CA.	49 CFR 172.101	To authorize shipment of depleted lithium cells and batteries to a disposal site in a DOT Specification 12B fiberboard box or any metal or fiber drum. (Mode 1.)
8441-P	DOT-E 8441	Jet Propulsion Laboratory, Pasadena, CA	49 CFR 172.101	To become a party to Exemption 8441. (Mode 1.)
8504-X	DOT-E 8504	Mississippi Tank Company, Hattiesburg, MS.	49 CFR 173.315(a), 173.315(c)(1)	To authorize manufacture, marking and sale of non-vacuum insulated DOT Specification MC-331 cargo tank for transportation of flammable gases. (Mode 1.)
8511-P	DOT-E 8511	Interox America, Houston, TX	49 CFR 173.266(f)	To become a party to Exemption 8511. (Modes 1, 2.)
8525-X	DOT-E 8525	ABC Containerlines, N.V., Antwerp, Belgium.	49 CFR 173.389(e)(1), 173.392(c), 176.700(h)(1), 176.700(h)(2).	To authorize shipment of mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions. (Modes 1, 2, 3.)
8558-P	DOT-E 8558	Trojan Corporation, Spanish Fork, UT	49 CFR 173.53	To become a party to Exemption 8558. (Mode 1.)
8565-P	DOT-E 8565	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.217(a)(3), 176.224	To become a party to Exemption 8565.
8570-X	DOT-E 8570	Snyder Industries, Incorporated, Lincoln, NB.	49 CFR 173 Subpart F, 173.119, 173.266	To authorize manufacture, marking and sale of non-DOT specification rotationally molded polyethylene portable tank for shipment of corrosive liquids, flammable liquids and an oxidizer. (Modes 1, 2.)
8585-X	DOT-E 8585	Bergen Barrel and Drum Company, Demarest, NJ.	49 CFR 173.247, 173.266, 178.19, Part 173, Subpart D, Subpart F, H.	To authorize manufacture, marking and sale of non-DOT specification reusable, rotationally molded, polyethylene container, for shipment of certain corrosive liquids and oxidizer. (Modes 1, 2, 3.)
8602-X	DOT-E 8602	Minnesota Valley Engineering, New Prague, MN.	49 CFR 172.101, 173.315	To authorize the manufacture, marking and sale of non-DOT specification vacuum insulated portable tanks for shipment of liquefied argon, nitrogen, and oxygen. (Mode 3.)
8627-P	DOT-E 8627	Petrolite Corporation, St. Louis, MO	49 CFR 173.119, 173.245	To become a party to Exemption 8627. (Mode 1.)
8732-P	DOT-E 8732	Ashland Chemical Company, Dublin, OH	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8732-P	DOT-E 8732	Coastal Chemical Company, Pasadena, TX.	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)
8732-P	DOT-E 8732	Van Waters & Rogers, San Jose, CA	49 CFR 173.245	To become a party to Exemption 8732. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8627-N	DOT-E 8627	Exxon Chemical Company, Houston, TX	49 CFR 173.119, 173.245	To authorize use of a non-DOT specification tank having six, sixty gallon compartments firmly mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
8722-N	DOT-E 8722	Northrop Corporation, Hawthorne, CA	49 CFR 172.101, 173.276, 174.3, 175.3, 175.30, 176.3.	To authorize shipment of hydrazine solution in non-DOT specification type 347 stainless steel, nonpressurized tanks. (Modes 1, 2, 3, 4, 5.)
8755-N	DOT-E 8755	U.S. Department of the Interior, Anchorage, AK.	49 CFR 172.101, 173.119, 175.3, 175.320(c).	To authorize shipment of gasoline and turbine fuel, classed as flammable liquids in non-DOT specification rubberized fabric containers (Sealdrums). (Mode 4.)
8799-N	DOT-E 8799	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.33(d)(1), 173.33(d)(2)	To authorize transport of solid metallic sodium in DOT Specification MC-330 or MC-331 cargo tanks. (Mode 1.)
8811-N	DOT-E 8811	American Hoechst Corporation, Somerville, NJ.	49 CFR 173.294(a), 178.340, 178.343-2	To authorize use of modified DOT specification MC-312 cargo tanks made of titanium for shipment of certain corrosive materials. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8632-N	DOT-E 8632	Dow Chemical Company, Midland, MI	49 CFR 173.252(a)(4)	To authorize shipment of bromine in a two compartmented DOT Specification MC-310 or MC-312 cargo tank with one compartment loaded to 35% capacity. (Mode 1.)
EE 8648-N	DOT-E 8648	GAF Corporation, Wayne, NJ	49 CFR 173.315(a)(1) table	To authorize shipment of vinyl methyl ether in DOT Specification MC-330 or MC-331 tank motor vehicles. (Mode 1.)
EE 8647-N	DOT-E 8647	University of California, Teleiaire, CA	49 CFR 173.272(f)(i)(20)	To authorize use of non-DOT specification steel portable tanks for shipment of sulfuric acid. (Mode 1.)
EE 8648-N	DOT-E 8648	Kerr Steamship Company, Long Beach, CA.	49 CFR 173.86(b), 176.11(a)(2)(i), 176.76(a).	To authorize a foreign flag vessel to carry mortar ammunition which is described, classed, packaged, marked, labeled, placarded, secured and loaded in accordance with the International Maritime Dangerous Goods Code through United States waters. (Mode 3.)
EE 8649-N	DOT-E 8649	Global International Airways, Kansas City, MO.	49 CFR 172.101 Column 8(b)	To authorize transport of rocket ammunition with explosive projectile, Class A explosive that is packed, marked, labeled and loaded in accordance with DOD procedures and requirements. (Mode 4.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7943-X	Chem Lab Products, Inc., Anaheim, CA	49 CFR 173.263(a)(16), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT Specification 12B except for handholes in top flaps. (Mode 1.)
7987-P	American Cyanamid Company, Wayne, NJ	49 CFR 173.343, 173.377.	To become a party to Exemption 7987. (Modes 1, 2.)

WITHDRAWALS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8552-N	Catalyst Research Corp., Baltimore, MD	49 CFR 172.240, 172.243, 173.206(d)(1), (f), 175.3.	To authorize shipment of lithium iodine cells or batteries contained in hermetically sealed metal cases overpacked in strong outside containers as essentially non-regulated. (Modes, 1, 2, 3, 4.)

Denials

4453–P Request by Mining Services International Corporation, Salt Lake City, UT to authorize use of a non-DOT specification bulk, hoppertype tank for shipment of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixture denied May 28, 1982.

6498–X Request by Luxfer U.S.A. Limited, Riverside, CA to authorize use of non-DOT specification aluminum cylinders for transportation of certain liquefied and nonliquefied compressed gases and certain other hazardous materials denied May 12, 1982, as being unnecessary.

7060–P Request by Southland Air Corporation, Pasadena, CA to authorize the carriage of radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met denied May 28, 1982.

8502–N Request by Bland Brothers, Incorporated, New York, NY to authorize shipment of devices identified as "trick noise makers, explosive" without the Class C explosive label applied to the outside of the package denied May 28, 1982.

8810–N Request by Burris Chemical, Inc., Augusta, GA to authorize use of DOT Specification 57 pprtable tank constructed of mild steel for transportation of sulfuric acid denied May 13, 1982.

8836–N Request by United States Steel Corporation, McKeesport, PA to authorize grinding in localized areas of a cylinder's sidewall which reduces the minimum thickness prescribed in the specifications for DOT 3A, 3AX, 3AA, 3AAX and 3T cylinders denied May 28, 1982.

Issued in Washington, D.C., on June 14, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-16906 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-60-M

[Docket No. 82–4W; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.553(d) to permit the maximum allowable operating pressure (MAOP) of two transmission line segments shown on drawing TO–T10–300–1–57, to be increased to 1170 psig from the current 1088 psig. These line segments are located in Wayne County, Pennsylvania, between mainline valves 322 and 323 on the Company's 300–1 transmission line.

Line 300–1 was designed and constructed in 1955 in accordance with the "USAS B31.8 Standard Code for Pressure Piping, Gas Transmission and Distribution Piping Sustem," a code of industry consensus standards for safe gas piping systems. Pipe in line 300–1 is 24 inches in diameter, with a 0.375 inch wall thickness. It was manufactured according to API Standard 5LX, grade X52 requirements. The design pressure of the line section between valves 322 and 323 is 1170 psig, based on a design factor of 0.72.

Although this line section was originally qualified to operate at 1170 psig by pressure testing after construction to 1300 psig, the highest actual operating pressure needed until now to serve customers has been 1088 psig.

When the Federal gas pipeline safety standards in 49 CFR Part 192 became effective in November 1970, this operating pressure of 1088 psig became the MAOP of the line section in accordance with § 192.619(a)(3). Subsequently, population density increased along the two segments of line for which the waiver is sought, causing them to be reclassified under § 192.5 from Class 1 to Class 2 locations. Thereafter, the entire line section was hydrostatically tested to at least 1470 psig for 8 hours, without leakage, a pressure level equivalent to 90.5 percent of the pipe's specified minimum yield strength (SMYS). This pressure test met the test requirements of § 192.611(c), governing confirmation or revision of MAOP when a pipeline's Class location has changed.

Under the provisions of §§ 192.553 and 192.555 governing permissible increases in a pipeline's MAOP (uprating), the 1470 psig pressure test and other steps performed by the Company requalified all but the two Class 2 segments of the line section for operation at an MAOP of 1170 psig. The two Class 2 segments are restricted from operation at the higher MAOP by § 192.553(d), which provides in relevant part that "a new maximum allowable operating pressure established under this subpart may not exceed the maximum that would be allowed under this part for a new segment of pipeline constructed of the same materials in the same location." In accordance with § 192.619(a), the maximum for a new pipeline in a Class 2 location constructed of pipe like that in line 300–1 would be 975 psig, or the design pressure for such a pipeline based on a 0.60 design factor. In contrast, this limitation did not affect the establishment of an 1170 psig MAOP for the remaining Class 1 portions of the line section, because a new pipeline of the same materials in the same Class 1 location would qualify for an 1170 MAOP under § 192.619(a) based on a design factor of 0.72. After the 1470 psig pressure test was made, two additional segments of the line section have changed from Class 1 to Class 2 locations. However, under the provisions of § 192.611(a), because they were previously tested to 90 percent of SMYS, these additional Class 2 segments may operate at their previously established MAOP of 1170 psig. The § 192.553(d) limitation does not apply since these additional segments were uprated to 1170 psig before the change in Class location occurred.

In support of its waiver request, the Company states that the current 1088 operating pressure is no longer adequate to meet its delivery demands for the

300–1 line. An additional 15 mmcfd of capacity are needed for the 1982–83 heating season. This capacity can most readily be provided by uprating the two Class 2 segments for which the waiver is sought to 1170 psig, or alternatively by replacing the two segments with new pipe at an estimated cost of $319,000. The Company also points out that the line section involved has been coated and cathodically protected against corrosion since 1956, and electrical surveys and visual inspections have shown the section to be sound and in excellent condition.

MTB believes that a waiver of § 192.553(d) to permit the proposed uprating should be granted because the two Class 2 segments for which the waiver is sought are not materially different with respect to design, construction, and leak and maintenance history from similar Class 2 segments in the same line section that now have an MAOP of 1170 psig. The distinguishing factor is merely the timing of the 1470 psig qualifying pressure test. Had it been performed before the two segments involved changed from Class 1 to Class 2, the segments could have been qualified for the higher 1170 MAOP without restriction by § 192.553(d).

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may desire. Communications should identify the Docket and Notice numbers and be submitted to: Dockets Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before July 26, 1982 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Branch, Materials Transportation Bureau, between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR Part 1.53(a), Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on June 17, 1982.

Melvin A. Judah,

Acting Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 82-16696 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-60-M

Office of the Secretary

[Notice 82-4]

Texas Offshore Port Inc.; Deepwater Port License Extension

AGENCY: Office of the Secretary, DOT.

ACTION: Extension of License Acceptance Period; request for public comment.

SUMMARY: The intent of this Notice is to solicit public comment on the request of Texas Offshore Port, Inc. (TOP) to extend for two years the date by which the deepwater port license offered TOP can be accepted. Public comments are being solicited on this Notice.

DATE: Comments must be received not later than July 26, 1982.

ADDRESS: Comments should be addressed to: Mr. Ernest T. Bauer, U.S. Department of Transportation, Office of Economics, Review and Analysis Division, Deepwater Port Staff, P–34, 400 7th Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ernest T. Bauer, (202) 426–4144.

SUPPLEMENTARY INFORMATION: On September 21, 1981, pursuant to section 4 of the Deepwater Port Act of 1974 (33 U.S.C. 1503), the Secretary of Transportation offered to TOP a license to own, construct, and operate a deepwater port off the coast of Freeport, Texas. The license decision provides that the license would not be effective unless it is accepted by June 21, 1982. The license itself includes a condition that construction of the deepwater port complex begin not later than two years after the effective date of the license, and the port complex be, within five years from such effective date, sufficiently complete to operate at its design capacity of an average daily throughput of 500,000 barrels.

In light of the current reduced demand for petroleum products and the uncertain near-term projections for crude oil imports, TOP desires to hold in abeyance the construction of its proposed deepwater port and has requested that it be granted a two-year extension of the time within which to accept the license. As an interim matter, a 60-day extension of the current deepwater port license offer, i.e., until August 20, 1982, has been granted.

The requested two-year extension, until June 21, 1984, remains under consideration. Our concern with the request centers on the duration of the extension to be granted. Under the Deepwater Port Act of 1974, the Department is prohibited from accepting other applications for the same location for which a license offer is outstanding. Although the Department is not aware at this of any other party that desires to submit an application for such a license, we are concerned that over the next two years another group may desire to propose a deepwater port in the TOP application area. We are therefore considering granting the two-year extension subject to revocation upon 30 days notice to TOP that another deepwater port license application has been received.

Public comment is invited on TOP's request for a two-year extension, and upon any other relevant issues. All comments received prior to the deadline will be considered.

(Deepwater Port Act of 1974, 33 U.S.C. 1501, *et seq.*)

Issued in Washington, D.C. on June 17, 1982.

Darrell M. Trent,

Deputy Secretary of Transportation.

[FR Doc. 82-16695 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-62-M

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, May 20–June 10, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between May 20, and June 10, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–1887 or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in

accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the Federal Register a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between May 20 and June 10, 1982:

- DOT No: 1943
OMB No: None
By: Federal Highway Administration (FHWA)
Title: Planning Program Financial Recordkeeping and Status Report
Forms: None
Frequency: Quarterly
Respondents: State Highway Departments
Need/Use: The clearance of this requirement is necessary for the FHWA to determine whether Federal-aid funds should be used for projects proposed by the States and to comply with Congressional reporting requirements.
This information is needed to report the status of expenditures for individual work activities in the annual Federal-Aid Highway Planning work program.

- DOT No: 1944
OMB No: 2133-0010
By: Maritime Administration
Title: Container/Trailer Report-Foreign Trade
Forms: MA-578A
Frequency: For each voyage
Respondents: Ship operators in waterborne foreign commerce of the United States
Need/Use: To assist the Maritime Administration in determining essentiality of services and U.S. flag service requirements and in supporting the Maritime Subsidy Board formal hearing procedures in connection with the award of long range subsidy contracts or amendment of existing contracts, all as required by the Merchant Marine Act, 1936.

Issued in Washington, D.C. on June 17, 1982.

Karen S. Lee,

Deputy Assistant Secretary for Administration.

[FR Doc. 82-16797 Filed 6-23-82; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series No. 15-82]

Series T-1984; Interest Rate

June 17, 1982.

The secretary announced on June 16, 1982, that the interest rate on the notes designated Series T-1984, described in Department Circular—Public Debt Series—No. 15-82 Dated June 10, 1982, will be 14¾ percent. Interest on the notes will be payable at the rate of 14¾ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-17053 Filed 6-23-82; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Depository Institutions Deregulation Committee	1
Federal Deposit Insurance Corporation	2-5
Federal Election Commission	6
Federal Maritime Commission	7
Federal Reserve System	8, 9
National Transportation Safety Board	10

1

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

TIME AND DATE: 3:30 p.m., June 29, 1982.

PLACE: Cash Room, Department of the Treasury (Use Pennsylvania Avenue Entrance), Pennsylvania Avenue between 15th Street and East Executive Avenue, Washington, D.C. 20220

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of alternative short-term deposit accounts.
2. Consideration of rules for establishment of interest rates on accounts not subject to interest rate limitations.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the DIDC office at the Department of the Treasury, and copies may be purchased for $5.00 per cassette by calling (202) 566-6152 or by writing to: Depository Institutions Deregulation Committee, Department of the Treasury, Room 1058 MT, Washington, D.C. 20220.

For further information about the DIDC and the June 29 meeting, please call (202) 566-3734.

June 22, 1982.

Steven L. Skancke,

Executive Secretary of the Committee.

[S-932-82 Filed 6-22-82; 11:31 am]

BILLING CODE 6210-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, June 28, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii), of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal procedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

United American Bank in Hamilton County, Chattanooga, Tennessee, for consent to merge, under its charter and title, with City Bank and Trust, East Ridge, Tennessee, and to establish the three offices of City Bank and Trust as branches of the resultant bank.

Request for extension of time to establish a branch:

Bank of Newport, Newport Beach, California, for an extension of time within which to establish its approved branch to be located at the intersection of Main Street and MacArthur Boulevard, Irvine, California.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 21, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-930-82 Filed 6-22-82; 11:50 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, June 21, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Accounting treatment of "goodwill" in mutual savings bank mergers.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: June 21, 1982.

Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-936-82 Filed 6-22-82; 3:48 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 28, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,161–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.
Memorandum and Resolution re: First State Bank and Trust Company, Rio Grande City, Texas.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Memorandum proposing the appointment of an agent for service of process in the State of Texas.

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be direted to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 21, 1982.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[S-931-82 Filed 6-22-82; 11:50 am]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, June 21, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,294–L (Amended)—Farmers Bank of the State of Delaware, Dover, Delaware
Case No. 45,295–L—Farmers Bank of the State of Delaware, Dover, Delaware

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: June 21, 1982.
Federal Deposit Insurance Corporation.
Alan J. Kaplan,
Deputy Executive Secretary.
[S-937-82 Filed 6-22-82; 3:48 pm]
BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, June 29, 1982 at 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Compliance. Litigation. Audits. Personnel.

PERSON TO CONTACT FOR INFORMATION:
Mr. Fred Eiland, Public Information Officer; Telephone: 202–523–4065.

Marjorie W. Emmons,
Secretary of the Commission.
[S-934-82 Filed 6-22-82; 3:02 pm]
BILLING CODE 6715-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., June 30, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreements Nos. 10392–2 and 10410–1: Applications for extensions of the U.S. Atlantic-Amazon Discussion Agreement and U.S. Gulf-Amazon Discussion Agreement, respectively.
2. Docket No. 80–58: Temporary Tariff Filing Regulations Applicable to Carriers and Conferences of such Carriers in the Foreign Commerce of the United States—Consideration of proposed final rule.
3. Proposed Rulemaking-Procedures and Requirements for Publishing Currency Adjustment Factors in the Exchange Rate of the Tariff Currency.
4. Docket No. 81–72: Seald-Sweet International, Inc. v. Sea-Land Service, Inc.—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-933-82 Filed 6-22-82; 2:36 pm]
BILLING CODE 6730-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:30 a.m., Tuesday, June 29, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to (a) the general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal actuarial, accounting, administrative, and other services as the Committee deems

necessary to carry out the provisions of the Plans.

Specific items will include proposed revisions to the Thrift and Retirement Plans for Employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 21, 1982.

William W. Wiles,

Secretary of the Board.

[S-929-82 Filed 6-22-82; 10:54 am]

BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, June 30, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: June 22, 1982.

James McAfee,

Associate Secretary of the Board.

[S-935-82 Filed 6-22-82; 3:47 pm]

BILLING CODE 6210-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-82-15]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 25089, June 9, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Thursday, June 17, 1982.

CHANGE IN MEETING: On Tuesday, June 22 at 10 a.m., the Board will reconvene the meeting which was recessed at 5 p.m., June 17. At that time, the Board will continue its discussion of agenda item No. 3, "*Highway Accident Report:* Pacific Intermountain Express Tractor Cargo Tank Semitrailer/Eagle F.B. Truck Lines, Inc., Lowboy Semitrailer Collision and Fire, U.S. Route 50, near Canon City, Colorado, November 14, 1981." In addition to the remaining two items on the agenda, the following item has been added:

6. *Board policy* on Marine Summary Reports.

A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382–6525.

June 21, 1982.

[S-928-82 Filed 6-21-82; 4:46 pm]

BILLING CODE 4910-58-M

federal register

Thursday
June 24, 1982

Part II

Department of Transportation

Federal Aviation Administration

Designated Airworthiness Representatives; Establishment of Category and Request for Comments on Proposed Advisory Circular

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 183

[Docket No. 23140; Notice No. 82-9]

Establishment of Designated Airworthiness Representatives (DAR) Category

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend Part 183 of the Federal Aviation Regulations (FAR) to provide for the establishment of Designated Airworthiness Representatives (DAR) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Adminstrator in performing certain certification functions under Title VI of the FA Act. This proposed amendment to Part 183 would enable the FAA to expand its designee program into new areas of delegation not presently provided for in Part 183. The expanded delegations proposed are necessary since the delegations presently authorized by Part 183 constrain the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates, under Title VI of the FA Act. This proposal would enable FAA to use its fiscal and human resources in a more effective manner to meet safety objectives. In addition, the proposed amendment would ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and would reduce or eliminate certain delays in obtaining required certifications.

DATE: Comments must be received on or before August 23, 1982.

ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 23140, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 23140. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy Delucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed amendment by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. The FAA is particularly interested in eliciting comments containing suggestions of specific areas in which expanded delegations and the use of DAR's in certification programs would ease regulatory burdens upon the aviation community.

Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address indicated above. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 233140." The postcard will be date/time stamped and returned to the commenter. All comments received on or before August 23, 1982 will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs; Attn: Public Information Center (APA-430), 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Synopsis of Proposal

Section 314 of the Federal Aviation Act permits the Secretary of Transportation to delegate to any properly qualified private person, any work, business or function respecting: (1) The examination, inspection, and testing necessary to the issuance of certificates under Title VI of the FA Act, and (2) the issuance of such certificates under Title VI of the FA Act, subject to such regulations, supervision, and review as he may prescribe. These certificates include but are not limited to: Type Certificates; Supplemental Type Certificates; Production Certificates; Approved Production Inspection System Authorizations; Technical Standard Order Authorizations; Airworthiness Certificates; Export Approvals and Certificates; Components Certifications; Airmen Certificates; Air Carrier/Operators Certificates; and Air Agency Certificates.

Private persons selected to act as designees are Representatives of the Administrator as detailed in Part 183. This "designee system," has been used extensively within the FAA for over 20 years and has been highly successful. For example, there are now approximately 850 private persons with delegated authority to function as Designated Manufacturing Inspection Representatives (DMIR's) of the Administrator, augmenting a workforce of approximately 140 FAA manufacturing inspectors. DMIR's conduct numerous inspections and certifications on behalf of the FAA, thus enabling the FAA to meet its safety objectives with a minimal number of FAA manufacturing inspectors. A DMIR authorization is, however, limited to the facilities of the manufacturer by whom the DMIR is employed. For this reason, the DMIR's services may not be used by the FAA in responding to the proliferation of requests for FAA examination, inspection, and testing services relating to the certification functions under Title VI of the FA Act that are not within the very limited scope of designations now authorized by Part 183. In fact, viewed in the context of increased foreign and domestic demand for FAA inspection and certification services, Part 183 does not provide the FAA with sufficient flexibility to fully utilize its statutory authority to delegate examination, inspection, and testing functions respecting issuance of Title VI

certificates. Therefore, the FAA plans to expand the areas (maintenance, manufacturing, and engineering) where designees might effectively be used to reduce government costs. The expanded delegations would be beyond those presently contained in Part 183, yet remain within those authorized by Section 314 of the FA Act. This approach is consistent with the goal of reducing costs by streamlining the operations of the government. This proposed amendment would also ease the burden of regulation on the aviation community by expediting the accomplishment of demonstrations of compliance required before the issuance of requested certifications. It would further reduce delays commonly experienced by manufacturers during type certification programs due to unavailability of FAA personnel, and thus expedite the introduction of new product lines. Similar delays encountered by persons attempting to return aircraft to service would also be minimized.

This proposed amendment would provide for the appointment of qualified persons as DAR's to perform functions not presently authorized in Part 183. In this manner, the FAA can safely and efficiently increase the producivity of its airworthiness staff and maximize effectiveness of FAA manpower in areas most affecting safety. There are a number of areas where the FAA proposes that DAR's be utilized in the immediate future. These include: issuance of export approvals and export certificates of airworthiness; conducting conformity inspections for modification programs; issuance of airworthiness certificates for aircraft which have been approved for return to service after modification; and certification of components produced under bilateral airworthiness agreements.

As proposed, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the proposed amendment cannot presently be envisioned, it is not possible to specify, by regulation, all areas where a DAR's services may be used consistently with the stated objectives of the proposed amendments. Accordingly, those specific functions which may be delegated by the Director of Airworthiness have been incorporated in an advisory circular which is being published for notice and comment concurrently with this notice. The FAA intends to revise and republish the advisory circular to seek public comment each time revisions are proposed to add or delete any authorized function. Additional areas of delegation will then be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community.

Consistent with the other delegations already provided for in Part 183, this proposed amendment would not require the use of DAR's. The election to use such representatives is left entirely to the discretion of the certificate applicant. Also, as with other designees, DAR's may charge the applicant a fee for their services. DAR's would also be subject to FAA surveillance, as are other designees, to monitor and supervise their delegated tasks.

Economic Evaluation

A discussion of the projected economic benefits and costs of the proposal and a determination that the proposed rule would not have a significant economic impact on a substantial number of small entities follow in the paragraphs below. FAA invites public comment on this discussion.

Benefits

FAA supervision of the DAR program will ensure that the present level of aviation safety will not be diminished. Therefore, benefits will be entirely of a cost saving or efficiency nature. Economic benefits will be derived from the reduction of delays in obtaining FAA required certifications necessary to the conduct of aviation oriented enterprises with resultant reduction of the cost to the applicants for such certifications. Reduction in the time required to obtain FAA certifications will have the following benefits:

1. Firms planning to use or introduce an improved aviation product which requires an FAA certification (e.g., a more fuel efficient airplane) will be able to do so sooner than they can under the current system.

2. Firms already offering an aviation service (e.g., aircraft broker) or those planning to offer a new aviation service will be able to obtain required FAA certifications sooner.

3. More firms than at present will have incentive to introduce new aviation products or services requiring FAA certifications because of the ability to realize the profits from such products or services sooner than under the current system.

FAA cannot envision all circumstances in which the use of a DAR will reduce the cost of an individual certification. However, an obvious example is that permitting a DAR to issue an airworthiness certificate on a U.S. manufactured aircraft purchased abroad would eliminate the necessity to ferry an aircraft to a point where FAA could issue an airworthiness certificate. It should be noted that in the past FAA would certify an aircraft at any foreign point. This option is no longer open to the applicant because of budgetary restrictions, and, in fact, FAA is preparing a Notice of Proposed Rulemaking entitled "Airworthiness Certification—Location of Aircraft" which, if adopted, would require the applicant to bring the aircraft to a point where certification would not be an "undue burden" for FAA. Another obvious circumstance would be to permit a DAR to issue export approvals, thereby eliminating costly delays incurred while awaiting FAA personnel to perform such services. In addition to the benefits for applicants, this proposal would also result in a substantial public benefit by freeing FAA certification personnel to perform other safety related services sooner than they are able to under the current certification system. This would be possible since DAR's would be performing functions which previously were not delegated.

The benefits resulting from this proposal may vary for the following reasons:

1. The use of DAR's would be optional. FAA cannot predict the annual number and types of instances when applicants would use the services of a DAR rather than FAA employees.

2. Even if a forecast of the annual number of instances of use of DAR services were possible, the extent of the cost savings resulting from those instances of use of DAR's would depend on the values of difficult-to-forecast factors such as interest rates, fuel prices, and fares.

Costs

No costs need be incurred by any applicant requiring FAA certification services since the proposed use of DAR's is only an optional means of obtaining FAA certification services. The FAA will continue to issue required certifications, in accordance with existing practices, when their issuance poses no undue burden on FAA resources. Therefore, an applicant has the option to determine when the use of a DAR would prove economically

advantageous. Accordingly, if this NPRM were adopted as a final rule, an applicant would only incur additional costs if the applicant elects to use the services of a DAR. If so, the applicant would then have to pay the fee of a self-employed DAR, or incur the cost of using its own employees as DAR's to perform certification functions on behalf of the FAA.

Regulatory Flexibility Determination

FAA has determined that the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

This determination is based upon prior FAA experience with designees permitted to charge for their services whereby their fees invariably have been priced so that small businesses desiring certification services could afford them and would, therefore, not be placed at a competitive disadvantage. Additionally, small entities requiring certification services need not use DAR services but may continue to use the services of FAA personnel.

List of Subjects in 14 CFR Part 183

Airmen, Air safety, Safety, Aviation safety, Air transportation, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 183 of the Federal Aviation Regulations (14 CFR Part 183) as follows:

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

1. By amending § 183.11 by adding a new paragraph (e) to read as follows:

§ 183.11 Selection.

* * * * *

(e) The Director of Airworthiness, or the director's designee, may select Designated Airworthiness Representatives from qualified persons who apply by a letter accompanied by a "Statement of Qualifications of Designated Airworthiness Representative."

2. By amending § 183.13 by adding a new paragraph (c) to read as follows:

§ 183.13 Certification.

* * * * *

(c) A "Certificate of Authority" stating the specific functions which the person concerned is authorized to perform, and stating an expiration date is issued to each Designated Airworthiness Representative, along with a "Certificate of Designation" for display purposes.

3. By amending § 183.15 by revising paragraphs (a) and (b) by removing the words "under paragraph (c)" and inserting, in their place, the words "under paragraph (d)"; by redesignating paragraph (c) as (d) and adding a new (c) to read as follows:

§ 183.15 Duration of certificates.

* * * * *

(c) Unless sooner terminated under paragraph (d) of this section, a designation as a Designated Airworthiness Representative is effective until the expiration date shown on the certificate of authority.

* * * * *

4. By adding a new § 183.33 to read as follows:

§ 183.33 Designated Airworthiness Representative.

A designated airworthiness representative (DAR) may, within limits prescribed by, and under the general supervision of the Administrator, do the following:

(a) Perform examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates, in the areas of maintenance, manufacturing, and engineering as may be authorized by the Director of Airworthiness, and published in Advisory Circular 183–XX. Copies of Advisory Circular 183–XX may be obtained from the U.S. Department of Transportation, Publication Section (M–443.1), Washington, D.C. 20590.

(b) Charge a fee for his or her services.

(c) Perform authorized functions at any authorized location.

(Secs. 313(a), 314, 601, 603, 605, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355, 1421, 1423, 1425, and 1502); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR Sec. 11.45)

Note.—This proposed rule would establish a procedure for designating persons to perform certain certification functions presently conducted by FAA employees, thereby reducing or eliminating certain delays in obtaining required certifications. Further, this notice of proposed rulemaking involves a rulemaking action which: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the cost changes associated with the designation procedures are minimal. In addition, I certify that, under the criteria of the Regulatory Flexibility Act, the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since it will minimally ease the burden of regulatory compliance by reducing certain delays in obtaining required certifications.

Issued in Washington, D.C., on May 27, 1982.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 82-17033 Filed 6-23-82; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 183-XX]

Proposal Advisory Circular for Designated Airworthiness Representatives; Request for Comments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments on a proposed advisory circular.

SUMMARY: This proposed advisory circular (AC) will be used as the vehicle to identify examination, inspection, and testing services related to certification functions in the areas of maintenance, manufacturing, and engineering, which may be delegated to Designated Airworthiness Representatives (DAR), as may be authorized by the Director of Airworthiness.

DATE: Comments must be received on or before August 23, 1982.

ADDRESS: Interested parties are urged to submit their comments on the proposed advisory circular. Comments may be mailed to: Federal Aviation Administration, Aircraft Manufacturing Division, AWS-200, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered to: Room 301, 800 Independence Avenue, SW., Washington, D.C. Comments may be inspected at Room 301 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Sandy DeLucia, Aircraft Manufacturing Division (AWS-200), Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8361.

SUPPLEMENTARY INFORMATION:

Discussion of the Draft Advisory Circular

The FAA is proposing an amendment to Part 183 of the Federal Aviation Regulations (published elsewhere in this issue). This amendment would provide for the establishment of Designated Airworthiness Representatives (DAR) as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions under Title VI of the FA Act. This proposed amendment to Part 183 would enable the FAA to expand its designee program into new areas of delegation not presently provided for in Part 183. The expanded delegated proposed are necessary since the delegations presently authorized by Part 183 constrain the FAA's ability to deal with the proliferation of requests for FAA examination, inspection, and testing services incident to the issuance of certificates under Title VI of the FA Act. This proposal would enable FAA to use it fiscal and human resources in a more effective manner to meet safety objectives. In addition, the proposed amendment would ease the burden of regulation on the public by expediting accomplishment of required demonstrations of compliance with applicable airworthiness standards and would, therefore, reduce or eliminate certain delays in obtaining required certifications.

As proposed, delegation of specific functions may be authorized for limited periods of time in accordance with national policy developed by the Director of Airworthiness, and may be withdrawn by the appointing authority at any time, and for any reason deemed appropriate.

Since each examination, inspection, and testing function which may be delegated to DAR's under the proposed amendment cannot presently envisioned, it is not possible to specify, by regulation, all areas where a DAR's services may be used consistent with the stated objectives of the proposed amendments. Accordingly, this proposed advisory circular contains those specific functions which would be delegated in the immediate future. The FAA intends to revise and republish this advisory circular to seek public comment each time revisions are proposed to add or delete any authorized function. Proposed new areas of delegation will be selected and authorized by the Director of Airworthiness based on recommendations from other FAA elements and the aviation community. This procedure will expedite the notification process each time a designated function is to be added or deleted. Consistent with the President's goal of streamlining the regulatory process to eliminate unnecessary requirements, the use of advisory circulars to list specific functions appropriate for delegation to DAR's will provide the FAA with the regulatory flexibility to utilize the DAR program in the most effective and innovative manner.

The Proposed Advisory Circular

In accordance with the above, the FAA publishes proposed Advisory Circular AC 183-XX, Designated Airworthiness Representatives, as follows:

M. C. Beard,
Director of Airworthiness.
May 27, 1982

Subject: Designated Airworthiness Representatives

1. *Purpose:* This advisory circular contains information and guidance concerning the selection of Designated Airworthiness Representatives (DAR) and identifies the specific functions which may be delegated to DAR's as authorized by the Director of Airworthiness.

2. *Related Federal Aviation Regulations (FAR):* Part 183.

3. *Background:*

a. The FAA has amended Part 183 of the FAR to provide for the establishment of DAR's as a new category of persons appointed, under Section 314 of the Federal Aviation Act (FA Act) of 1958, to act as representatives of the Administrator in performing certain certification functions in the areas of maintenance, manufacturing, and engineering. This was deemed necessary due to the proliferation of requests for FAA examination, inspection, and testing services necessary to the issuance of certificates, including the issuance of certificates under Title VI of the FA Act.

b. Since each examination, inspection, and testing service which may be authorized by the Director of Airworthiness could not be envisioned, it was not possible to specify, in amended Part 183, all areas where a DAR's services may be used consistent with the objectives of the amended rule. Therefore, this advisory circular will be used as the vehicle to identify and describe the specific functions which may be authorized. The FAA will republish this advisory circular for notice and comment each time revisions are proposed to add or delete any authorized functions.

4. *Selection:*

a. The Director of Airworthiness, or the Director's designee may select DAR's from persons determined to be qualified to perform examination, inspection, or testing services related to certification functions, on behalf of the FAA, in the areas of maintenance, manufacturing, and engineering.

b. Each DAR will be issued a "Certificate of Authority" which will state the specific function(s) for which the DAR is qualified and an expiration date. Each DAR will also be provided with a "Certificate of Designation" for display purposes.

5. *Authorized Functions:* The Director of Airworthiness hereby determines that the following functions may be delegated to a DAR (following a determination by the Director, or the Director's designee, that the DAR is qualified to perform the particular function). Accordingly, a DAR may, within the limits prescribed by, and under the general supervision of the Administrator:

a. Issue original or recurrent airworthiness certificates on U.S.-registered aircraft and issue airworthiness approval tags for engines, propellers, materials, parts, or appliances for installation on U.S.-registered aircraft upon a determination that such products conform to their U.S. type design and are in a condition for safe operation;

b. Issue export certificates of airworthiness and airworthiness approval tags for the export airworthiness approval of aircraft, engines, propellers, materials, parts, or appliances under the provisions of Part 21, Subpart L of the Federal Aviation Regulations;

c. Conduct conformity inspections and certify that prototype or test articles, including complete aircraft to be used for FAA design evaluation purposes, conform to the design being evaluated; or

d. Issue conformity certificates for components produced in the U.S. for export to a foreign country.

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June 24, 1982

Part III

Department of Transportation

Coast Guard

Deepwater Port Liability Fund; Interim Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 137 and 150

[CGD 79-158]

Deepwater Port Liability Fund

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This document amends the Coast Guard's Marine Oil Pollution Liability and Compensation regulations by adding requirements concerning administration of the Deepwater Port Liability Fund (Fund). The Fund provides for settlement, without fault, of claims for cleanup costs and damages incurred as a result of oil spills from deepwater port activities. The regulations are intended to convey to those persons affected by them, the policies, procedures, and administrative practices regarding overall management and general operation of the Fund.

DATES: This interim final rule is effective June 24, 1982. Comments should be submitted by August 23, 1982.

ADDRESS: Comments should be submitted to and are available for inspection at Commandant (G-CMC/44), U.S. Coast Guard Headquarters, Room 4402, 2100 Second Street, SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Frank A. Martin, Jr., Pollution Liability Funds Management Staff, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202) 472-5052.

SUPPLEMENTARY INFORMATION: On September 29, 1980, the Coast Guard proposed to make this amendment by issuing a notice of proposed rulemaking (45 FR 65480-87, October 2, 1980). That notice provided interested persons with the details of and reasons for this amendment and established a November 17, 1980 date by which written comments on the proposals could be submitted.

Comments were received from the Coast Guard Administrative Law Judge in Houston, Tx.; the U.S. Environmental Protection Agency (EPA); Patton, Boggs, and Blow (counsel for the Louisiana Offshore Oil Port, Inc. (LOOP) deepwater port); the U.S. Department of Interior (DOI); the National Oceanic and Atmospheric Administration (NOAA); LeBoeuf, Lamb, Leiby and MacRae (representing Lloyd's Underwriters); the U.S. Maritime Administration (MARAD); Marathon Oil Company; American Institute of Merchant Shipping (AIMS); International Group of Protection and Indemnity Associations; and the Georgia State Department of Natural Resources.

Discussion of Significant Comments

As mentioned in the preamble to the proposed rules, it is the duty of the Administrator, EPA, under section 18(m)(3) of the Deepwater Port Act of 1974 (Act), to determine the "harmful quantity" of oil which constitutes a "discharge" in the context of deepwater port activities. Counsel for LOOP and NOAA commented generally on this issue.

The tenor of NOAA's comment was that until the "harmful quantity" issue is resolved, the final Fund rules leave an important gap not addressed by the federal government. The Coast Guard agrees that resolution of this issue is critical to efficient and effective administration of the Fund and the liability and discharge prohibition provisions of section 18 of the Act.

LOOP's principal concern regarding this issue was that adoption of a regulation or policy on this issue may not lawfully be accomplished, even on an interim basis, without LOOP first having an opportunity to comment. We have accordingly informed EPA of LOOP's particular views regarding this issue.

Several of the respondents commenting on the proposed rules argued that the Coast Guard exceeded its statutory authority under section 18 of the Act in several proposed sections. While the proposed rules to implement the Fund are based primarily on authority in section 18 of the Act, which was delegated to the Commandant by the Secretary of Transportation, the Coast Guard also holds through delegation the broader regulatory authority and duty under section 10(a) to prescribe procedures to prevent or minimize adverse impacts, including pollution, that may arise from construction and operation of deepwater ports.

The principal provisions of the proposed rules which several commentors believed were beyond the scope of authority were the provisions dealing with notification of imminent threats of a discharge of oil, notification contents, designation, advertisement and "damages" within the discretionary authority of the Fund Administrator. These provisions, and the final disposition thereof, are addressed in detail elsewhere in this document.

The DOI asked that the Coast Guard ensure, before publication of the final rule, that the differences between expenditures authorized under the Federal Water Pollution Control Act (FWPCA) section 311(k) fund for cleanup costs and those authorized under the Act for cleanup costs and damages be recognized in the establishment of administrative protocols designed to facilitate the most effective and efficient response by federal officials to any major spills at deepwater ports. We believe the concern here is that existing interagency agreements and oil pollution contingency plans may not clearly define the broader range of expenditures that may be reimbursable to an agency participating in response to a deepwater port pollution incident. This may be true; and consequently, there may be a need to amend and revise such administrative protocols, particularly those established when the section 311(k) fund was the only operational Coast Guard oil pollution response fund. However, we further believe that amendments need not occur before promulgation of the final Deepwater Port Liability Fund rules.

The response actions for a spill at a deepwater port will be conducted in the same manner as presently conducted under the FWPCA, as amended. The Fund Administrator, or other personnel of the Pollution Liability Funds Management Staff, will be available to advise the On-Scene Coordinator and other responding federal agency and contract personnel concerning the broader class of expenditures that will be reimbursable from the Fund. Provisions are being made in the National Contingency Plan and the Coast Guard's Marine Safety Manual for payment from the Fund to other agencies for damage assessment costs, response personnel time, etc. Other existing administrative protocols will be periodically reviewed and revised as response experience is gained under administration of the Fund.

With regard to the costs of administering the Fund, LOOP urged the Coast Guard to examine the proposed regulations to ensure that only those costs of administration essential to the Fund be paid for by the Fund, and that other functions that might be necessarily performed under section 18 of the Act be paid for from general Treasury revenues. We are of the view that the Congress generally intended the Fund to be all encompassing with regard to the costs for administration. Section 18(f)(3) specifically provides for the use of the Fund for administrative costs and imposes no functional limitation on that use. The only limitation imposed is that the payment of those costs is subject to appropriation act control. Accordingly,

subject to that control, all reasonable costs of administration of the Fund, including the costs for salaries of Fund employees, office space, overhead, settlement and adjudication of claims, etc., will be chargeable to the Fund.

Related to the issue of costs of administering the Fund is the suggestion of LOOP to include a section in the final rules that requires the Fund Administrator to provide each licensee with a quarterly or semiannual report detailing the financial position of the Fund. We intend to submit annual reports to Congress on the administration and management of the Fund. These reports will be made available to deepwater port licensees and the general public.

The remaining discussion of significant comments received on the proposed rules is presented under the subpart headings containing the specific subject matter to which the comments were directed.

Subpart C—Fund Revenues, Accounting, and Audit

LOOP requested that the final rules in this subpart contain no provisions that would preclude a licensee from using an invoicing system to collect the barrel fees and using the metric system in the record keeping and reporting provisions. We agree and have complied with LOOP's desires in this regard.

The final rule in § 137.207 regarding payment of fees has been edited for clarity. As proposed, this section raised interpretative questions as to whether the "oil throughput of the port" meant that all crude oil unloaded at the port had to completely clear the deepwater port facility, including storage onshore, before a licensee collected and paid the Fund the barrel fee on that oil. That was not the intent, and the language of the final rule now more closely parallels the language of the Act which establishes the obligation of a licensee to collect the barrel fee on oil "loaded or unloaded" at the deepwater port at the time of loading or unloading.

In commenting on the proposed audit requirements in § 137.215, LOOP questioned the intent of both paragraphs (a) and (b) regarding financial record maintenance and retention periods and whether books and data relating to the Fund must be kept separately by a licensee from all other financial records relating to the operations of the deepwater port. LOOP specifically desires that the record retention requirements not be established by regulation, but rather through discussion between the licensee and relevant interests. LOOP further recommended that paragraph (b) of proposed § 137.215 be revised to more clearly reflect the intent that the financial information necessary to a Fund audit is readily accessible for that purpose.

We agree with LOOP's views on proposed § 137.215 and accordingly revised the final rule to accommodate those views. A new paragraph (c) has been added to the final rule in this section to further clarify intent regarding these issues.

Subpart D—Vessel Financial Responsibility

This subpart received the largest portion of comments submitted on the proposed rules. Consequently, the vessel financial responsibility documentation requirements and procedures proposed have been re-examined with a view toward structuring the final rules in this subpart to meet most of the concerns raised. In so doing, we have attempted to keep in perspective our original regulatory goal for this subpart. That goal is restated in the next paragraph.

The goal is to prescribe simple, straightforward vessel financial responsibility documentation procedures that will result in reasonable, timely assurance to the Fund Administrator and deepwater port licensees that the owners and operators of vessels calling at deepwater ports can meet their liability under the Act. The procedures should keep paperwork, filing, and reporting burdens to a minimum.

Broadly summarized, the comments on this subpart indicate the above goal was not fully met with the proposed rules. Although all comments are not discussed here in detail, the significant issues are summarized.

Comments suggested two alternative methods in responding to proposed § 137.303 for documenting financial responsibility.

Under one method, LOOP suggested the Fund Administrator have the responsibility for determining the acceptability of and verifying the financial responsibility documentation presented by the vessel owner or operator.

The other method, suggested by Marathon Oil, involves an amendment to form FMC–321, Application for a Certificate of Financial Responsibility, and to form FMC–322, Certificate of Insurance. These two documents have been promulgated by the Federal Maritime Commission (FMC) under 46 CFR Part 542 for the purpose of implementing section 311(p)(1) of the Federal Water Pollution Control Act (FWPCA), as amended. Closely aligned with that suggestion is the proposal put forth by counsel for Lloyd's; i.e., insurers who are deemed acceptable by the FMC for purposes of providing evidence of financial responsibility under the FWPCA or the Outer Continental Shelf Lands Act should be presumed acceptable for that purpose under the Deepwater Port Act.

AIMS and Marathon Oil also recommended that the Fund Administrator find acceptable those insurers who are acceptable to the FMC.

Counsel for Lloyd's and LOOP also commented on proposed § 137.305(a)(1), Note 1, which they believe applies a limitation of $150 per gross ton or $20 million, whichever is lesser, to the amount of coverage a vessel owner or operator must have to establish financial responsibility. Lloyd's suggested that proposed § 137.305(a)(1) should be clarified to indicate that:

"The maximum amount for which evidence of financial responsibility is provided is not in excess of ———."

In addition to the limits on strict liability to which the vessel would be subjected in the proposed insurance coverage, the vessel under section 18(d) is subject to additional liability for gross negligence or willful misconduct. Since LOOP has been required to obtain coverage to meet a similar liability under section 18(e), LOOP states the same obligation must be imposed on vessel owners and operators. Further, LOOP states the financial responsibility requirements cannot reflect only strict liability limits imposed on vessels if LOOP is to effectively guarantee that a vessel under the Act can meet its potential liability which may be greatly beyond the monetary limits in the proposed rules.

Lloyd's further commented that proposed § 137.305(a)(2) does not allow an insurer defenses allowed under his policy, such as the defense of willful, intentional pollution (which Lloyd's argues cannot for public policy reasons be insured) or even policy conditions reflecting the defenses available under the Act. This condition, making an insurer absolutely liable, would be expensive, if not impossible, to insure. At a minimum, Lloyd's says the certification should set forth, with clarity, the liabilities and rights of the insurer.

As concerns proposed § 137.305(a)(5), commenters raised the issue of notification of termination of a vessel's insurance. Lloyd's wants the word "terminate" changed to "cancel" because of ambiguity of this section concerning the expiration date of the insurance coverage. The argument is made that since the expiration date is already stated in the evidence of

financial responsibility, it would be an unnecessary burden on the insurers to have to notify regulatory bodies.

Regarding cancellation of insurance coverage, LOOP recommends that the proposed § 137.305(a)(5) be changed to require the Fund Administrator to immediately notify the licensee of any cancellations.

In proposed § 137.305(a)(6), Lloyd's points out the regulations provide for insurers who jointly execute the certification to be jointly and severally liable. Lloyd's maintains this requirement is contrary to the practice of covering larger risks, such as writing insurance in layers and pooling the risks by many insurers, who are severally liable for their respective shares. Lloyd's says the joint and several liability requirement for insurers is not based upon the terms of the Act, which only imposes joint and several liability on owners and operators of vessels using the deepwater port. An alternative was suggested by Lloyd's where evidence of financial responsibility is established by several insurance interests. Each insurer would be liable only to the limits of the insurers' agreed coverage. Lloyd's feels this provision will encourage greater insurance capacity. If the joint and several requirement of the regulations remains as proposed, Lloyd's, as underwriters, cannot guarantee that insurance will be written.

For proposed § 137.307, the general overall opinion reflected in comments is to either accept FMC's vessel certification process under the FWPCA or to amend FMC's certificates of financial responsibility for purposes of the deepwater port financial responsibility requirements under the Act. From a practical point of view, it would be more efficient and effective to have FMC handle the review and processing of an application for a vessel certificate of financial responsibility. LOOP's suggestion that the financial responsibility documentation be submitted to the licensee at the time of a vessel's nomination, i.e., (45) days in advance of the vessel's actual arrival at the port, is one method that would allow LOOP to check the documentation before the ship's arrival. The suggestion by Marathon Oil of requesting the FMC, if they are willing, to provide a monthly listing of vessels properly certified to LOOP would probably be less burdensome and time consuming than sending the actual documentation.

The foregoing and other concerns were reduced to the following seven questions that required consideration in developing the final rules for this subpart.

1. What is the appropriate form of documentation of financial responsibility, and how should it be verified? The legislative history of the Act shows that it was intended the licensee share responsibility for assuring all vessels using the port have appropriate liability coverage (Cong. Record, Oct. 9, 1974, p. S18652).

2. What are the possibilities of amending FMC forms 321 and 322 to reflect the additional coverage required by the Act?

3. What is the possibility of presuming acceptable, under the Act, guarantors already found acceptable as providers of financial responsibility by FMC under other oil pollution laws?

4. How do we reconcile in the final rule the amount of financial responsibility required for strict liability limits with effectively guaranteeing that a vessel can meet its full potential liability (unlimited in gross negligence and willful misconduct situation)? Or do we need to?

5. Should a guarantor's liability be limited to the amount of financial responsibility provided, and should the required coverage be allowed to exclude liability for damages and cleanup costs resulting from the willful or intentional acts of the liable party? Should these matters be addressed in the regulations? If so, how should they be addressed?

6. How should we treat the concerns that proposed § 137.305(a)(6) would establish joint and several liability on guarantors, would prevent financial responsibility coverage, and would go beyond the scope of the Act which only makes vessel owners/operators jointly and severally liable? Should this provision be dropped?

7. What is the feasibility of documenting financial responsibility by using some existing method currently serving related purposes for marine oil pollution by vessels?

As noted in the preamble to the proposed rules, the vessel financial responsibility documentation, and certification contents provisions of that document were based, in part, upon the existing FMC approach to vessel financial responsibility for marine oil pollution governed by the other pollution statutes, principally the FWPCA, as amended. Under the FMC procedures, vessel operators apply for certificates of financial responsibility. The application includes demonstration of the operator's financial ability to meet its potential pollution removal cost liability, either as a self-insurer, or by insurance, surety bond, or guaranty. This ability is demonstrated in the case of insurance and surety by filing with the application an insurance form signed by the insurer or a surety bond form signed by the surety. If the application and supporting documentation are satisfactory, FMC issues the required certificate which must be retained on the operator's vessel.

However, unlike the use of existing FMC financial responsibility documentation procedures, the only documentation proposed for financial responsibility demonstration under the Act would have been a certification (proposed § 137.303(b)(2)) prepared and signed by the insurer or surety; including the vessel owner or operator where self-insurance was being provided. This certification (proposed § 137.305) would have generally followed the FMC's insurance form contents and would have been retained on board any vessel using a deepwater port. A deepwater port licensee would have been required to verify that valid certifications were on board the vessels using the deepwater port facility (proposed § 137.307). The Coast Guard would not issue certificates, but would oversee, through spot checks on board vessels in the safety zone, the documentation supporting financial responsibility.

Comments received from insurance interests indicated generally they are unwilling to undertake the paperwork burden necessary to execute the certification proposed in § 137.305(a). In this regard, it should be noted the insurance form currently used under FMC procedures to establish financial responsibility is essentially filed only once by insurers. When coverage is extended to a new vessel, the vessel's gross tonnage and the current date are added to a schedule of the form previously filed with the FMC. Under proposed §§ 137.303(b) and 137.305(a), a separate certification would have been required for each vessel using a deepwater port.

The insurer's role is critical to the effectiveness of the vessel financial responsibility scheme established hereby to implement section 18(1) of the Act. We cannot require prospective insurers to provide cover. However, if we can reduce or minimize their administrative burden without jeopardizing the public interest, it is probable that some will find it desirable to provide the necessary cover.

As previously indicated, a number of comments on the proposed financial responsibility requirements pointed out the desirability of tying in procedurally to the FMC certification system. In pursuing this option with FMC staff, in light of comments received, we believe we have developed for the final rule an

optional scheme so associated and which would impose an insignificant paperwork burden on insurers. Under this scheme, each prospective insurer (most probably P & I Clubs in the main) would be allowed to file with the FMC a single blanket endorsement or rider applicable to existing FMC insurance forms the insurer already has filed with FMC for FWPCA pollution coverage purposes. The endorsement or rider would certify that the vessels included in schedules to the FMC forms also were covered by the insurer for the additional amount of financial responsibility required under section 18(1) the Act.

The endorsement or rider, to be acceptable to the Fund Administrator, must either incorporate by reference the certification contents set forth in § 137.305(a) of the final rule or include provisions paralleling those contents. The detailing of the certification approach to demonstrating financial responsibility coverage remaining in the final rule at § 137.305(a) is necessary for two reasons. First, this approach details the terms and conditions of the coverage required for compliance with section 18(1) of the Act. Second, the certification in § 137.305(a) can be used by guarantors who do not wish to use the endorsement or rider approach and by sureties who cannot. From the comments received, we believe the endorsement or rider approach will be the method of documentation most often used to demonstrate financial responsibility under the Act because vessels using any deepwater port are presently required to carry FMC FWPCA certificates. Further, surety coverage to meet financial responsibility requirements under other pollution laws is rarely used.

Comments from representatives of P & I Clubs proposed a suggested rider which, rather than incorporating the contents contained in § 135.305(a) by reference, essentially stated those requirements in full. Since it is our intent to provide the greatest degree of flexibility in the vessel certification process, such an approach will be acceptable to the Fund Administrator, as well as that which would incorporate the contents of § 135.305(a) by reference. The endorsement or rider approach to demonstrating vessel financial responsibility appears in the final rule as a new paragraph (b) in § 137.303. Proposed paragraph (c) of this section has been redesignated paragraph (d) in the final rule.

In connection with the above described endorsement or rider approach to demonstrate vessel financial responsibility under the Act by insurance, the Coast Guard considered imposing a requirement that vessel operators keep on board the vessel with their FMC Certificate of Financial Responsibility (Water Pollution) some form of evidence identifying the insurer, such as a receipt of entry into a P & I Club, insurer premium receipt, or valid certification issued under the 1969 Convention on Civil Liability for Oil Pollution Damage. This insurer-identifying procedure was considered desirable because a FMC certificate carried by a vessel for FWPCA purposes does not identify the underwriter who provided the evidence of financial responsibility leading to the issuance of the FMC certificate. However, since there is presently only one operational deepwater port, the Coast Guard determined to not impose this recordkeeping requirement on the vessel owners or operators. Any necessary verification of financial responsibility evidenced by the insurance endorsement or rider option provided for in the final rule at § 137.303(b) can be easily accomplished between the licensee, the FMC, and the Fund Administrator.

As stated in the preamble to the proposed rule, conditions in deepwater port licenses impose obligations on licensees to ensure that vessels using deepwater ports have financial responsibility coverage sufficient to meet their pollution liability under the Act. The final rule at § 137.303(d) addresses the Fund Administrator's responsibility regarding review and verification of that coverage. The Coast Guard will overview all documentation issues and accept its appropriate verification and enforcement responsibilities under the Act. To facilitate a licensees' ability to meet its license and regulatory obligations regarding financial responsibility verification, the FMC staff has agreed to make available to licensees, current lists of insurers who have filed the aforementioned endorsements or riders. Since vessels are normally scheduled 45 days in advance of port arrival, any questions regarding financial responsibility can be easily resolved. Proposed § 137.307 regarding examination of documentation has been deleted from the final rule since the revisions to § 137.303 now provide all requisite parties with copies of financial responsibility documentation for verification.

As revised in the final rule, the paperwork burden is negligible. Vessels are not required to maintain any additional evidence of financial responsibility. Insurers will only need to file a single blanket endorsement or rider to existing FMC insurance forms. Owners have the option of filing a certification respecting liability however it is anticipated the insurance endorsement method will be used by virtually all vessels. It is anticipated that less than 10 additional reports will be required to satisfy financial responsibility requirements. Therefore, no OMB control number is required under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Even though comments by LOOP and Lloyd's suggested a need to clarify proposed § 137.305(a)(1) regarding the amount of financial responsibility coverage required to be demonstrated, the final rule was not changed substantively in this regard. The amount of coverage required for a vessel is stated in the terms of section 18(d) of the Act regarding the limits of strict liability imposed on vessel owners or operators. This provision has been moved in the final rule from a note under §137.305(a) to a new paragraph (c) in § 137.303. Any sums, higher than the limits prescribed for strict liability, will likely frustrate the use of insurance, sureties or bonding, particularly as regards attempting to establish by regulation a workable scheme for demonstrating financial responsibility by these methods for the potential unlimited liability the Act establishes in cases of gross negligence or willful misconduct on the part of a vessel owner or operator.

Serious consideration was given to the comments respecting the liability of the party providing financial responsibility, i.e., (1) that the regulations should limit that party's liability and (2) that the required coverage should exclude damage and costs resulting from the liable party's own intentional and willful acts.

As to the first point, it should be kept in mind that neither the Act nor the regulations establish a direct cause of action against parties providing financial responsibility. Actions brought against such parties would be based upon other law. Consequently, we feel it would be inappropriate to provide for the limitation of those parties' liability in this rulemaking. Therefore, we have rejected the first point. The second point has been accepted and is addressed in the final rule at § 137.305(a)(2).

The proposal in § 137.305(a)(6) which would have imposed joint and several liability on guarantors of financial responsibility has been omitted from the final rule in its entirety. Comments argued we went beyond our scope of authority under the Act by proposing to

extend the statutorily required vessel owner and operator joint and several liability provision to guarantors of financial responsibility.

The language throughout proposed § 137.305(a) which referred to "termination" of financial responsibility coverage has been changed in the final rule (for clarity) to either "cancellation" or "expiration", depending upon the context used.

In further regard to the cancellation or expiration of financial responsibility coverage under proposed § 137.305(a)(5), LOOP suggested the final rule contain a provision requiring the Fund Administrator to notify licensees of such cancellation or expirations. The Fund Administrator will do so but does not have to regulate in this regard.

Subpart E—Notification, Designation, and Advertisement

LOOP, EPA, AIMS, and internal Coast Guard comments expressed concern about the notification requirements proposed in § 137.403. The primary concern was that the proposed rule was not consistent with the established notification provisions under the other oil pollution laws the Coast Guard administers. In addition, LOOP strongly argued that we went beyond the scope of our authority in requiring notice of an imminent threat of a discharge in addition to an actual discharge, and by requiring the detailed information proposed to be contained in the notice.

We agree with the first concern and have accordingly restructured the final § 137.403 to more closely parallel the notification provisions under the other pollution laws.

We also agree with LOOP on the notice of "imminent threat" requirement and have deleted that provision of the proposal from the final rule. The final rule at § 137.403(a) now addresses only the procedure for giving the notification of an actual discharge of oil as required by section 18(b) of the Act.

We disagree with LOOP on the "notification contents" issue and have left that provision in the final rule at § 137.403(b). The information required is both reasonable and necessary to ensure the best informed judgments in determining the appropriate government response action to an oil spill resulting from deepwater port activities.

NOAA questioned the wisdom of the discretionary nature of designation and advertisement under proposed §§ 137.405 and 135.407. The principal concern indicated was that if there were no formal designation or advertisement, the public would not receive notice of both the existence and source of a discharge. NOAA further pointed out that in situations where there is no designation or advertisement, the regulations are not clear whether a claimant may go directly to the Fund where the source is unknown or whether the claimant must take the initiative to discover the source of the discharge and then proceed first against the owner or operator of the source.

The purpose of proposing the designation and advertisement requirements was to include a procedure to inform potential claimants when a discharge occurred from a particular deepwater port or a vessel within its safety zone which may result in damage. In addition, designation and advertisement would serve to inform the source and potential claimants of the procedures available under the Act to satisfy damage claims arising from a particular discharge of oil. If there were no designation or advertisement for a discharge of oil, it would have been because the On-Scene Coordinator (OSC), after consultations with the Fund Administrator and others, would have determined there was little likelihood damages would be sustained by the general public.

The OSC may determine it unnecessary to formally designate the source of a discharge of oil in situations such as where the discharge is of a minor operational nature, or minimal amount, or not likely to result in damage because immediate response actions undertaken by the source or others appeared effective enough to avoid damages. Thus designation and advertisement as proposed in §§ 137.405 and 135.407 were discretionary in nature.

In regard to NOAA's concern that in situations where there is no designation or advertisement the regulations offer no clear guidance to claimant access to the Fund where the source is unknown, it should be noted that the Fund is not liable in the case where the source of oil pollution is unknown. It is liable only for cleanup costs and damages in excess of those actually compensated under the Act by or on behalf of liable vessel owners, operators, or licensees. The existing designation and advertisement procedures for the Offshore Fund will serve to alert the public to OCS spills from offshore facilities in the vicinity of deepwater ports, as distinguished from unadvertised discharges occurring at deepwater ports.

LOOP questioned the designation and advertisement proposals on factual grounds but also pointed out that it did not feel these proposals were authorized by the Act.

After evaluating all the comments received concerning the proposed sections on designation and advertisement, and upon advice of regulatory project counsel, we have eliminated these sections from the final rules. In taking that course of action, we recognize that we are losing a degree of procedural consistency and uniformity that we had attempted to incorporate in all of the pollution laws the Coast Guard is administering. On the other hand, eliminating these sections from the final rule minimizes regulatory burdens but does not otherwise prevent the Fund Administrator from causing advertisement of the existence and source of a discharge when he believes such advertisement will serve a useful Fund related purpose. We take this course of action because a clear showing of need for imposing this procedure by regulation has not been defined.

Subpart F—Claims Procedures

NOAA comments on this subpart of the proposed rules pointed out a number of specific sections in the existing 33 CFR Part 136, claims procedures for the Offshore Oil Pollution Compensation Fund, which are not adequate or appropriate for application to administering claims under the Deepwater Port Liability Fund. The primary reason given for this view is the underlying differences in the statutes authorizing the regulations. The Coast Guard agrees and has accordingly made adjustments to the final rules in this subpart.

Section 137.501 has been revised to clarify that the procedures in Subpart F of this rule will apply only to claims presented against the Fund. The liability of the source of a discharge is statutory and may be asserted against the source by claimants through negotiation or by appropriate judicial remedies. Since the Fund is liable only for "cleanup costs and damages in excess of those actually compensated" (section 18 (f)(2)), § 137.507 has been revised to require that a claim be filed first against the party having primary liability and to put claimants on notice that no action will be taken by the Fund unless it appears that settlement will not be reached. The section heading for this section has also been changed to more accurately reflect the subject matter in the section.

A new paragraph (b) has been added to § 137.503 to clarify differences in terminology used in the claims procedures in existing 33 CFR Part 136, that apply to the settlement process for the Fund. The new paragraph (b) equates the terms "economic loss," "offshore facility," and "vessel" in Part 136 to "damages," "deepwater port,"

and "vessel" respectively, as those terms are defined in the Act or in § 137.5 of the final rule. Paragraph (b) of the proposed § 137.503 is designated as paragraph (c) in the final rule. Also, references throughout this subpart to "economic losses" have been changed in the final rule to "damages."

Section 137.503(c)(2) of the final rule also deletes reference to time limitations for the processing of claims contained in §§ 136.105, 136.109, and 136.129(c) of this chapter. The limitation to sixty days for processing claims and the authority of the Secretary to require an owner, operator or guarantor to transmit a claim file to the Offshore Fund are specifically provided for in section 307 of the OCS Lands Act Amendments of 1978. No similar provisions exist in section 18 of the Act.

Another adjustment made in the final rules in response to NOAA's comments deals with a new provision appearing in the final rule at § 137.503(c)(3). This provision excludes the 33 CFR 136.213 requirement as an inappropriate procedure for filing of similar natural resource claims under section 18 of the Act. The reason this exclusion is in the final rule is that under the Act it is the Secretary of Transportation who has the broader authority to assert claims on behalf of the public for damages to the natural resources of the marine environment. The Secretary has not delegated this authority to the Coast Guard. Under Title III of the Outer Continental Shelf Lands Act Amendments of 1978, the legal authority for 33 CFR Part 136, § 136.213 authorizes federal agencies designated by the President as trustee of natural resources to assert claims for damages, but only for the narrower scope of natural resources over which the U.S. has sovereign rights or exercises exclusive management authority. Since the Secretary's authority in this regard is clearly stated in section 18(i)(3) of the Act, it is not necessary to have a specific provision in the final rule addressing this issue.

The final rule at § 137.503(c)(3) also now excludes the procedures in §§ 136.231 through 136.235 of this chapter applicable to claims for loss of tax revenue. This type of claim is specifically provided for in the Offshore Fund statute, as is the one-year limitation on the period of loss. Section 18 of the Act contains no parallel provision regarding this issue. Therefore, the final rule excludes tax losses because it is not clear that such losses would be compensable as "damages" to real or personal property.

LOOP commented as follows regarding section 18(i) class action claims by the Attorney General: "The relationship between such action by the Attorney General and administrative proceedings undertaken by claimants under the Act is not made clear in the [proposed] regulations. An action by the Attorney General should not be proceeding simultaneously. The final regulations should make the relationship between these two proceedings clear."

We disagree with this LOOP comment. The provisions of section 18(i) of the Act expressly give the Attorney General the exclusive right to initiate such action within 90 days of a discharge, and preserves the right of any person to initiate a class action if the Attorney General fails to act. Since a claim need not even necessarily be filed against the Fund for three years (section 18(j)(2) of the Act), it is clear that there is no authority to prohibit initiation of class actions until administrative consideration of settlement by the source has been completed. Nothing prohibits settlement of a class action while litigation is pending.

Several comments pointed out that loss of use of natural resources should be included in the listing in proposed § 137.509 of the type of damages for which claims are allowed. Other comments suggested the paraphrasing of proposed § 137.509 to parallel the similar types of damages for which claims are authorized under the Offshore Fund (43 U.S.C. 1813(a)) may create a problem due to the difference between 43 U.S.C. 1813(a) and 33 U.S.C. 1517(m)(2).

Additionally, both LOOP and Lloyd's objected to the proposed § 137.509(a)(2)(vi) provision under which the Fund Administrator would determine if types of damages other than those specifically listed will be allowed to be claimed. Their objections were to the discretionary nature of this provision and a belief that the Act and its legislative history provided no statutory basis for such discretion. Further, NOAA offered in its comments a view which tends to support that the Congress intended to provide the fullest damage compensation possible. We agree with the NOAA position as follows:

The definition of "damages" given in section 18(m)(2) of the Act does not limit damages to purely economic losses but allows for recovery of "*all* [emphasis added] damages * * * involving * * * the natural resources of the *marine environment* [emphasis added] * * * including damages claimed without regard to ownership of any affected lands * * * fish or biotic or natural resources;". Section 3(13) of the Act defines the term "marine environment" as including the "coastal environment" (defined at section 3(6) of the Act), "* * * waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the *recreational and scenic values* [emphasis added] of such waters and resources;".

It is our view the definition of damages is an unrestricted one and the specific inclusion of the phraseology "recreational and scenic values" in the definitions in the Act of both "coastal environment" and "marine environment" indicates Congressional intent that the interests being protected are not to be limited solely to economic interests, nor are the damages limited to economic loss. This view is consistent with the legislative history of the Act which affirms that one of the three major objectives of the provisions of the Act regarding liability for damages is "* * * to provide the fullest * * * compensation possible;" (p. 15, Senate Report No. 93–1217, October 2, 1974). Accordingly, the final rule at § 137.509 has been revised to more closely parallel the unrestricted definition of damages given at section 18(m)(2) of the Act. At the same time, the specific reference in the proposed rule to the Fund Administrator's discretion to determine damages has been deleted to meet the objections raised.

NOAA and several others commented on the administrative review of claims requirements proposed in § 137.513. There were several concerns raised with this section. First, administrative review, as proposed, would have only been conducted by an administrative law judge and not optionally by a panel appointed by the Secretary of Transportation as is the case under the Offshore Oil Pollution Compensation Fund. Second, the proposed section was not clear on judicial review appeals of final claims determinations. Finally, the question was raised as to whether the Act authorizes use of an administrative law judge for administrative review of claims and specifically whether an administrative law judge would have subpoena powers as proposed in § 137.513(b) without specific Congressional authorization as was contained in the law establishing the Offshore Oil Pollution Compensation Fund.

As concerns the first issue, the panel option was specifically not included in the review process because it is not required by the Act as in the case of the Offshore Fund. Furthermore, unlike the Offshore Fund, the Secretary of Transportation has delegated full administrative review responsibility to

the Coast Guard. Thus the final § 137.513 does not include the panel option.

As concerns the second issue, we have added a new paragraph (c) in the final § 137.513 to clarify the judicial appeal review option provided for under the Act. The section heading has also been changed because the final § 137.513 now addresses both administrative and judicial review of claims against the Fund.

Review of the issue concerning use of an administrative law judge for administrative review of claim determinations has led us to conclude that we indeed lack specific authority under section 18 of the Act for such a procedure and that in fact such review of claims can be conducted by the Fund Administrator efficiently and effectively. Therefore, paragraphs (a) and (b) of the final rule at § 137.513 have been revised to provide for administrative review of claims by the Fund Administrator, with the Fund Administrator's decision being the final agency action on administrative review of claims.

Regulatory Evaluation

The Coast Guard considers this regulatory action to be "non-major" under Executive Order 12291 published at 46 FR 13193 of February 19, 1981 and "non-significant" under the regulatory policies and procedures established by the Department of Transportation and published at 44 FR 11034–45 (February 26, 1979, as amended by 44 FR 28126, May 14, 1979). Although exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a final regulatory evaluation has been prepared, copies of which are available for inspection or copying at the Marine Safety Council, Commandant (G–CMC/44), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday.

In summary, the final evaluation sets forth the need for and other background information on this rulemaking, explores the range of major alternatives considered in arriving at the final rule, and contains an assessment of the economic and other relevant consequences of this rulemaking action. As in the draft regulatory evaluation, the regulations were determined to be primarily procedural. The economic burdens derive from the statute rather than the rules. Compliance costs to the public in general are expected to be minimal, approximately $10,000 over a 20 year period. This is based on number of manhours consumed in collecting and reporting fees and generating documentation of financial responsibilities. No comments were received on the draft regulatory evaluation.

The Coast Guard has considered the environmental impact of this rulemaking action and concluded that the impact will be minimal. In accordance with Commandant Instruction M16475.1A of May 19, 1980, National Environmental Policy Act (NEPA) Implementing Procedures, this rulemaking action is categorically excluded from the need to prepare detailed environmental impact documents in support of this conclusion.

The Regulatory Flexibility Act [94 Stat. 1164–70; 5 U.S.C. 601–612] requires an agency analysis of the impact of its proposed rules on small businesses, organizations, and small governmental jurisdictions. These final Deepwater Port Liability Fund rules are of primary concern to deepwater port licensees and the owners and operators of vessels calling at deepwater ports. There is presently only one operational deepwater port and it will be served by approximately 130 Very Large Crude Carrier tankers. Because of the substantial capital investment needed to own, construct, and operate a deepwater port, deepwater port licensees generally have the substantial backing of major corporations, not small businesses. Also, because the rules are primarily procedural in nature, and, as concerns the relatively few vessel owners and operators involved, have been deliberately structured to build upon established Federal Maritime Commission vessel financial responsibility documentation concepts, there will be minimal impact caused by these rules on the maritime community. For these reasons, it is certified under section 605(b) of the Regulatory Flexibility Act [5 U.S.C. 605(b)] that the final rules will not have a significant economic impact on a substantial number of small entities.

Effective Date

The LOOP, Inc. deepwater port began initial testing and oil transfer operations in May 1981. Since the potential for liability under section 18(d), (e), and (f) of the Act arises when oil is at the port, LOOP has been operating with respect to the Fund under interim guidelines provided by the Fund Administrator in April 1981. These guidelines consisted primarily of following the proposed rules with some minor modifications. The LOOP port is the first and only currently operational licensed U.S. deepwater port. Initial port start-up and shakedown operations are now basically complete. Vessels are now calling at the port to offload crude oil on a more regularly scheduled and frequent basis. The Coast Guard, therefore, finds this good cause to make these final rules effective upon publication. However, since the scope of these rules has been narrowed considerably in response to comments on, and objections to, the proposed rules, they are being established as interim rules. Comments on these interim rules are invited, particularly on these provisions which were changed from the proposed rules. Comments should be submitted within sixty days. Following the close of this comment period, the Coast Guard will either reaffirm or modify these interim rules, as appropriate.

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

List of Subjects in 33 CFR 137 and 150

Deepwater ports, Oil imports, Environmental protection, Water pollution control.

1. In Subchapter M, Marine Oil Pollution Liability and Compensation, by adding a new Part 137, as follows:

PART 137—DEEPWATER PORT LIABILITY FUND

Subpart A—General

Sec.

137.1 Purpose.
137.3 Applicability.
137.5 Definitions.

Subpart B—Fund Organization, Administration, and Management

137.101 General.
137.103 Fund Administrator's authority, delegation.
137.105 Fund address.
137.107 Fund Administrator's powers, duties, and obligations.

Subpart C—Fund Revenues, Accounting, and Audit

137.201 Purpose.
137.203 Applicability.
137.205 Computation of barrel fees due the Fund.
137.207 Payment of fees.
137.209 Adjustments.
137.211 Suspension of fee collections.
137.213 Oil excluded from fee collections.
137.215 Audit.

Subpart D—Vessel Financial Responsibility

137.301 Purpose.
137.303 Financial responsibility documentation.
137.305 Certification contents.

Subpart E—Notification

137.401 Purpose.
137.403 Notification.

Subpart F—Claims Procedures

137.501 Purpose.
137.503 General.

Sec.
137.505 Information.
137.507 Filing claims.
137.509 Claims allowed.
137.511 Trans-Alaska pipeline oil pollution.
137.513 Review of claims against the fund.

Authority: Secs. 10(a), 18(j)(1), 88 Stat. 2137, 2144 (33 U.S.C. 1509(a), 1517(j)(1); 49 CFR 1.46.

Subpart A—General

§ 137.1 Purpose.

This part contains the policies, procedures, and administrative practices regarding the management and operation of the Deepwater Port Liability Fund and related requirements.

§ 137.3 Applicability.

This part applies to each person who—

(a) Has been granted a license by the Secretary of Transportation to construct, operate, and maintain a deepwater port facility offshore of the United States;

(b) Owns or operates any vessel using a deepwater port;

(c) Provides financial responsibility for any vessel using a deepwater port; and

(d) Sustains cleanup costs or damages as a consequence of oil pollution from United States deepwater port activities.

§ 137.5 Definitions.

As used in this part—

"Act" means the Deepwater Port Act of 1974 (33 U.S.C. 1501–24);

"Barrel" means 42 U.S. gallons at atmospheric pressure and 60° fahrenheit;

"Commandant" means the Commandant of the Coast Guard;

"Fund" means the Deepwater Port Liability Fund established by section 18(f)(1) of the Act;

"Fund Administrator" means the person to whom the authorities and functions of the Commandant as administrator of the Fund are delegated;

"Fund Claims Adjuster" means a person authorized to receive, review, adjust, and pay claims on behalf of the Fund; and

"Vessel" means any vessel moored at a deepwater port or within the designated safety zone of a deepwater port for the purpose of loading or unloading oil, and any vessel which has received oil from another vessel at a deepwater port.

Subpart B—Fund Organization, Administration, and Management

§ 137.101 General.

(a) The Fund Administrator is the Chief of the Pollution Liability Funds Management Staff within the Office of Marine Environment and Systems at U.S. Coast Guard Headquarters.

§ 137.103 Fund Administrator's authority, delegation.

(a) The Fund Administrator is delegated authority to perform those functions of the Commandant under section 18(f) of the Act that are necessary to administration of the Fund.

(b) The Fund Administrator may redelegate and authorize successive redelegations of the authority granted in paragraph (a) of this section.

§ 137.105 Fund address.

The address to which correspondence relating to the administration of the Fund should be directed, and the location of the Fund Administrator, is Commandant (G–WF), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593 (202) 472–5052.

§ 137.107 Fund Administrator's powers, duties and obligations.

(a) The Fund Administrator conducts the activities of the Fund, including but not limited to the following:

(1) Development, promulgation, and timely revision of program policies and regulations incidental to implementation and administration of the Fund.

(2) Receipt and verification of Fund revenues comprising barrel fees, penalties and interest income earned on Fund investments of those revenues.

(3) Verification and payment of costs and expenses reasonably necessary to the administration of the Fund and the settlement of claims against the Fund.

(4) Investment, as provided in section 18(f)(3) of the Act, of all Fund revenues not needed for administration and the satisfaction of claims.

(5) Recovery of any monies to which the Fund is entitled as subrogee under circumstances set forth in section 18(h)(3) and (4) of the Act.

(b) Except for cleanup costs incurred under section 18(c) of the Act, or under section 311(c) of the Federal Water Pollution Control Act, as amended, the Fund Administrator determines the character and nature of Fund obligations and expenditures, and the manner in which those obligations and expenditures are incurred, allowed, and paid.

Subpart C—Fund Revenues, Accounting, and Audit

§ 137.201 Purpose.

This subpart contains the requirements concerning the calculation and delivery to the Fund by deepwater port licensees of the barrel fee revenues collected from the owners of oil loaded or unloaded at a deepwater port and the accounting for and audit of the Fund revenues.

§ 137.203 Applicability.

This subpart applies to each deepwater port licensee.

§ 137.205 Computation of barrel fees due the Fund.

Each deepwater port licensee shall compute the barrel fees due the Fund, at the rate of 2¢ per barrel, on the basis of the monthly oil throughput report required by § 150.707 of this chapter.

§ 137.207 Payment of fees.

(a) Each licensee shall pay the barrel fees due the Fund on oil loaded or unloaded at the port during the preceding month by one of the methods listed in paragraph (b) of this section.

(b) Barrel fees due the Fund must be paid by—

(1) Electronic transfer of funds as arranged with the Fund Administrator;

(2) Certified check or draft made payable to the U.S. Coast Guard and marked for deposit in the Deepwater Port Liability Fund; or

(3) Money order drawn to the order of the U.S. Coast Guard and marked for deposit in the Deepwater Port Liability Fund.

(c) The payment must be transmitted in time to be received by the Fund Administrator at the address listed in § 137.105 by the fifteenth of each month, or the closest following business day.

(d) Each payment to the Fund must be for the exact amount of oil loaded or unloaded at the port during the preceding month unless the licensee is concurrently reporting a variance under § 137.213(b) of this subpart.

§ 137.209 Adjustments.

(a) The Fund Administrator reviews each payment to the Fund and notifies each licensee if any apparent discrepancies are found.

(b) In general, each licensee may make adjustments to correct mathematical errors resulting in either overpayment or underpayment of the fees due the Fund.

(c) The manner and time by which adjustments for overpayment or underpayment are made are determined by the Fund Administrator and normally will occur with the following month's payment to the Fund.

§ 137.211 Suspension of fee collections.

(a) When the Fund Administrator determines the Fund balance has reached $100 million, less adjudicated claims not yet settled, and there are sufficient amounts above that level being generated by Fund investments available to sustain normal and routine administrative costs of the Fund, collection of the 2¢ barrel fee by any

licensee may be suspended, but only when advised by the Fund Administrator.

(b) The Fund Administrator notifies each licensee by the twentieth of the month if the collection of fees is to be suspended.

(c) After any suspension of fee collections by the Fund Administrator, each licensee shall resume collection of barrel fees from the owners of any oil loaded or unloaded at the deepwater port operated by such licensee, at the time of loading or unloading, and resume the payments to the Fund as prescribed in § 137.207, when directed by the Fund Administrator.

(d) Any suspension of barrel fee collections under this section does not relieve a deepwater port licensee of the oil throughput reporting requirements in § 150.707 of this chapter.

§ 137.213 Oil excluded from fee collections.

(a) A deepwater port licensee shall not collect any barrel fees from the owner of any bunker or fuel oil for the use of any vessel, or any oil which was transported through the Trans-Alaska Pipeline System (TAPS).

(b) When making the barrel fee payments due the Fund, each licensee shall explain in writing, in the oil throughput report, at the time of each payment, the reasons for any variance in the number of barrels of oil reported and payment submitted that is attributed to any bunker or fuel oil or the TAPS oil referred to in paragraph (a) of this section.

§ 137.215 Audit.

(a) Each deepwater port licensee shall permit the Fund Administrator or his representative access, for purposes of audit, to all financial records, reports, and files maintained by the licensee relevant to the computation, charging, collecting, and payment to the Fund, including the oil throughput log required by § 150.757 of this chapter.

(b) To facilitate Fund audits, each licensee shall maintain the financial data identified in paragraph (a) of this section in a manner which makes it readily accessible for audit.

(c) The period of retention for which a licensee shall keep the financial records necessary to Fund audits and the specific type of records to be kept shall be agreed upon by each licensee and the Fund Administrator. The period of retention will generally be for three years or until any Fund audits are approved by the Fund Administrator, whichever occurs first.

Subpart D—Vessel Financial Responsibility

§ 137.301 Purpose.

This subpart contains the requirements concerning the demonstration of financial responsibility by the owner or operator of any vessel, in an amount sufficient to meet the liabilities imposed on such owner or operator by section 18 of the Act.

§ 137.303 Financial responsibility documentation.

(a) In addition to complying with the requirements of any other applicable laws and regulations, the owner or operator of any vessel shall—

(1) Have insurance (or self-insurance where elected) or surety bond coverage adequate to meet the additional liability imposed by section 18 of the Act; and

(2) Provide the Fund Administrator and the deepwater port licensee a certification respecting that additional liability, containing the statements set forth in § 137.305(a).

(b) The owner or operator of a vessel need not comply with paragraph (a)(2) of this section if—

(1) The insurer providing the vessel financial responsibility cover to meet the liability imposed by section 18 of the Act has executed an endorsement, as approved by the Fund Administrator, to an existing Form FMC–225 or FMC–322 (46 CFR Part 542) demonstrating that the insurer has provided vessel financial responsibility cover; and

(2) The insurer has submitted the endorsement to the Federal Maritime Commission [Bureau of Certification and Licensing], and a copy thereof to the Fund Administrator.

(c) Each vessel must be covered by evidence of financial responsibility submitted by or on behalf of the vessel owner or operator, for additional liability under the Act, in the amount of $150 per gross ton of the vessel or $20,000,000, whichever is lesser.

(d) No document signed by or on behalf of a person who the Fund Administrator determines is not acceptable for providing financial responsibility shall constitute valid documented evidence of financial responsibility cover.

§ 137.305 Certification contents.

(a) The additional certification referred to in § 137.303(a) may be in any form but must be signed and dated by the person or authorized representative of the person, providing the insurance or surety (including the owner or operator where self-insurance is provided) and must include the following statements:

(1) ———————————————
(Name of insurer or surety)
(hereinafter [the "Insurer"] [the "Surety"]) hereby certifies that, for the purposes of complying with the regulations in Subpart D of 33 CFR Part 137, and the provisions of section 18(1) of the Deepwater Port Act of 1974 (hereinafter "Act"),

[———————————————
(Name of the vessel owner or operator)
["owner"] ["operator"], is insured by it]
[it has bonded as surety for
———————————————,
(Name of the vessel owner or operator)
["owner"] ["operator"]], in respect of the
———————————————
(Name of the vessel)
against cleanup cost and damages liability to which such [owner] [operator] could be subjected under section 18 of the Act. The amount for which [insurance] [the surety bond] is provided is

———————————————
(Amount applicable to vessel)

(2) The foregoing amount of [insurance coverage] [the surety bond] provided by the [Insurer] [Surety] in respect to ——————— (Name of the vessel) is not conditioned or dependent in any way upon any agreement or understanding between the [owner] [operator] and the [Insurer] [Surety] other than an agreement or understanding under which the [insurance] [surety bond] does not apply to cleanup costs or damages resulting from the [owner's] [operator's] own intentional or willful misconduct.

(3) ——————— (Name of agent), with offices in the United States located at ——————— is hereby designated as the [Insurer's] [Surety's] United States agent for service of process for the purposes of section 18 of the Act. If the designated agent cannot be served due to his death, disability, or unavailability, the Commandant, United States Coast Guard, acts as the agent for the service of process.

(4) The [insurance] [surety bond] evidenced by this certification applies only to incidents occurring on or after the effective date and before the expiration date of this certification, and only to incidents giving rise to claims under section 18 of the Act in respect to ——————— (Name of the vessel).

(5) The effective date of this certification is

———————————————
(Date and time)
This certification expires at 0001 hours Eastern Standard Time on the thirtieth day following the date that written notice has been received by the Fund Administrator that the [Insurer] [Surety] has elected to cancel or not renew the [insurance] [surety bond] evidenced by this certification and has so notified the [owner] [operator]. However, if oil has been loaded as cargo for a deepwater port on the ——————— (Name of Vessel) before the above date and time of expiration, the expiration shall not take effect until: (1) the oil has been completely offloaded; or (2) 0001 hours Eastern Standard Time on the sixtieth day following the date that written notice has been received by the Fund Administrator that the [Insurer] [Surety] has elected to cancel or not renew the [insurance] [surety bond] evidenced by this certification, whichever time is earlier. Expiration of this certification does not affect the liability of the

[Insurer] [Surety] in connection with a discharge of oil occurring before the date and time the expiration becomes effective.

(6) The definitions contained in the Act and 33 CFR 137.5 apply to the language of this certification.

(7) _____

(Name of [Insurer] [Surety])

_____

_____

(Mailing address)

by: _____

(Signature of official signing on behalf of the [Insurer] [Surety])

_____

(Typed Name and Title of Signing Official)

(Date Signed) _____

(b) No provision contained in the certification referred to in paragraph (a) of this section may nullify, modify or limit the effect or intent of the seven statements listed in that paragraph. Any provision which may be construed as so nullifying, modifying, or limiting is void to the extent of such nullification, modification, or limitation.

Subpart E—Notification

§ 137.401 Purpose.

This subpart contains the requirements concerning the notice of a discharge of oil from a vessel or from a deepwater port.

§ 137.403 Notification.

(a) The notification of a discharge of oil required by 33 U.S.C. 1517(b) must be made by telephone, radiotelecommunication, or a similar rapid means of communication, to one of the following officials, listed in order of priority:

(1) Duty Officer, National Response Center, U.S. Coast Guard, 400 Seventh Street, SW., Washington, D.C. 20590, toll free telephone number (800) 424–8802.

(2) The government official predesignated in the applicable Regional Contingency Plan as the On-Scene Coordinator for the geographic area in which the discharge occurs.

Note.—Regional Contingency Plans are available for examination at Coast Guard District Offices and Environmental Protection Agency (EPA) Regional Offices, as listed in 33 CFR Part 153.

(3) Commanding Officer or Officer-in-Charge of any Coast Guard unit in the vicinity of the discharge of oil.

(4) Commander of the Coast Guard District nearest the vicinity of the discharge.

(b) In each notification under paragraph (a) of this section, the person giving the notice shall provide, to the extent known, the information in § 135.307 of this chapter.

Subpart F—Claims Procedures

§ 137.501 Purpose.

This subpart contains the procedures for the filing and payment of claims against the Fund for cleanup costs and damages resulting from a discharge of oil from deepwater port activities.

§ 137.503 General.

(a) Except where modified or supplemented by the provisions of this subpart, or excepted in paragraph (c) of this section, the requirements in Part 136 of this chapter, Offshore Oil Pollution Compensation Fund Claims Procedures, apply to the settlement and adjudication of claims against the Fund.

(b) For the purpose of this subpart, the terms "economic loss," "offshore facility," and "vessel," as used in Part 136 of this chapter, mean "damages or cleanup costs," "deepwater port," and "vessel" respectively as defined in the Act and § 137.5 of this part.

(c) The following sections of Part 136 of this chapter do not apply to the filing, processing, and payment of claims authorized under section 18 of the Act:

(1) Subpart A—§§ 136.1 through 136.7;

(2) Sections 136.101, 136.105, 136.109, 136.115 (a)(4) and 136.129(c);

(3) Sections 136.213, 136.231 through 136.235; and

(4) Subpart D—§§ 136.301 through 136.309.

§ 137.505 Information.

Any person who desires to file a claim under section 18 of the Act may obtain information and specific guidance from the Fund staff by writing to Pollution Liability Funds Management Staff (G–WF/21), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, or calling (202) 472–5052.

§ 137.507 Filing claims.

(a) A claim may not be filed against the Fund without filing a claim against the deepwater port licensee or the owner or operator of the vessel which is the source of the discharge.

(b) A claim may be filed with the Fund simultaneously with filing a claim against the deepwater port licensee or the owner or operator of a vessel which is the source of the discharge, however, the Fund will not act on the claim until it appears, to the satisfaction of the Fund Administrator, that a settlement of the claim against the source of the discharge will not be reached.

(c) A claim against the Fund must be filed not more than three years after the date of the discharge giving rise to the claim. A claim against the Fund is considered filed on the date the claim is actually received by a Fund Claims Adjuster or the Fund Administrator.

§ 137.509 Claims allowed.

(a) Claims arising out of or directly resulting from a discharge of oil may be filed for cleanup costs and damages, including but not limited to damages—

(1) Suffered by any person;

(2) Involving real or personal property;

(3) Involving natural resource of the marine environment;

(4) Involving the coastal environment of any nation.

(b) The damages in paragraph (a) of this section may be claimed without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or natural resources.

(c) For all claims, in lieu of complying with § 136.115(a)(4) of this chapter, a claimant must establish that the source of the oil pollution was a deepwater port, a vessel within a safety zone, or a vessel which has received oil from another vessel at a deepwater port.

(d) For claims involving loss of income due to injury to, or destruction of, property or natural resources, the limitations in § 136.207 of this chapter, that at least 25 percent of the claimant's annual income is derived from activities which utilize the property or natural resource, does not apply.

§ 137.511 Trans-Alaska pipeline oil pollution.

Damages from a discharge of Trans-Alaska pipeline oil from a deepwater port are compensated in accordance with section 18 of the Act and the requirements of this part.

Note.—Claims involving Trans-Alaska Pipeline oil discharged from a vessel are filed under the provisions of 43 CFR Part 29.

§ 137.513 Review of claims against the fund.

(a) Administrative review of any determination by a Fund Claims Adjuster concerning the denial of a claim against the Fund is conducted by the Fund Administrator in accordance with section 18 of the Act and the regulations in this part. The Fund Administrator's decision constitutes final agency action.

(b) A claimant must initiate administrative review of a claim against the Fund within 30 days of the denial of a claim, by submitting a written request for review, together with any supporting data, to the Fund Administrator.

(c) Judicial review of any final determination on claims against the Fund is in accordance with section 18(j)(3) of the Act.

* * * * *

PART 150—OPERATIONS

2. In Subchapter NN, Deepwater Ports, by amending the Table of Contents for Part 150, Subpart G, as follows:

Subpart G—Reports and Records

Sec.

* * * * *

150.707 Oil throughput report.
150.709 [Removed]

* * * * *

3. In Part 150, Subpart G, by revising § 150.707 and by removing 150.709 respectively to read as follows:

§ 150.707 Oil throughput report.

(a) Each deepwater port licensee shall mail or deliver to the Administrator of the Deepwater Port Liability Fund, at the address listed in § 137.105 of this chapter, on a monthly basis, beginning the fifteenth day of the month immediately following the commencement of oil transfer operations, and the fifteenth of each month thereafter, a report on the oil throughput of the deepwater port.

(b) The oil throughput report required by paragraph (a) of this section may be submitted in any format but must contain the volume of oil cargo, measured in barrels, loaded or unloaded at the deepwater port during the previous month.

§ 150.709 [Removed]

(Secs. 10(a), 18(j)(1), 88 Stat. 2137, 2144 (33 U.S.C. 1509(a), 1517(j)(1)); 49 CFR 1.46)

Dated: March 25, 1982.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 81-17066 Filed 6-23-82; 8:45 am]

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Part IV

Department of Transportation

Coast Guard

Documentation of Vessels

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 66, 67, 68, and 69

[CGD 80-107]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Federal documentation of vessels, a form of national licensing, is required for the operation of certain vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages. The Coast Guard is revising the regulations pertaining to vessel documentation in response to the mandate of the Vessel Documentation Act of 1980 (Pub. L. 96-594)—to revise and simplify the regulations controlling documentation administrative procedures and paperwork without working substantive changes in the underlying requirements. The Vessel Documentation Act of 1980 becomes effective July 1, 1982 and these revised regulations are required to be promulgated by that time. The regulations do not affect rights and duties that matured, penalties that were incurred, nor proceedings that were begun before their effective date.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mrs. Phyllis D. Carnilla (Project Manager), Office of Merchant Marine Safety, Room 1312, or Lieutenant Michael P. Drzal (Staff Attorney), Office of the Chief Counsel, Room 3402, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, D.C. 20593. Mrs. Carnilla may be contacted at (202) 426-1492 and Lieutenant Drzal may be contacted at (202) 426-1467. Normal office hours are between 7:00 a.m. and 5:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking on this subject was published on November 16, 1981 (46 FR 56318). Interested persons were given until January 15, 1982 to submit comments.

OMB Control Number: 2115-0110.

Drafting Information: The principal persons involved in drafting this rulemaking are Mrs. Phyllis D. Carnilla (Project Manager), Office of Merchant Marine Safety; Lieutenant Michael P. Drzal (Staff Attorney), Office of the Chief Counsel; and Lieutenant Commander William B. Short (Project Attorney), Office of the Chief Counsel.

Discussion of Effective Date: The Vessel Documentation Act of 1980 (Pub. L. 96-594) becomes effective on July 1, 1982. The effective date of this rulemaking must coincide with the effective date of that statute, therefore good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register.**

Background

The Vessel Documentation Act is aimed at updating and simplifying the procedures for documenting vessels. It is not intended to make any substantive changes to the prerequisites for documentation such as the citizenship of vessel owners and the requirement that vessels engaged in certain trades be built in the United States. Accordingly, the proposed rules and these final rules reflect existing laws and longstanding agency interpretations of those laws.

Since the Notice of Proposed Rulemaking was promulgated, statutory revisions to the citizenship requirements for partnerships have occurred. The changes are reflected in the final rule to a limited extent. In addition, major policy changes affecting the maritime industry are under consideration and legislative and regulatory changes are under development. These changes concern removing or relaxing restrictions on the use of vessel components built or procured outside the United States; relaxing the citizenship requirements; and charging fees for Coast Guard services, including documentation of commercial vessels.

Further rulemaking would be necessary to reflect these changes. However, the imminent implementation date for the Vessel Documentation Act and the concurrent termination of existing documentation laws requires these final rules to be published without delay. There must be no lapse in the ability of vessel owners and financial institutions to document vessels properly and to record mortgages.

Discussion of Comments

Comments from approximately 55 sources were received. The commentors included ship brokers, attorneys, vessel owners, and individual Coast Guard Documentation Officers. In general, the comments heralded the proposed rulemaking as a long overdue revision of the archaic regulations now controlling merchant vessel documentation procedures and paperwork requirements. Some comments then went on to address specific substantive issues of particular concern to the commenter. Most, however, merely proposed various editorial, stylistic, and/or grammatical changes; those have been accommodated as appropriate. Other comments received were beyond the scope of the rulemaking in that they would require statutory change. These comments are not addressed for this reason. Some comments raised very specific issues not capable of being addressed in the context of a rule of general applicability. These issues are best handled in the context of an agency ruling on a case-by-case basis. A discussion of substantive issues having broad impact follows.

Two commenters requested an extension of the comment period. Since such an extension would delay publication of the final rule beyond the July 1, 1982, effective date of the Vessel Documentation Act of 1980, we did not grant the request. One of the commenters requesting a time extension submitted numerous questions concerning various documentation issues. These questions have been addressed in separate correspondence.

Section 67.03-1 Requirement for Citizen Owner. Three of the four comments received on this section focused on language within it restricting the availability of a Certificate of Documentation to vessels "wholly owned by United States citizens." All three commenters objected to the failure of the regulations to explain more fully the term. These same commenters then focused on an earlier Coast Guard ruling in which the Coast Guard looked beyond the form of a charter arrangement, approved by the Maritime Administration, and found prohibited foreign involvement to be present. The commenters argued that such an examination is beyond Coast Guard authority, and suggested in effect that Maritime Administration approval of a charter arrangement precludes Coast Guard examination of the arrangement for any other reason.

The term "wholly owned" has its origins in 46 U.S.C. 11, predecessor to Section 104 of the Vessel Documentation Act. Section 11, and 46 U.S.C. 19 reflect a clear Congressional concern with the substance, rather than the form, of ownership transactions. Those statutory sections, and the various rulings promulgated under them, have served to provide guidance in everyday vessel transactions. It is neither proper nor possible to attempt to regulate prospectively every conceivable ownership and/or financing arrangement which may be devised in conjunction with vessel documentation. Such specialized transactions are best handled in the context of specific letter rulings, as was done in the specific case complained of.

The specific ruling about which the commenters complained is neither part of nor affected by this rulemaking. However, underlying the comments is

an apparent confusion concerning the function of the inquiries made by the Maritime Administration and by the Coast Guard. The Coast Guard conducts its examination to determine whether a vessel is eligible to be a vessel of the United States while the Maritime Administration determines the advisability of allowing certain interests in a United States vessel to be transferred to non-citizens. Thus we see no reason why examination by one agency should preclude examination by the other.

The fourth comment noted that there is no indication as to "which, if any, regulations apply where a corporate interest is owned by a U.S. citizen who is married to a non-citizen." This comment poses a situation not conducive to general regulation. Whether or not an alien spouse would prohibit a citizen from participating in the ownership of a corporation is dependent on a number of variables, including the extent of participation, the contractual arrangements between the spouses, and the relevant state law characterization of the interest as it relates to the alien spouse. For this reason, specific issues arising under this scenario should be the subject of letter rulings rather than regulations of general applicability.

Section 67.03–5 Partnership, association, or joint venture. Approximately one month after the publication of the proposed rule, section 104 of the Vessel Documentation Act of 1980 (Pub. L. 96–594) was amended by section 10 of the Coast Guard Authorization Act of 1982 (Pub. L. 97–136) to provide, among other things, that a partnership is a citizen of the United States for documentation purposes if the "general partners are citizens of the United States and the controlling interest in the partnership is owned by citizens of the United States.". The definition found at section 67.03–5 has been modified to conform to this language but no attempt has been made to define the term "controlling interest." This term is new to vessel documentation law and is deserving of further treatment; therefore a further rulemaking limited to this definitional problem will be initiated as soon as feasible.

Section 67.09–3 United States built. Six of the comments received on this proposed section focused on subsection (c), which provides that at least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States. One commenter observed that this requirement would present great difficulties in terms of proof where older vessels are involved. Two comments stated that the imposition of this standard represents a departure from previous practice and that the proposed definition is more restrictive than what has been accepted by industry. Five of the comments asserted that the "fifty percent rule" has no basis in law and that it should be withdrawn on that ground. Another commenter questioned who would determine that the materials and supplies used to build a vessel were manufactured in the United States. This commenter also questioned whether invoices for the items procured would be required as evidence that they were procured in the United States. Another observation was that the definition was vague in that it fails to specify who must procure the component in the United States, the point being that materials of foreign manufacture would have at some point been procured foreign. Successive purchasers could procure the item in the United States, but the commenter felt that the proposed regulation does not sufficiently specify the point at which the machinery or component would become an item "procured in the United States." Two other commenters asserted that the use of the term "procured" was vague in and of itself. On a slightly different tack, two commenters attacked the inclusion of "components" in the definition of United States built, one on the ground that the term was vague and the other on the ground that previous documentation regulations did not mention components.The use of the term "superstructure" was attacked in the same manner. Finally, one commenter observed that § 67.09–3 as written constitutes a non-tariff customs barrier which robs the vessel owner of the opportunity to rig his vessel with the best available equipment.

Because the existing regulations are totally deficient in their treatment of these issues and because § 67.09–3 does, in fact, reflect current agency policy, we elected not to change the proposed regulation. As stated in the summary of both the proposed rule and this, the final rule, these rules do not affect rights that inured before the effective date, so we perceive no problem with respect to vessels currently characterized as United States built. In light of the relatively large number of comments received, however, we recognize that the prospective administration of this section may prove a problem, so a further rulemaking limited to this topic will be initiated to address the issues raised, with an Advanced Notice of Proposed Rulemaking being published in August 1982.

Section 67.13–3 Home port designation. Four commenters expressed an opinion that the proposed rules controlling home port designation were too restrictive in terms of not providing vessel owners with a sufficient number of options. A yacht brokerage was opposed to § 67.13–3(b)(1) because it allegedly restricts the ability of a broker to act as agent for a vessel owner who anticipates a change of address or extensive cruising. Two customs house brokers were opposed to § 67.13–3 on the ground that it restricts the ability of vessel owners to avoid state and/or local taxes by designating a home port in a location having more favorable tax rules than the home port which would be required by application of the rules contained therein. One commenter, representing the interests of American flag operators, felt that the proposed rule was too restrictive because shipping concerns often like to designate certain home ports for public relations purposes.

The final rule does not attempt to accommodate any of these comments. The process of designating a home port is not for the sole benefit of vessel owners. A home port is the place where a vessel's records are kept. All registration and recordation systems of which we are aware employ some logical nexus between the entity affected by the registration and the place of registration. For example, the Boating Safety Act requires that motorboats be numbered in their state of principal use. Filings with respect to real estate are made in the county where the property is located. The rationale for such a nexus is that all persons having an interest in the particular property must have a rational basis for accessing the records pertaining to that property. The same holds true for documented vessels. Thus, any rule which makes the home port designation process completely arbitrary, makes the registration and recordation system difficult to administer and limits its effectiveness for use by the public.

The specific concern with respect to a brokerage acting as agent for an owner is misplaced, as nothing in the proposed regulation prevents such an arrangement. The place of documentation is not determinative of liability for state and local taxes. Finally, the public relations aspects of designating home ports can be accommodated by most businesses. The Coast Guard is not aware of any substantial problems in this regard.

One commenter suggested that the vessel owner's domicile or principal residence be adopted as the criteria for home port designations in the case of individuals in order to eliminate confusion and unnecessary disputes. This suggestion has been adopted in the final rule and simultaneously addresses the concern expressed by three commenters over the use of post office boxes for illicit purposes in home port determinations.

A final comment addressed a perceived deficiency in the home port rules with respect to vessels being operated pursuant to trust charter arrangements, a deficiency which would unnecessarily add to the administrative burden of the trustee. As a result of this comment, a new paragraph, § 67.13(b)(10) has been added to accommodate such charter arrangements.

Section 67.15–7 Evidence of Marking. Five commenters objected to the requirement that clear photographs accompany CG–1322 as evidence of marking on the grounds that it was inconsistent with the other, generally relaxed evidence standards contained in the proposed rule. As a result of these comments, the photograph submission requirement has been eliminated from the final rule.

Section 67.19–9 Wrecked Vessels. Two comments were received objecting to the provisions of § 67.19–9(b)(2), which requires, among other things, that the appraised salved value of a wrecked vessel (used as the basis for determining whether sufficient repairs have been put on the vessel to gain it coastwise and fisheries privileges) include the future economic value of the vessel arising from its potential employment once the vessel has gained those privileges. The commenters contend that this element is not permitted by the legislative history of the Wrecked Vessel statute, by past practice, nor by the Vessel Documentation Act of 1980.

A review of *The Wreck Bill: Hearings on S. 5958,* before the Committee on the Merchant Marine and Fisheries, 62nd Cong., 44–46 (1913) shows that, about two years before the passage of the Wrecked Vessel statute, the House Committee considered alternative language on this point. One clause would have made it clear that attainment of coastwise privileges should be considered as part of the salved value and one clause would have made it clear that it should not. Neither version was adopted.

The result is that the language of the current law reflects an almost studied indifference to this concept; it excludes neither possibility. Of course, in operation, the law either does or does not include this element of value. One thread that seems to run through the legislative history is that the vessel as rebuilt shall be three-quarters (¾) United States built to overcome the "taint" of its foreign origin. The only way to ensure that result is to tie the appraised value of the wreck to the cost of construction in United States shipyards; i.e., by using the coastwise privilege as an element of the salved value appraisal. The market value of and fees charged by vessels enjoying coastwise privileges reflect the cost of United States construction. The appraised salved value should thus properly contain a similar cost factor.

One commenter pointed out that the proposed regulation would effectively fix the upper limit of value of a wrecked vessel at one-fourth (¼) of the value of a similar vessel with coastwise privileges. This is only true as to the market which buys the wreck to put it into the coastwise trade. If the wreck is worth more than one-fourth (¼) of the value of the vessel in the coastwise trade, it can be repaired in a United States shipyard with the minimum work required to return it to its original foreign service. This was suggested in a Department of Commerce and Labor letter contained in S. Rep. No. 816, 63d Cong., 2d Sess. 2, and indicates that this regulation is consistent with the view taken in 1915. It appears that the Congress intended this result.

In fact, past practice had been to assume that this level of value was being placed on the wreck by appraisers if it was destined for the coastwise trade. Events have shown, however, that foreign vessels requiring little repair or renovation were being appraised at a low value which did not account for future coastwise privileges, thus allowing these vessels to attain those privileges with very little work actually being performed in United States shipyards. The Coast Guard subsequently learned that these vessels were being sold before renovation to United States purchasers for a much higher price. This permitted vessels to attain coastwise privileges with relatively little cost and to compete unfairly with more expensive United States built vessels. Further, foreign owners could sometimes sell a vessel for more than its *sound* value before the wreck. This anomaly resulted because, before the wreck, the vessel could not qualify for use in the coastwise trade. Obviously, these financial inducements could provide considerable rewards for intentional wrecking of a foreign-built vessel on United States shores; surely this was not Congress' intent in enacting the Wrecked Vessel statute.

With respect to the contention that the Vessel Documentation Act does not permit such a change, it is true that the Act was not intended to work any substantive change in the documentation laws. The Act does not, however, inhibit normal regulatory development. The fact that the Wrecked Vessel regulation is being issued along with regulations changed because of the Act is coincidental. This is a change prompted by a perceived inadequacy in the administration of existing documentation laws, not a requirement of the new law.

Having carefully weighed the observations of the commenters, and further researching the issue of appraised salved value, the Coast Guard has decided that the regulations with respect to the calculation of that value will not be changed from those appearing in the Notice of Proposed Rulemaking. The Coast Guard feels that those regulations will insure that the Wrecked Vessel statute is being administered in accordance with Congressional intent. Any difficulty appraisers experience in reaching the required valuation will be addressed by additional instructions to appraisers on a case-by-case basis. Since the issue of appraised salved value has proved problematic and experience has shown that there have been inconsistencies in the methodology of determining that value, the final regulations reflect a Coast Guard decision to use a board of three (3) appraisers appointed by the Commandant to determine salved value and repair value for all applications made under the Wrecked Vessel Statute.

Section 67.23–1 Requirement for renewal. Three commenters objected to the one year renewal requirement contained in this section, suggesting either a five-year renewal period, a ten-year renewal period or no renewals at all. The final rule was not changed to accommodate these comments because annual renewal is considered essential to maintaining the integrity of the records the Coast Guard maintains as part of its documentation function. Most changes in vessel data are discovered during the annual renewals which occur under the present regulations.

Two commenters objected to the extension of the annual renewal requirement to registered vessels, contending that this would represent an unreasonable burden on the owners of these vessels. Since the former requirement for physically presenting the vessel's document at the time of renewal has been eliminated with the

adoption of a decal renewal system, the reason for excluding registered vessels from the renewal requirement no longer exists.

With this former impediment removed, the interest in preserving the integrity of the Coast Guard's records becomes paramount. Therefore the final rule preserves this requirement.

Subpart 67.43—Fees. Five commenters advocated charging fees for commercial vessel documentation transactions to parallel those charged in the case of pleasure vessels. Three commenters stated that the $100.00 fee for the initial documentation of a pleasure vessel is excessive; two other commenters claimed they are not high enough. Two commenters stated that the $50.00 fee for replacement or surrender of a pleasure vessel license is excessive. Four commenters suggested charging fees for renewals and lost documents. One commenter suggested that recordation fees should not be based on the number of words in a recorded instrument. Another suggested that fees for issuing certificates of ownership, abstracts of title and recordations should be raised.

The suggestion that fees be charged in connection with commercial vessel documentation transactions cannot be adopted at this time because charging fees in such cases is precluded by 46 U.S.C. 331. The fees related to pleasure vessel documentation, which drew conflicting comments, will remain unchanged in the final rule. Section 114 of the Vessel Documentation Act authorizes the collection of fees in association with pleasure vessel documentation; the fees must be based on the cost of providing that service. Preliminary calculations indicate that the proposed fees may not in fact recoup the full costs of the pleasure vessel documentation program. The proposed fees can therefore not be lowered. When the new documentation procedures have been in place for a period of time, a further rulemaking may be initiated to raise the pleasure vessel fees enough to cover the costs of providing this service. The suggestion to charge fees for lost documents for commercial vessels was not adopted because it is statutorily precluded; the proposed regulations already impose such a fee for pleasure vessels. The suggestion to charge fees for renewals was not adopted because such a charge would considerably complicate the renewal system, making it more burdensome for the public. In addition, the cost of collecting such a fee would exceed the revenues generated by it. The fees concerning recordation are fixed by the Ship Mortgage Act of 1920 and are not susceptible to regulatory adjustment without statutory change.

Two comments were received with respect to the fees associated with name changes. One asserted that the cost of a name change should bear some relationship to the size of the vessel. This comment was not adopted because the size of the vessel undergoing the name change has no bearing on the administrative cost of such a transaction. The other commenter maintained that $150.00 for a simultaneous pleasure vessel documentation and name change is excessive. A note clarifying that the fee for such a transaction is $100.00 has been added, as it was not the intent of the original rulemaking to impose a fee of $150.00.

Subpart 67.45 Prohibitions. The Vessel Documentation Act of 1980 provides for increased penalties for violations of its provisions. Seven commenters felt that the amount of these penalties should be repeated in the regulations. The regulations are intended to implement, not to repeat statutory provisions; therefore these comments were not accommodated. For the general information of readers not having ready access to the Vessel Documentation Act, the amounts provided therein for violations are as follows:

Violation	Maximum penalty
Fraudulent application	Forfeiture of vessel.
Fraudulent use of certificate	Do.
Operation in unauthorized trade	Do.
Use of pleasure vessel for other than pleasure.	Do.
Any other violation of the Act or the regulations.	$500, each day of violation being a separate violation.

A comment on § 67.45–7 by the United States Customs Service of the Department of the Treasury requested that officials of the Customs Service be specifically identified as persons for whom a Certificate of Documentation must be produced on demand. This comment was not accommodated because the authority of the U.S. Customs Service derives from a statutory source other than the Vessel Documentation Act. Further, officials other than those of the Customs Service are authorized to board vessels. An attempt to list all such officials could result in the inadvertent exclusion of some such individuals. It should be noted that nothing in the Act precludes Customs officials from boarding a vessel and requesting production of a Certificate of Documentation.

A number of comments were received concerning the proposed forms which were reproduced in rough form in the preamble of proposed rulemaking. Three commenters, each representing another government agency, requested that additional information be collected on Coast Guard documentation forms. In general, these comments were not accommodated, since the additional information sought to be collected was not germane to the legal requirements pertaining to vessel documentation. A number of commenters noted the elimination of a government form for mortgages. This form has been eliminated in recognition of the fact that a mortgage instrument should reflect the contractual arrangements arrived at by the parties; such an instrument should therefore be devised by those parties.

Subpart 68.01 concerns the qualification of certain corporations for limited coastwise employment. One editorial comment was received on this subpart. The comment has been accommodated.

Regulatory Analysis

These regulations were reviewed in accordance with the "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 of May 22, 1980) in the Notice of Proposed Rulemaking (46 FR 56335) and were determined to be non-significant. The regulations were also found to be non-major under the criteria established in Executive Order 12291. No information has been received which alters those determinations. An Initial Regulatory Flexibility Analysis (IRFA) pursuant to the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) was published in the Notice of Proposed Rulemaking (46 FR 56335).

As stated in that evaluation, these rules should result in over 200,000 fewer occasions on which the public will be required to complete government paperwork. This is expected to save over 250,000 hours of time and result in a net saving to the public of over $5,000,000.00 a year. In no instance will there be an increased burden or cost on any individual or entity.

In the Notice of Proposed Rulemaking, we estimated that over 22,000 small businesses or entities might be affected by these rules, including: businesses, entities and individuals owning vessels, brokers and attorneys handling documentation matters, shipbuilders, boat dealers, and financial institutions. The only potential detrimental impact was on brokers and attorneys who might have less business due to the simplified procedures. Although we specifically asked for additional data concerning the potential impact on small entities, none was received.

The analysis and conclusions of the IRFA are therefore adopted as the Final Regulatory Flexibility Analysis (FRFA).

Paperwork Reduction Act: The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2115-0110.

Implementation

The documents of a vessel other than one under a registry must be exchanged, at the vessel's home port, for an appropriately endorsed Certificate of Documentation at the normal time of renewal. Owners of these vessels will be contacted by their respective home port documentation officers when renewal is due. The document of a vessel under registry must be exchanged for an appropriately endorsed Certificate of Documentation. In this case, the burden is on the vessel owner to exchange the document of his vessel before July 1, 1983, by contacting the documentation officer at the vessel's home port. There will be no charge for the exchange of old-style marine documents to new. Failure to exchange a vessel's outstanding marine document for a Certificate of Documentation may result in the deletion of the vessel from Coast Guard records as a vessel of the United States.

List of Subjects in 46 CFR Parts 67 and 68

Vessels, Documentation.

In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended as follows:

PART 66—[RESERVED]

1. 46 CFR Part 66 is amended by eliminating its existing provisions and reserving the Part.

2. By revising Part 67 to read as follows:

PART 67—DOCUMENTATION OF VESSELS

Subpart 67.01—General

Sec.
67.01-1 Definitions of terms used in this part.
67.01-3 Purpose of documentation.
67.01-5 Vessels requiring documentation.
67.01-7 Vessels exempt from documentation.
67.01-9 Vessels eligible for documentation.

Subpart 67.03—Citizenship Requirements for Vessel Documentation

67.03-1 Requirement for citizen owner.
67.03-3 Individual.
67.03-5 Partnership, association or joint venture.
67.03-7 Trust.
67.03-9 Corporation.
67.03-11 Governmental entity.
67.03-13 Evidence.

Subpart 67.05—Title Requirements for Vessel Documentation

67.05-1 Requirement for title evidence.
67.05-3 Requirement for removal from foreign registry.
67.05-5 Extent of title evidence required for coastwise or Great Lakes license.
67.05-7 Extent of title evidence required for initial documentation.
67.05-9 Extent of title evidence required upon subsequent transfers.
67.05-11 Extent of title evidence required for change in general partners of partnership.
67.05-13 Extent of title evidence required for vessels returning to documentation.
67.05-15 Extent of title evidence required for captured, forfeited, special legislation and wrecked vessels.
67.05-17 Extent of evidence required for change of legal name of owner.

Subpart 67.07—Acceptable Title Evidence; Waiver

67.07-1 Original owner.
67.07-3 Subsequent transfers by sale or donation.
67.07-5 Passage of title by court action.
67.07-7 Passage of title without court action.
67.07-9 Passage of title in conjunction with corporate mergers, etc.
67.07-11 Passage of title by extrajudicial repossession and sale.
67.07-13 Change in general partners of partnership.
67.07-15 Change of legal name of owner.
67.07-17 Waiver of recordable evidence.

Subpart 67.09—Build Requirements for Vessel Documentation

67.09-1 Requirement for determination.
67.09-3 United States built.
67.09-5 Foreign built.
67.09-7 Evidence.
67.09-9 Waiver of evidence.

Subpart 67.11—Tonnage and Dimension Requirements for Vessel Documentation

67.11-1 Requirement for determination.
67.11-3 Method of determination.

Subpart 67.13—Designations Required for Vessel Documentation

67.13-1 Official number designation.
67.13-3 Home port designation.
67.13-5 Vessel name designation.
67.13-7 Hailing port designation.

Subpart 67.15—Marking Requirements for Vessel Documentation

67.15-1 Official number marking requirement.
67.15-3 Name and hailing port marking requirements.
67.15-5 Requirement for evidence of marking.
67.15-7 Evidence of marking.
67.15-9 Disputes.

Subpart 67.17—Form of Documentation; Types of License; Eligibility

Sec.
67.17-1 Form of documentation—all licenses.
67.17-3 Registry.
67.17-5 Coastwise license.
67.17-7 Great Lakes license.
67.17-9 Fishery license.
67.17-11 Pleasure license.

Subpart 67.19—Applications for Special Qualification of Vessels for Documentation

67.19-1 Submission of applications.
67.19-3 Captured vessels.
67.19-5 Forfeited vessels.
67.19-7 Special legislation.
67.19-9 Wrecked vessels.

Subpart 67.21—Initial Application for Documentation

67.21-1 Application form—all licenses.
67.21-3 Obtaining of official number.
67.21-5 Subsequent submissions.

Subpart 67.23—Period of Validity of Certificate of Documentation; Mortgagee Consent

67.23-1 Requirement for renewal.
67.23-3 Requirement for surrender.
67.23-5 Restrictions on surrender; mortgagee consent.
67.23-7 Requirement for replacement.
67.23-9 Requirement for deletion.
67.23-11 Requirement for cancellation.

Subpart 67.25—Subsequent Applications—Renewals, Changes, etc.

67.25-1 Renewals.
67.25-3 Surrender—Change of name.
67.25-5 Surrender—Change of home port.
67.25-7 Surrender—All other causes.
67.25-9 Surrender—Procedure for mortgagee consent.
67.25-11 Replacements.
67.25-13 Deletions.
67.25-15 Cancellations.

Subpart 67.27—Miscellaneous Applications

67.27-1 Application for as a new vessel determination.
67.27-3 Required application for rebuilt determination.
67.27-5 Registration of funnel marks and house flags.

Subpart 67.29—Recordation of Instruments—General Provisions

67.29-1 Instruments eligible for recordation.
67.29-3 Restrictions on recordation.
67.29-5 Requirement for vessel identification.
67.29-7 Requirement for date and acknowledgement.
67.29-9 Required number of copies.
67.29-11 Requirement for citizenship declaration.
67.29-13 Place of recordation.
67.29-15 Date and time of recordation.

Subpart 67.31—Recordation of Instruments—Bills of Sale, etc.

67.31-1 General requirements.
67.31-3 Required signatures.
67.31-5 Required recitations.
67.31-7 When filing permitted.

Subpart 67.33—Recordation of Instruments—Chattel Mortgages and Related Instruments

Sec.
67.33–1 General requirements for chattel mortgages.
67.33–3 Required signatures.
67.33–5 Required recitations.
67.33–7 General requirements for assignments of chattel mortgages.
67.33–9 Required signatures.
67.33–11 Required recitations.
67.33–13 General requirements for assumptions of chattel mortgages.
67.33–15 Required signatures.
67.33–17 Required recitations.
67.33–19 General requirements for amendments of or supplements to chattel mortgages.
67.33–21 Required signatures.
67.33–23 Required recitations.

Subpart 67.35—Recordation of Instruments—Notices of Claims of Lien

67.35–1 General requirements.
67.35–3 Required signatures.
67.35–5 Required recitations.
67.35–7 Restrictions on recordation.

Subpart 67.37—Recordation of Instruments—Preferred Mortgages and Related Instruments

67.37–1 General requirements for preferred mortgages.
67.37–3 Necessity for presentation of Certificate of Documentation.
67.37–5 Restrictions on recordation.
67.37–7 Required number of copies.
67.37–9 Requirements for instruments supplemental to preferred mortgages.
67.37–11 Restrictions on recordation.

Subpart 67.39—Removal of Encumbrances

67.39–1 General requirements.
67.39–3 Requirements for removal of encumbrances by court order.
67.39–5 General requirements for instruments evidencing satisfaction or release.
67.39–7 Required signatures.
67.39–9 Required recitations.

Subpart 67.41—Abstracts of Title and Certificates of Ownership

67.41–1 Requirement for Abstract of Title.
67.41–3 Optional request for Abstract of Title.
67.41–5 Request for Certificate of Ownership.

Subpart 67.43—Fees

67.43–1 Application for registration of funnel marks and house flags.
67.43–3 Application for name change.
67.43–5 Application for new vessel determination.
67.43–7 Application for qualification as a wrecked vessel classification.
67.43–9 Copies of records.
67.43–11 Pleasure vessel.
67.43–13 Recordation of instruments.

Subpart 67.45—Prohibitions

67.45–1 Alteration of Certificate.
67.45–3 Command by non-citizen.
67.45–5 Failure to have Certificate on board.
67.45–7 Failure to produce Certificate.
67.45–9 Failure to renew Certificate.
Sec.
67.45–11 Failure to surrender Certificate.
67.45–13 Fraudulent application for Certificate.
67.45–15 Fraudulent use of Certificate.
67.45–17 Improper markings.
67.45–19 Violation of license.
67.45–21 Operation without documentation.
67.45–23 Operation under invalid Certificate.
67.45–25 Unauthorized name change.

Appendices

A—Requirements for specially qualified vessels under 46 CFR Subpart 67.19
B—Requirements for initial documentation under 46 CFR Subpart 67.21
C—Requirements for subsequent documentation transactions under 46 CFR Subpart 67.25
D—Ports of documentation

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Subpart 67.01—General

§ 67.01–1 Definitions of terms used in this part.

Certificate of Documentation refers to form CG–1270.

Commandant means the Commandant of the United States Coast Guard.

Note.—Submissions and correspondence made to the Commandant pursuant to this part should be addressed to Commandant (G–MVD), U.S. Coast Guard, Washington, D.C. 20593.

Documentation officer means the Coast Guard official who is authorized to approve and process applications made under this Part.

Documented vessel means a vessel for which a valid Certificate of Documentation is outstanding.

Home port means the port of documentation where the records of a vessel are kept.

Officer in Charge, Marine Inspection (OCMI) means the Coast Guard official designated as such by the Commandant and who, under the superintendence and direction of the Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and administration of Title 52, Revised Statutes, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder.

Port of documentation means a port which has been designated by the Commandant as a place which may serve as the home port of a vessel. A documentation office is located in each port of documentation. A list of designated ports of documentation may be found in Appendix D to this Part.

Superstructure means any structural part of a vessel above or including its deck.

United States, except as otherwise specified, in this Part includes the fifty (50) states, Guam, the Northern Mariana Islands, the United States Virgin Islands, Puerto Rico, and the District of Columbia.

Vessel includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. Vessel also includes ocean thermal energy facilities and ocean thermal energy conversion plantships.

(a) *Ocean thermal energy conversion facility* means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work.

(b) *Ocean thermal energy conversion plantship* means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water to produce electricity or another form of energy capable of being used directly to perform work.

Note.—Definitions of coastwise trade and fisheries can be obtained from U.S. Customs Service, Washington, D.C. (ATTN: Carrier Rulings Branch.)

§ 67.01–3 Purpose of documentation.

Documentation is required for the operation of vessels in certain trades, serves as evidence of vessel nationality, and, with certain exceptions, permits vessels to be subject to preferred mortgages.

§ 67.01–5 Vessels requiring documentation.

Any vessel of at least 5 net tons which engages in the fisheries, Great Lakes trade, or coastwise trade, unless exempt under § 67.01–7, must be documented.

§ 67.01–7 Vessels excluded or exempt from documentation.

(a) A vessel of less than five net tons is excluded from documentation.

(b) A vessel which does not operate on the navigable waters of the United States is excluded from the requirement to be documented. Such vessel may, at the option of the owner, be documented,

if at least 5 net tons and wholly owned by citizen(s) of the United States.

(c) A non-self-propelled vessel, qualified to engage in the coastwise trade is exempt from documentation when used in that trade:

(1) Within a harbor;

(2) In whole or in part on the rivers or inland lakes of the United States; or

(3) In whole or in part on the internal waters or canals of any state.

§ 67.01-9 Vessels eligible for documentation.

Any vessel of at least 5 net tons, wholly owned by a United States citizen or citizens, is eligible for documentation. This includes, but is not limited to, vessels used exclusively for pleasure and vessels used in foreign trade.

Subpart 67.03—Citizenship Requirements for Vessel Documentation

§ 67.03-1 Requirement for citizen owner.

Certificates of Documentation are available only to vessels which are wholly owned by United States citizens. For the purposes of obtaining a Certificate of Documentation, the persons and entities discussed in §§ 67.03-3 through 67.03-11 are citizens.

§ 67.03-3 Individual.

An individual is a citizen if he is a native-born, naturalized, or derivative citizen of the United States, or otherwise qualifies as a United States citizen.

§ 67.03-5 Partnership, association, or joint venture.

(a) A partnership is a citizen for the purposes of obtaining a registry, a fishery license, or a pleasure license if all of its general partners are citizens and the controlling interest in the partnership is owned by citizens of the United States. A partnership is a citizen for the purposes of obtaining a coastwise license or a Great Lakes license if all of its general partners are citizens and 75% of the interest in the partnership is owned by citizens of the United States.

(b) An association is a citizen if each of its members is a citizen.

(c) A joint venture is a citizen if each of its members is a citizen.

§ 67.03-7 Trust

A trust arrangement fulfills the citizenship requirements if each of its trustees and each of its beneficiaries is a citizen.

§ 67.03-9 Corporation.

(a) A corporation is a citizen for the purposes of obtaining a registry, a fishery license, or a pleasure license if:

(1) It is incorporated under the laws of the United States, including any federal scheme of incorporation;

(2) Its chief executive officer, by whatever title, is a United States citizen;

(3) Its chairman of the board of directors is a United States citizen; and

(4) No more of its directors are non-citizens than a minority of the number necessary to constitute a quorum.

(b) A corporation is a citizen for the purposes of obtaining a coastwise or Great Lakes license endorsement if

(1) It meets all the requirements of paragraph (a) of this section; and

(2) At least 75% of the interest in the corporation is owned by United States citizens. (See 46 U.S.C. 802)

(c) A corporation which does not meet the requirements of paragraph (b) of this section may qualify for limited coastwise trading privileges by meeting the requirements of Subpart 68.01.

(d) Although a corporation meets the requirements of paragraph (a) of this section, it may be limited in its ability to document a vessel which is either documented or was last documented pursuant to these regulations or any predecessor regulations thereto. If the controlling interest in that corporation is not held by U.S. citizens, it may not document such a vessel unless it evidences that the Maritime Administration approved that corporation's acquisition of the vessel. (see 46 U.S.C. 802, 808)

§ 67.03-11 Governmental entity.

A governmental entity is regarded as a citizen if it is a government of the United States as defined in § 67.01-1.

§ 67.03-13 Evidence.

An original form CG-1258 establishes a rebuttable presumption that the applicant is a United States citizen.

Subpart 67.05—Title Requirements for Vessel Documentation

§ 67.05-1 Requirement for title evidence.

The owner of a vessel must present title evidence, to the extent specified in this subpart:

(a) When application is made for a coastwise license or a Great Lakes license on behalf of a vessel which has not previously been qualified for such license;

(b) For the initial documentation of the vessel;

(c) When the ownership of a documented vessel changes in whole or in part;

(d) When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution, without dissolution of the partnership;

(e) When a vessel which has been deleted from documentation is returned to documentation and there has been an intervening change or changes of ownership; or

(f) When the legal name of the owner of a documented vessel changes.

§ 67.05-3 Requirement for removal from foreign registry.

Whenever a vessel which is entering or re-entering documentation has last been registered under the laws of a foreign country, the applicant must provide evidence of the removal of the vessel from foreign registry.

§ 67.05-5 Extent of title evidence required for coastwise or Great Lakes license.

When the owner of a vessel makes application for a coastwise license on behalf of a vessel which is eligible for but which has not previously acquired such license, the owner must provide evidence which establishes a complete chain of title for the vessel accompanied by competent and persuasive evidence establishing the citizenship of each entity in the chain.

§ 67.05-7 Extent of title evidence required for initial documentation.

(a) New vessels—the only title evidence required for a vessel being documented by the owner for whom the vessel was built shall be the certification of builder (CG-1261) described in § 67.09-7, regardless of the license endorsement sought.

(b) Used vessels—the title evidence required for such vessels varies with the type of license endorsement sought:

(1) Where a coastwise or Great Lakes license endorsement is sought, title evidence must be presented in accordance with § 67.05-5.

(2) Where a registry or fishery license endorsement is sought, the vessel owner must produce a copy of the last registration of the vessel (state, federal, or foreign) and evidence which establishes chain of title from that registration to the present owner. (See § 67.09-1 concerning the requirement for a certification of builder where a fisheries license is sought.)

(3) Where a pleasure license endorsement is sought, the owner may, at his option, comply with either paragraph (b)(1) or (b)(2) of this section.

Note.—Imported pleasure vessels are subject to duty under Schedule 6, Part 6, items 696.05 or 696.10 of the Tariff Schedules. Further information on the importation of pleasure vessels may be obtained from the U.S. Customs Service, Washington, D.C. 20229 (Attn: Carrier Rulings Branch).

§ 67.05–9 Extent of title evidence required upon subsequent transfers.

When the ownership of a documented vessel changes, in whole or in part, the applicant for documentation must present the title evidence required by Subpart 67.07 to reflect all ownership changes and citizenship evidence for all owners subsequent to the last documentation.

§ 67.05–11 Extent of title evidence required for change in general partners of partnership.

When a change in the general partners of a partnership owning a documented vessel occurs, the partnership must present the evidence required by § 67.07–13 to reflect the change.

§ 67.05–13 Extent of title evidence required for vessels returning to documentation.

(a) Except as provided in paragraph (b) of this section, when the owner of a vessel which has been deleted from documentation applies to have the vessel returned to documentation, the owner must provide evidence establishing complete chain of title from the last owner under documentation, and citizenship evidence for all owners in that chain.

(b) When a vessel is returned to documentation after having been under foreign registry, the owner must provide evidence establishing complete chain of title from the last owner under the foreign registry. No citizenship evidence need be provided for the owners in that chain.

§ 67.05–15 Extent of title evidence required for captured, forfeited, special legislation, and wrecked vessels.

(a) In the case of a captured or forfeited vessel, the owner must provide evidence establishing chain of title from the point of judicial decree of capture or forfeiture and citizenship evidence for all owners in that chain.

(b) In the case of a wrecked vessel or a vessel which is the subject of special legislation, the owner must provide:

(1) For initial documentation of the vessel, a copy of the last registration, evidence establishing chain of title from the point of that registration, and citizenship evidence for all owners subsequent to the Commandant determination that the vessel is eligible for documentation under 46 U.S.C. 14.

(2) For a previously documented vessel, the title evidence reflecting all ownership changes and citizenship evidence for all owners subsequent to the last documentation.

§ 67.05–17 Extent of evidence required for change of legal name of owner.

When the legal name of the owner of a documented vessel changes, the owner must present such evidence as is required by § 67.07–15 to reflect the change.

Subpart 67.07—Acceptable Title Evidence; Waiver

§ 67.07–1 Original owner.

The builder's certification required by § 67.09–7 serves as evidence of the original owner of a vessel.

§ 67.07–3 Subsequent transfers by sale or donation.

(a) Except as otherwise provided in this Subpart, transfers of vessel title must be evidenced by a bill of sale in recordable form, as described in § 67.31–1, accompanied by a declaration of citizenship from the new owner, executed on the appropriate Maritime Administration form. (See § 67.29–11).

(b) The bill of sale form used may be form CG–1340, or form CG–1356, if appropriate.

(c) An applicant for documentation who cannot produce title evidence which is required in recordable form may apply for a waiver of that requirement by complying with the provisions of § 67.07–17.

§ 67.07–5 Passage of title by court action.

(a) When title to a vessel has passed by court action, that passage must be established by certified copies of the relevant court order(s).

(b) When the authority to transfer title to a vessel has been conferred by court action, that authority must be established by certified copies of the relevant court order(s).

(c) Passage of title subsequent to such court orders must be established in accordance with the remainder of this Subpart.

§ 67.07–7 Passage of title without court action.

(a) When title to a vessel has passed to a surviving joint tenant or tenants or a tenant by the entirety, by reason of the death of a tenant, such passage must be established by a certified copy of the death certificate for the deceased tenant.

(b) Where the laws of the applicable jurisdiction permit passage, without court action, of title to a vessel which was formerly owned in whole or in part by a person now deceased, an applicant seeking to document the vessel must present evidence of compliance with the applicable state law.

(c) Passage of title subsequent to such devolutions must be established in accordance with the remainder of this Subpart.

§ 67.07–9 Passage of title in conjunction with corporate mergers, etc.

(a) When title to a vessel has passed as the result of a corporate merger or similar transaction, wherein the assets of one corporation have been transferred to another, the passage of title must be established by materials which specifically identify the vessel as being among the assets transferred. An example of suitable materials includes the resolution of the board of directors or shareholders of the corporation which held title to the vessel before the transaction.

(b) In jurisdictions where there is an official recognition of the accomplishment of such merger, etc., a certified copy of such official recognition must be provided in addition to the material required by paragraph (a) of this section.

(c) Passage of title subsequent to such merger must be established in accordance with the remainder of this Subpart.

§ 67.07–11 Passage of title by extra-judicial repossession and sale.

(a) When title to a vessel has passed by reason of an extra-judicial repossession and sale, such passage must be established by:

(1) A copy of the instrument under which foreclosure was made;

(2) An affidavit from the foreclosing party setting forth the reasons for foreclosure, the chronology of foreclosure, the statute(s) under which foreclosure was made, and the steps taken to comply with the relevant instrument and statute(s);

(3) Evidence of substantial compliance with the relevant instrument(s) and statutes; and

(4) A bill of sale in recordable form from the foreclosing party as agent for the defaulting owner(s).

(b) Passage of title subsequent to such sale must be established in accordance with the remainder of this Subpart.

§ 67.07–13 Change in general partners of partnership.

(a) When the general partners of a partnership owning a documented vessel change by addition, deletion, or substitution, the change must be established by a written statement from a surviving general partner detailing the nature of the change.

(b) Passage of title subsequent to such change must be established in accordance with the remainder of this Subpart.

§ 67.07-15 Change of legal name of owner.

(a) When the name of a corporation which owns a documented vessel changes, the owner must present certification from the appropriate secretary of state evidencing registration of the change.

(b) When the name of an individual who owns a documented vessel changes for any reason, competent and persuasive evidence establishing the change must be provided.

(c) Passage of title subsequent to such changes must be established in accordance with the remainder of this Subpart.

§ 67.07-17 Waiver of recordable evidence.

(a) When the evidence of title passage required by this Subpart is a recordable bill of sale, and the applicant is unable to produce a bill of sale in recordable form, such applicant may request that the documentation officer where application for documentation or redocumentation is made waive that requirement.

(b) The request for waiver must consist of:

(1) A written statement from the applicant, detailing the reasons why a recordable instrument cannot be obtained; and

(2) Other competent and persuasive evidence of the passage of title.

(c) No waiver of the requirement to produce a recordable bill of sale shall be granted absent other competent and persuasive evidence of title passage.

Subpart 67.09—Build Requirements for Vessel Documentation

§ 67.09-1 Requirement for determination.

Evidence that a vessel was built in the United States must be on file for any vessel for which a coastwise license, a Great Lakes license, or a fishery license is sought, unless the vessel is otherwise qualified for those licenses under Subpart 67.19.

§ 67.09-3 United States built.

A vessel is considered built in the United States if:

(a) All major components of its hull and superstructure are fabricated in the United States; and

(b) The vessel is assembled entirely in the United States; and

(c) At least fifty (50) percent of the cost of all machinery (including propulsion) and components which are not an integral part of the hull or superstructure relates to items procured in the United States.

(d) For the purposes of this section, United States includes American Samoa.

§ 67.09-5 Foreign built.

A vessel is considered foreign built if it does not meet the requirements of § 67.09-3.

§ 67.09-7 Evidence.

(a) Evidence of the facts of building shall be an original form CG-1261, or other original document containing the same information, executed by a person having personal knowledge of the facts of build because he:

(1) Constructed the vessel; or

(2) Supervised the actual construction of the vessel.

(b) The applicant must file a separate certificate from each builder involved in the construction of the vessel.

§ 67.09-9 Waiver of evidence.

(a) If an applicant is unable to obtain the evidence required by § 67.09-7, the owner may apply to the documentation officer at the documentation office where application for documentation is made for a waiver of that requirement.

(b) The application for waiver must consist of:

(1) A request for the waiver, setting forth the reasons why the evidence required by § 67.09-7 cannot be furnished; and

(2) Other competent and persuasive evidence of the facts of building.

(c) No waiver of the requirements imposed by § 67.09-7 may be granted in the absence of competent and persuasive evidence of the facts of build.

Subpart 67.11—Tonnage and Dimension Requirements for Vessel Documentation

§ 67.11-1 Requirement for determination.

Documentation is available only to vessels of at least five (5) net tons. The tonnage and dimensions of a vessel must be determined:

(a) For initial documentation;

(b) Whenever there is a change in the gross or net tonnage or dimensions of a documented vessel; or

(c) When the gross or net tonnage or dimensions of a vessel returning to documentation has changed since the vessel's last documentation.

§ 67.11-3 Method of determination.

The gross and net tonnage and dimensions of a vessel are determined in accordance with 46 CFR Part 69. A Certificate of Admeasurement issued by an authorized official is the only acceptable evidence of the gross and net tonnage and dimensions of a vessel.

Subpart 67.13—Designations Required for Vessel Documentation

§ 67.13-1 Official number designation.

(a) The owner of a vessel must apply to the Commandant, via a documentation officer, using form CG-1258, for designation of an official number for the vessel:

(1) Upon application for initial documentation of the vessel; and

(2) When an existing vessel has been severed, with two (2) or more vessels resulting. In this case, the official number of the original vessel is retired and the owner of each resulting vessel must apply for designation of a new official number.

§ 67.13-3 Home port designation.

(a) The owner of a vessel must designate a home port for that vessel:

(1) Upon initial documentation;

(2) When there is a change in the ownership of the vessel, in whole or in part; or

(3) When there is a change in the home port of the vessel.

(b) The owner must designate the home port according to the following rules:

(1) The home port of a vessel owned by one person is the port of documentation closest to that person's domicile address.

(2) Where two (2) or more persons with different addresses own a vessel, the home port must be the port of documentation closest to the domicile address of any one of the owners.

(3) Where a vessel is owned by a partnership, the home port must be the port of documentation closest to the business address of the partnership.

(4) Where a vessel is owned in a trust arrangement, the home port must be the port of documentation closest to the business address of any one of the trustees.

(5) Where the vessel is owned by a corporation, the home port must be the port of documentation closest to its address within its state of incorporation or the address of its principal place of business.

(6) Where the vessel owner does not reside in the United States or does not have a permanent address in the United States, the home port must be Washington, D.C. For the purposes of this section, the term United States includes American Samoa.

(7) Where the vessel is owned by the federal government or any agency thereof, the home port must be Washington, D.C.

(8) Where the vessel is owned by a state, territory, or possession or any

agency thereof, the home port must be the port of documentation closest to the capital of that entity.

(9) Where the vessel is owned by a political subdivision of a state, territory, or possession, the home port must be the port of documentation closest to that subdivision.

(10) Where the vessel will be operated under a bareboat charter for a term of five (5) years or more, the home port must be determined, in accordance with paragraphs (b) (1)–(9) of this section, using the rule applicable to either the vessel owner or the vessel charterer.

(c) The owner must make application for approval of the home port designated using form CG–1258, which serves as prima facie evidence of the propriety of the designation.

(d) The home port of a documented vessel must not be changed without the approval of the documentation officer at the documentation office where application for home port change is made. Procedures for home port change are discussed at § 67.25–5.

(e) The original form CG–1258 approved by the documentation officer at the documentation office where application for home port change is made constitutes official record of the designated home port.

(f) Until such time as the owner of a vessel is required to designate a home port by paragraphs (a) (2) or (3) of this section, the provisions of this section do not apply to vessels validly documented before the effective date of these regulations.

(g) The OCMI for the documentation office where application for approval of home port designation is made has final authority to settle disputes as to the propriety of that designation.

§ 67.13–5 Vessel name designation.

(a) The owner of a vessel must designate, using form CG–1258, a name for the vessel:

(1) For initial documentation; or

(2) When the owner elects to change the name.

(b) The name designated may not actually be, nor be phonetically identical to, any word or words used to solicit assistance at sea.

(c) The name of a documented vessel may not be changed without the prior approval of the documentation officer at the documentation office where application for name change is made, and payment of the fee prescribed in § 67.43–3. Procedures for changing the name of a vessel are discussed at § 67.25–3.

§ 67.13–7 Hailing port designation.

(a) The owner of a documented vessel must designate a hailing port to be marked on that vessel.

(b) Except as provided in paragraph (d) of this section, the hailing port must be:

(1) The vessel's home port; or

(2) The place which the owner used to determine the home port of the vessel.

(c) When the home port of a vessel is determined in accordance with § 67.13–3(b)(6), the hailing port must be Washington, D.C.

(d) The hailing port must include the state, territory, or possession, and must be a place recognized by the United States Post Office as a bona fide mailing address.

(e) An original form CG–1322 shall be evidence of the hailing port designated.

(f) The OCMI for the documentation office at which application for documentation is made has final authority to settle disputes as to the propriety of the home port designated.

(g) Until such time as the owner of a vessel is required to designate a home port by § 67.13–3(a) (2) or (3), the provisions of this section do not apply to vessels validly documented before the effective date of these regulations.

Subpart 67.15—Marking Requirements for Vessel Documentation

§ 67.15–1 Official number of marking requirement.

The official number of the vessel, preceded by the abbreviation "No." must be marked by any permanent method which cannot be obliterated or obscured, in block-type arabic numerals not less than three (3) inches in height on some clearly visible interior structural part of the hull.

§ 67.15–3 Name and hailing port marking requirements.

(a) Pleasure vessels. For vessels documented exclusively for pleasure, the name and hailing port of the vessel must be marked together in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the hull.

(b) Vessels with square bow. For vessels having a square bow, the name of the vessel may be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the bow, rather than as specified in paragraph (c) of this section, in order to avoid obliteration. The name and hailing port must be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the stern.

(c) Other vessels. For vessels other than those covered in paragraphs (a) and (b) of this section, the name of the vessel must be marked in clearly legible letters not less than (4) inches in height on some clearly visible exterior part of the port and starboard bow and the stern of the vessel. The hailing port of such vessels must be marked in clearly legible letters not less than four (4) inches in height on some clearly visible exterior part of the stern of the vessel.

(d) The markings required by paragraphs (a), (b), and (c), of this section may be made by use of any means and materials which result in durable markings.

§ 67.15–5 Requirement for evidence of marking.

The owner of a vessel must submit evidence of marking:

(a) For every initial documentation;

(b) Whenever there is a change in the name, home port, or hailing port of a documented vessel;

(c) Whenever a vessel which has held a pleasure license only obtains any other license; and

(d) Whenever an official number is designated under the provisions of § 67.13–1(a)(2).

§ 67.15–7 Evidence of marking.

Evidence of marking must be submitted on an original form CG–1322.

§ 67.15–9 Disputes.

The OCMI for the documentation office at which application for documentation is made has final authority in any disputes concerning the permanency, durability, legibility, or placement of a vessel's markings. When such a dispute has been resolved, the owner may file, at the home port of the vessel, photographs depicting the approved markings.

Subpart 67.17—Form of Document; Types of License; Eligibility

§ 67.17–1 Form of document—all licenses.

(a) The form of document is a Certificate of Documentation, form CG–1270.

(b) Upon qualification and proper application, the Certificate of Documentation is endorsed for registry, coastwise license, Great Lakes license, fishery license, or pleasure license.

(c) The Certificate of Documentation may be simultaneously endorsed for operation under as many licenses as the vessel is qualified for (including operation under Subpart 68.01), and for which application has been made. A registry is considered a license.

Note.—Where a vessel possesses a certificate of documentation bearing two (2) or more endorsements, the actual use of the vessel determines the license under which it is operating.

§ 67.17-3 Registry.

(a) A registry endorsement is available to a vessel to be employed in foreign trade; trade with Guam, American Samoa, Wake, Midway, or Kingman Reef; and in other employments for which a coastwise license or Great Lakes license or fishery license is not required.

(b) Any vessel of at least 5 net tons which is wholly owned by a United States citizen or citizens is eligible for a registry endorsement.

Note.—A foreign-built vessel documented under this section is not permitted to engage in dredging or towing in the United States, except in the United States Virgin Islands.

§ 67.17-5 Coastwise license.

(a) A coastwise license endorsement entitles the vessel to employment in the coastwise trade, the fisheries, and in any other employment for which a registry or Great Lakes license is not required.

(b) The following vessels, if at least 5 net tons, if wholly owned by a United States citizen or citizens, and if not restricted from coastwise use by paragraph (c) of this section, are eligible for a coastwise license endorsement:

(1) Vessels built in the United States (§ 67.09–3);

(2) Wrecked vessels (§ 67.19–9);

(3) Forfeited vessels (§ 67.19–5);

(4) Captured vessels (§ 67.19–3);

(5) Vessels granted coastwise trading privileges by special legislation (§ 67.19–7); and

(6) Vessels purchased, chartered, or leased from the Secretary of Commerce by persons who are citizens of the United States. (46 U.S.C. 808)

(c) A vessel otherwise eligible for a coastwise license endorsement under paragraph (b) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner that is not a citizen as defined in §§ 67.03–3, 67.03–5, 67.03–7, 67.03–9(a), 67.03–11;

(2) It is thereafter registered under the laws of a foreign country;

(3) It measures 500 gross tons or over and undergoes rebuilding abroad (§ 67.27–3);

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after 17 October 1978 has installed outside the United States or its territories (not including trust territories) segregated ballast tanks, a crude oil washing system, or an inert gas system.

(d) A vessel otherwise eligible for coastwise license endorsement under paragraph (b) of this section loses that eligibility during any period in which it is owned by a corporation which does not meet the citizenship requirements of § 67.03–9(b).

§ 67.17-7 Great Lakes license.

(a) A Great Lakes license endorsement entitles the vessel to engage in the coastwise trade and the fisheries on the Great Lakes and their tributary and connecting waters, in trade with Canada, and in any other employment for which a registry, a coastwise license, or a fishery license is not required.

(b) The following vessels, if at least 5 net tons, if wholly owned by a United States citizen or citizens, and if not restricted from Great Lakes use by paragraph (c) of this section, are eligible for a Great Lakes license endorsement:

(1) Vessels built in the United States (§ 67.09–3);

(2) Wrecked vessels (§ 67.19–9);

(3) Forfeited vessels (§ 67.19–5);

(4) Captured vessels (§ 67.19–3);

(5) Vessels granted Great Lakes trading privileges by special legislation (§ 67.19–7); and

(6) Vessels purchased, chartered, or leased from the Secretary of Commerce by persons who are citizens of the United States. (46 U.S.C. 808)

(c) A vessel otherwise eligible for a Great Lakes license endorsement under paragraph (b) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner that is not a citizen as defined in §§ 67.03–3, 67.03–5, 67.03–7, 67.03–9(a), or 67.03–11;

(2) It is thereafter registered under the laws of a foreign country;

(3) It measures 500 gross tons or over and undergoes rebuilding abroad (§ 67.27–3); or

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after 17 October 1978, has installed outside the United States or its territories (not including trust territories) segregated ballast tanks, a crude oil washing system, or an inert gas system.

(d) A vessel otherwise eligible for a Great Lakes license endorsement under paragraph (b) of this section loses that eligibility during any period in which it is owned by a corporation which does not meet the citizenship requirements of § 67.03–9(b).

§ 67.17-9 Fishery license.

(a) Subject to federal and state laws regulating the fisheries, a fishery license endorsement entitles the vessel to fish within the fishery conservation zone as defined in 16 U.S.C. 1811 and landward of that zone, and to land its catch, wherever caught, in the United States.

(b) The following vessels, if at least 5 net tons and wholly owned by a United States citizen or citizens, are eligible for a fisheries license endorsement:

(1) Vessels built in the United States (§ 67.09–3);

(2) Wrecked vessels (§ 67.19–9);

(3) Forfeited vessels (§ 67.19–5);

(4) Captured vessels (§ 67.19–3);

(5) Vessels granted fisheries privileges by special legislation. (§ 67.19–7)

§ 67.17-11 Pleasure license.

(a) A pleasure license entitles a vessel to pleasure use only.

(b) Any vessel of at least 5 net tons which is wholly owned by a United States citizen or citizens, is eligible for a pleasure license endorsement.

Note.—A vessel operating under a pleasure license endorsement only may be bareboat chartered for pleasure use only. Guidance on the elements of a valid bareboat charter should be obtained through competent private legal counsel.

Subpart 67.19—Application for Special Qualification of Vessels for Documentation

§ 67.19-1 Submission of applications.

(a) Except as provided in § 67.19–9(b), all applications made under this subpart and all subsequent filings to effect documentation may be submitted to the documentation officer at the home port of the vessel or at the documentation office nearest where the vessel is located.

(b) Once a transaction under this subpart has been initiated at a documentation office, all subsequent filings to complete the transaction must be made at that same port.

§ 67.19-3 Captured vessels.

(a) A captured vessel is one which has been taken by citizens of the United States during a period of war and is thereafter lawfully condemned as a prize by a court of competent jurisdiction.

(b) The applicant must submit a certified copy of the court order stating that the vessel was lawfully captured to establish that the vessel was condemned as a prize.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make the other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

§ 67.19-5 Forfeited vessels.

(a) A forfeited vessel is:

(1) One which has been adjudged forfeited, by a federal district court, to the federal government of the United States for a breach of its laws; or

(2) One which has been seized by the federal government of the United States for a breach of its laws and which has been sold at an interlocutory sale, the proceeds of which have been adjudged forfeited to the federal government of the United States by a federal district court.

Note.—A vessel is considered forfeited within the meaning of this section even if the proceeds, though adjudged forfeited to the United States, do not actually accrue to that entity.

(b) The applicant must submit a certified copy of the court order declaring the vessel itself to be forfeit or the proceeds of its sale to be forfeit to the federal government of the United States to establish that the vessel is forfeited within the meaning of this section.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

§ 67.19-7 Special legislation.

(a) Vessels not otherwise entitled to be operated in the coastwise trade, Great Lakes trade or in the fisheries may obtain these privileges as the result of special legislation by the Congress of the United States.

(b) The applicant must submit a copy of the law to establish such entitlement.

(c) In addition to the evidence required by paragraph (b) of this section, the owner must make other submissions required by this Part. Appendix A contains a tabular listing of those requirements.

§ 67.19-9 Wrecked vessels.

(a) Under the provisions of 46 U.S.C. 14, a wrecked vessel is one which:

(1) Has incurred substantial damage to its hull or superstructure as a result of natural or accidental causes which occurred in the United States or its adjacent waters; and

(2) Has undergone, in a shipyard in the United States or its possessions, repairs equaling three (3) times the appraised salved value of the vessel.

(b) The determinations of the appraised salved value and that the repairs made upon the vessel are equal to three (3) times that value must be made by a board of three (3) appraisers. The Commandant will appoint the members of the board, and the cost of the board must be borne by the applicant. The owner of a vessel wishing a determination that the vessel is wrecked within the meaning of 46 U.S.C. 14 must submit to the Commandant:

(1) Competent and persuasive evidence of the casualty and its location. Coast Guard situation or investigation reports are acceptable. Other competent and persuasive evidence may be accepted by the Commandant in his discretion.

(2) A writing setting forth the physical location of the vessel, containing a guarantee that the requesting party assumes full responsibility for all costs, liabilities, and other expenses that arise in conjunction with the services performed by the board of appraisers, and stating that, at the time of documentation, the vessel will be owned by a citizen of the United States.

Note.—Calculation of appraised salved value will include consideration of the fact that the vessel, if in compliance with the Act, will attain coastwise and fishery privileges.

(c) After the Commandant's determination that the vessel qualifies for documentation under 46 U.S.C. 14, the owner must submit to the documentation officer at the documentation office at the home port of the vessel or the documentation office nearest where the vessel is located:

(1) The Commandant's letter containing that determination; and

(2) Other submissions required by this Part. Appendix A contains a tabular listing of these requirements.

Subpart 67.21—Initial Application for Documentation

§ 67.21-1 Application form—all licenses.

An owner seeking to document a vessel which has never been documented must begin the application process by filing an original form CG-1258 with the documentation officer at the documentation office at the desired home port of the vessel or at the documentation office nearest where the vessel is located.

§ 67.21-3 Obtaining of official number.

Upon receipt of a properly executed form CG-1258, the documentation officer at the port where application for documentation is made obtains from the Commandant an official number for the vessel, and provides that number to the owner.

§ 67.21-5 Subsequent submissions.

Thereafter, the owner must make, to the documentation officer at the port where the form CG-1258 was filed, the other submissions required by this Part to complete initial documentation. Appendices A or B, as applicable, contain a tabular listing of these requirements.

Subpart 67.23—Period of Validity of Certificate of Documentation; Mortgage Consent

§ 67.23-1 Requirement for renewal.

(a) Except as provided in this Subpart, a Certificate of Documentation is valid for one year. Upon expiration of that year, the owner must apply for renewal of the Certificate, in accordance with § 67.25-1.

§ 67.23-3 Requirement for surrender.

(a) Except as specified in paragraphs (b) and (c) of this section, a Certificate of Documentation issued to a vessel is invalid and subject to surrender upon the occurrence of one or more of the following:

(1) The ownership of the vessel changes in whole or in part;

(2) The general partners of a partnership owning the vessel change by addition, deletion, or substitution;

(3) The home port of the vessel changes;

(4) The gross or net tonnages, or dimensions of the vessel change;

(5) The name of the vessel changes;

(6) The restrictions imposed on the vessel change by addition, deletion, or substitution;

(7) The legal name of any owner of the vessel changes;

(8) A tenant by the entirety owning any part of the vessel dies;

(9) A self-propelled vessel becomes non-self-propelled or a non-self-propelled vessel becomes self-propelled.

(10) The trade endorsements for the vessel change by addition, deletion, or substitution;

(11) The discovery of a substantive or clerical error made by the issuing documentation officer;

(12) The vessel is placed under the command of a person who is not a citizen of the United States. (The document may be re-validated when the vessel is once again placed under the command of a citizen of the United States.); or

(13) The vessel attains a special entitlement under 46 CFR Subpart 67.19.

(b) A Certificate of Documentation remains valid, but is subject to surrender, when the address of the owner changes.

(c) A Certificate of Documentation remains valid for the purposes of Subpart 67.37 only, but is subject to surrender, when the vessel to which the Certificate is issued is covered by a preferred mortgage outstanding of

record and a requirement for surrender arises under paragraph (a) of this section.

(d) When a cause for surrender of a Certificate arises, the owner of the vessel must comply with the provisions of §§ 67.25–3, 67.25–5, 67.25–7, and 67.25–9, as appropriate.

(e) Evidence of surrender shall be the original form CG–1270, properly noted by the documentation officer to whom application is made to reflect the cause(s) of surrender.

§ 67.25–3 Restrictions on surrender; mortgagee consent.

(a) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage outstanding of record may not be surrendered for a cause arising under § 67.23–3(a) (1) through (9) without the consent of the mortgagee.

(b) When the consent of the preferred mortgagee is required under paragraph (a) of this section, the owner must comply with the provisions of § 67.25–9.

§ 67.23–7 Requirement for replacement.

(a) An owner must replace a Certificate of Documentation upon the occurrence of one or more of the following:

(1) A cause of surrender arises under § 67.23–3 (a) or (b), and the existing Certificate contains no further spaces for notation of that change; or

(2) The Certificate is lost, mutilated, or wrongfully withheld from the vessel owner.

(b) When a Certificate is replaced because the notation spaces are filled or because the Certificate is mutilated, the existing Certificate must be physically given up to the documentation officer to whom application is made.

(c) When a cause of replacement of a Certificate arises, the owner must make application for replacement in accordance with § 67.25–11.

(d) Evidence of replacement shall be the issuance of a new Certificate of Documentation by the documentation officer at the documentation office where application for replacement is made.

§ 67.23–9 Requirement for deletion.

(a) Except as provided in paragraph (c) of this section, a Certificate of Documentation issued to a vessel is invalid and the vessel is subject to deletion from the roll of actively documented vessels when:

(1) The vessel is placed under foreign flag;

(2) The vessel is transferred in whole or in part to a non-citizen;

(3) Any owner of the vessel ceases to be a citizen within the meaning of §§ 67.03–3, 67.03–5, 67.03–7, or 67.03–9(a);

(4) The owner fails to renew the Certificate as required by § 67.23–1;

(5) The owner fails to surrender the Certificate as required by § 67.23–3;

(6) The owner no longer elects to document the vessel;

(7) The vessel is no longer at least 5 net tons; or

(8) The vessel ceases to be capable of being used as a means of transportation on water.

(b) Where a cause for deletion arises, except when it arises under paragraphs (a) (4) and (5) of this section, the owner must make application for deletion in accordance with § 67.25–13.

(c) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage remains valid for the sole purpose of preserving the preferred status of that mortgage and the vessel may not be deleted under the provisions of paragraph (a) of this section so long as the preferred mortgage remains outstanding of record.

(d) Certificates issues to vessels subject to deletion must be physically given up to a documentation officer.

Note.—Certificates for vessels which have been deleted are filed with Commandant (G–MVD).

§ 67.23–11 Requirement for cancellation.

(a) Except as provided in paragraph (c) of this section, a Certificate of Documentation is invalid and subject to cancellation upon a determination by the Commandant or a documentation officer that the issuance of the Certificate was improper for any reason.

(b) When a Certificate is subject to cancellation, the owner must comply with the provisions of § 67.25–15.

(c) A Certificate of Documentation issued to a vessel which is the subject of a preferred mortgage remains valid for the sole purpose of preserving the preferred status of that mortgage and may not be cancelled so long as the preferred mortgage remains outstanding of record. Such a Certificate may, however, be subject to surrender to correct the error which would normally give rise to cancellation.

Note.—Certificates which have been cancelled are filed with Commandant (G–MVD).

Subpart 67.25—Subsequent Applications—Renewals, Changes, Etc.

§ 67.25–1 Renewals.

(a) When the renewal of a vessel's Certificate of Documentation is required under § 67.23–1, the owner must execute and submit an original form CG–1280 to the documentation officer at the vessel's home port before the last day of the month in which the Certificate expires.

(b) Upon receipt of a properly executed form CG–1280, reflecting that the Certificate of Documentation remains in existence and accurate, the documentation officer forwards to the vessel owner a renewal decal, form CG–1280–A. The owner must affix that decal to the Certificate of Documentation. The presence of a current renewal decal is evidence that the Certificate of Documentation has been renewed.

§ 67.25–3 Surrender—Change of name.

(a) When the owner of a documented vessel elects to change the name of that vessel, the owner must:

(1) File an original form CG–1258 and the fee prescribed by § 67.43–3 with the documentation officer at the documentation office at the vessel's home port or the port of documentation nearest where the vessel is located;

(2) If the vessel is the subject of a preferred mortgage outstanding of record file an original form CG–4593, evidencing mortgagee consent to the change;

(3) Upon being notified that the name change is approved, mark the new name in accordance with § 67.15–3 and file with the documentation officer to whom application was made evidence of that marking, in accordance with § 67.15–7, and surrender the outstanding Certificate of Documentation for notation of the change.

(b) Evidence that approval for a name change has been granted shall be an original form CG–1258, approved by the documentation officer.

(c) An approval for change of name lapses after three (3) months from the date of approval unless the vessel is properly marked with the new name and the Certificate of Documentation is appropriately surrendered within that time.

§ 67.25–5 Surrender—Change of home port.

When the owner of a documented vessel elects or is required to change the home port of a vessel, the owner must:

(a) In accordance with §§ 67.41–1 and 67.43–9(b), request that the documentation officer at the present home port forward an Abstract of Title (form CG–1332) to the home port to be designated for the vessel;

(b) File an original form CG–1258 with the documentation officer at the documentation office at the home port to be designated for the vessel or the port of documentation nearest where the vessel is located;

(c) If the vessel is the subject of a preferred mortgage outstanding of record file an original form CG–4593, evidencing mortgagee consent to the change;

(d) Upon being notified that the designation has been approved, mark the hailing port of the vessel in accordance with § 67.15–3; and

(e) Submit evidence of that marking, as required by § 67.15–7, to the documentation officer where application for home port change was made; and

(f) Surrender the Certificate of Documentation for notation of that change.

Note.—In the case of a simultaneous change of owner and home port these procedures must be followed by the new owner of the vessel.

§ 67.25–7 Surrender—All other causes.

For all other causes of surrender, the owner of the vessel must file CG–1258, present the original Certificate of Documentation, and make the other submissions required by this Part to the documentation officer at the documentation office at the home port or port of documentation nearest where the vessel is located. Appendix C contains a tabular listing of these requirements. Appendix A contains a tabular listing of these requirements for vessels which attain special privileges under 46 CFR Subpart 67.19.

§ 67.25–9 Surrender—Procedure for mortgagee consent.

(a) When mortgagee consent to surrender is required by 46 CFR 67.23–5, the applicant must submit a properly executed original form CG–4593 to the documentation officer at the documentation office where application for surrender is made.

(b) If application for surrender is made to a documentation officer at a documentation office other than the office at the vessel's home port, form CG–4593 must be accompanied by an original Certificate of Ownership (form CG–1330) issued at the home port not more than fifteen (15) days prior to the date of the application.

(c) For the purposes of this section, a simultaneous surrender and replacement is considered a surrender.

§ 67.25–11 Replacements.

(a) When the owner of a documented vessel alleges that the Certificate of Documentation for that vessel has been wrongfully withheld the owner must:

(1) Submit to the Commandant via the documentation officer at the documentation office at which application for replacement will be made a statement setting forth the reasons for that allegation;

(2) Upon the Commandant's finding a wrongful withholding, apply for and receive a replacement document by submitting a CG–1258 to the same documentation office.

(b) In all other cases in which a requirement for replacement arises under § 67.23–7, the owner must apply for a replacement Certificate by filing form CG–1258, the original Certificate of Documentation, if appropriate, and the other submissions required by this Part to the documentation officer at the documentation office at the home port or port of documentation nearest where the vessel is located. Appendix C contains a tabular listing of these requirements.

§ 67.25–13 Deletions.

(a) When a Certificate of Documentation is required to be deleted because the vessel has been placed under foreign flag or has been sold in whole or in part to a non-citizen, the owner of that vessel must file, with the documentation officer at the vessel's home port, evidence of the sale or transfer, if any, evidence that the Maritime Administration has consented to the transfer or sale, and the original Certificate of Documentation.

(b) In all other cases where deletion is required by § 67.23–9, the owner must deliver the original Certificate of Documentation to the documentation officer at the documentation office at the home port of the vessel. Appendix C contains a tabular listing of the deletion requirements.

§ 67.25–15 Cancellations.

When a Certificate of Documentation is required to be cancelled under § 67.23–11, the owner of the vessel, upon being notified of such requirement, must deliver the Certificate to the documentation officer at the documentation office which issued the certificate.

Subpart 67.27—Miscellaneous Applications

§ 67.27–1 Application for new vessel determination.

(a) A vessel is new if:

(1) Its hull and superstructure are constructed entirely of new materials; or

(2) It is constructed using structural parts of an existing vessel, which parts have been torn down so that they are no longer advanced to a degree which would commit them to use in the building of a vessel.

(b) When the vessel has been constructed entirely of new materials, no application need be made under this section. A normal application for initial documentation must be made in accordance with Subpart 67.21.

(c) When the owner of a vessel has used parts of an existing vessel in construction of that vessel, and wishes a determination that the resulting vessel is new, he must file with the Commandant:

(1) A builder's certification, as described in § 67.09–7;

(2) A certificate describing the extent to which materials from the existing vessel were used in the construction and the extent to which those materials were torn down;

(3) Accurate sketches or blueprints of the hull and superstructure which identify, where practicable, components of the old vessel; and

(4) The fee prescribed by § 67.43–5.

§ 67.27–3 Required application for rebuilt determination.

(a) A vessel is rebuilt when any considerable part of its hull or superstructure is built upon or is substantially altered.

(b) The owner of a vessel which measures at least 500 gross tons and which has not previously lost its coastwise privileges must file with the Commandant the items listed in paragraph (c) of this section if:

(1) The vessel is altered outside the United States in a manner which gives rise to a reasonable belief that the vessel is rebuilt; or

(2) A major component of the hull and superstructure, not built in the United States, is added to the vessel.

For the purpose of this section, the term United States includes American Samoa.

(c) The required submissions must consist of:

(1) A certificate outlining the work performed and naming the place where the work was performed; and

(2) Accurate sketches or blueprints describing the work performed.

§ 67.27–5 Registration of funnel marks and house flags.

(a) The owner of a vessel or vessels seeking to register a house flag or funnel mark or both must submit an application to the Commandant accompanied by the fee prescribed in § 67.43–1.

(1) The application for registration of a house flag must consist of three (3) copies of technical drawings describing such flag in detail, showing the colors, shape, and proportionate dimensions of the flag, field, union, or canton, and any insignia, markings, or stripes thereon in relation to the length of the hoist.

(2) The application for registration of funnel marks must consist of three (3) copies of technical drawings showing

those marks in detail, the colors to be used, and the position of any insignia, markings, or stripes with relation to the top or collar of the funnel, the size of such insignia, markings, or stripes in relation to the diameter of the funnel, and the color of the remainder of the funnel.

(3) The drawings may not exceed 6" by 4" in size, may be made in any permanent medium, and must reasonably depict the colors actually used.

(4) The flag or funnel mark must be clearly distinguishable from any previously registered and clearly distinguishable from distress signals prescribed by treaty, custom, statute, or regulation.

Subpart 67.29—Recordation of Instruments—General Provisions

§ 67.29–1 Instruments eligible for recordation.

The following instruments, and no others, are eligible for recordation:

(a) Bills of sale and instruments in the nature of bills of sale;

(b) Deeds of gift;

(c) Chattel mortgages, and assignments, assumptions, supplements, amendments, satisfactions, and releases thereof;

(d) Preferred mortgages, and assignments, assumptions, supplements, amendments, satisfactions, and releases thereof;

(e) Notices of claim of lien and satisfactions and releases thereof; and

(f) Abstracts of title upon the change of the home port of a documented or previously documented vessel.

§ 67.29–3 Restrictions on recordation.

(a) An instrument otherwise eligible for recordation under § 67.29–1 (a), (b), or (c) may not be recorded if any vendee, donee, mortgagee, or assignee under the instrument is not a citizen of the United States as defined in 46 U.S.C. 802 unless the Maritime Administration has consented to the grant to a non-citizen made under the instrument.

(b) The restriction imposed by paragraph (a) of this section does not apply to a bill of sale or deed of gift conveying an interest in a vessel which was neither documented nor was last documented pursuant to these regulations or any predecessor regulations thereto, at the time the instrument was executed.

(c) An instrument otherwise eligible for recordation under § 67.29–1(d) may not be recorded as preferred if any vendee, donee, mortgagee, or assignee under the instrument is not a citizen as defined in 46 U.S.C. 802.

(d) An instrument otherwise eligible for recordation under § 67.29–1 (a) through (e) may not be recorded if it bears a material alteration.

§ 67.29–5 Requirement for vessel identification.

(a) Except as specified in paragraph (b) of this section, every instrument presented for recordation must identify the vessel(s) it concerns by name(s) and official number(s).

(b) When an instrument in the nature of a bill of sale or a deed of gift is presented for a vessel which has never been documented, the instrument, in lieu of stating the official number, must contain sufficient information to identify the vessel clearly.

§ 67.29–7 Requirement for date and acknowledgement.

(a) Every instrument presented for recordation, except an Abstract of Title, must:

(1) Bear the date of its execution; and

(2) Contain an acknowledgement taken in accordance with the laws of the state in which the instrument was executed.

(b) No officer or employee of the Coast Guard is authorized to take such acknowledgements.

§ 67.29–9 Required number of copies.

Except as provided in § 67.37–7 with respect to preferred mortgages, all instruments submitted for recordation must be submitted in duplicate; at least one copy must bear original signatures.

§ 67.29–11 Requirement for citizenship declaration.

(a) The instruments specified in Subparts 67.31, 67.33, and 67.37, are not recordable unless accompanied by a properly executed citizenship declaration from the grantee.

(b) The requirement for presentation of a citizenship declaration does not apply to instruments in which the grantee is a government of the United States or a political subdivision thereof. The requirement does apply to corporate entities which are not agencies of such governments.

(c) Citizenship declarations must be executed on the form prescribed by the Maritime Administration at 46 CFR 221.11. These forms are available from documentation officers at all ports of documentation.

§ 67.29–13 Place of recordation.

(a) All recordations are made at the documentation office at the home port of the vessel(s) affected by the instrument.

(b) No recordation may be made unless there is a valid and approved designation of home port for the vessel(s) affected by the instrument.

(c) Where the home port of a vessel is being changed, and recordation is sought at the new home port, the recordation cannot be effected until the documentation officer at the new home port has received and recorded the vessel's Abstract of Title as provided in § 67.41–1.

§ 67.29–15 Date and time of recordation.

The date and time of recordation of an instrument is the actual date and time at which the recording documentation officer designates the book into which the instrument will be placed and the page it will occupy in that book. The designation of book and page is not made until the documentation officer is satisfied that all requirements for recordation are met.

Subpart 67.31—Recordation of Instruments—Bills of Sale, Etc.

§ 67.31–1 General requirements.

An instrument in the nature of a bill of sale or a deed of gift presented for recordation must meet all the requirements of Subpart 67.29, in addition to the requirements of this subpart and must be accompanied by citizenship declarations from all buyers or donees.

§ 67.31–3 Required signatures.

An instrument presented for recordation under this subpart must be signed by or on behalf of the seller(s) or donor(s).

§ 67.31–5 Required recitations.

An instrument presented for recordation under this subpart must recite:

(a) The name(s) of the seller(s) or donor(s) and the individual interest in the vessel held by each seller or donor; and

(b) The name(s) of the buyer(s) or donee(s) and the individual interest in the vessel transferred to each buyer or donee.

§ 67.31–7 When filing permitted.

An instrument presented for recordation under this subpart must be filed in conjunction with either an application for initial documentation or redocumentation of the vessel or a surrender of the vessel's outstanding Certificate of Documentation.

Subpart 67.33—Recordation of Instruments—Chattel Mortgages and Related Instruments

§ 67.33–1 General requirements for chattel mortgages.

(a) A chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33–3 and 67.33–5, and must be accompanied by a citizenship declaration from each mortgagee.

(b) An instrument which meets the requirements of paragraph (a) of this section is nonetheless not eligible for recordation if the mortgagor did not actually hold legal title to the interest in the vessel being mortgaged at the time of execution and recordation of the mortgage.

§ 67.33–3 Required signatures.

A chattel mortgage presented for recordation must be signed by or on behalf of the mortgagor.

§ 67.33–5 Required recitations.

A chattel mortgage presented for recordation must recite:

(a) The name(s) of the mortgagor(s) and the individual interest in the vessel held by each mortgagor;

(b) The name(s) of the mortgagee(s) and the individual interest in the vessel mortgaged to each mortgagee; and

(c) The amount and maturity date of the mortgage. A mortgage reciting the amount in foreign currency must also recite the amount in United States currency at the then applicable conversion rate.

Note.—Where doubt exists as to the adequacy or clarity of the notice provided in a contemplated mortgage instrument, with respect to amount or maturity date, a prospective letter ruling should be sought from the Commandant.

§ 67.33–7 General requirements for assignments of chattel mortgages.

An assignment of chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33–9 and 67.33–11, and must be accompanied by a citizenship declaration from each assignee.

§ 67.33–9 Required signatures.

An assignment of chattel mortgage presented for recordation must be signed by or on behalf of the assignor(s).

§ 67.33–11 Required recitations.

An assignment of chattel mortgage presented for recordation must recite:

(a) The name(s) of the assignor(s) and the individual interest in the mortgage held by each assignor;

(b) The name(s) of the assignee(s) and the individual interest in the vessel assigned to each assignee; and

(c) The date and time of recordation of the mortgage being assigned and the book and page where that mortgage is recorded.

§ 67.33–13 General requirements for assumptions of chattel mortgages.

(a) An assumption of chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.33–15 and 67.33–17.

(b) An instrument which meets the requirements of paragraph (a) of this section is nonetheless not eligible for recordation if the assuming party did not hold legal title to the interest in the vessel covered by the assumption at the time of execution and recordation of the assumption.

§ 67.33–15 Required signatures.

An assumption of chattel mortgage presented for recordation must be signed by or on behalf of the original mortgagor(s), the mortgagee(s) and the assuming party(ies).

§ 67.33–17 Required recitations.

An assumption of chattel mortgage presented for recordation must recite:

(a) The name(s) of the original mortgagor(s) and the individual interest in the vessel mortgaged by the original mortgagor(s);

(b) The name(s) of the assuming party(ies) and the individual interest in the mortgage assumed by each party;

(c) The date and time of recordation of the mortgage being assumed and the book and page where that mortgage is recorded.

§ 67.33–19 General requirements for amendments of or supplements to chattel mortgages.

An amendment of or supplement to a chattel mortgage presented for recordation must meet all the requirements of Subpart 67.29 and the requirements of §§ 67.33–21 and 67.33–23.

§ 67.33–21 Required signatures.

An amendment of or supplement to a chattel mortgage presented for recordation must be signed by or on behalf of the mortgagor(s) and the mortgagee(s).

§ 67.33–23 Required recitations.

An amendment of or supplement to a chattel mortgage must recite:

(a) The names of the mortgagor(s) and mortgagee(s);

(b) The nature of the change effected by the instrument; and

(c) The date and time of recordation of the mortgage being amended or supplemented, and the book and page where that mortgage is recorded.

Subpart 67.35—Recordation of Instruments—Notices of Claims of Lien

§ 67.35–1 General requirements.

A notice of claims of lien presented for recordation must meet all the requirements of Subpart 67.29 and the requirements of this subpart.

§ 67.35–3 Required signatures.

A notice of claim of lien presented for recordation must be signed by or on behalf of the claimant.

§ 67.35–5 Required recitations.

A notice of claim of lien presented for recordation must recite:

(a) The name and address of the claimant;

(b) The nature of the lien claimed;

(c) The date(s) on which the claim arose; and

(d) The amount of the claim.

§ 67.35–7 Restrictions on recordation.

A notice of claims of lien is not entitled to recordation unless the vessel against which the lien is claimed is the subject of a preferred mortgage outstanding of record.

Subpart 67.37—Recordation of Instruments—Preferred Mortgages and Related Instruments

§ 67.37–1 General requirements for preferred mortgages.

(a) A mortgage presented for recordation, indexing, and endorsement as a preferred mortgage must:

(1) Meet all the requirements for recordation of a chattel mortgage contained in Subpart 67.29 and §§ 67.33–1 and 67.33–3;

(2) Cover the whole of a vessel which was a documented vessel at the time the mortgage was made;

(3) Be accompanied by an affidavit from the mortgator(s) to the effect that it is made in good faith and without any design to hinder, delay or defraud any existing or future creditor or any lienor of the vessel; and

(4) If covering a vessel measuring less than twenty-five (25) gross tons, include or be accompanied by a statement that the vessel is not a towboat, barge, scow, lighter, car float, canal boat or tank vessel.

(b) A mortgage which also secures property other than a vessel is not eligible for indexing and endorsement as a preferred mortgage unless it clearly

identifies the separate property and provides a separate discharge for that property.

(c) A mortgage which secures more than one (1) vessel may, at the option of the parties, provide for separate discharge of such vessels.

§ 67.37-3 Necessity for presentation of certificate of documentation.

(a) Under the provisions of 46 U.S.C. 922, a mortgage which meets the requirements of § 67.37-1 may not be treated as a preferred mortgage in the vessel records until that mortgage has been endorsed on the Certificate of Documentation by the documentation officer at the documentation office at the vessel's home port, or at the port of documentation nearest where the vessel is located.

(b) The date and time of endorsement are the date and time when the mortgage information is physically entered on the original Certificate of Documentation.

§ 67.37-5 Restrictions on recordation.

An instrument which meets the requirements of § 67.37-1 is nonetheless not eligible for indexing and endorsement as a preferred mortgage if:

(a) The mortgagee is not a citizen of the United States as defined in 46 U.S.C. 802;

(b) The mortgage contains language which constitutes a waiver of the preferred status of that mortgage; or

(c) The mortgagor did not actually hold legal title to the subject vessel at the time of the execution and recordation of the mortgage.

§ 67.37-7 Required number of copies.

(a) Except as provided in paragraph (b) of this section, each filing of a preferred mortgage must consist of an original, a copy to be retained at the home port, a copy to be certified for the owner, and a copy to be certified for each vessel covered by the mortgage. The original mortgage, the mortgage copy retained by the home port, and the affidavit described in § 67.37-1(a)(4) must bear original signatures.

(b) A copy for certification is not required for a non-self-propelled vessel.

§ 67.37-9 Requirements for instruments supplemental to preferred mortgages.

An assignment, assumption, amendment or supplement to a preferred mortgage presented for recordation, indexing, and endorsement must:

(a) Meet the recordability requirements of equivalent instruments in Subpart 67.33;

(b) Be filed in the number of copies required by § 67.37-7; and

(c) Be accompanied by an affidavit as described in § 67.37-1(a)(4), from the assignor(s), assuming party(ies), or mortgagor(s), as appropriate.

§ 67.37-11 Restrictions on recordation.

An assignment, assumption, amendment, or supplement to a preferred mortgage otherwise entitled to recordation shall not be recorded, indexed or endorsed as preferred if:

(a) It results in a mortgage interest being held by other than a citizen of the United States as defined in 46 U.S.C. 802; or

(b) It contains language that constitutes a waiver of the preferred status of the mortgage.

Subpart 67.39—Removal of Encumbrances

§ 67.39-1 General requirements.

A chattel mortgage, notice of claim of lien, or preferred mortgage outstanding on the record on a vessel may be removed from that record by the filing of:

(a) A court order described in § 67.39-3; or

(b) A recordable satisfaction or release instrument described in §§ 67.39-5 through 67.39-9.

§ 67.39-3 Requirements for removal of encumbrances by court order.

The encumbrances described in § 67.39-1 are removed from the record of a vessel upon presentation of:

(a) A certified copy of an order from a court of competent jurisdiction declaring title to the vessel to be free and clear, or declaring the encumbrance to be of no effect, or ordering the removal of the encumbrance from the record; or

(b) A certified copy of an order from a federal district court in an *in rem* action requiring the free and clear sale of a vessel at a marshal's sale accompanied by a certified copy of the order confirming such sale, where issued under local judicial procedures.

§ 67.39-5 General requirements for instruments evidencing satisfaction or release.

An instrument satisfying or releasing a chattel mortgage, a notice of claim of lien, or a preferred mortgage, which is presented for recordation must meet all the requirements of Subpart 67.29, and the requirements of §§ 67.39-7 and 67.39-9.

§ 67.39-7 Required signatures.

(a) A satisfaction or release of a chattel or preferred mortgage must be signed by or on behalf of the mortgagee(s).

(b) A satisfaction or release of a notice of claim of lien must be signed by or on behalf of the claimant(s).

§ 67.39-9 Required recitations.

A satisfaction or release instrument must recite:

(a) The name(s) of the mortgagor(s) if any and the name(s) of the mortgagee(s) or claimant(s);

(b) The amount of the mortgage or lien; and

(c) The date and time of recordation of the mortgage or lien being satisfied or released and the book and page where the mortgage or lien is recorded.

Subpart 67.41—Abstracts of Title and Certificates of Ownership

§ 67.41-1 Requirement for Abstract of Title.

Whenever the home port of a documented vessel changes, the owner of the vessel must apply to the documentation officer at the documentation office at the existing home port of the vessel for forwarding to the new home port an Abstract of Title, on form CG-1332.

§ 67.41-3 Optional request for Abstract of Title.

Any person may request from the documentation officer at the documentation office at the home port of a vessel and Abstract of Title for that vessel. Abstracts of Title issued pursuant to this section shall not be used to effect a change of home port.

§ 67.41-5 Request for Certificate of Ownership.

Any person may request a certification on form CG-1330 setting forth the ownership of that vessel and the encumbrances outstanding on the record of that vessel. The request must be made to the documentation officer at the documentation office at the home port of the vessel.

Subpart 67.43—Fees

§ 67.43-1 Application for registration of funnel marks and house flags.

The fee for registering a funnel mark or a house flag is $100.00.

§ 67.43-3 Application for name change.

The fee for applying for permission to change the name of a documented vessel is $100.00. This fee also applies when a previously documented vessel is returned to documentation under a new name.

§ 67.43–5 Application for new vessel determination.

The fee for applying for a new vessel determination under § 67.27–1 is $200.00.

§ 67.43–7 Application for qualification as a wrecked vessel.

The fee for applying for a vessel to be qualified as a wrecked vessel is $200.00. This fee is in addition to the costs associated with the vessel appraisals.

§ 67.43–9 Copies of records.

(a) Certificates of Ownership—The fee for issuance of a Certificate of Ownership is $1.00.

(b) Abstract of Title—The fee for issuance of an abstract of title, whether or not for record, is $0.20 for each folio (100 words), with a minimum fee of $1.00.

(c) Recorded instruments—The fee for furnishing a certified copy of a recorded instrument is the same as the original recording fee.

(d) Other Documents: The fee for furnishing a copy of any other document is calculated in accordance with 49 CFR 7.95.

§ 67.43–11 Pleasure vessels.

(a) The fee for initial documentation of a pleasure vessel is $100.00.

(b) The fee for surrender or replacement or the simultaneous surrender and replacement of a Certificate of Documentation issued to a pleasure vessel is $50.00. This fee also applies when a previously documented vessel is returned to documentation. The simultaneous occurrence of several reasons for surrender does not result in multiple application of fees. This fee does not apply to (1) surrenders or replacements occurring solely by reason of a change in the owner's address; (2) surrenders or replacements occurring solely by reason of a clerical error on the part of a documentation officer; nor (3) replacements occurring because of a wrongful withholding.

(c) The fees imposed in paragraphs (a) and (b) of this section are in addition to those imposed by §§ 67.43–13.

Note.—The fees imposed in paragraph (b) of this section do not apply when a transaction results in the imposition of a fee under § 67.43–3.

§ 67.43.13 Recordation of instruments.

(a) The fee for recording a bill of sale, deed of gift, chattel mortgage, or instrument supplemental to a chattel mortgage, shall be $0.20 for each folio (100 words), with a minimum charge of $1.00.

(b) The fee for recording a preferred mortgage, assignment of preferred mortgage, supplement to a preferred mortgage, or amendment of preferred mortgage, shall be $0.20 for each folio, with a minimum charge of $1.00. The fee is applied to the original instrument and each certified copy thereof, up to ten (10) certified copies. The fee for certified copies in excess of ten (10) is $1.00 for each copy.

Subpart 67.45—Prohibitions

§ 67.45–1 Alteration of Certificate.

No person other than a documentation officer shall intentionally alter a Certificate of Documentation.

§ 67.45–3 Command by non-citizen.

No documented vessel shall be commanded by other than a United States citizen.

§ 67.45–5 Failure to have Certificate on board.

(a) The person in command of a documented vessel must have on board that vessel the Certificate of Documentation issued to that vessel.

(b) This requirement shall not apply:

(1) To non-self-propelled vessels not engaged in foreign trade; nor

(2) When the Certificate of Documentation is being submitted to a documentation officer for purposes of surrender, replacement, or the endorsement of a preferred mortgage; nor

(3) When the vessel is in storage or out of the water.

§ 67.45–7 Failure to produce certificate.

(a) The person in command of a documented vessel must produce the Certificate of Documentation issued to that vessel upon the lawful demand of any person acting in an official public capacity.

(b) This requirement shall not apply:

(1) To non-self-propelled vessels not engaged in foreign trade; nor

(2) When the Certificate of Documentation is being submitted to a documentation officer for purposes of surrender, replacement, or the endorsement of a preferred mortgage; nor

(3) When the vessel is in storage or out of the water.

§ 67.45–9 Failure to renew Certificate.

The owner of a documented vessel must renew the Certificate of Documentation issued that vessel, as required by § 67.23–1.

§ 67.45–11 Failure to surrender Certificate.

The owner of a documented vessel must surrender a Certificate of Documentation which has become invalid under Subpart 67.23.

§ 67.45–13 Fraudulent application for Certificate.

(a) No owner of a vessel, no person purporting to act on behalf of an owner, shall knowingly falsify or conceal a material fact in connection with the documentation of that vessel.

(b) No owner of a vessel, nor person purporting to act on behalf of an owner, shall knowingly make a false statement or representation in connection with the documentation of that vessel.

§ 67.45–15 Fraudulent use of Certificate.

No Certificate of Documentation shall be knowingly used in a fraudulent manner.

§ 67.45–17 Improper markings.

The owner of a documented vessel must not permit the operation of that vessel unless it is marked in accordance with Subpart 67.15.

§ 67.45–19 Violation of license.

A vessel may not be employed in any trade other than a trade covered by the Certificate of Documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure.

§ 67.45–21 Operation without documentation.

No vessel which is required by § 67.01–5 to be documented shall engage in the coastwise trade, the Great Lakes trade, nor the fisheries without being documented.

§ 67.45–23 Operation under invalid Certificate.

No vessel shall be operated under a Certificate of Documentation which has become invalid under Subpart 67.23.

§ 67.45–25 Unauthorized name change.

The owner of a documented vessel may neither change nor allow the change of the name of that vessel without authorization under §§ 67.13–5 and 67.25–3.

Appendix A to 46 CFR Part 67

Additional Requirements for Specially Qualified Vessels Under 46 CFR Subpart 67.19

Vessel type	Initial or subsequent application for documentation	Requirements	Refer to
Captured (§ 67.19-5) or forfeited (§ 67.19-5).	Initial	1. Application form CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Title evidence from point of court determination	Section 67.05-15(a); Subpart 67.07.
		5. Citizenship evidence from point of court determination	Section 67.05-15(a).
		6. [Citizenship declaration]	Section 67.29-11.
		7. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. [Marking evidence]	Section 67.15-5, 7.
		3. Title evidence from point of court determination	Section 67.05-15(a); Subpart 67.07.
		4. [Citizenship declaration]	Section 67.29-11
		5. [Recording fee]	Section 67.43-13.
Special legislation (§ 67.19-7)	Initial	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Copy of last registration	Section 67.05-15(b)(1).
		5. Title evidence from last registration	Section 67.05-15(b)(1); Subpart 67.07.
		6. Citizenship evidence from point of last registration	Section 67.05-15(b)(1).
		7. [Evidence of removal from foreign registry]	Section 67.05-15(b)(1).
		8. [Citizenship declaration]	Section 67.29-11.
		9. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. [Marking evidence]	Section 67.15-5, 7.
		3. [Evidence of removal from foreign registry]	Section 67.05-15(b)(2).
Special legislation	Subsequent	4. Title evidence from last documentation	Section 67.05-15(b)(2); Subpart 67.07.
		5. [Citizenship declaration]	Section 67.29-11.
		6. [Recording fee]	Section 67.43-13.
Wrecked (§ 67.19-9)	Initial	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-7.
		4. Title evidence from point of administrative determination	Section 67.05-15(a).
		5. Citizenship evidence from point of administrative determination	Section 67.05-15(a).
		6. [Citizenship declaration]	Section 67.29-11.
		7. [Recording fee]	Section 67.43-13.
	Subsequent	1. Application form (CG-1258)	Section 67.21-1.
		2. Tonnage evidence	Section 67.11-3.
		3. Marking evidence	Section 67.15-5, 7.
		4. Title evidence from point of administrative determination	Section 67.05-15(a).
		5. [Citizenship declaration]	Section 67.29-11.
		6. [Recording fee]	Section 67.43-13.

NOTE.—Brackets indicates requirement not necessarily applicable to all transactions. These requirements apply regardless of license sought.

Appendix B to 46 CFR Part 67

Requirements for Initial Documentation Under 46 CFR Subpart 67.23

License sought	Vessel	Method	Requirements	Refer to
Registry (§ 67.17-3)	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence to establish title	Sections 67.09-7, 11, 67.05-7(a), and 67.07-1.
	Used	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Copy of last registration	Section 67.05-7(b)(2).
			5. [Evidence of removal from foreign registry]	Section 67.05-3.
			6. Title evidence from last registration	Section 67.05-7(b)(2); Subpart 67.07.
			7. [Citizenship declaration]	Section 67.29-11.
			8. [Recording fee]	Section 67.43-13.
Coastwise or Great Lakes (§§ 67.17-5 and 7).	New	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Build evidence	Sections 67.09-1,7, 67.05-7(a), and 67.07-1.
			4. Marking evidence	Section 67.15-7.
	Used	N/A	1. Application form (CG-1258)	Section 67.21-1.
			2. Tonnage evidence	Section 67.11-3.
			3. Marking evidence	Section 67.15-7.
			4. Build evidence	Section 67.09-1, 7.
			5. Evidence of complete chain of title	Section 67.05-5, Subpart 67.07.
			6. Citizenship evidence for all owning entities in chain	Section 67.05-5.
			7. [Citizenship declaration]	Section 67.29-11.
			8. [Recording fee]	Section 67.43-13.

REQUIREMENTS FOR INITIAL DOCUMENTATION UNDER 46 CFR SUBPART 67.23—Continued

License sought	Vessel	Method	Requirements	Refer to
Fishery (§ 67.17–9)	New	N/A	1. Application form (CG–1258)	Section 67.21–1.
			2. Tonnage evidence	Section 67.11–3.
			3. Marking evidence	Section 67.15–7.
			4. Build evidence	Sections 67.09–1, 7, 67.05–7(a) and 67.07–1.
	Used	N/A	1. Application form (CG–1258)	Section 67.21–1.
			2. Tonnage evidence	Section 67.11–3.
			3. Marking evidence	Section 67.15–7.
			4. Build evidence	Section 67.09–1, 7.
			5. Copy of last registration	Section 67.05–3.
			6. [Evidence of removal from foreign registry]	Section 67.05–7(b)(2).
			7. Title evidence from last registration	Section 67.05–7(b)(2); Subpart 67.07.
			8. [Citizenship declaration]	Section 67.29–11.
			9. [Recording fee]	Section 67.43–13.
Pleasure	New	N/A	1. Application form (CG–1258)	Section 67.21–1.
			2. Tonnage evidence	Section 67.11–3.
			3. Marking evidence	Section 67.15–7.
			4. Build evidence	Sections 67.09–7, 67.05–7(a) and 67.07–1.
			5. Fee	Section 67.43.11(a).
	Used	Simplified (§ 67.05–7(b)(3)).	1. Application form (CG–1258)	Section 67.21–1.
			2. Tonnage evidence	Section 67.11–3.
			3. Marking evidence	Section 67.15–7.
			4. Fee	Section 67.43–11(a).
			5. Copy of last registration	Section 67.05–7(b)(3).
			6. [Evidence of removal from foreign registry]	Section 67.05–3.
			7. Title evidence from last registration	Section 67.05–7(b)(3); Subpart 67.07.
			8. [Citizenship declaration]	Section 67.29–11.
			9. [Recording fee]	Section 67.43–13.
		Non-simplified (46 CFR 67.05–7(b)(3).	1. Application form (CG–1258)	Section 67.21–1.
			2. Tonnage evidence	Section 67.11–3.
			3. Marking evidence	Section 67.15–7.
			4. Build evidence	Sections 67.09–1, 7.
			5. Fee	Section 67.43–11(a).
			6. Evidence of complete chain of title	Section 67.05–7(b)(3); Subpart 67.07.
			7. Citizen evidence from each owning entity in chain	Section 67.05–7(b)(3).
			8. [Citizenship declaration]	Section 67.29–11.
			9. [Recording fee]	Section 67.43–13.

NOTE.— Brackets indicates requirement not necessarily applicable to all transactions. Applications for multiple licenses do not require duplicate submissions.

Appendix C To 46 CFR Part 67

REQUIREMENTS FOR SUBSEQUENT DOCUMENTATION TRANSACTIONS UNDER 46 CFR SUBPART 67.25.

Transaction and reason	Requirements	Refer to
Renewal (§ 67.23–1): License expired (§§ 67.23–1; 67.25–1)	1. Renewal application (CG–1280)	Section 67.25–1(a).
Surrender (§ 67.23–3):		
Name change (§§ 67.23–3(a)(5); 67.25–3)	1. Application form (CG–1258)	Section 67.25–3.
	2. Certificate of documentation	Sections 67.17–1 and 67.23–3.
	3. Marking evidence	Section 67.15–7.
	4. Fee	Section 67.43–3.
	5. [Mortgagee consent]	Section 67.25–9.
Home port change (§§ 67.23–3(a)(3); 67.25–5)	1. Application form (CG–1258)	Section 67.25–5.
	2. Certificate of documentation	Sections 67.17–1 and 67.23–3.
	3. Abstract of title	Sections 67.25–5 and 67.41–1.
	4. Marking evidence	Section 67.15–7.
	5. [Pleasure vessel fee]	Section 67.43–11(b).
	6. [Mortgagee consent]	Section 67.25–9.
Ownership change (§§ 67.23–3(a)(1); 67.25–7)	1. Application form	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25–7 and 67.23–3.
	3. Title evidence	Subparts 67.05 and 67.07.
	4. [Pleasure vessel fee]	Section 67.43–11(b).
	5. [Recording fee]	Section 67.43–13.
	6. [Mortgagee consent]	Section 67.25–9
	7. [Citizenship declaration]	Section 67.29–11.
Change in general partners (§§ 67.23–3(a)(2); 67.25–7	1. Application form (CG–1258)	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25–3(c) and 67.23–3.
	3. Title evidence	Sections 67.05–09 and 67.07–13.
	4. [Pleasure vessel fee]	Section 67.43–11(b).
	5. [Mortgagee consent]	Section 67.25.9.
Tonnage or dimension change (§§ 67.23–3(a)(4); 67.25–7)	1. Application form (CG–1258)	Section 67.25–7.
	2. Certificate of documentation	Sections 67.25–3(c) and 67.23–3.
	3. Tonnage evidence	Section 67.11–1, 5.
	4. [Pleasure vessel fee]	Section 67.43–11(b).
	5. [Mortgagee consent]	Section 67.25–9.
Change in vessel restrictions (§§ 67.23–3(a)(6); 67.25–7)	1. Application form (CG–1258)	Section 67.25.7.
	2. Certificate of documentation	Sections 67.25–3(c) and 67.23–3.
	3. [Pleasure vessel fee]	Section 67.43–11(b).
	4. [Mortgagee consent]	Section 67.25–9.

REQUIREMENTS FOR SUBSEQUENT DOCUMENTATION TRANSACTIONS UNDER 46 CFR SUBPART 67.25.—Continued

Transaction and reason	Requirements	Refer to
Change of legal name (§§ 67.23-3(a)(7); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Title evidence	Section 67.07-15.
	4. [Mortgagee consent]	Section 67.25-9.
Death of tenant by the entirety (§§ 67.23-3(a)(8); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
	3. Title evidence	Section 67.07-15.
	4. [Mortgagee consent]	Section 67.25-9.
Change in propulsion (§ 67.23-3(a)(9); 67.25-7)	1. Application form	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-3(c) and 67.23-3.
Change in trade endorsements (§§ 67.23-3(a)(10); 67.25-7)	1. Application form (CG-1258)	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
	3. [Title evidence]	Section 67.05-5; Subpart 67-01.
	4. [Pleasure vessel fee]	Section 67.43-11(b).
	5. [Marking evidence]	Section 67.15-7(c).
Command by non-citizen (§§ 67.23-3(a)(12); 67.25-7)	1. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Vessel returned to U.S. command (§§ 67.23-3(a)(12); 67.25-7)	1. Application form (CG-1258)	Section 67.25-7.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
	3. Statement that vessel has been returned to command of U.S. citizen.	Section 67.25-7
	4. [Pleasure vessel fee]	Section 67.43-11(b).
Clerical error by documentation officer (§§ 67.23-3(a)(11); 67.25-7)	1. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Change of owner's address (§§ 67.23-3(b); 67.25-7)	1. (a) Letter advising new address or (b) Renewal application if license due for renewal.	(a) Section 67.25-7; (b) Section 67.25-1.
	2. Certificate of documentation	Sections 67.25-7 and 67.23-3.
Replacement (67.23-7):		
No further spaces for notation of changes (§§ 67.23-7(a)(1); 67.25-11).	1. Application form (CG-1258)	Sections 67.25-11.
	2. Certificate of documentation	Sections 67.25-11 and 67.23-7(b).
	3. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate lost (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate mutilated (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. Certificate of documentation	Sections 67.25-11 and 67.23-7(b).
	3. [Pleasure vessel fee]	Section 67.43-11(b).
Certificate wrongfully withheld (§§ 67.23-7(a)(2); 67.25-11)	1. Application form (CG-1258)	Section 67.25-11.
	2. Statement of facts of withholding	Section 67.25-11.
Deletion (§ 67.23-9):		
Vessel sold alien and/or placed under foreign flag (§§ 67.23-9(a)(1)(2); 67.25-13).	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
	2. Consent of Maritime Administration	Section 67.25-7(a).
	3. [Evidence of sale]	Section 67.25-13.
Owner ceases to be a citizen (§ 67.23-9(a)(3); 67.25-13)	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Failure to renew or surrender (§§ 67.23-9(a)(4)(5); 67.25-13)	None—Deletion automatic upon discovery of failure	
Owner no longer elects documentation (§§ 67.23-9(a)(6); 67.25-13)	1. Certificate of documentation	Sections 67.25-7(b), 67.23-9(d), and 67.25-13.
Vessel ceases to measure 5 net tons (§§ 67.23-9(a)(7); 67.25-13)	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Vessel ceases to be capable of transportation (§§ 67.23-9(a)(8); 67.25-13).	1. Certificate of documentation	Sections 67.25-13 and 67.23-9(d).
Cancellation (§ 67.23-11): Improper issuance (§§ 67.23-11; 67.25-15)	1. Certificate of documentation	Section 67.25-15.

NOTE.—Brackets indicate items not necessarily applicable to all transactions in category. Multiple changes do not require duplicate submissions.

Appendix D to 46 CFR Part 67

Ports of Documentation

The following is a list of Coast Guard Districts and Marine Inspection Zones indicating the ports of documentation within each District and Zone having such ports. The territorial limits of a port of documentation encompass all those localities to which that port is closest by normal means of travel.

District and marine inspection zone	Port of documentation
First:	
Boston	Boston, Gloucester, and Salem, Mass.
Portland, Me	Portland and Rockland, Maine.
Providence	New Bedford, Mass.; and Providence, R.I.
Second:	
St. Louis	St. Louis, Mo.
Cincinnati	Cincinnati, Ohio.
Minneapolis	Minneapolis, Minn.
Louisville	Louisville, Ky.
Memphis	Greenville, Miss.; and Memphis, Tenn.
Nashville	Nashville, Tenn.
Pittsburgh	Pittsburgh, Pa.
Third:	
New York	Albany, N.Y.; Bridgeport and New London, Conn.; and New York, N.Y.
Philadelphia	Philadelphia, Pa. and Wilmington, Del.
Fifth:	
Hampton Roads	Elizabeth City, N.C.; Norfolk, and Reedville, Va.
Baltimore	Baltimore, and Cambridge, Md.; and Washington, D.C.
Wilmington	Beaufort-Morehead City and Wilmington, N.C.
Seventh:	
Miami	Key West, Miami, and West Palm Beach, Fla.
Charleston	Charleston, S.C.
Jacksonville	Jacksonville, Fla.
San Juan	San Juna, P.R.
Savannah	Savannah, Ga.
Tampa	Tampa, Fla.
Eighth:	
New Orleans	Baton Rouge, Houma, Morgan City, La., and New Orleans, La.
Corpus Christi	Brownsville and Corpus Christi, Tex.
Galveston	Galveston, Tex.
Houston	Houston, Tex.
Mobile	Biloxi, Miss.; Mobile, Ala.; and Pensacola, Fla.
Port Arthur	Port Arthur, Tex.
Ninth:	
Cleveland	Cleveland, Ohio.
Buffalo	Buffalo, and Oswego, N.Y.
Chicago	Chicago, Ill. and Ludington, Mich.
Detroit	Detroit, Mich.
Duluth	Duluth, Minn.
Milwaukee	Milwaukee, Wis.
St. Ignace	Sault Ste. Marie, Mich.

District and marine inspection zone	Port of documentation
Eleventh:	
Los Angeles-Long Beach	Los Angeles-Long Beach, Calif.
San Diego	San Diego, Calif.
Twelfth: San Francisco	Eureka, and San Francisco, Calif.
Thirteenth: Seattle	Bellingham and Port Angeles, Wash.
Thirteenth:	
Seattle	Seattle and Tacoma, Wash.
Portland, Oreg.	Aberdeen, Wash.; Astoria, Coos Bay, and Portland, Oreg.
Fourteenth:	
Honolulu	Honolulu, HI.
Guam	Guam
Seventeenth:	
Southeast Alaska	Juneau and Ketchikan, Alaska.
Western Alaska	Anchorage, Alaska.

3. By adding Part 68 to read as follows:

PART 68—DOCUMENTATION OF VESSELS PURSUANT TO EXTRAORDINARY LEGISLATIVE GRANTS

Subpart 68.01—Regulations Implementing the Act of September 2, 1958 (46 U.S.C. 883–1)

Sec.

68.01–1 Definitions for the purposes of this subpart
68.01–3 Requirements for citizenship under 46 U.S.C. 883–1
68.01–5 Qualification as an 883–1 corporation
68.01–7 Qualification as a parent or subsidiary
68.01–9 Cessation of qualification
68.01–11 Privileges conferred—documentation of vessel
68.01–13 Privileges conferred—operation of vessel
68.01–15 Restrictions
68.01–17 Application by an 883–1 corporation to document a vessel

Subpart 68.03—Reserved for Regulation, as Necessary, of Vessels Under the Act of August 9, 1954

Appendices

A—Oath for qualification of corporation as a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 883–1)
B—Oath of parent or subsidiary corporation Act of September 2, 1958 (46 U.S.C. 883–1)

Authority: 72 Stat. 1736 (46 U.S.C. 883–1;); 68 Stat. 675 (50 U.S.C. 198)

OMB Control Number: Information collection requirements contained in this Part have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–111) and have been assigned OMB control number 2115–0110.

Subpart 68.01—Regulations Implementing the Act of September 2, 1958 (46 U.S.C. 883–1)

§ 68.01–1 Definitions for the purposes of this Subpart.

Act means the Act of September 2, 1958 (46 U.S.C. 883–1).

883–1 citizen or *883–1 corporation* means a corporation which qualifies for the special citizenship status created by the Act of September 2, 1958 (46 U.S.C. 883–1).

Parent corporation means one incorporated under the laws of the United States, or any state, territory, or district of the United States, which controls (directly or indirectly) at least 50 percent of the voting stock of another corporation.

Subsidiary corporation means one incorporated under the laws of the United States, or any state, territory, or district of the United States, which has not less than 50 percent of its voting stock controlled (directly or indirectly) by another corporation.

§ 68.01–3 Requirements for citizenship under 46 U.S.C. 883–1.

A corporation seeking to establish its citizenship under the Act of September 2, 1958 (46 U.S.C. 883–1) must meet the following criteria as specified in the Act:

(a) It must be incorporated under the laws of the United States, or any state, territory, district, or possession of the United States;

(b) A majority of the officers and directors of the corporation must be citizens of the United States;

(c) Not less than 90 percent of the employees of the corporation must be residents of the United States;

(d) Such corporation must be engaged primarily in a manufacturing or mineral industry in the United States or any territory, district, or possession of the United States;

(e) The aggregate book value of the vessels owned by the corporation must not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(f) The corporation must purchase or produce in the United States, its territories or possession not less than 75 percent of the raw materials used or sold in its operations.

Note.—A corporation which qualifies as an 883–1 citizen by meeting the criteria in paragraph (a) of this section is not thereby precluded from qualifying as a citizen under any definition in Part 67 upon compliance with all applicable requirements.

§ 68.01–5 Qualification as an 883–1 corporation.

(a) To be formally qualified as an 883–1 corporation for all purposes under the Act, a corporation which meets the requirements of § 68.01–3 must file with the Commandant a certificate under oath as described in Appendix A.

(b) Upon the filing of the certificate required under paragraph (a) of this section, the Commandant will furnish the corporation a Certificate of Compliance which is valid for a period of 3 years from the date of its issuance, unless there is a change in corporate status requiring a report under § 68.01–9(a) of this subpart. On or before the date of expiration of the Certificate of Compliance, a new certificate under oath as described in Appendix A must be filed with the Commandant.

§ 68.01–7 Qualification as a parent or subsidiary.

(a) To be formally qualified as a parent corporation, as defined in § 68.01–1, a corporation must file with the Commandant a certificate under oath as described in Appendix B.

(b) To be formally qualified as subsidiary corporation as defined in § 68.01–1, a corporation must file with the Commandant a certificate under oath as described in Appendix B.

(c) Upon the filing of the certificate required under paragraph (a) or (b) of this section, the Commandant will furnish the corporation a certificate of parent or subsidiary status which is valid for a period of 3 years from the date of its issuance unless there is a change in corporate status requiring a report under § 68.01–9(a) of this subpart. On or before the date of expiration of the certificate of parent or subsidiary status, a new certificate under oath as described in Appendix B must be filed with the Commandant.

§ 68.01–9 Cessation of qualification

(a) If after filing the certificate required by § 68.01–5 of this subpart, a change occurs whereby an 883–1 corporation no longer meets the criteria in § 68.01–3(a), that corporation's qualification for the privileges enumerated in § 68.01–11 and 13 is terminated effective as of the date and time of the change. The corporation must report the change in writing to the Commandant.

(b) If, after filing the certificate required by § 68.01–7 of this subpart, a change occurs whereby the corporation is no longer entitled to be deemed a parent or subsidiary corporation, that corporation's qualification for the privileges in § 68.01–11 and 13 is terminated effective as of the date and time of the change. The corporation must report such change in writing to the Commandant.

§ 68.01-11 Privileges conferred—documentation of vessel.

The special citizenship status created by the Act entitles the 883–1 corporation to document certain vessels for certain limited purposes: (a) An 883–1 corporation may document under the Act only vessels which are qualified for employment in the coastwise trade and which are either non-self propelled or, if self-propelled, are of less than 500 gross tons.

(b) A vessel owned by an 883–1 corporation and meeting the criteria in subparagraph (a) of this section may be documented only for use in the coastwise trade subject to the restrictions in § 68.01–15.

(c) § 68.01–17 contains details concerning the documentation of vessels by an 883–1 corporation.

§ 68.01-13 Privileges conferred—operation of vessels.

(a) The special citizenship status created by the Act entitles the 883–1 corporation to operate, subject to the restrictions in § 68.01–15, vessels which are qualified to engage in the coastwise trade and are exempt from documentation. (See § 67.01–7 for classes of exempt vessels.)

(b) Vessels, documented or exempt from documentation, employed subject to the Act may carry passengers and merchandise of the 883–1 corporation owning such vessels only between points in the United States, including territories, districts, and possessions thereof embraced in the coastwise laws.

(c) The special citizenship status created by the Act entitles an 883–1 corporation owning vessels as described in paragraphs (a) and (b) of this section to transport merchandise or passengers for hire in the coastwise trade as a service for a duly qualified parent or subsidiary corporation as defined in § 68.01–1.

(d) The special citizenship status created by the Act entitles an 883–1 corporation owning vessels as described in paragraphs (a) and (b) of this section to demise or bareboat charter such vessels to common or contract carriers subject to the restrictions in § 68.01–15(c).

§ 68.01-15 Restrictions.

(a) Vessels employed subject to the Act are entitled to operation only in the coastwise trade and only to the extent described in paragraphs (b) and/or (c) of this section.

(b) A vessel owned by an 883–1 corporation may engage in coastwise transportation for hire as a service to a parent or subsidiary corporation as defined in § 68.01–1. Such transportation for hire must be between points of the United States, including territories, districts, and possessions thereof embraced in the coastwise laws.

(c) A vessel owned by an 883–1 corporation may be operated under demise or bareboat charter to a common or a contract carrier subject to 49 U.S.C. Chapter 12 which is a citizen as defined in 46 U.S.C. 802.

(1) Such common or contract carrier may not be connected either directly or indirectly by ownership or control with the 883–1 corporation.

(2) The demise or bareboat charter must be at prevailing rates.

(3) The vessels under a demise or bareboat charter may not be used in non-contiguous trade.

§ 68.01-17 Application by an 883–1 corporation to document a vessel.

(a) Compliance with the following subparts and sections of Part 67 of this Chapter, as applicable, is required in conjunction with the documentation of a vessel by an 883–1 corporation: Subparts 67.01, 67.05, 67.07, 67.09, 67.11, 67.13, 67.15, 67.21, 67.23 and 67.25.

(b) An 883–1 corporation seeking to document a vessel meeting the criteria in § 68.01–11(a) must, in addition to complying with the applicable sections listed in paragraph (a) of this section, furnish to the documentation officer where application is made a copy of the Certificate of Compliance issued under § 68.01–5.

(c) The application for a Certificate of Documentation shall be filed with the documentation officer at the documentation office at the vessel's home port or the port of documentation nearest where the vessel is located.

Appendices

Note.—The substance of the certificates under oath prescribed in Subpart 68.01 is reproduced below. Typewritten copies or other reproductions may be used. (46 U.S.C. 883–1)

Appendix A

Department of Transportation, U.S. Coast Guard

Oath for Qualification of Corporation as a Citizen of the United States Under the Act of September 2, 1958 (46 U.S.C. 883–1)

Corporation:
Name _____
Address [1] _____
State where incorporated _____
Affiant:
Name _____
Address _____
Company _____
Title or capacity _____

I, the affiant named above, swear that I am legally authorized to make this oath on behalf of the corporation, that a majority of the officers and directors of the above-named corporation are citizens of the United States, as shown by the attached listing incorporated in and made a part of this oath which truly and correctly names all such officers and directors, giving the home address and citizenship of each; that not less than 90 percent of the employees of the corporation are residents of the United States; that the corporation is engaged primarily in a manufacturing or mineral industry in the United States or in a territory, district or possession thereof; that the aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and that the corporation purchases or produces in the United States, its territories or possessions not less than 75 percent of the raw materials used or sold in its operation.[2]

The above named corporation fails to qualify as a citizen within the meaning of § 67.03–9(b) by reason of: [3]
———Non-citizen President
———Non-citizen Chairman of Board
———Failure to meet quorum requirements
———Failure to meet stock ownership requirements
Signature _____

Subscribed and sworn to before me on the day and year shown

_____

_____
(Notary Public)
Date _____

[1] Show principal place of business of corporation.

[2] Attach the required list of the names of all officers and directors of the corporation, giving the home address and citizenship of each.

[3] Check appropriate line or lines.

Appendix B

Department of Transportation, U.S. Coast Guard

Oath of Parent or Subsidiary Corporation, Act of September 2, 1958 (46 U.S.C. 883–1)

Corporation:
Name _____
Address _____
State of incorporation _____
Status (Parent) [1] ——— (Subsidiary) [2]

Name of associated corporation _____
Address _____
State where incorporated _____

[1] A "parent corporation" for the purposes of this oath is one incorporated under the laws of the United States, or any State, territory, or district of the United States, which controls (directly or indirectly) at least 50 percent of the voting stock of another corporation. Strike out the inapplicable term.

[2] A "subsidiary corporation" for the purposes of this oath is one incorporated under the laws of the United States, or any State, territory, or district of the United States, which has not less than 50 percent of its voting stock controlled (directly or indirectly) by another corporation. Strike out the inapplicable term.

Affiant:
Name ———————————
Address ———————————
Company ———————————
Title or capacity ———————————

I, the affiant named above, swear that the corporation first named herein is the (parent) [1] (subsidiary) [2] of the associated corporation named, that I am the duly authorized officer or agent of the corporation first named, and that the associated corporation has previously established that it is a citizen within the meaning of the Act of September 2, 1958 (46 U.S.C. 883–1).

Signature ———————————

Subscribed and sworn to before me on the day and year shown

———————————

(Notary Public)

Subpart 68.03—Reserved for Regulation, as Necessary, of Vessels Documented Under the Act of August 9, 1954

PART 69—MEASUREMENT OF VESSELS

§ 69.01–15 [Removed]

4. By removing § 69.01–15.

§ 69.05–1 [Removed]

5. By removing § 69.05–1.

Clyde T. Lusk, Jr.,

Rear Admiral, Coast Guard Chief, Office of Merchant Marine Safety.

June 18, 1982.

[FR Doc. 82–17080 Filed 6–23–82; 8:45 am]

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Part V

Environmental Protection Agency

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Consolidated Permit Regulations; and the Hazardous Waste Management System

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 264

[SWH-FRL-2089-3]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Consolidated Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of proposal to suspend effective date of interim final regulations.

SUMMARY: EPA is announcing withdrawal of its proposal to suspend the effective date of the permitting standards for hazardous waste incinerators, as applied to existing facilities, and is ending its policy, announced on October 20, 1981, of postponing requests for Part B permit applications for existing hazardous waste incinerators.

DATES: Today's action is effective June 24, 1982.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, 800/424-9346 or 202/382-3000, or Stephen A. Lingle, Chief, Technology Branch, Hazardous and Industrial Waste Division, Office of Solid Waste, 202/755-9200.

SUPPLEMENTARY INFORMATION:

I. Authority

The regulations for incineration of hazardous waste (40 CFR Parts 264 and 265, Subpart O) are issued under the authority of Sections 1006, 2002(a), 3004, 3005, and 3007 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6927.

II. Background

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, requires EPA to establish performance, design and operating standards, as necessary, for facilities that treat, store, and dispose of hazardous wastes. EPA first proposed regulations for these facilities in December of 1978 (43 FR 58946). On May 19, 1980, EPA promulgated an initial set of regulations as a first step in meeting the requirements of RCRA (45 FR 33066). On January 23, 1981, EPA promulgated regulations which established the statutorily required standards for incinerators, one class of hazadous waste treatment facilities. These standards imposed identical requirements on new and existing incinerators.

EPA invited public comment on the standards to ensure that we had not overlooked any major problems in addressing the comments received on the standards proposed earlier (December 18, 1978, 43 FR 59008). The Agency intended to remedy any serious problems which might be surfaced by public comments before the standards became effective on July 22, 1981. In response to its invitation for comments, EPA received a number of comments from the regulated community contending that, for various financial, technical, and practical reasons, the standards were inappropriate for application to existing incinerators. Additionally, nearly all of these commenters stated that EPA had failed to fulfill a statutory mandate to distinguish between new and existing hazardous waste management facilities in promulgating the standards.

More specifically, a trade association, which represents companies operating (by their estimate) approximately 300 on-site incinerators, alleged that the cost of complying with the regulations (that is, to meet the required 99.99% destruction and removal efficiency) would force half of these incinerators to cease operation even though they posed no threat to human health. The association estimated that the annual industrywide cost of compliance (including the cost of off-site disposal in cases where closures occur) would be 700 million dollars.

Because the Agency was not able to address these comments within a reasonable period of time, on October 20, 1981 (46 FR 51407), EPA proposed to suspend the effective date of the standards as applied to existing incinerators, pending a reexamination of the standards in light of the comments received. In the same publication, EPA also proposed to suspend the effective date of the standards applicable to existing storage surface impoundments. The Agency will deal with final disposition of that proposal in a separate document.

Concurrent with the proposal to suspend the effective date of the standards for existing incinerators, EPA announced an immediately effective policy of not calling in Part B permit applications for those facilities. The Agency stated that it would permit only new incinerators and existing incinerators for which Part B permit applications were voluntarily submitted, pending disposition of the proposed suspension.

After reviewing the comments submitted on the proposed suspension, EPA has concluded that there is no basis for suspending the standards for incineration at this time. Therefore, the Agency is no longer actively considering the suspension. Furthermore, since a suspension is not contemplated by EPA, there is no longer any reason to defer all permitting of existing incinerators. EPA is therefore discontinuing its policy, announced on October 20, 1981 (46 FR 51407), of refraining from requesting permit applications for existing incinerators. The permitting policy regarding existing hazardous waste incinerators has been made immediately effective in order to promptly clarify, to the public and to the states, the way in which EPA intends to address these facilities in the context of the permitting program and the state authorization process. The basis for these decisions is discussed below.

III. Synopsis of Public Comments on the Proposed Suspension

Many of the comments received in support of the proposed suspension were general statements of agreement. Those who elaborated made two points. First, these commenters contended that Section 3004 of RCRA, as amended in 1980 (42 U.S.C. 6924), requires EPA to distinguish between new and existing facilities when promulgating regulations for hazardous waste treatment, storage, and disposal. They maintained that the absence of such a distinction in the current incinerator standards is a fundamental legal defect and that the suspension is therefore necessary until such a distinction can be considered.

Second, some commenters supporting the suspension, principally the above cited trade association and some of its member companies, contended that implementation of the standards applicable to existing incinerators would force closure of many incinerators which currently pose no threat to human health. They argued that, in many cases, the cost of compliance will be so great as to result in closure rather than retrofitting or upgrading and that therefore, failure to suspend the regulations would impose unjustified and substantial economic penalties.

Commenters who opposed the suspension argued that a regulatory distinction between new and existing incinerators is unnecessary because the current standards have been shown to be achievable by existing incinerators. Furthermore, they argued that distinction between new and existing facilities is not mandated but, instead,

allowed by RCRA and that implementation of the suspension would give firms operating existing incinerators a substantial competitive edge over those who construct and operate new incinerators. They also argued that EPA's consideration of economic impact in promulgating regulations under RCRA is inappropriate because the Act identifies protection of human health and the environment as its sole objective.

Commenters who opposed the suspension generally focused their arguments on the claims raised by the trade association, since the information provided by this group was an important factor in EPA's decision to propose the suspension. In particular, two commenters provided a detailed critique of the trade association's document, contesting its underlying assumptions, the adequacy of the data supporting those assumptions and the final conclusions drawn. At the outset, these commenters stated that the association's economic analysis was primarily conjecture and therefore not appropriate as the sole basis for a decision concerning the suspension.

With regard to specific points made by the association, commenters who opposed the suspension identified three major issues. First, they maintained that the trade association did not substantiate its claim that many existing incinerators cannot meet the current standards. Second, they indicated that the association failed to provide sufficient evidence for the contention that those incinerators which do not meet the standards will close rather than upgrade. Commenters pointed out that the association's analysis failed to explore the numerous options currently available for retrofitting or upgrading existing incinerators and that this resulted in overstatement of the projected economic impact of the current standard.

Third, commenters who took exception to the trade association document criticized the assertion that existing incinerators operate safely without meeting the current standards. They stated that the trade association report made no reference to any existing information which would substantiate the alleged safety of existing incinerators currently operating below compliance levels. One commenter concluded, based on theoretical calculations, that incinerator performance levels below the required 99.99% destruction and removal efficiency (DRE) will result in substantially higher mass emissions of hazardous waste constituents. This commenter also contended that no conclusions can be drawn regarding the safety of emissions resulting from operation below 99.99% DRE since the magnitude of the hazard is closely tied to many site-specific factors.

Several commenters addressed the impact of a suspension on the process of granting State interim authorization under Section 3006 of RCRA. They expressed concern that a suspension, if instituted, would cause an unfair and illegal delay in the State authorization process. They also pointed out that the delay would mean that facilities permitted under State programs while the suspension is in effect would then need to undergo a second permitting process, once the Federal standards become effective, in order to receive a RCRA permit. This two-stage permitting process, according to commenters, would be costly, both to facility owners and the State programs.

IV. EPA's Response to Comments and Basis for Today's Action

A. Statutory Issues

Commenters raised two issues which are relevant to the criteria for decision-making set forth by RCRA. First, commenters opposing the suspension argued that suspension of the current standards only for the purpose of considering their economic impact would be improper because the statute specifies only one objective: protection of human health and the environment. These commenters concluded that suspension of the current effective date, pending re-examination of economic impacts, would therefore be contrary to RCRA.

While the Agency recognizes protection of human health and the environment as the primary objective of RCRA, we have consistently held that this goal does not preclude the consideration of cost factors as they relate to the selection of an appropriate regulatory strategy. We believe that economic factors have been appropriately considered in the development of the current hazardous waste management regulations. For example, on May 19, 1980, in our publication of the Phase I regulations, EPA stated that the cost-effectiveness of various regulatory alternatives was considered in order to assure that protection of human health and the environment is achieved through the most efficient means (45 FR 33089). The performance standard for incinerators requiring 99.99% destruction and removal of principal organic hazardous constituents reflects a consideration of cost to the extent that it requires performance at a level known to be attainable by technology currently in use.

Consideration of economic impact may also be necessary in order to develop a regulatory program which effectively balances EPA's environmental goals. For example, economics is an important consideration when the costs of complying with a particular regulation are so high as to result in decreased nationwide availability of preferable hazardous waste management technologies. Such a decrease in capacity may result in shunting hazardous wastes to less desirable management options, thereby indirectly affecting the degree of protection of human health and the environment. In such a case, the cost of compliance will, to some extent, determine the overall level of protection provided. Therefore, EPA disagrees with commenters who claim that the Agency does not have authority to suspend the current standards in order to consider their economic impact.

The second issue relating to RCRA's criteria for decisionmaking was raised by commenters who supported the suspension. They argue that the absence of a distinction between new and existing facilities in the current incinerator standards is a fundamental legal defect because the 1980 amendments to RCRA mandate such a distinction.

In 1980, Section 3004 of RCRA (Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) was amended by Congress to include the following language:

> In establishing such standards the Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulation (42 U.S.C. 6924).

While this addition clearly allows for regulatory distinction between new and existing facilities, it is not mandated in all cases. Additionally, the legislative history addressing this amendment suggests that Congress was primarily concerned with problems which might arise if rigid design standards are imposed on existing surface impoundments (see H.R. Rep. No. 191, 96th Cong., 1st Sess.). Therefore, regulatory distinction between new and existing hazardous waste management facilities will be made when appropriate, as indicated by the factual record developed during the course of rulemaking.

B. Technical and Economic Issues

The trade association document which provided much of the information supporting the October 20 proposal made three key points concerning the potential impact of the standards on existing incinerators: (1) That approximately one-half of an estimated 300 incinerators owned by its members cannot meet the performance standard for 99.99% destruction and removal of principal organic hazardous constituents and therefore will close; (2) that compliance with the standards (including off-site disposal where closures occur) will cost the industry an estimated $700 million annually; and (3) that many of the incinerators which will close do not pose a danger to human health at their current performance levels. However, as pointed out by commenters who opposed the suspension, the association did not provide substantive data to support any of these points. In response to a specific request by EPA for further information, the association has stated that the above points were based on estimates made by industry experts in the absence of hard data.

This lack of data supporting the claim that existing incinerators are unable to meet the current performance standard is significant. The current standards are supported, in part, by data collected during 54 test burns conducted in 15 different incinerators. A destruction efficiency of at least 99.99% was achieved in all but nine of these tests. Furthermore, close examination of those tests in which the destruction efficiency was less than 99.99% showed that in all nine tests, the incinerators had experienced explainable and correctable problems. In some instances, for example, the incinerator operating conditions were purposely varied to extremes in order to determine whether the destruction efficiency would fall below 99.99%. It is also important to note that most of the 54 test burns were conducted during the mid-1970s and represent technology which was in use at that time.

The promulgated regulation does not limit compliance to achievement of 99.99% destruction efficiency. Instead, the required 99.99% destruction and removal efficiency allows the incinerator operator to achieve compliance through a combination of destruction by combustion and removal by air pollution control devices. Thus, the standard does not demand a level of performance beyond the capability of existing technology as demonstrated by the 54 incinerator test burns. EPA believes, therefore, that the existing data indicate that commercial hazardous waste incinerators can attain 99.99% destruction and removal of principal organic hazardous constituents. Absent the submission by commenters of any contradicting data regarding the performance of existing incinerators, EPA cannot accept the assertion, made by the association, that over half of the incinerators operated by their member companies cannot meet the current standards.

The Agency also agrees with commenters who found inadequate support for the economic impacts alleged by the association. Even if signifiant numbers of incinerators were unable to meet the current standards, EPA finds no support for the assumption that these facilities would close rather than modify or upgrade their operations. As commenters pointed out, numerous alternatives exist for upgrading incinerator performance, such as raising temperature through increased use of auxiliary fuel or modification of incinerator components.

Finally, EPA does not believe that the association has demonstrated that existing incinerators not currently achieving the performance standards would not present a risk to human health. This point was also contested sharply by commenters, who presented some evidence of potential hazard caused by existing incinerators.

In promulgating the 99.99% DRE performance standard, on January 23, 1981 (46 FR 7666), EPA indicated its intent to develop a variance provision for that standard based on a facility-specific assessment of human health risk. The preamble to the regulations indicated, however, that until EPA determined that such a variance was practicable, the Agency believed it reasonable to require that all incinerators achieve performance levels "known to be currently attainable by the existing technology of high quality commercial hazardous waste incineration" (46 FR 7669). The preamble also indicated that "for typical waste feed rates, most organic wastes will present no significant health hazards when treated to a 99.99% destruction and removal efficiency" (46 FR 7669).

In the preamble to the proposed variance provision which accompanied the January 23, 1981 rule (46 FR 7634), the Agency acknowledged that "the destruction and removal of efficiency performance standard may be either more or less stringent than necessary to provide assurance of protecting human health and the environment in all circumstances" (46 FR 7685). This occurs for two reasons. First, the DRE performance standard does not control the actual mass of hazardous waste constituents emitted. Second, the standard does not account for site-specific factors such as waste characteristics (e.g., inherent toxicity), incinerator design (e.g., waste feed rate), and location parameters (e.g., meteorology and population distribution), all of which affect the actual level of risk to human health and the environment at an individual facility. By incorporating facility-specific risk analysis in the permitting process, the amendment proposed on January 23, 1981 would have the effect of including a detailed consideration of the above factors in determining the necessary level of protection.

A risk analysis of this type requires extensive data describing emissions of hazardous air pollutants, exposure levels, exposed populations and the effects of pollutants on human health. Because such data are rarely available, they must be generated by direct measurement or estimated by means of computer simulation techniques. Once the data are collected and models are developed, their precision and accuracy must be evaluated before a meaningful risk analysis can be conducted.

One of the primary goals of EPA's ongoing Regulatory Impact Analysis is to characterize the risks to human health and the environment associated with incineration of hazardous wastes.

This activity will provide valuable information regarding the feasibility of conducting site-specific risk assessments. For this reason, action on the January 23, 1981 proposal prior to completion of the RIA would be premature. Today's action, therefore, does not include promulgation of the proposed variance provision.

The trade association's assertion that performance at 99.5 or 99.9% DRE is protective in all or most cases is reflective of the Agency's statement, of January 23, 1981 (46 FR 7685), that the DRE performance standard may be either more or less stringent than necessary to provide assurance of protecting human health and the environment in all circumstances. Neither the trade association nor other commenters, however, provided information adequate to support the assertion. Once the RIA is complete EPA will have the data to indicate whether and for which types of facilities the current performance standards are either over protective or under protective. In such cases, EPA will use the data from the RIA to establish, as appropriate, either a case-by-case variance, as proposed in January of

1981, or to tailor the standards to provide appropriate levels of performance for diffeent classes of facilities.

In its comment responding to the October 20, 1981 proposal, the trade association proposed that, as an alternative to implementing the suspension, EPA should issue permits to existing incinerators that demonstrate 99.9% DRE but cannot demonstrate 99.99% DRE. This approach to permitting existing facilities would require that EPA amend the performance standard to allow this lesser destruction and removal efficiency for permitting existing facilities. However, the Agency does not have the data necessary to support such an amendment at this time. As stated above, the Agency's existing trial burn data clearly support the achievability of a 99.99% DRE.

C. Impact on State RCRA Programs

The preamble to the October 20 proposal recognizes that suspension of the regulations applicable to existing facilities would affect the State authorization process under Section 3006 of RCRA. EPA has addressed the concerns of commenters regarding this issue to some extent in the notice of February 24, 1982 (47 FR 8010). This notice announced a change in Agency policy which eliminates the delay in State authorization decisions that had been imposed by the October 20 proposal. The new policy allows States to receive interim authorization for issuing RCRA permits for both new and existing incinerators (and storage surface impoundments). Howéver, if the Agency suspended the effective dates for certain exisitng facilities, State authorization to issue RCRA permits to those facilities would automatically lapse under the new policy.

This policy did not address the concern expressed by commenters that facilities permitted under State programs, while the Federal standards are suspended, will have to be issued a second permit when the Federal standards are reinstated. EPA agrees that adding this complexity (and expense) to the State interim authorization process is undesirable and should be avoided if possible. Today's decision to withdraw the proposal to suspend the standards eliminates this concern.

V. Permitting Activities Prior to Completion of the Regulatory Impact Analysis (RIA)

Executive Order 12291 requires EPA to prepare a Regulatory Impact Analysis (RIA) of the incinerator standards published on January 23, 1981. In accordance with the Order, a major study is underway to evaluate the human health risks and economic impacts associated with both the current incinerator standards and several alternative standards. The Agency expects a draft RIA to be ready for public review and comment by April of 1983.

The goal of the Regulatory Impact Analysis (RIA) is to provide the Agency with a comprehensive review of the costs and benefits associated with the RCRA hazardous waste incinerator standards. This information will allow EPA to re-evaluate several aspects of the current standards for incinerators, including their appropriateness for application to existing facilities. The Agency will then consider the results of this analysis in finalizing the standards for incineration.

VI. Regulatory Analyses

A. Executive Order 12291

Section 3(B) of Executive Order 12291 (46 FR 12193, February 19, 1981) requires EPA to prepare a regulatory impact analysis on all "major" rules. A major rule is defined as a rule which is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that today's action will not result in any of the foregoing impacts prior to completion of a draft RIA on the current incinerator standards and consideration of any changes to those standards which might derive from the RIA (see previous discussion). In addition, EPA believes that today's action, withdrawal of the October 20, 1981 proposal and discontinuation of the policy of refraining from requesting permit applications from existing hazardous waste incinerators, does not constitute a rule. Accordingly, the Agency does not believe that an RIA specific to today's action is required and one has not been prepared.

EPA has submitted this notice to the Office of Management and Budget (OMB) for review under the Executive Order. OMB's comments, if any, are filed in the RCRA public docket, Room S269, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

B. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), EPA is required to determine whether its regulations will have a significant impact on a substantial number of small entities. Section 603 of the Act requires that an initial Regulatory Flexibility Analysis be prepared when a rule is proposed and Section 604 requires a final analysis upon promulgation. Since today's action does not constitute the promulgation of a rule, EPA has determined that no Regualtory Flexibility Analysis is required.

List of Subjects

40 CFR PART 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, water supply, Confidential business information.

40 CFR PART 264

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirement, Security measures, Surety bonds, Waste treatment and disposal.

Dated: June 21, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-17088 Filed 6-23-82; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 264 and 265

[SWH-FRL-2024-3]

The Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Interim final amendments to interim final and final rules.

SUMMARY: The Resource Conservation and Recovery Act (RCRA) requires that EPA set regulatory standards for all facilities which treat, store, or dispose of hazardous waste. In partial implementation of its requirement, on January 23, 1981, EPA set regulatory standards for incinerators that burn hazardous waste. These regulations were issued as "interim final," which means that, although they were issued in final form, the Agency invited public comment on them with a view to future amendment.

Today, EPA is amending, on an interim final basis, certain of its regulations applicable to hazardous waste incineration facilities. Today's amendments include revisions to: the general standards for permitting hazardous waste incinerators (Part 264, Subpart O), published in the **Federal Register** on January 23, 1981; the interim status standards for hazardous waste incinerators (Part 265, Subpart O), revised on January 23, 1981; and the consolidated permit requirements for incinerators (Part 122), published on May 19, 1980 and January 23, 1981.

The amendments pertain specifically to: (1) The permit procedure for incinerators, (2) exemption of corrosive and some reactive wastes from selected Subpart O standards, (3) the performance standard for hydrogen chloride emissions, (4) the performance standard for particulate emissions, (5) designation of air feed rate as an operating and monitoring parameter, (6) inspection of the waste feed cutoff system, (7) visual inspection of the stack gas plume during interim status, and (8) requirements for data collection during the trial burn. Additional issues addressed by this preamble but not pertaining to regulatory amendments include: criteria for the selection of principal organic hazardous constituents (POHCs), applicability of the regulations to incinerators installed as air pollution control devices, and the need for regulation of particulate emissions.

DATES:

Effective Date: June 24, 1982.

Comments Date: EPA will accept public comments on these amendments until July 26, 1982.

ADDRESSES: Comments should be sent to: Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Docket: The Public Docket for this amendment is located in room S-269, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. and is available for viewing from 8:30 a.m. until 4:00 p.m., Monday through Friday, exclusive of holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA hazardous waste HOTLINE, Office of Solid Waste (WH-565), telephone: (800) 424-9346 or, in Washington, D.C.: 382-3000; or Jan Jablonski, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; telephone: (202) 755-9200.

SUPPLEMENTARY INFORMATION:

Preamble Outline:

I. Authority
II. Overview
  A. Background
  B. Structure of today's preamble
III. Amendments
  A. Incinerator permit procedures
  1. RCRA permits for new incinerators
  2. RCRA permits for existing incinerators
  B. Applicability of the incinerator standards
  C. Amendments to the performance standards
  1. The performance standard for HCl removal
  2. The performance standard for particulate emissions
  D. Requirements for operation, inspection and monitoring
  1. Designation of air feed rate as an operating and monitoring parameter
  2. Inspection of the waste feed cutoff mechanism
  3. Visual inspection of the stack gas plume during interim status
  E. Trial burn requirements
  1. Requirement for monitoring hazardous combustion by-products
  2. Computation of a total mass balance of the trial POHCs
IV. Other Important Issues
  A. Selection of principal organic hazardous constituents
  B. Applicability of the incinerator regulations to fume incinerators
  C. Regulation of particulate emissions from hazardous waste incinerators
V. Supporting Documents
  A. Background documents
  B. Guidance documents
VI. Regulatory Impacts
VII. Interim Final Regulations: Effective Dates
VIII. List of Subjects in 40 CFR Parts 122, 264, and 265

I. Authority

This amendment is issued under the authority of Sections 1006, 2002(a), 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, 42 U.S.C. 6905, 6912(a), 6924, and 6925.

II. Overview

A. Background

The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, requires EPA to establish a national regulatory program to insure that hazardous wastes are managed in a manner which does not endanger human health or the environment from the time they are created until their eventual destruction or final disposition. To this end, the Act requires regulations governing generation and transport of hazardous waste and, most significantly for today's amendments, requires that all treatment, storage, and disposal of hazardous wastes be conducted in accordance with a valid RCRA permit.

The Act defines a hazardous waste as any solid waste which may cause mortality or serious illness, or may "pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." (42 U.S.C. 6921) The statute further requires EPA to list specific hazardous wastes and to establish criteria by which wastes which are not specifically listed may be identified as hazardous. The statute also requires EPA to:

> Promulgate regulations establishing such performance standards, applicable to owners and operators of facilities for the treatment, storage or disposal of hazardous waste identified or listed under this subtitle, as may be necessary to protect human health or the environment. (42 U.S.C. 6924)

Each such facility must apply for and receive a permit which applies the standards to its own particular circumstances and states its particular compliance obligations.

RCRA allows existing facilities to operate during the period before a final permit decision is reached, provided that the owner or operator has made a timely submission of the required permit application. A facility is legally eligible for operation during this period, called the period of "interim status," only if it was in existence on November 19, 1980 and if the owner or operator submits a RCRA permit application.

On May 19, 1980, EPA published initial regulations as a first step in

meeting the requirements of RCRA. Appendix VIII of those regulations specified certain chemical substances which, when present in a waste, could serve as a basis for designating the waste as hazardous for purposes of regulation under RCRA. The regulations then explicitly listed a large number of hazardous wastes (see 40 CFR Part 261). In addition, these regulations list four "characteristics" by which additional wastes may be classified as hazardous. These are ignitability, corrosivity, reactivity and Extraction Procedure (EP) toxicity (which generally measures a tendency to release specific hazardous chemicals through leaching). The May 19, 1980 promulgation also included some general requirements for the operation of existing facilities during interim status, including limited interim status standards for hazardous waste incinerators.

On January 23, 1981, EPA promulgated regulations which established the statutorily required standards for issuing operating permits to one class of hazardous waste treatment facilities: incinerators (46 FR 7666). These standards set forth the requirements incinerators must meet to qualify for the operating permit which the statute contemplates every RCRA facility will eventually receive.

Because of the large number of RCRA permits that must be issued, the permit application needed to qualify for interim status may be due years before the facility's individual permit will be considered. Requiring all of the information needed for a decision concerning the facility permit at the time of qualification for interim status would result in a requirement that owners and operators provide a great deal of information to the Agency long before it is needed for regulatory purposes. Furthermore, because of the lengthy period which ensues following qualification for interim status, information provided so far in advance might well be outdated by the time EPA begins to evaluate the permit application.

To avoid this result, EPA has divided the permit application into two parts. Part A, which is relatively brief, is filed by owners and operators of existing facilities in order to qualify for interim status. Part B of the permit application contains the balance of the information necessary to fully evaluate the facility's performance and reach a decision concerning issuance of a permit. A facility may file a Part B application voluntarily at any time. Alternatively, the Agency may require its submission.

EPA's January 23, 1981 regulations specifically identified the information necessary to complete a Part B application for an incinerator. In many cases, the required information can only be collected by conducting a test burn using the hazardous waste which the facility will eventually be permitted to treat. The regulations therefore specified the information to be collected during such a test burn.

The regulations also specified three broad substantive requirements regarding incinerator performance. They are that the principal organic hazardous constituents (POHCs) designated in each waste must be destroyed and/or removed to an efficiency of 99.99%, that particulate emissions must not exceed 180 milligrams per dry standard cubic meter corrected to 12% carbon dioxide in the stack gas, and that, in most cases, the gaseous hydrogen chloride (HCl) resulting from combustion must be reduced by 99% prior to release to the atmosphere. The regulations also specified a number of requirements for incinerator operation, performance monitoring and inspections. Finally, they established the procedures by which permits to hazardous waste incinerators would be granted.

During the comment period which followed publication of the incinerator regulations, the Agency received numerous comments which suggested that changes or clarifications were needed. In addition, the Agency held a public hearing and technical assistance conference in Cincinnati, Ohio on April 21 and 22, 1981, at which additional comments were received. After careful evaluation of these comments, EPA has determined that modification of certain Subpart O regulations would enhance their technical feasibility and reduce the cost of compliance, while maintaining adequate protection of human health and the environment.

Portions of today's preamble and amendments address issues that were also raised by the litigants in *AMSA v. EPA, Nos. 81–1440 et al. (D.C. Cir. 1981)*, a lawsuit seeking review of the January 23, 1981 incinerator regulations. Those litigants include an environmental advocacy group (the Environmental Defense Fund), hazardous waste generators (the Chemical Manufacturers' Association and the Association of Metropolitan Sewerage Agencies) and waste incinerator specialists (the National Solid Wastes Management Association and SCA Services, Inc.). They have, in the context of settlement negotiations, seen an earlier draft of today's amendments. Their written comments are included in the record of this rule-making. The Background Document for today's amendments cites those comments whenever the Agency has relied on information included in them.

B. Introduction to Today's Preamble

Today, EPA is amending the incinerator regulations in a number of respects, none of which changes them fundamentally. Each of these changes is discussed, in detail, below. The changes fall into five major areas: (1) Changes to the procedures for issuing incinerator permits, (2) changes to the scope of applicability of the incinerator regulations, (3) modifications to the performance standards, (4) changes in the requirements for incinerator operation, performance monitoring and inspection, and (5) minor alterations in the trial burn data collection requirements.

The amendments published today include changes to all of the Part 264, Subpart O sections, except § 264.342 (Principal Organic Hazardous Constituents). Certain changes are being made simply to clarify the intent of the regulations or to correct for procedural difficulties. For example, § 264.341 (Waste analysis) is being revised to acknowledge problems encountered by applicants seeking permits for new incinerators prior to construction. This change simply formalizes the Agency's intent to require waste analysis information to the extent that it is available to owners and operators of new facilities. Other changes alter the regulatory requirements. For example, § 264.340 (Applicability) is being revised to expand the number of wastes which may be exempted from the performance standards of Subpart O.

As a result of the changes to Part 264, minor conforming changes are necessary in the permit application requirements of §§ 122.25 and 122.27. Other, more significant, changes to § 122.27 follow from recognition of the need to operate new facilities for periods before and after the trial burn. Today's amendments also include changes to the data reporting requirements of §§ 122.25 and 122.27. The Agency is removing the requirements for identification of hazardous combustion by-products from these sections since the amendment pertaining to those substances (proposed January 23, 1981, 46 FR 7684) is still under consideration. The provisions regarding waste analysis in § 122.27(b) have been rewritten in order to more clearly describe the three-step process by which wastes should be screened for hazardous constituents. Additionally, EPA has modified the requirement in § 122.27 for computation of a total mass balance of the trial

POHCs following completion of the trial burn.

Today's amendments include two changes to the interim status standards for incinerators (Part 265, Subpart O). Section 265.340 (Applicability) is being revised to reflect the amendment to § 264.340 concerning wastes which may be exempted from the Part 264, Subpart O performance standards. Secondly, the provision for hourly visual inspection of the stack gas plume (§ 265.347) is being deleted in order to compensate for various practical problems inherent in the original regulation. EPA believes that these and all of today's amendments will reduce the regulatory burden imposed on hazardous waste incinerators without compromising the integrity of its mandate under RCRA to protect human health and the environment.

The following table summarizes the significant changes made by today's amendments. It is presented here as an aid to the reader in recognizing the changes made in the regulatory requirements and is not intended to be used as a surrogate for the regulatory text. The statements appearing in the table are intended as brief summaries and do not include all aspects of the existing and amended regulations. The reader is referred to the regulatory paragraphs cited in the table for information concerning specific requirements.

Public comments received in response to the January 23, 1981 regulations raised several issues which related to interpretation of the regulations and the basis and purpose of specific requirements. Today's preamble also discusses these issues and provides a statement regarding the Agency's position on each.

The basis and purpose of today's amendments is presented, in greater detail, in the Background Document which is a companion to this notice. The document also provides the Agency's response to public comments which relate specifically to the amendments. Comments not germane to today's amendments continue to be under consideration by the Agency and will be addressed in the future.

SUMMARY OF SIGNIFICANT AMENDMENTS TO THE REGULATIONS FOR HAZARDOUS WASTE INCINERATORS

Section	Jan. 23, 1981 regulation	Amended regulation
264.340 [1]	Exempted wastes: (1) Listed ignitables and (2) those failing the test for ignitability, when shown to contain no Appendix VIII substances.	Exempted wastes: (1) Listed ignitables, corrosives and/or selected reactives and (2) those failing the tests for ignitability, corrosivity and/or selected reactivity characteristics, when shown to contain no or insignificant levels of Appendix VIII substances.
264.343(b)	Performance Standard for HCl Emissions: If Waste Input exceeds 0.5% chloride, Then: Remove 99% of stack gas HCl.	Performance Standard for HCl Emissions: If: Stack emissions exceed 1.8 kg HCl/hr, Then: Control emissions so that they do not exceed the larger of the following: (1) 1.8 kg HCl/hr, or (2) 1% of the HCl in the stack gas.
264.343(c)	Performance Standard for Particulate Emissions: Emissions may not exceed 180 mg/DSCM when corrected to 12% carbon dioxide.	Performance Standard for Particulate Emissions: Emissions may not exceed 180 mg/DSCM when corrected to 50% excess air or as otherwise specified in the permit.
264.344	No provisions for permits to new incinerators	Allows for four-phase permit for new incinerators: Phase 1: "Shake-down" phase. Phase 2: Trial burn. Phase 3: "Follow-up" phase. Phase 4: Permanent operation phase.
264.345	Air Feed Rate to be designated as an operating requirement.	Indicator of Combustion Gas Velocity to be designated as an operating requirement.
122.27	1. New facilities must have final RCRA permit prior to construction..	1. New facilities submit Part B of the permit application and required information for trial burn plan simultaneously. Permit is issued, after opportunity for public hearing.
	2. Requirement to monitor Hazardous Combustion By-Products during trial burn.	2. Deleted.
	3. Waste Analysis requirements for trial burn plan.	3. Language Clarification.

[1] Equivalent changes have been made in the corresponding section of Part 265 (Interim Status Standards).

III. Amendments

A. Incinerator Permit Procedures

The January 23, 1981 regulations established application requirements and permitting procedures for granting RCRA permits to new and existing incinerators (46 FR 7681). Section 122.25(b)(5) established three methods by which applicants could satisfy the Part B permit application requirements. Briefly, owners and operators seeking to burn only wastes which might be eligible for exemption from the performance standards for incineration were required to provide a substantially abbreviated version of the permit application. Facilities that will burn other wastes were either required to conduct a trial burn or seek a waiver of the trial burn requirement by submitting sufficient alternative information.

1. RCRA permits for new incinerators. Prior to the issuance of the January 23, 1981 incinerator standards, EPA published the Consolidated Permit Regulations (45 FR 33290). Section 122.22(b)(1) of those regulations provided that new hazardous waste management facilities, i.e., those facilities not "in existence" on November 19, 1980, could not begin physical construction after November 19, 1980, until a final RCRA permit had been issued for the facility. This "construction ban" created a problem for new incineration facilities. Under the May 19, 1980 regulations, new incinerators could not begin construction until they had received a RCRA permit, and facilities choosing to use the trial burn method to apply could not receive a RCRA permit until they performed a trial burn and submitted the results. These new facilities were clearly placed in an untenable position, as they could not perform the trial burn until after construction, but could not construct until they had received a final RCRA permit, often requiring performance of a trial burn.

Today's amendments revise and simplify the January 23, 1981 permitting procedures for new facilities. For those facilities applying under the trial burn method, submission of a trial burn plan with the Part B application is required under revised § 122.27(b). The permitting authority (the "Director") will then process the permit completely through the Part 124 procedures, including preparation of a draft permit, and an opportunity for public comment and hearing. After completion of this process, the Director will issue a permit which establishes all of the conditions needed to comply with the standards of Part 264, Subparts B through H and Subpart O.

This permit will be the "finally effective RCRA permit" required, by § 122.22, for commencement of physical construction. It will be issued prior to the trial burn and will therefore allow advanced approval of new facilities applying by the trial burn method, an action which the previous regulation did not allow. This meets the concern expressed by commenters that they may be required to invest large amounts of capital before the Director has completed review of the facility design and operation, and approved a trial burn.

The permit will be structured to provide for four phases of operation. The initial phase begins immediately following completion of construction. During this phase, the facility may be operated for "shake-down" purposes, in

order to identify possible mechanical difficulties, ensure that the facility has reached operational readiness and achieve steady-state operating conditions prior to conducting the trial burn. These purposes may be partially accomplished by operating the unit with auxiliary fuel or non-hazardous waste (e.g., for conditioning of refractories).

One litigant felt that burning of hazardous waste should not be allowed during shake-down. Engineering considerations, however, will necessitate operation of the incinerator, prior to conducting the trial burn, using the hazardous waste or wastes for which the permit will be written. Thus, the amended regulation allows the Director to specify, on a case-by-case basis, conditions under which a new facility may operate to treat hazardous waste during the shakedown period.

This phase of the permit is limited to 720 hours of operation to treat hazardous waste (approximately 30 days of continuous operation) in order to prevent prolonged operation in the absence of permit requirements of demonstrated adequacy. The Director may extend the allowable hazardous waste treatment period for one additional period of up to 720 hours if the applicant is able to demonstrate cause for the extension. Requests for extensions should be accompanied by a detailed statement regarding the incinerator's performance and the need for the extension.

The provision for a single extension answers one litigant's concern that public participation might be excluded from decisions to allow burning of hazardous wastes during shake-down. The initial public hearing will allow an opportunity to comment on the permit conditions to be imposed during shake-down and on the single extension. If operational constraints require further extension of the shake-down period, opportunity for additional public participation is appropriate. Thus, further extensions will require modification of the permit, according to the procedures of § 122.15 (Modification or revocation and reissuance of permits).

The operating requirements for the shake-down period must meet two criteria: (1) They must be sufficiently stringent, based on the Director's best engineering judgment, to meet the performance standards of § 264.343, and (2) they must not restrict operation to such a degree that the operator is unable to prepare the incinerator to perform properly during the trial burn. Design and operating information submitted with Part B of the permit application and the experience gained from other permit deliberations will aid the Director in determining whether the incinerator is likely to achieve the performance standards of § 264.343 when operated under certain conditions. Sufficiently conservative conditions can be implemented by limiting the waste feed rate or concentration of hazardous constituents input to the incinerator, or by requiring operation at temperatures in the upper reaches of the incinerator's operating range. The Director should be able to specify conditions which will protect human health and the environment while allowing sufficient inputs of hazardous wastes to prepare the incinerator to function properly during the trial burn.

There are numerous feasible approaches to establishing acceptable operating conditions during the shake-down period. For example, some applicants may wish to operate in the early stages of the shake-down period using auxiliary fuel or non-hazardous wastes, followed by an informal or small-scale trial burn. The results of this burn might then be used to establish a preliminary set of operating conditions to be effective during the remainder of the shake-down. Alternatively, the applicant might operate during shake-down under the operating requirements originally proposed by EPA in December of 1978 (43 FR 59008). The final decision will be made on a case-by-case basis. The permit application must be accompanied by a statement which identifies the conditions under which he proposes to operate during shake-down and gives some justification for selecting these conditions. The Director will evaluate the proposal and decide upon the conditions to be included in the permit.

After timely and satisfactory completion of all shake-down operations, the second phase of the permit begins. This phase consists solely of the period allotted for conducting the trial burn. The operating requirements applicable during this phase will be set in accordance with the trial burn plan and will be determined following a careful review of the plan and all other information submitted with Part B of the permit application.

Following completion of the trial burn, a period of several weeks to several months will be necessary for completion and submission of the trial burn results and subsequent specification of operating conditions to reflect the results. This period represents the third operational phase of the permit. Since shutdown of the incinerator during this period might result in substantial financial losses, and in diversion of hazardous wastes to less effective treatment alternatives, the Agency has determined that some provision must be made to allow operation. The amendment, therefore, will allow the Director to specify a set of operating requirements to take effect following completion of the trial burn and until modified operating requirements are specified in the facility permit.

EPA has considered numerous approaches for setting requirements to be applied during this phase. The amended regulation requires that the permit conditions be designed to meet the performance standards of § 264.343. Therefore, as in the case of the shake-down period, engineering judgment will be necessary to set these conditions. Again, conservative conditions should be applied; for example, the Director may choose to impose the most stringent operating conditions imposed during the trial burn or he may restrict waste composition or feed rate. The incinerator will have been operated to treat hazardous wastes during the trial burn and perhaps during a shake-down period prior to the follow-up phase. Therefore, there may be circumstances in which the Agency will consider whether any continuous monitoring data collected during the trial burn could be used to assist in selecting operating requirements for the follow-up period.

For example, during the trial burn, the stack emissions might be monitored for total unburned hydrocarbons (i.e., all unburned organic substances in the stack gas). By assuming that the total concentration of unburned hydrocarbons measured is emitted in the form of the POHC [1] which is most difficult to burn, a destruction and removal efficiency (DRE) might be calculated using the unburned hydrocarbon data. The operating requirements which result in attainment of this DRE during the trial burn could then be designated for application during the follow-up phase. The assumptions involved in this approach are necessarily conservative and act to offset uncertainty concerning possible

[1] A principal organic hazardous constituent (POHC) is an organic chemical which is a constituent of the waste to be burned and has been identified as hazardous by EPA in Appendix VIII of 40 CFR Part 261. In each case, the permitting authority will designate POHCs to be used in measuring destruction and removal efficiency of the incinerator. As discussed later in this preamble the incinerator will be operated during a trial burn to demonstrate 99.99 percent destruction and removal efficiency for each POHC designated by the permitting authority. The operating conditions shown to achieve 99.99 percent destruction and removal efficiency will then become conditions of the permit. Generally, those organic constituents which are most difficult to destroy and most abundant in the waste will be selected as POHCs.

damage to human health and the environment. For this reason and because EPA lacks information concerning the feasibility of such an approach, today's amendment does not require that total unburned hydrocarbon data be used to set the permit conditions for the follow-up phase. However, EPA specifically requests that interested parties submit comments regarding the technical, financial, and practical aspects of such an approach. After further consideration of the method and review of any comments received, EPA will determine whether the above approach can be used with a high degree of confidence.

As in the case of the shake-down phase, the applicant should include a statement, with the permit application, describing the conditions under which he proposes to operate during the follow-up phase. In the event that data collected during the shake-down or the trial burn phases show that different operating conditions will be necessary, the applicant may amend the permit application and the Director may modify the permit conditions, as required. This modification may proceed according to § 122.17 (Minor modifications of permits), which does not require implementation of the procedures specified in Part 124, including preparation of a draft permit and opportunity for public hearing and appeal.

Detailed review of the trial burn results will show either that the incinerator is capable of complying with the performance standards when operating within the trial burn conditions, or that compliance was not attained during the trial burn and a second test is necessary. If compliance was shown, the permit may be modified to set, as the final operating requirements those demonstrated during the trial burn according to § 122.17 (Minor modifications of permits). If compliance has not been shown and an additional trial burn is necessary, the permit may also be modified under § 122.17, to allow for an additional trial burn. In cases where 99.99 percent DRE is achieved for some but not all of the trial POHCs, the permit must be modified to allow incineration of only those POHCs for which compliance has been demonstrated. A further trial burn will be necessary if the applicant wishes to show compliance for the remaining trial POHCs. When all permit modifications are complete, the facility begins its fourth and final operating phase which continues throughout the duration of the permit.

2. *RCRA permits for existing incinerators.* Because RCRA provides for existing incinerators to operate under interim status while awaiting the Agency's decision concerning permit issuance, these facilities do not experience the operating restrictions which complicate the permitting process for new incinerators. The amendments to the procedure for permitting existing incinerators therefore do not change the actual process. Instead, the changes which have been made only serve to clarify the sequence of events involved in the application process.

The revisions at issue affect §§ 122.25(b)(5) and 122.27(b). They require that owners and operators of existing facilities who apply under the trial burn method submit their trial burn plans either before or with their Part B permit application. The Director will then evaluate the plan and approve it after making the determinations required in § 122.27(b)(2). If a trial burn plan is submitted and approved before the permit application has been submitted, the applicant should conduct the trial burn, and submit the resulting data with the permit application. If completion of this process conflicts with the date set by the Director for submission of the Part B application, the applicant should contact the Director to extend the date for submission of the Part B application or submit the Part B without the trial burn results and provide the data within 90 days following completion of the trial burn. If a trial burn plan is submitted with Part B of the permit application, the Director, when approving the plan, will specify a time period for conducting the trial burn and submitting the results. Following submission of the trial burn results and the Part B application, the Director may prepare a draft permit which will specify the proper operating requirements under § 264.345, based on the results of the trial burn, along with all other applicable permit conditions. This permit will then be processed through the standard procedures of Part 124.

The trial burn application procedure for existing facilities differs from new facilities because an existing facility in interim status is authorized to conduct treatment of hazardous wastes. Therefore, an existing facility needs no prior approval to continue operation or conduct a trial burn. However, without the Director's approval, the owner or operator cannot be certain that the trial burn data will be sufficient to meet the Director's needs. Thus, the applicant will find it advantageous to obtain the Director's approval of a trial burn plan prior to conducting the test. During review of the trial burn plan, the Director will designate principal organic hazardous constituents to be monitored and will specify other data requirements. However, the applicant may choose to collect data during the course of normal operation under interim status or may acquire data from similar facilities burning similar wastes to be submitted with Part B of the permit application in lieu of conducting a trial burn according to an approved trial burn plan.

The January 23, 1981 regulations required that trial burn results be submitted to the Director no later than 30 days following completion of the burn. Comments received following publication of those regulations suggested that the 30 day period is not sufficient to allow completion of chemical analysis, data computation, and reporting. EPA concurred with commenters on this point and has extended the time period to 90 days following completion of the trial burn. As discussed above, the applicant may avail himself of various options for submitting the trial burn results and Part B of the permit application, and should recognize that EPA, in accordance with § 122.22(a)(2), will allow the applicant at least six months from the date of request to submit Part B of the permit application. Therefore, the 90-day limitation takes effect only after this six month period has elapsed.

B. Applicability of the Incineration Standards

The January 23, 1981 regulations exempted ignitable hazardous wastes from compliance with most of the standards for incinerators. This exemption was allowed because the regulations focused primarily on controlling emissions of hazardous organic substances, toxic metals and hydrogen chloride. As discussed below, the regulations require that incineration of hazardous waste result in destruction and removal of 99.99% of the hazardous organic waste constituents. The restriction on particulate emissions works to control release of toxic metals and hydrogen chloride emissions are controlled through imposition of a performance standard for air pollution control devices. Wastes which have been designated as hazardous solely because of ignitability were exempted from coverage because they lack the properties which these standards are designed to control.

As noted earlier, a solid waste becomes a "hazardous waste" subject to regulation under Subtitle C of RCRA in

one of two ways. Either the waste is designated as hazardous because it contains hazardous constituents listed in Appendix VIII and has been specifically listed as hazardous by EPA, or it is hazardous because it fails one or more of EPA's characteristic tests for ignitability, corrosivity, reactivity or Extraction Procedure toxicity. The exemption from the technical standards for incineration applied to wastes which are designated as hazardous by either means solely because of their ignitable properties.

Many commenters felt that the exemption for ignitable wastes should be expanded to include corrosive and reactive wastes. The majority of these commenters further suggested that the Agency should designate allowable concentrations of Appendix VIII constituents for the exempted wastes. They also suggested that the exemption should be automatic, based on criteria published in the regulations rather than left to the discretion of the Regional Administrator.

EPA has decided to expand the exemption, as requested by commenters, to include corrosive wastes and wastes having any of the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), and (8). Today's amendment to § 264.340 provides for automatic granting of the exemption for these wastes when they have been shown to contain none of the hazardous constituents listed in Appendix VIII of Part 261. In contrast, ignitable, corrosive and reactive wastes having low concentrations of some Appendix VIII constituents may be exempted if the Regional Administrator finds that the exemption will not result in a potential threat to human health and the environment.

Wastes eligible for the exemption include those which are hazardous solely due to any of the selected characteristics and those which are hazardous solely due to any combination of those characteristics. Wastes which are listed as hazardous in Part 261 due to the presence of toxic constituents and wastes having the Extraction Procedure toxicity characteristic will not be eligible for the exemption.

EPA has not yet listed any wastes solely because of corrosivity. However, the exemption for corrosives now applies to wastes which are hazardous due to failure of the corrosivity test. Should the Agency determine that further listings are necessary, this exclusion may be applied when a waste is listed due to corrosive properties.

With respect to reactive wastes, the Agency has two concerns: (1) Certain reactive wastes require careful treatment, storage, and disposal because they may release toxic gases, such as cyanide, upon reaction with other substances, and (2) reactive wastes which are explosive, when burned in the presence of other wastes, create the potential for release of hazardous pollutants to the environment in the event of an explosion. The exemption for reactive wastes has therefore been limited to accommodate these concerns. First, wastes having the reactivity characteristics described by § 261.23(a) (4) and (5) will not be exempted since they may emit toxic gases and vapors upon reaction. Second, wastes described by any of the remaining reactivity characteristics are explosive or capable of violent reactions that could disperse toxic substances into the environment. Therefore, the amendment specifies that such wastes, if exempted, cannot be burned in the presence of any other hazardous waste.

EPA's selection of wastes to be exempted under § 264.340 was based on a consideration of the purpose underlying each of the performance standards of § 264.343. Since the destruction and removal efficiency (DRE) requirement measures emissions of hazardous organic constituents and the performance standard for particulate emissions is intended primarily as a means of controlling toxic metals and hazardous organic substances adhering to particulate material, application of these standards is inappropriate when the waste is known to contain none or only insignificant concentrations of the Appendix VIII hazardous constituents.

EPA has further determined that application of the performance standard for HCl emissions to incineration of these wastes is unnecessary. Although Appendix VIII does not include an exhaustive list of chlorinated organic substances, it does include a large percentage of the chlorinated substances expected to be present in hazardous wastes. Therefore, we believe that there will be few, if any, exempted wastes which, when burned, will create emissions in excess of the allowable emission rate of 4 pounds per hour, set by today's amendment to § 264.343.

Applicants seeking exemption under § 264.340 must submit sufficient waste analysis data with Part B of the permit application to document levels of all hazardous constituents listed in Appendix VIII of Part 261 which would reasonably be expected to be found in the waste. The waste constituents excluded from analysis must be identified, and the reason for their exclusion stated. During interim status, owners and operators are required to document, in writing, that any exempted waste would not reasonably be expected to contain any Appendix VIII hazardous constituents. This documentation must be retained throughout the period of interim status.

When setting the conditions of the permit, the Regional Administrator will determine whether an exemption should be granted for incineration of an ignitable, corrosive, or reactive waste base on a review of the waste analysis data. This review will focus primarily on the identity and numbers of any Appendix VIII (Part 261) hazardous constituents in the waste, and on the concentrations in which those constituents are found in the waste. Today's amendment allows an ignitable, corrosive, or reactive waste in which none of the hazardous constituents listed in Appendix VIII of Part 261 have been detected to be exempted without further consideration of its content. The Regional Administrator's review of the waste analysis plan and data, both of which accompany Part B of the permit application, is necessary in this case in order to determine that the sampling and analysis methods used and the data generated show that no hazardous constituents are present at levels which can be detected by the analytical methods required by § 122.27 (i.e., those specified in SW–846, "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods"). Although the exact detection limits vary for specific constituents, those present in concentrations below 1 part per million (ppm) in the waste generally will not be detected.

Since small, but detectable, concentrations of Appendix VIII hazardous constituents may not always pose a hazard to human health when incinerated, the amended regulation also provides that the Regional Administrator may grant an exemption when low concentrations of hazardous constituents are detected in the waste. One litigant criticized this provision as too lenient. However, if EPA provided no allowance for trace contaminants, the exemption would be unworkable. In making a determination regarding exemption in this case, the Regional Administrator may begin by considering the concentration of each hazardous constituent found in the waste feed and estimating the concentration (e.g., by assuming 99.99% destruction and removal) which will result in the stack gas.

EPA estimates indicate that constitutents present in the waste feed in concentrations as low as 1000 ppm

will be routinely detected by stack gas analysis and that a waste concentration of 100 ppm probably represents a practical lower limit beyond which determination of 99.99% destruction and removal will be difficult to document. Stack gas concentrations resulting from 99.99% destruction and removal of constituents present in the waste feed in concentrations below 100 ppm can generally be measured only through the use of sampling and analysis techniques which exceed the capabilities of those recommended in EPA's guidance manual (Sampling and Analysis Methods for Hazardous Waste Incineration) and the Regional Administrator may presume they are allowable for purposes of the exemption.

The Regional Administrator may also consider available measures of the relative toxicity of each hazardous constituent in order to ascertain whether potential exists for threat to human health. In rare cases where the constitutents under consideration are known to be extremely toxic (e.g., 2,3,7,8-TCDD), the Regional Administrator may overcome the presumptive exemption, even when projected stack gas concentrations are so low that modified sampling and analysis methods will be necessary for measurement. This approach allows the Regional Administrator the option of denying an exemption when the toxic constituents present in a waste, in his judgment, pose a potential health hazard, even at low levels. In granting discretionary authority to the Regional Administrator in this limited area, EPA is particularly interested in determining the feasibility of future regulations specifying the toxicity criterion as a factor in POHC selection.

C. Amendments to the Incinerator Performance Standards

The regulations require that hazardous waste incinerators comply with three performance standards. The most important of these is the requirement that incinerators achieve a destruction and removal efficiency (DRE) of 99.99% for each principal organic hazardous constituent (POHC) designated in each waste feed. This standard is not affected by today's amendments. The second performance standard is a requirement that incinerators burning wastes containing more than 0.5% chlorine remove 99% of the gaseous hydrogen chloride (HCl) in the stack emissions. The final performance standard requires that incinerators emit no more than 180 milligrams of particulate material per dry standard cubic meter of stack gas (.08 grains per dry standard cubic foot), corrected to 12% carbon dioxide in the stack gas. Amendments to both the HCl and particulate control standards are discussed below.

1. *The performance standard for HCl removal.* The interim final, Subpart O, regulations require that incinerators burning a waste feed which is more than 0.5% chlorine remove 99% of the hydrogen chloride (HCl) in the stack gas. A substantial number of comments addressed the acceptability of this standard. The majority of these comments requested that the performance standard be modified to regulate organically bound chloride only. Many also stated that, since wet scrubbers used to remove chlorides operate with increasingly less efficiency as HCl concentrations decrease, specific provisions are necessary for burning small quantities of chlorinated organic wastes or waste streams having a low chlorinated organic concentration. Commenters pointed out that because the standard allows a large incinerator burning a waste relatively high in chloride to emit a much greater quantity of HCl than a small facility burning a waste which is relatively low in chloride, it does not regulate uniformly. Most contended that a maximum allowable HCl emission level would provide a more adequate means for regulating and suggested allowable ambient air concentrations ranging from 12 parts per billion to 10 parts per million.

The amended performance standard requires that incinerators emitting more than 4 pounds of HCl per hour achieve a removal efficiency of up to 99%. The required removal efficiency will vary for each facility since, for incinerators emitting more than 4 pounds of HCl per hour, removal need only be sufficient to reduce emissions to that rate. A minimum of 99% removal efficiency is required when removal at this efficiency will not reduce emissions to 4 pounds per hour. This requirement is based primarily on the Agency's determination that 99% removal represents currently achievable technology and is supported by data obtained from the test burns conducted by EPA's Office of Solid Waste during 1975 and 1976. Whenever HCl removal was measured, the 99% standard was achieved. Additional industry reports reinforce these data.

Establishment of the maximum allowable uncontrolled emission level at 4 pounds per hour results from consideration of a number of factors including information supplied by commenters. Specifically, the value was derived through application of the single source (CRSTER) model for short term air pollution exposures. The Threshold Limit Value for exposure to HCl in workplace air, developed by the American Conference of Governmental Industrial Hygienists, was modified to account for the hourly difference between occupational and environmental exposures. The resulting value was then altered by a safety factor of 100 in order to arrive at an appropriate ambient air concentration. This number was used to represent a safe exposure level and provided input to the single source model for calculation of the corresponding allowable emission rate. This approach is not only the most acceptable of methods currently available but is consistent with suggestions made by commenters. EPA believes that 4 pounds of HCl per hour is a safe and conservative allowable emission rate which insures adequate protection and resolves the problems raised by commenters regarding small facilities.

A case-by-case approach to setting mass emission limits, through the use of risk assessments in the permitting process, would further tailor this standard to reflect actual risks to human health. EPA has proposed the use of quantitative risk assessments as a basis for altering the performance standard in individual cases (46 FR 7684, January 23, 1981), and will evaulate its usefulness during the course of the regulatory impact analysis currently underway. If adopted as a final regulation, this approach will provide a mechanism for varying the HCl emission limit established by today's amendment.

2. *The performance standard for particulate emissions.* The interim final performance standard for control of particulate emissions requires that a hazardous waste incinerator emit no more than 180 milligrams of particulate material per dry standard cubic meter, when corrected to 12% carbon dioxide in the stack gas. This correction is designed as a protection against attempts to meet the particulate standard simply by diluting the stack gas, rather than by controlling the particulates. Selection of the correction factor was based on an assumption that the stack gas should contain 12% carbon dioxide when the incinerator is operated using 50% excess air. Further dilution with air, of course, would alter the percentage of carbon dioxide. However, comments suggested that the required correction of measured particulate emissions to 12% carbon dioxide is inappropriate since it originated from standards promulgated under the Clean Air Act which address burning of fuel relatively high in carbon content (i.e.,

bituminous coal). The correction factor, commenters contended, is not representative of typical hazardous waste carbon content, and does not consider the high quantities of excess air required for burning hazardous wastes.

The 12% carbon dioxide correction factor was indeed derived from data describing the combustion of coal. Without the use of excess air, burning of coal results in stack emissions which contain 18% carbon dioxide. Assuming that use of 50% excess air is representative of common practices, the appropriate carbon dioxide content drops to 12%.

As commenters indicated, there are two major problems involved in applying this factor to incineration of hazardous wastes: (1) The correction is based on conditions appropriate to burning materials of high carbon content and is inappropriate for hazardous waste incineration because carbon content varies considerably among wastes, and (2) since carbon dioxide is absorbed to a significant extent in wet scrubber systems, the correction procedure requires sampling the emissions in the hot zone of the stack, prior to clean-up by pollution control devices. In order to eliminate these difficulties and correct for the wide range of excess air use among hazardous waste incineration facilities the Agency has selected a replacement for the carbon dioxide correction procedure.

As amended, the performance standard for particulate emissions requires adjustment of the measured particulate concentration by the following correction factor (CF):

$$CF = \frac{14}{21 - Y}$$

Where Y is the oxygen measured in the stack gas, expressed as a volumetric percentage.

This correction procedure parallels the carbon dioxide correction since it adjusts the measured particulate concentration to reflect the same standard conditions, specifically 50% excess air. The factor is derived from the formula:

$$CF = \frac{21 - X}{21 - Y}$$

Where X is the volumetric oxygen percentage of the stack gas resulting from burning with a given percentage of excess air, Y is the volumetric oxygen percentage measured in the stack and 21 is the oxygen content of ambient air expressed as a volumetric percent. At 50% excess air, the stack gas will contain 7% oxygen by volume and the formula becomes:

$$CF = \frac{21 - 7}{21 - Y} = \frac{14}{21 - Y}$$

This correction factor provides several advantages. Since pollution control devices do not significantly alter oxygen concentrations, it is no longer necessary to sample emissions in the hot zone of the stack. Sampling and analytical methods for oxygen measurement are sufficiently similar to those used for measurement of carbon dioxide so as to impose no additional cost. Furthermore, basing the correction on oxygen rather than carbon dioxide content relies on assumptions which are representative of conditions typically found during incineration of hazardous wastes. EPA views this change as one which will significantly decrease the burden imposed by the performance standard for particulate emissions, without increasing the potential threat to human health and the environment. For further discussion of the basis underlying this correction procedure, the reader is referred to the Background Document for today's amendments.

The utility of the new correction factor is restricted to incinerators which use only ambient air as an oxygen source. The factor will necessarily be altered for units which incinerate under oxygen enriched conditions. An appropriate correction factor will be selected on a case-by-case basis for these incinerators and will be established as a condition of the permit. A more appropriate correction factor may be calculated by replacing the volumetric percentage of oxygen in ambient air, used in the above formula (21%), with a value which represents the total oxygen input to the incinerator, also expressed as a volumetric percent. This combined value, K, is calculated from the formula:

$$K = \frac{21(V_a) + 100(V_o)}{V_a + V_o}$$

Where V_a is the volume of air fed to the combustion zone and V_o is the volume of oxygen fed to the combustion zone, both corrected to standard conditions. The above correction factor then becomes:

$$CF = \frac{K - 7}{K - Y}$$

And is substituted in the equation:

$$P_c = P_m \cdot \frac{K - 7}{K - Y}$$

Where P_c is the corrected concentration of particulate matter and P_m is the measured concentration of particulate matter.

D. Requirements for Operation, Inspection and Monitoring

The regulations include several requirements for incinerator operation, inspection and monitoring. After a permit is issued, temperature, waste feed rate, air flow rate and stack gas carbon monoxide must be monitored continuously. In addition, the incinerator must be inspected for signs of spills, leakage and fugitive emissions and the emergency waste feed cutoff system must be tested daily. The regulations require that several operating requirements be specified in each permit. At a minimum, these include: limitations on waste feed composition, stack gas carbon monoxide, air feed rate, waste feed rate and allowable variations in design and operating procedures. Incinerators operating in interim status are required to monitor any existing instruments which relate to combustion and emission control at 15 minute intervals. Daily inspection for signs of spills, leakage and fugitive emissions and hourly observation of the stack gas plume must also occur during interim status. Several amendments to the operating, monitoring and inspection requirements are discussed below, including one amendment to the interim status requirements.

1. *Designation of air feed rate as a monitoring and operating parameter.* The interim final regulations listed several parameters which were to be designated as operating and monitoring requirements in each facility permit. These included carbon monoxide in the exhaust gas, waste feed rate, and combustion temperature. Several comments criticized the efficacy of air feed rate monitoring. Such monitoring, they contended, is not a reliable measurement of retention time [2] and is not feasible for all types of incinerators. Commenters suggested that measurement of other parameters, such as combustion gas flow rate, stack gas oxygen concentration, induced or forced draft fan flow rate, fan motor current, or pressure differential within the system,

[2] Generally, retention time correlates with the incinerator's destruction and removal efficiency. As retention time increases, destruction efficiency increases.

be allowed as substitutes for air feed rate as a retention time indicator.

EPA originally used the term "air feed rate" to indicate the rate at which air flows through the incinerator combustion zone. The comments indicate however, that this term has been interpreted more conservatively than the Agency originally intended. As commenters stated, incinerators such as rotary kilns do not employ a forced draft system which lends itself to measurement of air feed rate. Instead, air is drawn into the kiln at many points and actual feed rate is impossible to monitor. In such a situation, measurement of combustion gas flow rate is more appropriate.

Air feed rate was included as an operating parameter for two reasons: (1) To verify that sufficient excess air enters the combustion zone in order that combustion is completed to the extent feasible, and (2) to provide a ceiling for the gas flow rate through the combustion zone in order to assure sufficient retention time. Since specification of air feed rate as an operating parameter is not appropriate for all facilities, today's amendment adds language which allows the use of other appropriate indicators of combustion gas flow rate, in situations where measurement of air feed or flow rate is difficult. Suitable indicators, such as induction fan amperage or exhaust gas velocity, may be considered. Pressure differential within the system may also be monitored; however, it is important to recognize that pressure differential across exhaust gas wet scrubbers should not be relied on since many factors affect the scrubber pressure and will act to decrease the efficacy of its use as an indicator of combustion zone retention time.

The Agency intends that the owner or operator select a parameter which will allow calculation of the volumetric gas flow rate, to be measured during the trial burn, by considering accuracy, precision, ease of measurement and facility design. The Regional Administrator will then evaluate this selection, based on the relevant information included in Part B of the permit application and, taking the above considerations into account, the parameter to be measured will be designated in the facility permit. Owners and operators seeking to use such alternatives should supplement their Part B applications with information concerning possible sources of measurement error and the necessary compensatory measures, so that a meaningful evaluation can be made. Further guidance concerning selection of an appropriate indicator of combustion gas flow rate can be found in the Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units.

2. *Inspection of the waste feed cutoff mechanism.* The interim final regulations included a requirement for daily inspection of hazardous waste incinerators and associated equipment. Many commenters expressed concern that requiring daily inspection of the emergency waste feed cutoff mechanism would create an undue financial burden. They maintained that proper inspection requires the skill of a qualified instrument mechanic and is therefore too costly to be conducted on a daily basis. Furthermore, other commenters contended that the reliability of such emergency equipment is sufficient to support the assumption that an incinerator will operate safely even when failure of a component part occurs, and that in the event that the system should not respond, waste feed cutoff can be accomplished manually. In view of the reliability and limited use of such equipment, several comments concluded that weekly or monthly inspections would be more appropriate.

The amended regulation requires inspection at two levels of detail. Daily inspections may be limited to visual examination of the incinerator and associated equipment for signs of leakage, spills, corrosion or breakdown. A careful check of the emergency waste feed cutoff system and associated alarms must be conducted weekly. This inspection should be conducted by properly trained personnel (e.g., an instrument mechanic) and should include testing of the control panel circuits, triggering, through test circuits, of alarms and any other associated automatic functions (e.g., temperature maintenance systems). Operation of the waste feed cutoff valve should be included as part of the weekly inspection in cases where the valve is not "fail safe" (i.e., does not fail in the closed position). A fail safe valve, however, need not be operated weekly.

The degree to which inspection of the emergency waste feed cutoff system will disrupt normal operation of the incinerator will vary, depending upon facility design and other facility-specific factors. For example, liquid injection incinerators equipped with multiple feed nozzles may undergo weekly inspection with very little disruption simply by checking the cutoff to each nozzle individually while maintaining operation of the remaining nozzles. However, disruption may be significant in other instances. The amended regulation therefore gives the Regional Administrator the authority to allow inspection of the emergency waste feed cutoff system as infrequently as monthly. The Agency intends that this variance be granted only when the applicant has shown that weekly inspection will be highly disruptive (e.g., potential exists for refractory shock or other equipment damage) or will impose an inordinately large financial burden due to some facility-specific condition. In each case, granting of the variance should be conditional on a finding that proper operation will be maintained.

The inspection requirements have been disigned to provide adequate continuous assurance that the waste feed cutoff system will respond when needed. Although the mechanisms involved receive limited use and will not suffer greatly from wear, the potential for failure due to neglect is significant and the consequences of failure can be severe. Visual inspections will identify obvious needs for repair. However, since all components of the feed cutoff system are not visually accessible, periodic verification of the operability of the system in necessary both to assure protection of human health and the environment and to protect against the possibility of equipment damage in the event that the emergency waste feed cutoff system is triggered.

3. *Visual inspection of the stack gas plume during interim status.* The interim status standards for hazardous waste incinerators were published as interim final on May 19, 1980. On January 23, 1981, the regulations were amended and finalized. These standards included a requirement for hourly observation of the stack gas plume and subsequent correction of operating parameters, when necessary, as indicated by unusual color or opacity. Petitioners in *Association of Metropolitan Sewerage Agencies* v. *EPA 81–1440 (D.C. Cir.)* have identified two problems with implementation of this standard.

First, petitioners point out that visual inspection during nighttime hours is of little or no value. Secondly, since the regulation does not specifically identify "normal" appearance, petitioners contend that compliance with the requirement is difficult. Another litigent, however, argued that this provision should be retained as the only significant control applicable during interim status.

EPA concurs with the petitioners who contend that the visual inspection requirement is impractical. Initially, the inspection standard was intended to establish the operator's responsibility to recognize serious environmental and

human health hazards and take the actions necessary to prevent or alleviate the danger. During interim status however, the operator's ability to detect serious hazards is limited by the information obtained from reading any existing continous or periodic monitoring devices and observing the appearance of the stack gas plume. Since available equipment varies considerably from facility to facility, the regulation cannot rely on the use of any monitoring devices. Additionally, standards based on stack plume opacity or color are of limited usefulness since typical emissions vary in steam and particulate content. Absent a standard which would be reasonably applicable to all incinerators, the Agency has dropped the provision for monitoring the stack gas plume during interim status.

E. Trial Burn Requirements

The January 23, 1981 regulations set forth a detailed list of technical data and information which must be collected during the trail burn and submitted with Part B of the permit application. Today's amendments to the performance standards and the requirements for operating, monitoring and inspecting require that corresponding changes be made to the trial burn information requirements. For example, the phrase "combustion gas flow rate" has replaced "air feed rate". Two significant amendments are discussed below.

1. *Requirement for monitoring hazardous combustion by-products.* On January 23, 1981, in addition to promulgating the existing incinerator regulations, EPA proposed amendments to performance standards for incinerators. One requirement which the amendment would add is a performance standard for destruction and removal of hazardous combustion by-products which are formed during combustion. The amendment was intended to address those hazardous substances which may be formed when wastes are broken down in the combustion zone and the resulting chemical fragments recombine to form other hazardous substances.

In anticipation of finalizing the proposed amendment, EPA included a requirement in the promulgated regulations for monitoring hazardous combustion by-products during the trial burn. Some commenters and one litigant agreed that the requirement would provide the Agency with valuable data describing the formation of hazardous combustion by-products. EPA is currently evaluating the proposal and will address it after completion of the regulatory impact analysis of the incinerator regulations which is currently underway. Therefore, the requirement for identifying hazardous combustion by-products in incinerator stack gas during the trial burn has been deleted.

2. *Computation of a total mass balance of the trial POHCs.* Section 122.27(b) of the interim final regulations included requirements for quantitative analysis of the scrubber water, ash and other incineration residues and for computation of a total mass balance of the trial POHCs, both to be conducted following completion of the trial burn. Today's amendment to § 122.27 deletes the requirement for a "total mass balance of the trial POHCs." While analysis of the scrubber water, ash and other residues is still required, the amended regulation states that this analysis is intended to estimate the fate of the trial POHCs. Owners and operators will not be required to account for the destruction or removal of the total mass of each trial POHC. However, the required analysis must provide sufficient information to determine whether the PHOCs are primarily destroyed through thermal combustion or removed either by the air pollution control system, or in the bottom ash.

Comments received following publication of the Subpart O Regulation expressed a strong belief that the costs associated with conducting a trial burn would be much greater (i.e., $150,000 to $200,000) than EPA had estimated (i.e., $40,000 to $60,000). This discrepancy should be somewhat reduced by today's amendment to § 122.27(b) since it will eliminate any perceived need to shut down the incinerator and thoroughly empty and clean the scrubber system. Furthermore, since many applicants may petition the Agency under Part 260 to delist bottom ash or scrubber effluents, the required analysis of residues will often serve a dual purpose. The amended regulation therefore acts to decrease the costs incurred during the trial burn while preserving the intent of the orignial requirement.

IV. Other Important Issues

Several issues which concerned interpretation of the regulatory language or the basis and purpose of the regulations were raised by a majority of the commenters who responded to the January 23, 1981 promulgation. The issues include: selection of the POHCs in each waste feed, the applicability of the incinerator regulations to fume incinerators, and the need to regulate particulate emissions from hazardous waste incinerators. Although consideration of these issues did not lead to amendment of the regulations, further discussion may clarify these issues and is presented below.

A. Selection of Principal Organic Hazardous Constituents

In order to establish compliance with the performance standard for 99.99% destruction and removal of organic waste constituents, the regulations provide for selection, by the permitting official, of principal organic hazardous constituents (POHCs) for each waste feed to be burned. POHCs are hazardous organic substances present in the waste representative of those constituents which are most difficult to burn and most abundant in the waste. The incinerator standards set out the criteria to be used in selecting POHCs (i.e., ease of incinerability and concentration). EPA's Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units suggest one method for making the selection.

The destruction and removal efficiency is actually measured only for the POHCs and the incinerator's performance in treating these substances is used to indicate overall performance in treating organic wastes. When a contrived waste feed is used for the trial burn, these constituents will be added to the feed in concentration similar to those expected during normal operation. They are then to be quantified both in the waste and in the stack emissions during the trial burn. This provision acts to simplify the sampling and analysis efforts which are necessary to determine whether the performance standard has been achieved, thereby reducing the cost and complexity of the trial burn.

The regulation specified the following standard for use by the permitting official in designating POHCs:

> This specification will be based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents which represent the greatest degree of difficulty of incineration will be the most likely to be designated as POHCs. Constituents are more likely to be designated as POHCs if they are present in large quantities or concentrations in the waste. (40 CFR 264.342)

Many commenters requested that EPA provide more specific regulatory language concerning POHC selection and that a maximum allowable number of POHCs per waste be designated. In general, commenters expressed concern that, absent more specific guidance in

the regulations, POHC selection would be arbitrary and overly burdensome, resulting in costly sampling and analysis requirements.

The Subpart O standards provide a mechanism for selecting POHCs and designating operating requirements on a case-by-case basis through the permitting process. The Agency has avoided setting cumbersome design and operating standards for nationwide application, and has developed a system which allows the permit writer to select those operating conditions, for each facility, which are the most effective in achieving compliance with the performance standards. This selection is based on a demonstration made by the permit applicant during the trial burn. In order to maintain the flexibility of this system, EPA must avoid the use of overly confining regulatory language, and for this reason the specific limits on POHC selection are not enumerated in the regulation. Section 264.342 cites two general criteria for consideration is selecting POHCs: quantity or concentration, and ease of incinerability.

The Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units presents a formula for incorporating these two criteria into a numeric index intended as a general guide in POHC selection. That Manual can also assist the permit writer in specifying allowable waste constituents, based on the feed constituents burned in the trial burn, including trial burns with contrived waste blends.

EPA's manual on chemical analysis of wastes, "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (SW–846), provides analytical techniques which will detect concentrations of hazardous constituents in wastes down to approximately 1 part per million. In selecting POHCs, the Regional Administrator generally will not select constituents which are present in a waste feed at concentrations less than 100 parts per million, since, for many substances, special stack sampling procedures would be required to measure stack gas concentrations resulting from 99.99% destruction and removal efficiency of waste constituents present in concentrations below this level. EPA estimates indicate that waste constituents present in concentrations as low as 1000 ppm will be routinely detected by stack gas analysis following destruction and removal at 99.99% efficiency and that a waste concentration of 100 ppm probably represents a practical lower limit beyond which determination of 99.99% destruction and removal will be difficult to verify.

The Regional Administrator however, will not always be able to definitively establish that an organic hazardous constituent present in relatively low concentrations (i.e., concentrations between 100 and 1000 ppm) will not be detected in the stack gas following 99.99% destruction and removal. Therefore, a POHC may be selected which subsequently will not be detected in the stack gas, despite careful fulfillment of the sampling, analysis and quality control requirements set forth in the trial burn plan. In such an instance, EPA intends that attainment of 100% destruction and removal will be assumed for that POHC. In cases where the waste under consideration contains none of the organic constituents listed in Appendix VIII, no POHCs can or will be designated and the trial burn will be used only to establish the incinerator's ability to comply with the performance standards for hydrogen chloride and particulate emissions.

With respect to ease of incinerability, EPA has developed a ranking of the Appendix VIII hazardous constituents based on Heat of Combustion values. This hierarchy will allow the applicant to demonstrate the required level of performance for a large number of constituents by successfully burning one or several of those which are most difficult to destroy. The Agency does not intend however, that the incinerability ranking be used as a substitute for the permit writer's engineering judgment. The list will provide the permit writer and applicant with a useful means for identifying the constituents of a waste which are likely to most difficult to destroy and may be used in conjunction with other information relating to the incinerability of an organic constituent (e.g., Auto Ignition Temperature), when available.

Heat of Combustion values are measured under controlled laboratory conditions or derived from theoretical calculations. Therefore, they provide only an indication of the temperature at which a hazardous constituent will be destroyed. In situations where the Heat of Combustion values for the waste constituents under consideration do not differ considerably and no other information regarding incinerability is available, the ranking must be used cautiously and selection of a number of trial POHCs may be necessary.

By developing the incinerability hierarchy, the Agency has attempted to provide a mechanism which will aid in minimizing the number of POHCs selected for each trial burn. In theory, the permit writer need select as a POHC only the single hazardous constituent which is most difficult to destroy, as indicated by the hierarchy. However, because of the imperfections inherent to the hierarchy more than one POHC must be selected in many cases. Overall, the Agency believes that the incinerability ranking will allow permit writers to confine POHC selection to fewer than six constituents in most cases, reducing the need for costly sampling and analysis.

B. Applicability of the Incinerator Regulations to Fume Incinerators

Several commenters asked that EPA clarify the applicability of the incinerator regulations to fume incinerators. Such incinerators are installed as air pollution control devices pursuant to regulations under the Clean Air Act, and commenters contended that these facilities do not fall into regulatory jurisdiction under RCRA.

EPA agrees with commenters that fume incinerators are subject only to regulation under the Clean Air Act and does not intend that the Parts 264 and 265 regulations apply to these facilities. Fume incinerators which are used to destroy gaseous emissions from various industrial processes, for example, are not subject to regulation under RCRA. In general, the RCRA standards do not apply to fume incinerators since the input is not identifiable as a solid waste, according to the definition set forth in § 261.2.

C. Regulation of Particulate Emissions from Hazardous Waste Incinerators

The performance standard for control of particulate emissions is equivalent to the particulate standard established by EPA's New Source Performance Standard for municipal incinerators, promulgated under authority of the Clean Air Act (46 FR 7674). Several commenters contended that this use of a Clean Air Act standard to satisfy the requirements of RCRA was inappropriate.

In borrowing the Clean Air Act standard for use by the RCRA hazardous waste regulations, the Agency has simply adopted a standard which is known to be achievable (see the Background Document on Incineration, December, 1980) and which the Agency views as the minimum necessary level of control for hazardous waste incinerators. The reason for using this standard in the RCRA regulations is not the same as the reason for using it under the Clean Air Act. The standard for control of particulate emissions

results from concern for the release of toxic pollutants, particularly heavy metals, as well as organic hazardous constituents, which adhere to particulate material. Currently, no other controls for metal emissions are included in the RCRA regulations. Existing data shows that particulate emissions carrying toxic substances may pose risk to human health. EPA has chosen to use the current particulate regulation to establish basic control over this risk.

V. Supporting Documents

A. Background Documents

The record supporting these amendments includes background documents providing response to public comments and the rationale underlying the incenator regulations. These documents and the references listed in them, are part of the record indicating the basis and purpose of the promulgated regulations. The background documents address comments received on the interim final regulations published January 23, 1981 (46 FR 7666) which pertained to the issues discussed in this preamble, the interim final and interim status regulations published May 19, 1980 (45 FR 33066), and the proposed regulations published December 18, 1978 (43 FR 58946). Copies of these documents are available for review in the EPA Regional Office Libraries and at the EPA Headquarters Library, Room 2404, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

B. Guidance Documents

EPA is preparing guidance manuals to assist facility owners and operators as well as regulatory officials. These documents do not have the force of regulations, but will provide assistance in applying the regulations and will include technical information concerning the operation of incinerators. These manuals include an Engineering Handbook on Hazardous Waste Incineration and the Guidance Manual for Evaluating Permit Applications for the Operation of Hazardous Waste Incineration Units. For a more complete list of manuals supporting the hazardous waste regulatory program, see the preamble to the interim final rules, published January 12, 1981 (46 FR 2802).

VI. Regulatory Impacts

EPA has determined, pursuant to Executive Order No. 12291, that today's amendments do not constitute a major rule and that no regulatory impact analysis is required. The amendments to the Parts 122, 264, and 265 regulations presented here will not impose any additional costs on the regulated community. EPA has submitted the necessary Standard Form 83 (Request for OMB Review) in accordance with the Paperwork Reduction Act and Executive Order No. 12291. Any comments received from OMB are included in the docket for this rulemaking.

The Regulatory Flexibility Act requires all Federal agencies to consider the impacts of their regulations on small business entities. For the reasons discussed in this preamble, EPA believes that the net effect of today's amendments will be to reduce the regulatory and economic burden imposed on all hazardous waste incinerators, including those belonging to small businesses. Pursuant to section 605 of the Regulatory Flexibility Act, it has been determined that today's amendments will not have a significant impact on a substantial number of small entities. A copy of this certification has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Interim Final Regulations: Effective Dates

On July 24, 1981, EPA published a Notice of Effective Dates of Interim Final Rules (46 FR 38318). This notice confirmed the effective dates of the incinerator regulations (July 22, 1981) and the standards applicable to hazardous waste storage facilities (July 13, 1981). The notice also announced EPA's intention to initiate rulemaking to suspend the effective dates of the interim final (Part 264) regulations for existing incinerators and storage surface impoundments, pending further evaluation of the appropriateness of the standards for those facilities.

Today's amendments address some of the issues related to the January 23, 1981 regulations. These regulations were noticed on an interim final basis, with a specific request for comments. Many comments were received in response to the request and today's amendments are being promulgated as interim final on the basis of that notice and comment period. Since the regulations are currently at the interim final stage, interested parties will have ample opportunity to comment on these amendments before the regulations are issued in final form.

Section 3010(b) of RCRA requires that revisions to regulations pertaining to requirements for permitting "* * * shall take effect on the date six months after the date of * * * revision." The Agency does not believe that a literal application of this requirement would be appropriate in this case. The purpose of section 3010(b) is to allow persons handling hazardous wastes sufficient lead time to prepare for compliance with new regulatory requirements. Because today's amendments generally ease the task of the permit applicant, delaying their effective date is not necessary to preserve the objective of section 3010(b). Futhermore, EPA believes that an effective date of six months after promulgation would be counterproductive, since much of the regulatory burden which these amendments seek to avert would already have been imposed on new facilities and because the existing permitting procedures create difficulties for owners and operators seeking permits for new incinerators. Today's amendments, therefore, become effective immediately.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Air pollution control, Hazardous materials, Packaging and containers, Reporting requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

Dated: June 21, 1982.

Anne M. Gorsuch,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart O—Incinerators

1. The authority citation for Part 264 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912(a) and 6924).

2. Section 264.340 is amended by revising paragraph (b), redesignating and revising paragraph (c) as paragraph (d), and adding new paragraph (c) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) After consideration of the waste analysis included with Part B of the permit application, the Regional Administrator, in establishing the permit conditions, must exempt the applicant from all requirements of this Subpart except § 264.341 (Waste analysis) and § 264.351 (Closure),

(1) If the Regional Administrator finds that the waste to be burned is:

(i) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(ii) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23)(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(iii) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(iv) A hazardous waste solely because it possesses any of the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), and (8) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone; and

(2) If the waste analysis shows that the waste contains none of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, which would reasonably be expected to be in the waste.

(c) If the waste to be burned is one which is described by paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iii), or (b)(1)(iv) of this Section and contains insignificant concentrations of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, then the Regional Administrator may, in establishing permit conditions, exempt the applicant from all requirements of this Subpart, except § 264.341 (Waste analysis) and § 264.351 (Closure), after consideration of the waste analysis included with Part B of the permit application, unless the Regional Administrator finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

(d) The owner or operator of an incinerator may conduct trial burns subject only to the requirements of § 122.27(b) of this Chapter (Short term and incinerator permits).

3. Section 264.341 is amended by revising paragraph (a) as follows:

§ 264.341 Waste analysis.

(a) As a portion of the trial burn plan required by § 122.27(b) of this Chapter, or with Part B of the permit application, the owner or operator must have included an analysis of the waste feed sufficient to provide all information required by § 122.27(b)(2) or 122.25(b)(5) of this Chapter. Owners or operators of new hazardous waste incinerators must provide the information required by § 122.27(b)(3) or 122.25(b)(5) of this Chapter to the greatest extent possible.

4. Section 264.343 is amended by revising paragraphs (b) and (c) to read as follows:

§ 264.343 Performance standards.

* * * * *

(b) An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or 1% of the HCl in the stack gas prior to entering any pollution control equipment.

(c) An incinerator burning hazardous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$P_c = P_m \cdot \frac{14}{21-Y}$$

Where P_c is the corrected concentration of particulate matter, P_m is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in Part 60, Appendix A (Method 3), of this Chapter. This correction procedure is to be used by all hazardous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the Regional Administrator will select an appropriate correction procedure, to be specified in the facility permit.

* * * * *

5. Section 264.344 is amended by revising the title and adding new paragraph (c) as follows:

§ 264.344 Hazardous waste incinerator permits.

* * * * *

(c) The permit for a new hazardous waste incinerator must establish appropriate conditions for each of the applicable requirements of this Subpart, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of § 264.345, sufficient to comply with the following standards:

(1) For the period beginning with initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in paragraph (c)(2) of this Section, not to exceed a duration of 720 hours operating time for treatment of hazardous waste, the operating requirements must be those most likely to ensure compliance with the performance standards of § 264.343, based on the Regional Administrator's engineering judgment. The Regional Administrator may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

(2) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of § 264.343 and must be in accordance with the approved trial burn plan;

(3) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Regional Administrator, the operating requirements must be those most likely to ensure compliance with the performance standards of § 264.343, based on the Regional Administrator's engineering judgement.

(4) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in § 122.25(b)(5)(iii) of this Chapter, as sufficient to ensure compliance with the performance standards of § 264.343.

6. Section 264.345 is amended by revising paragraph (b)(4) and (c) to read as follows:

§ 264.345 Operating requirements.

* * * * *

(b) * * *

(4) An appropriate indicator of combustion gas velocity;

* * * * *

(c) During start-up and shut-down of an incinerator, hazardous waste (except wastes exempted in accordance with § 264.340) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

* * * * *

7. Section 264.347 is amended by revising paragraphs (a)(1) and (b), redesignating paragraph (c) as paragraph (d), and adding new paragraph (c) as follows:

§ 264.347 Monitoring and inspections.

(a) * * *

(1) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis.

* * * * *

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be subjected to thorough visual inspection, at least daily, for leaks, spills, fugitive emissions, and signs of tampering.

(c) The emergency waste feed cutoff system and associated alarms must be tested at least weekly to verify operability, unless the applicant demonstrates to the Regional Administrator that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, operational testing must be conducted at least monthly.

(d) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by § 264.73.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Subpart O—Incinerators

8. The authority citation for Part 265 reads as follows:

Authority: Sections 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

9. Section 265.340 is amended by revising paragraph (b) to read as follows:

§ 265.340 Applicability.

* * * * *

(b) Owners and operators of incinerators burning hazardous waste are exempt from all of the requirements of this Subpart, except § 265.351 (Closure), provided that the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in Part 261, Appendix VIII, of this Chapter, and such documentation is retained at the facility, if the waste to be burned is:

(1) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(2) Listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5), and will not be burned when other hazardous wastes are present in the combustion zone; or

(3) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(4) A hazardous waste solely because it possesses the reactivity characteristics described by § 261.23(a) (1), (2), (3), (6), (7), or (8) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone.

§ 265.347 [Amended]

10. Section 265.347 is amended by removing paragraph (b) and redesignating old paragraph (c) as new paragraph (b).

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

11. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, Safe Drinking Water Act, 42 U.S.C. 3007 *et seq.*, and Clean Water Act, 33 U.S.C. 1251 *et seq.*

12. Section 122.17 is amended by adding new paragraphs (e)(3), (e)(4) and (e)(5) as follows:

§ 122.17 Minor modifications of permits.

* * * * *

(e) * * *

(3) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor.

(4) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor.

(5) Grant one extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste.

* * * * *

13. Section 122.25 is amended by revising paragraph (b)(5) (i), (ii), (iii)(E)(*2*), (iii)(E)(*3*), and (iii)(F)(*4*) to read as follows:

§ 122.25 Contents of Part B.

* * * * *

(b) * * *

(5) * * *

(i) When seeking exemption under § 264.340 (b) or (c) of this Chapter (ignitable, corrosive or reactive wastes only):

(A) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both; or

(B) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of this Chapter solely because it is reactive (Hazard Code R) for characteristics other than those listed in § 261.23(a) (4) and (5) of this Chapter, and will not be burned when other hazardous wastes are present in the combustion zone; or

(C) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Part 261, Subpart C, of this Chapter; or

(D) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in § 261.23(a) (1), (2), (3), (6), (7), or (8) of this Chapter, and that it will not be burned when other hazardous wastes are present in the combustion zone; or

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with § 122.27(b); or

(iii) * * *

(E) * * *

(*2*) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement),

(*3*) The certification and results required by § 122.27(b)(5)(ii).

* * * * *

(F) * * *

(4) Indication of combustion gas velocity.

* * * * *

14. Section 122.27 is amended by changing the title and revising paragraph (b) to read as follows:

§ 122.27 Short term and incinerator permits.

* * * * *

(b) *Hazardous Waste Incinerator Permits.* (1) For the purposes of determining operational readiness following completion of physical construction, the Director must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Director may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to § 122.17 (Minor modifications of permits) of this Chapter.

(i) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of § 264.343 of this Chapter during this period. This statement should include, at a minimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in § 264.345 of this Chapter.

(ii) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of § 264.343 of this Chapter based on his engineering judgement.

(2) For the purposes of determining feasibility of compliance with the performance standards of § 264.343 of this Chapter and of determining adequate operating conditions under § 264.345 of this Chapter, the Director must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

(i) Applicants must propose a trial burn plan, prepared under paragraph (b)(2)(ii) of this Section with Part B of the permit application.

(ii) The trial burn plan must include the following information:

(A) An analysis of each waste or mixture of wastes to be burned which includes:

(1) Heat value of the waste in the form and composition in which it will be burned.

(2) Viscosity (if applicable), or description of physical form of the waste.

(3) An identification of any hazardous organic constituents listed in Part 261, Appendix VIII, of this Chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Part 261, Appendix VIII, of this Chapter which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see § 122.20), or their equivalent.

(4) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," (incorporated by reference, see § 122.20) or their equivalent.

(B) A detailed engineering description of the incinerator for which the permit is sought including:

(1) Manufacturer's name and model number of incinerator (if available).

(2) Type of incinerator.

(3) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(4) Description of the auxiliary fuel system (type/feed).

(5) Capacity of prime mover.

(6) Description of automatic waste feed cut-off system(s).

(7) Stack gas monitoring and pollution control equipment.

(8) Nozzle and burner design.

(9) Construction materials.

(10) Location and description of temperature, pressure, and flow indicating and control devices.

(C) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(D) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the Director's decision under paragraph (b)(2)(v) of this Section.

(E) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(F) A description of, and planned operating conditions for, any emission control equipment which will be used.

(G) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(H) Such other information as the Director reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (b)(2)(v) of this section.

(iii) The Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this paragraph.

(iv) Based on the waste analysis data in the trial burn plan, the Director will specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Director based on his estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Part 261, Subpart D, of this Chapter, the hazardous waste organic constituent of constituents identified in Appendix VII of that Part as the basis for listing.

(v) The Director shall approve a trial burn plan if he finds that:

(A) The trial burn is likely to determine whether the incinerator performance standard required by § 264.343 of this Chapter can be met;

(B) The trial burn itself will not present an imminent hazard to human health or the environment;

(C) The trial burn will help the Director to determine operating requirements to be specified under § 264.345 of this Chapter; and

(D) The information sought in paragraphs (b)(2)(v) (A) and (C) of this Section cannot reasonably be developed through other means.

(vi) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(A) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(B) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O_2) and hydrogen chloride (HCl).

(C) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs.

(D) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in § 264.343(a) of this Chapter.

(E) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with § 264.343(b) of this Chapter.

(F) A computation of particulate emissions, in accordance with § 264.343(c) of this Chapter.

(G) An identification of sources of fugitive emissions and their means of control.

(H) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(I) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(J) Such other information as the Director may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in § 264.343 of this Chapter and to establish the operating conditions required by § 264.345 of this Chapter as necessary to meet that performance standard.

(vii) The applicant must submit to the Director a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in paragraph (b)(2)(vi). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Director.

(viii) All data collected during any trial burn must be submitted to the Director following the completion of the trial burn.

(ix) All submissions required by this paragraph must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under § 122.6.

(x) Based on the results of the trial burn, the Director shall set the operating requirements in the final permit according to § 264.345 of this Chapter. The permit modification shall proceed as a minor modification according to § 122.17.

(3) For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Director may establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of § 264.345 of this Chapter, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation and submission of the trial burn results by the applicant, and modification of the facility permit by the Director.

(i) Applicants must submit a statement, with Part B of the permit application, which identifies the conditions necessary to operate in compliance with the performance standards of § 264.343 of this Chapter, during this period. This statement should include, at a mimimum, restrictions on waste constituents, waste feed rates and the operating parameters identified in § 264.345 of this Chapter.

(ii) The Director will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of § 264.343 of this Chapter based on his engineering judgement.

(4) For the purposes of determining feasibility of compliance with the performance standards of § 264.343 of this chapter and of determining adequate operating conditions under § 264.345 of this chapter, the applicant for a permit to an existing hazardous waste incinerator may prepare and submit a trial burn plan and perform a trial burn in accordance with paragraphs (b)(2)(ii) through (b)(2)(ix) of this section. Applicants who submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in paragraph (b)(2)(vi), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Director to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period to be specified by the Director.

[FR Doc. 82-17088 Filed 6-23-82; 8:45 am]
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INFO

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Laws

Index
Law

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23681
23913
24097
24251
24539
24689
25001
25113
25319
25503
25729
25933
26117
26369
26611
26805
27057
27243

J
E
2
4
3
2
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Reader Aids

Federal Register
Vol. 47, No. 122
Thursday, June 24, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
January 29, 1859 (Revoked by PLO 6260).....26131
January 29, 1867 (Revoked in part by PLO 6287).....27292
July 2, 1875 (Revoked by PLO 6270).....27285
July 27, 1875 (Revoked by PLO 6271).....27285
May 8, 1889 (Revoked by PLO 6257).....26130
May 28, 1889 (Revoked in part by PLO 6255).....26129
April 1, 1895 (See PLO 6260).....26131
April 30, 1896 (See PLO 6260).....26131
August 16, 1911 (Revoked in part by PLO 6280).....27287
February 5, 1912 (Revoked in part by PLO 6283).....27290
July 3, 1913 (Revoked in part by PLO 6280).....27287
December 11, 1914 (Revoked in part by PLO 6280).....27287
November 10, 1917 (Revoked in part by PLO 6259).....26130
February 25, 1919 (Revoked in part by PLO 6282).....27289
November 26, 1921 (Revoked in part by PLO 6274).....27286
November 21, 1923 (Revoked in part by PLO 6266).....26133
June 8, 1926 (Revoked in part by PLO 6252).....26133
April 17, 1926 (Revoked in part by PLO 6284).....27290
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4964 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
December 22, 1927 (Revoked by PLO 6263).....26132
April 23, 1929 (Revoked by PLO 6263).....26132
12367.....26119

Proclamations:
1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805

5 CFR

1260.....26369
1261.....26369

Proposed Rules:
340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
277.....25496
301.....23682, 23683, 26121
371.....25001, 27234
411.....27058
439.....27059
760.....24689
905.....25935
908.....24137, 25113, 26122, 27234
910.....24251, 25319, 26370
916.....23913
917.....23913
923.....23684
979.....24109
981.....25001
1032.....25113
1040.....26370
1106.....25505
1701.....24251
1900.....24539
2900.....25319

Proposed Rules:
26.....26637

52 25366
54 23725
235 25368
272 ..... 24968, 26639, 26840, 27038
273 ..... [24968], 26639, 26840, 27038
276 ..... 26639, 27038
932 26394
1001 27080
1006 27342
1011 26656
1012 27342
1013 27342
1033 27342
1036 27342
1040 27342
1046 26656
1065 26840
1071 26665
1073 26665
1098 26656
1104 26665
1106 26665
1124 27342
1125 27342
1126 26665
1132 26665
1133 27342
1134 ..... 27299, 27342
1135 27342
1136 ..... 27299, 27342
1137 ..... 27299, 27342
1139 27342
1200 ..... 23733, 24338
1701 ..... 25371, 26841
1807 27366
1872 27366
1901 27366
1910 27366
1940 27366
1941 27366
1943 27366
1944 27366
1945 27366
1962 27366
1990 27366

8 CFR

100 25002

Proposed Rules:

214 24596
248 24596

9 CFR

92 24540
317 26371
318 26371
319 26371

Proposed Rules:

166 26841
318 23941
381 23941

10 CFR

30 27060
40 27060
70 27060
506 ..... 25729, 26615

Proposed Rules:

50 27371
430 26143
456 26148
485 25535
501 25153

12 CFR

217 ..... 24252, 27244
303 25733
546 26807
563 26807
563b 24252
611 27060
614 27060
701 ..... 23685, 26808
707 26808
708 26808
745 26808

Proposed Rules:

Ch. VII 23747, 26842
29 ..... 23944, 26157
202 ..... 23738, 23741, 25019
350 23743
614 25535
701 23750
721 23751

13 CFR

122 24110

14 CFR

39 ..... 25114, 25115, 27244–27248
71 ..... 25506, 25507, 26615, 27249, 27252
73 26123
75 ..... 26615, 27252, 27253
91 ..... 25116, 25508
95 27253
97 25510
298 25935
323 26809
382 25936

Proposed Rules:

21 24596
39 ..... 23691–23696, 24138, 24541
71 ..... 23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373, 27374
75 24597
91 ..... 26112, 26158
97 23703
183 27472
202 25019
203 25019
204 25019
208 25019
211 25019
212 25019
213 25019
215 25019
231 23949
250 24689
294 25019
298 ..... 23949, 25019
323 27081
399 24598

15 CFR

376 ..... 25118, 27250
379 ..... 25118, 27250
385 ..... 25118, 27250
806 23705
930 27062
970 24948

16 CFR

13 ..... 24113, 25118

Proposed Rules:

Ch. II 24034
13 25157
436 25372
455 24542
1025 25512
1632 25159

17 CFR

140 ..... 24113, 26810
200 ..... 26818, 26820
201 26818
202 26820
203 26820
210 25120
211 ..... 23915, 23916
229 25126
230 26818
231 25120
239 ..... 25126, 26818
240 ..... 23919, 26161
249 ..... 25120, 26818
259 26818
260 26818
269 26818
274 26818
279 26818

Proposed Rules:

21 23951
201 25372
230 25372
240 ..... 24338, 25372, 26161
250 25372
260 25372
270 25372
275 25372

18 CFR

1 24691
3 24691
157 24254
271 ..... 25132, 25133
282 24117
284 24254
375 ..... 24524, 24691

Proposed Rules:

1 ..... 24691, 27375
3 27375
271 ..... 23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274 24726
284 24726
375 ..... 24726, 27375
381 ..... 24726, 27375

19 CFR

10 27260
18 27260
114 27260
143 27260
148 24117
210 25134

Proposed Rules:

134 24344
177 25975

20 CFR

416 24274

Proposed Rules:

404 ..... 23954, 25376
651 23754
654 23754

21 CFR

5 ..... 23705, 25733, 26822
12 ..... 25733, 26375
13 26375
14 26375
15 26375
16 26375
20 24277
74 24278
80 24691
81 ..... 24278, 24285
82 24278
137 24692
146 24286
172 26823
177 24288
178 26824
193 ..... 25950, 25951, 27062
436 23707
440 23711
442 23707
444 ..... 23707, 25320
448 23707
449 23707
450 23707
510 ..... 26375, 26376
520 ..... 25320, 25734, 26376, 26377
524 26377
544 24290
548 24693
556 25320
558 ..... 23712, 24694, 24695, 26378, 26379, 26825
561 ..... 25952–25954, 27063, 27064
573 24292
610 24696
630 24696
801 26982
1308 26616

Proposed Rules:

101 ..... 25379, 26580
105 26580
155 26843
172 26843
201 24735

22 CFR

41 24293
514 24119

23 CFR

625 25265

Proposed Rules:

655 25541

24 CFR

Proposed Rules:

203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:

250 23755

26 CFR

1 25139

6a..... 24701
26a..... 24127
Proposed Rules:
1..... 24112, 24737, 25026, 26666, 26854

27 CFR

9..... 24293, 24295, 25517
18..... 23920, 25003
240..... 23920, 25003
Proposed Rules:
9..... 24344
240..... 26399

28 CFR

2..... 25735, 25736
549..... 27218
552..... 27219

29 CFR

5..... 24296, 24297
6..... 24702
40..... 24702
580..... 24702
697..... 26825
1601..... 24542, 24703
1910..... 25323, 26557
1952..... 25323, 25327
Proposed Rules:
1904..... 24346
1910..... 24751, 26560

30 CFR

250..... 24751, 25330
251..... 25330
730..... 26356
731..... 26356
732..... 26356
733..... 26356
736..... 26356
906..... 25332
913..... 23858, 23886
920..... 25955
943..... 24130
944..... 26827
Proposed Rules:
Ch. VII..... 26405
211..... 26856
221..... 26856
226..... 25252
231..... 24128, 26856
250..... 26856
270..... 24129, 26856
700..... 25092
701..... 24954, 25092, 25486, 26592, 26754
736..... 25278
740..... 25092
741..... 25092
742..... 25092
743..... 25092
744..... 25092
745..... 25092
746..... 25092
760..... 25278
761..... 25278
762..... 25278
764..... 25278
765..... 25278
769..... 25278
785..... 25486
816..... 24954, 26592, 26754, 26760
817..... 24954, 26592, 26754, 26760
822..... 25486
826..... 26760
906..... 25979
910..... 25981
913..... 25164
914..... 26406, 26857
916..... 23766, 26165
922..... 26779
925..... 23767, 26164
931..... 23898
934..... 26769
935..... 26406
936..... 27383
937..... 26786
938..... 25383
942..... 25165
947..... 26794
951..... 25029

31 CFR

209..... 24131
535..... 25003
Proposed Rules:
51..... 25029
53..... 25543
55..... 25543
81..... 25543
90..... 25543
92..... 25543
93..... 25543
120..... 25543
121..... 25543
122..... 25543
127..... 25543

32 CFR

242b..... 24297
505..... 27262
536..... 26616
706..... 24131, 24132
806b..... 26617
1665..... 24542
Proposed Rules:
293..... 26857
1656..... 24599
1660..... 24599

33 CFR

1..... 25519
3..... 27263
100..... 25139–25142, 27264
117..... 24543, 24544, 26125–26127, 27265
127..... 25519
137..... 27478
150..... 27478
157..... 24547
162..... 27265
175..... 24548
Proposed Rules:
110..... 26165
126..... 26166
154..... 26166
156..... 26166
161..... 26166
167..... 26167

34 CFR

642..... 24938
643..... 24938
644..... 24938
645..... 24938
646..... 24938

36 CFR

7..... 2429
50..... 24299, 24302
800..... 24306
811..... 25520
Proposed Rules:
1..... 24143
2..... 24143
3..... 24143
4..... 24143
5..... 24143
6..... 24143
7..... 24143
9..... 23768
12..... 24143
219..... 24348

37 CFR

201..... 25004

38 CFR

3..... 24549
Proposed Rules:
1..... 23954
21..... 24603

39 CFR

111..... 25957, 27266
233..... 26831
3001..... 23712
3002..... 25523

40 CFR

1..... 25006
52..... 23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26388, 26618–26623, 26832, 26833, 27065–27073, 27267
60..... 25524
61..... 24703
62..... 25335
81..... 25016, 27267
122..... 24918, 27520
123..... 27273
125..... 24918, 25963, 27075
162..... 23928
180..... 23931–23935, 25017, 25741, 25957–25963
256..... 26835
264..... 27520
265..... 27520
401..... 24534
420..... 24554
710..... 27075
712..... 26992
723..... 24308
762..... 23713, 23717
763..... 25145
Proposed Rules:
Ch. I..... 25743, 26859
4..... 24755
30..... 26564
50..... 26407
52..... 23773, 23778, 24755 25745
60..... 26750
62..... 26169
81..... 24755
122..... 24144, 25546, 27516
123..... 23955, 25546, 26170
124..... 24921, 25546
125..... 24921, 25961
141..... 24756
158..... 26171
162..... 25030
180..... 23955, 23957, 24604, 25031, 25032, 25746–25750, 25961
264..... 27516
425..... 23958
440..... 25682
704..... 27206
712..... 26992
761..... 24976, 25555
790..... 24348

41 CFR

Ch. I..... 25018
Ch. 9..... 26390
Ch. 18..... 27274, 27283
7–1..... 25964
7–6..... 25964
7–7..... 25964
7–30..... 25964
8–2..... 26127
8–4..... 25525
8–75..... 25525
Proposed Rules:
9..... 23780
101–8..... 25337
101–41..... 24357

42 CFR

435..... 27076
436..... 27076
Proposed Rules:
405..... 27084

43 CFR

2..... 26390
4..... 26390
2650..... 26390
3300..... 25967
Public Land Orders:
548 (Revoked in part by PLO 6252)..... 24133
619 (Revoked by PLO 6256)..... 26129
648 (Revoked in part by PLO 6272)..... 27265
651 (Revoked in part by PLO 6275)..... 27266
1409 (Revoked by PLO 6254)..... 23935
1461 (Revoked by PLO 6261)..... 26131
4395 (See PLO 6287)..... 27292
4913 (Revoked by PLO 6276)..... 27287
5345 (Amended PLO 6253)..... 24133
5791 (Corrected by PLO 6264)..... 26122
5976 (Corrected by PLO 6281)..... 27288
6200 (Corrected by PLO 6265)..... 26133
6252..... 24133
6253..... 24133
6254..... 23935
6255..... 26129
6256..... 26129
6257..... 26130
6258..... 26130
6259..... 26130

6260.....26131
6261.....26131
6262.....26132
6263.....26132
6264.....26132
6265.....26133
6266.....26133
6267.....27283
6268.....27283
6269.....27284
6270.....27285
6271.....27285
6272.....27285
6273.....27285
6274.....27286
6275.....27286
6276.....27078, 27287
6277.....27079
6279.....27079
6280.....27287
6281.....27288
6282.....27289
6283.....27290
6284.....27290
6285.....27290
6286.....27291
6287.....27292

Proposed Rules:

Subtitle A.....25384
Subtitle B.....25384
4.....27086
3140.....25720
3830.....24144

44 CFR

64.....25018, 25145, 25146, 26133
65.....23718, 23719
67.....23720, 24321

Proposed Rules:

67.....23780-23785, 24357

45 CFR

302.....24716
303.....24716
304.....24716
305.....24716
306.....24716
1611.....25148

Proposed Rules:

2.....26860
97.....26104

46 CFR

Ch. II.....25530
42.....25148
50.....24554
66.....27490
67.....27490
68.....27490
69.....27490
71.....24554
91.....24554
107.....24554
153.....27293
189.....24554
510.....24555, 25530
536.....25532

Proposed Rules:

Ch. I.....26667
7.....24604
25.....25166
26.....25166
35.....25166
58.....25166
78.....25166
97.....25166
111.....25166
112.....25166
162.....25166
196.....25166
502.....24377

47 CFR

1.....26393
2.....24557, 25342
13.....25972
22.....24557
64.....27293
67.....24720
73.....24572-24580, 25342-25346, 26624, 26836, 26838
74.....24580, 24723
81.....23722
87.....23722
90.....23722, 24581, 26631

Proposed Rules:

1.....27384
Ch. I.....24612, 25033, 26668, 27087
2.....25033, 25982
21.....25033
73.....24144, 24613, 26408, 26861-26868, 27385
74.....25033
90.....26677
94.....25033

48 CFR

Proposed Rules:

19.....25034
53.....26679

49 CFR

1.....24581
171.....24582
172.....24582
173.....24582, 26633
175.....24582
215.....27293
385.....26135
512.....24587
571.....25149, 26138
575.....24593, 25930, 26139
1033.....23723, 24332, 25347
1039.....26634
1090.....26634
1110.....24594
1125.....25973
1136.....26142
1201.....26634
1300.....26634

Proposed Rules:

172.....24157
173.....24157, 25167, 26172
178.....25167, 26172
192.....25555
396.....26172
571.....25169, 26174
1032.....26409
1102.....25035
1248.....26870

50 CFR

17.....27295
26.....25150
91.....26635
285.....25350, 26393
371.....24723
611.....23936, 25018
661.....24134, 24136
672.....23936
674.....24724

Proposed Rules:

17.....26878
20.....25922
602.....27228

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
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Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing June 23, 1982

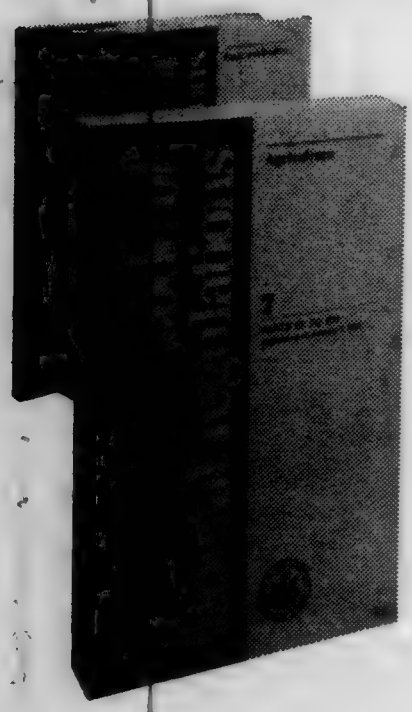
This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 896/Pub. L. 97–197 To designate the control tower at Memphis International Airport the Omlie Tower. (June 21, 1982; 96 Stat. 119) Price: $1.75.

S.J. Res. 140/Pub. L. 97–198 Designating February 11, 1983, "National Inventors' Day". (June 21, 1982; 96 Stat. 120) Price: $1.75.

V
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V 47 12 2 JE 24 82 UMI



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6-25-82
Vol. 47 No. 123
Pages 27537-27842

federal register

Friday
June 25, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Agriculture Department

Biologics
Food and Drug Administration

Classified Information
Information Security Oversight Office

Coal Mining
Surface Mining Reclamation and Enforcement Office

Day Care
Food and Nutrition Service

Food Stamps
Food and Nutrition Service

Foods
Food and Drug Administration

Grant Programs—Health
Public Health Service

Marketing Agreements
Agricultural Marketing Service

Marketing Quotas
Agricultural Stabilization and Conservation Service

National Banks
Comptroller of Currency

Organization and Functions (Government Agencies)
Immigration and Naturalization Service

CONTINUED INSIDE

Selected Subjects

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Probation and Parole
Parole Commission

Railroads
Interstate Commerce Commission

Reporting and Recordkeeping Requirements
Commodity Futures Trading Commission

Security Measures
Navy Department
Secret Service

Veterans
Personnel Management Office

Contents

Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

The President
PROCLAMATIONS
27537 Citizenship Day and Constitution Week, 1982 (Proc. 4949)

Executive Agencies

ACTION
NOTICES
27575 Agency forms submitted to OMB for review
27575 Foster grandparent and senior companion programs; income eligibility levels; revision

Agricultural Marketing Service
RULES
27548 Lemons grown in Ariz. and Calif.
NOTICES
27576 Wool and mohair advertising and promotion; referendum among producers

Agricultural Stabilization and Conservation Service
RULES
Marketing quotas and acreage allotments:
27548 Tobacco (burley)
27547 Tobacco (flue-cured)
27546 Tobacco (various kinds)
NOTICES
27576 Wool and mohair advertising and promotion; referendum among producers

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Federal Grain Inspection Service; Food and Nutrition Service; Rural Electrification Administration; Soil Conservation Service.
RULES
Authority delegations by Secretary and General Officers:
27539 Economics, Assistant Secretary; establishment of Economic Analysis Staff

Army Department
See Engineers Corps.

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
27595, 27596 Procurement list, 1981; additions and deletions (2 documents)

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
27578 Ohio

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; National Telecommunications and Information Administration.
NOTICES
Organization, functions, and authority delegations:
27586, 27589 International Trade Administration (2 documents)
27590 National Bureau of Standards
27594 United States Travel and Tourism Administration

Commodity Futures Trading Commission
RULES
27550 Registration forms

Comptroller of Currency
RULES
27828 Fiduciary powers of national banks and collective investment funds
PROPOSED RULES
27833 Fiduciary powers of national banks and collective investment funds; advance notice

Conservation and Renewable Energy Office
RULES
Residential conservation service program:
27752 Energy audits of customer homes by large natural gas and electric utilities
PROPOSED RULES
Residential conservation service program:
27803 Foam insulation; material and installation standards; proposed use of urea-formaldehyde; withdrawn

Defense Department
See Engineers Corps; Navy Department.

Economic Regulatory Administration
NOTICES
Consent orders:
27599 Cox, John L.
27597 Permian Corp.
Remedial orders:
27597 Indian Wells Oil Co.

Employment and Training Administration
NOTICES
Adjustment assistance:
27638 Armco, Inc., et al.

Employment Standards Administration
NOTICES
27676 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (D.C., Fla., Ga., Hawaii, N.J., N. Mex., N.C., Okla., S.C., Va., Utah, Wash.)

Energy Department
See also Conservation and Renewable Energy Office; Economic Regulatory Administration; Energy Research Office; Southeastern Power Administration; Western Area Power Administration.

Energy Research Office
NOTICES
Committees; establishment, renewals, terminations, etc.:
27599 Energy Research Advisory Board

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
27596 Bridgeport and Black Rock Harbors, Conn.; proposed navigation improvements

Environmental Protection Agency
RULES
Air quality implementation plans; preparation, adoption, and submittal, etc.:
27554 New stationary source construction and existing source modifications; deletion of vessel and mobile source as secondary emissions requirements, etc.
NOTICES
Environmental statements; availability, etc.:
27609 Agency statements; weekly receipts
Toxic and hazardous substances control:
27604 Chemical substances inventory; cumulative supplement II availability; correction
27604 Premanufacture notices; monthly status reports
27610 Premanufacture notices receipts
27604 Premanufacture notification requirements; test marketing exemption applications

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
27572 Texas

Federal Grain Inspection Service
NOTICES
Agency designation actions:
27577 Texas

Federal Home Loan Mortgage Corporation
NOTICES
27657 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Complaints filed:
27611 Burlington Industries, Inc.
Investigations and hearings, etc.:
27611 Contract Marine Carriers, Inc.
27611 U.S. Pacific trades conference members bloc voting; extension of investigation

Fiscal Service
NOTICES
27654 Renegotiation interest rate for excessive profits and refund

Fish and Wildlife Service
NOTICES
27616 Endangered and threatened species; wildlife and plants list; availability
Pipeline rights-of-way applications:
27615 Alaska; Kenai National Wildlife Refuge

Food and Drug Administration
RULES
Biological products:
27552 Viral and rickettsial vaccines; efficacy review; correction
Color additives:
27551 D&C Green No. 5; use in drugs and cosmetics; permanent listing; correction
GRAS or prior-sanctioned ingredients:
27813 Acetic acid, ammonium acetate, sodium acetate, and sodium diacetate
27808 Adipic acid and sodium adipate
27806 Calcium chloride, calcium gluconate, calcium acetate, and calcium phytate
27810 Propylene glycol and propylene glycol monostearate
27815 Stannous chloride (anhydrous and dihydrated)
27551 Incorporations by reference; clarification in regulatory text
PROPOSED RULES
Biological products:
27566 Allergenic products; equivalent methods
GRAS or prior-sanctioned ingredients:
27818 Calcium oxide and hydroxide
27817 Direct and indirect uses; listing procedure
NOTICES
Food additives, petitions filed or withdrawn:
27614 Ciba-Geigy Corp. (2 documents)
Human drugs:
27614 Carbazochrome salicylate preparations; approval withdrawn and hearing denied; extension of effective date
27613 Ophthalmic combination drugs containing steroid and anti-infective(s); drug efficacy study implementation; correction
27613 Single-entity coronary vasodilators; exemption revoked and hearing rescinded
27615 Sodium pentobarbital and carbromal for oral use; approval withdrawn; extension of effective date
Medical devices; premarket approval:
27612 Interface Biomedical Laboratories Corp.; Superstat Modified Collagen Hemostatic Sponge

Food and Nutrition Service
RULES
Child nutrition programs:
27540 Child care food program; reimbursement rates for day care homes sponsors
Food stamp program:
27544 Supplemental security income (SSI) households; recertification

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
27579 Ohio

Health and Human Services Department
See also Food and Drug Administration; Public Health Service.

NOTICES
27615 Agency forms submitted to OMB for review

Immigration and Naturalization Service
RULES
Organization, functions, and authority delegations:
27549 Ogdensberg, N.Y., border patrol sector incorporation into Buffalo, N.Y., and Swanton, Vt., sectors
PROPOSED RULES
27565 Nonimmigrant students and schools approved for their attendance; filing requirements, and classification for vocational students; extension of time

Information Security Oversight Office
RULES
27836 National security information

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Meetings:
27579 President's Export Council

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
27561 Chicago, Rock Island, & Pacific Railroad Co.; track use by various railroads
PROPOSED RULES
Rail carriers:
27573 Consolidated Rail Corp.; exemption from regulation movement in boxcars
NOTICES
Motor carriers:
27627 Compensated intercorporate hauling operations; intent to engage in
27627, 27628, 27631 Permanent authority applications (3 documents)
27625 Permanent authority applications; operating rights republication
27629 Permanent authority applications; restriction removals
Organization, functions, and authority delegations:
27626 Restriction Removal Board; appointment of members
Petitions filed:
27626 National Industrial Traffic League; updating of railroad routing guides; petition denied
Rail carriers; contract tariff exemptions:
27625 Denver & Rio Grande Western Railroad Co.
Railroad services abandonment:
27624 Consolidated Rail Corp. (3 documents)

Justice Department
See Immigration and Naturalization Service; Juvenile Justice and Delinquency Prevention Office; Parole Commission.

Juvenile Justice and Delinquency Prevention Office
NOTICES
27633 Special emphasis program; 1982 FY funding policy

Labor Department
See also Employment and Training Administration; Employment Standards Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Meetings:
27639 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
NOTICES
Alaska native claims selection; applications, etc.:
27616 Dinyea Corp.
27617 Tulkisarmute Inc.; correction
Classification of public lands:
27618, 27619 Nevada (2 documents)
27623 Wyoming
Committees; establishment, renewals, terminations, etc.:
27618 Fairbanks District Advisory Council; nominations from public for membership
Environmental statements; availability, etc.:
27619 Chevron Phosphate Plant Complex project, Sweetwater County, Wyo., et al.; development of a phosphate fertilizer plant complex and associated ancillary facilities; scoping meetings
27622 Coeur D'Alene District Office, Idaho; wilderness study areas; meetings
27622 San Gorgonio Pass Wind Energy Project, Calif.
Meetings:
27618 Battle Mountain District Grazing Advisory Board; address correction
27622 Mineral Lands Leasing Act of 1920; alien ownership provisions; implementation
Pipeline right-of-way applications:
27623 Wyoming
Sale of public lands:
27622 Idaho; correction
Withdrawal and reservation of lands, proposed, etc.:
27619 Nevada; correction

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
27639 Aluminum Co. of America
27639 Buffalo Mining Co.
27640 Sahara Coal Co., Inc.
27639 Sandy Fork Mining Co., Inc.

National Bureau of Standards
NOTICES
Information processing standards, Federal:
27579 Optical character recognition (OCR); character sets

National Oceanic and Atmospheric Administration
NOTICES
Deep seabed mining exploration license applications:
27583 Kennecott Consortium
27583 Ocean Management, Inc.
27583 Ocean Minerals Co.
27583 Ocean Mining Associates

Marine mammal permit applications, etc.:
27584 Graybill, Michael
Meetings:
27584 North Pacific Fishery Management Council

National Telecommunications and Information Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
27585 Public telecommunications services grant program
Meetings:
27584 International Standards Workshop

Navy Department
RULES
Islands under Navy jurisdiction:
27553 Kaho'olawe Island, Hawaii; public entry regulations
NOTICES
Meetings:
27596 Naval Research Advisory Committee

Parole Commission
PROPOSED RULES
Federal prisoners; paroling, releasing, recommitting, and supervising:
27576 Offense severity scale; policy guidelines

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
27640 Bonsacker & Leigh, Inc.
27642 Custom Machine, Inc.
27643 International Union of Electrical Radio & Machine Workers
27643 Lojeski, Edwin J., D.D.S., P.C.
27644 National Bank of Fairfax/First & Merchants National Bank
27645 Ophthalmic Associates Employees Pension Plan et al.
27646 Plumbers & Steamfitters Local 60 Health & Welfare Trust Fund
27646 Thomasville Orthopedic Clinic, Inc.

Personnel Management Office
RULES
27539 Veterans readjustment appointment authority; extension of expiration date
NOTICES
Excepted service:
27649 Schedules A, B, and C; positions placed or revoked, update

Public Health Service
RULES
Grants:
27624 Maternal and child health and crippled children's services, genetic and other diseases service projects, and genetic diseases testing and counseling programs project grants

Rural Electrification Administration
PROPOSED RULES
Telephone borrowers:
27565 500 type telephone sets, PE-41 (Bulletin 345-74)
NOTICES
Environmental statements; availability, etc.:
27577 Seminole Electric Cooperative, Inc.

Secret Service
RULES
27552 Presidential residence, temporary; designation of buildings and grounds to restrict access

Securities and Exchange Commission
NOTICES
27650, 27652 Agency forms submitted to OMB for review (2 documents)
27657 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
27650, 27652 Philadelphia Stock Exchange, Inc. (2 documents)

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
27578 Lower Birch Creek Watershed, Mont.
27578 New Hampshire Critical Area Treatment RC&D Measures

Southeastern Power Administration
NOTICES
27600 Kerr-Philpott system of projects; interim power and revised proposed long-term marketing policies

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent and interim regulatory programs:
27712 Hydrology and geology permitting and performance standards
27694 Permit processing and application content, etc.
27734 Remining and reprocessing mine waste; permit and performance standards
27744 Small operator assistance program
27688 Support and transportation facilities, utility installations, and coal processing plants

Treasury Department
See also Comptroller of Currency; Fiscal Service; Secret Service.
NOTICES
27654 Agency forms submitted to OMB for review
Organization, functions, and authority delegations:
27655 Customs Service; regional reorganization

Veterans Administration
NOTICES
27656 Medical care reimbursement rates; 1983 FY

Western Area Power Administration
NOTICES
Power rate adjustments:
27602 Central Valley Project

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
4949 27537

5 CFR
307 27539
316 27539

7 CFR
2 27539
226 27540
272 27544
273 27544
724 27546
725 27547
726 27548
910 27548
Proposed Rules:
1701 27565

8 CFR
100 27549
Proposed Rules:
214 27565
248 27565

10 CFR
456 27752
Proposed Rules:
456 27803

12 CFR
9 27828
Proposed Rules:
9 27833

17 CFR
3 27550
145 27550

21 CFR
74 27551
81 27551
82 27551
172 27808
182 (5 documents) 27806–27815
184 (5 documents) 27806–27815
436 27551
610 27552
630 27552
Proposed Rules:
182 27818
184 (2 documents) 27817, 27818
186 27817
680 27566

28 CFR
Proposed Rules:
2 27567

30 CFR
Proposed Rules:
700 27688
701 (4 documents) 27688–27734
731 27744
732 27744
770 27694
771 27694
773 27694
775 27694
778 27694
779 27712
780 (2 documents) 27712, 27734
782 27694
783 27712
784 (2 documents) 27712, 27734
785 27688
786 27694
787 27694
788 27694
795 27744
816 (3 documents) 27688, 27712, 27734
817 (3 documents) 27688, 27712, 27734
827 27688

31 CFR
408 27552

32 CFR
763 27553
2001 27836

40 CFR
51 27554
52 27554

42 CFR
51a 27824
51d 27824
51f 27824

47 CFR
Proposed Rules:
73 27572

49 CFR
1033 27561
Proposed Rules:
1039 27573

V 4 7 / 1 2 3
E J 5 8 2
IMI

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Vol.
Frid

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Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

Presidential Documents

Title 3—

The President

Proclamation 4949 of June 23, 1982

Citizenship Day and Constitution Week, 1982

By the President of the United States of America

A Proclamation

Chief Justice John Marshall wrote, "the people make the Constitution, and the people can unmake it. It is the creature of their own will, and lives only by their will." It is appropriate, therefore, that we set aside September 17, 1982, the 195th anniversary of the Constitution, to celebrate Citizenship Day and to begin Constitution Week.

The Constitution provides the structure of our federal system and a system of checks and balances that applies equally to each branch of government, to relations between the states and the Federal Government, and, as importantly, to each of us. It protects the rights of all Americans to "life, liberty and the pursuit of happiness" and limits governmental authority to ensure these liberties are faithfully protected—both by and from the state.

But in the end it is each citizen who is responsible for protecting the liberties set forth in the Constitution and Bill of Rights. Therefore, while Citizenship Day is a day of celebration, it is also a day of remembrance and dedication. This is particularly so in view of this time in our history. Two hundred years ago, with freedom assured by victory at the Battle of Yorktown, our forefathers began the process culminating in the adoption of the Constitution on September 17, 1787.

On this day and throughout this week, we should reaffirm our commitment to this "compact" which gives "stability to the present and certainty to the future." And, as we approach the 200th anniversary of the Constitution, we must remember that an active and informed citizenry is not just a right; it is an obligation.

In recognition of the place the Constitution holds in our Nation, and the paramount role our citizens play in maintaining the United States, the Congress, by joint resolution on February 29, 1952 (36 U.S.C. 153), designated September 17th as Citizenship Day, and by joint resolution of August 2, 1956 (36 U.S.C. 159), requested the President to proclaim the week beginning September 17th and ending September 23rd of each year as Constitution Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1982. I urge Federal, State and local officials, as well as leaders of civic, educational and religious organizations to conduct ceremonies and programs that day to commemorate the occasion.

I also proclaim the week beginning September 17th, 1982 as Constitution Week, and I urge all Americans to observe that week with programs that stress the importance of the Constitution to our individual freedoms and form of government. I call upon all citizens to join in studying the events and documents surrounding the adoption of our Constitution in 1787 so that its bicentennial may be celebrated with renewed learning of the history and purpose of this Charter of Freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of June, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-17467
Filed 6-24-82; 10:48 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 307 and 316

Veterans Readjustment Appointments; Temporary and Term Employment

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This final rule reflects the statutory change in the expiration date for the use of the Veterans Readjustment Appointment (VRA) Authority. The VRA statutory authority, cited in Pub. L. 95–520, expired on September 30, 1981. On November 3, 1981, the President signed Pub. L. 97–72, "Veterans' Health Care, Training, and Small Business Loan Act of 1981." This law extends the expiration date of the VRA authority until September 30, 1984. Consequently, a corresponding change in 5 CFR Parts 307 and 316 must be made.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Marvin Kossmann or Don Smith, Office of Affirmative Employment Programs, Veterans Employment Programs Division, (202) 254–3058.

SUPPLEMENTARY INFORMATION: On September 30, 1981, Pub. L. 95–520, which was the statutory base for the VRA Program, expired. On November 3, 1981, the President signed Pub. L. 97–72 which, among other things, extended the VRA Program through September 30, 1984. OPM is required by law to issue and/or amend regulations governing the VRA Program.

Need for Final Rule

Pursuant to sections 553(b)(3)(B) and 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking and making this effective 30 days after publication. The regulation is being made effective immediately to ensure maximum consistency with Pub. L. 97–72, "Veterans' Health Care, Training, and Small Business Loan Act of 1981," which provided that the Veterans Readjustment Appointment Program be extended from October 1, 1981, through September 30, 1984.

OPM has determined that this not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

I certify that, within the scope of the Regulatory Flexibility Act, these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal Government employment practices.

List of Subjects in 5 CFR Part 307

Government employees, Personnel Management Office, Reporting requirements, Veterans.

List of Subjects in 5 CFR Part 316

Government employees, Personnel Management Office, Veterans.

Office of Personnel Management.
Donald J. Devine,
Director.

PART 307—VETERANS READJUSTMENT APPOINTMENTS

Accordingly, OPM is amending Title 5 of the Code of Federal Regulations as follows:

1. In § 307.102, paragraph (b) is revised to read as follows:

§ 307.102 Basic eligibility.

* * * * *

(b) A Vietnam era veteran may be given a veterans readjustment appointment at any time following separation from the service, except that no veterans readjustment appointment may be made under current statutory authority after September 30, 1984.

2. In § 316.302, paragraph (c)(2)(iii) is revised to read as follows:

§ 316.302 Selection of term employees.

* * * * *

(c) * * *
(2) * * *

(iii) Is qualified to perform the duties of the position. An appointment under this paragraph may be made only to a position at GS–7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1984. A veteran who is an applicant for a position at GS–3, or equivalent, and below under this paragraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service;

* * * * *

3. In § 316.402, paragraph (b)(4)(iii) is revised to read as follows:

§ 316.402 Authorities for temporary appointments.

* * * * *

(b) * * *
(4) * * *

(iii) Is qualified to perform the duties of the position. An appointment under this paragraph may be made only to a position at GS–7 or below, or equivalent in another pay system, without time limitation after separation from the military service, but not after September 30, 1984. A veteran who is an applicant for a position at GS–3, or equivalent, and below under this paragraph is deemed qualified to perform the duties of the position on the basis of the veteran's civilian and military service; or

* * * * *

(38 U.S.C. 2014)

[FR Doc. 82–17230 Filed 6–24–82; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: USDA.

ACTION: Final rule

SUMMARY: This document revises the delegations of authority by the Assistant Secretary for Economics to reflect the establishment of the Economic Analysis Staff. This Staff will advise and assist the Assistant Secretary in fulfilling his responsibility for economic policy review and analysis in the Department of Agriculture. It has been determined that this action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Laura B. Snow, Assistant to the Director, Economics Management Staff, USDA, Washington, D.C. 20250; Telephone (202) 447-7392.

SUPPLEMENTARY INFORMATION: Under the provisions of 7 CFR 2.27(a)(11), the Secretary of Agriculture has delegated authority to the Assistant Secretary for Economics to coordinate all economic analysis and review all decisions involving substantial economic policy implications. In carrying out this responsibility, the Assistant Secretary relies on the economic and statistical analyses prepared by the agencies reporting to him as well as the analyses of other agencies of the Department. At present, however, the economic policy review and analysis functions of the Assistant Secretary are constrained by the lack of permanent staff support to coordinate and synthesize economic and statistical analysis in program areas crossing organizational lines. To ensure that the Assistant Secretary is provided comprehensive data and analyses to support economic policy review and appraisal in the Department of Agriculture, the Economic Analysis Staff has been established to report to the Assistant Secretary for Economics.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a rule as defined by the Regulatory Flexibility Act (Pub. L. 96-354) and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

2. A new § 2.89 is added to read as follows:

§ 2.89 Director, Economic Analysis Staff.

(a) *Delegations.* Pursuant to § 2.27(a)(11), the following delegations of authority are made by the Assistant Secretary for Economics to the Director, Economic Analysis Staff.

(1) Coordinate and perform economic policy analysis in program areas crossing organizational lines.

(2) Counsel the Assistant Secretary for Economics in the development of short- and intermediate-range economic policy and programs consistent with the long-range plans of the Department.

(3) Analyze the economic policy implications of legislative proposals of the Department.

(4) Represent the Assistant Secretary in contacts with associations of producers, manufacturers, and consumers to discuss the economic impact of existing and proposed Departmental policies and programs.

(5) Provide the Assistant Secretary for Economics with such assistance as he may request to perform the duties delegated to him concerning economic policy review and analysis.

Signed at Washington, D.C., on June 15, 1982.

William G. Lesher,

Assistant Secretary for Economics.

[FR Doc. 82-17224 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-26-M

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Reimbursement Rates for Sponsors of Day Care Homes

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: As mandated by Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, this final rule establishes the number of tiers and the base rates for those tiers which determine maximum allowable reimbursement for administrative expenses incurred by sponsors of day care homes in the Child Care Food Program (CCFP). This rule also makes permanent the reduction in monitoring required of such sponsors.

DATES: This rule became effective on January 1, 1982, except for § 226.16(d)(4)(ii), which contains information collection requirements which are subject to review by the Office of Management and Budget (OMB).

ADDRESS: Copies of all written comments on the interim rule are available for review during normal business hours at 3101 Park Center Drive, Room 416, Alexandria, Virginia 22303. The final impact statement describing the options considered in developing this final rule and the impact of implementing each option is available upon request from Beverly Walstrom, Chief, Policy and Program Development Branch, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, at the above address or by telephone at (703) 756-3888.

FOR FURTHER INFORMATION CONTACT: Beverly Walstrom (703) 756-3888.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements included in this final rule will be submitted for approval to OMB. They are not effective until OMB approval has been obtained.

Classification: This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million; will not cause a major increase in costs or prices; and will not have a significant economic impact on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete.

This rule has also been reviewed with regard to the requirements of Pub. L. 96-354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

The Child Care Food Program (CCFP) is authorized by section 17 of the National School Lunch Act, which was amended on August 13, 1981, by Pub. L. 97-35, the Omnibus Reconciliation Act of 1981. Section 810(d)(3)(B) of Pub. L. 97-35, mandated an adjustment to the maximum allowable levels for administrative expense payments "so as to achieve a 10 percent reduction in the total amount of reimbursement provided to institutions for such administrative expenses." In making this reduction, furthermore, the law directed the Department to "increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes." Finally, the law stipulated that these new rates were to become effective on January 1, 1982.

On January 26, 1982, the Department published an interim rule which altered the number of tiers and adjusted the base rates for those tiers used to

determine the maxmium allowable reimbursement for administrative expenses incurred by sponsors of day care homes. This interim rule also reduced from four to three the number of annual visits which sponsors must make to each of their homes. Although this rule was effective as of January 1, 1982, the Department established a 60-day period during which interested parties could submit comments for the Department's consideration. During this comment period, the Department received 125 comments from FNS Regional Offices, State administering agencies, other State agencies, members of Congress, sponsoring organizations of day care homes, day care providers and other interested parties. Four commenters approved of the new rates, and five commenters addressed themselves to issues other than the rates. The remaining 116 commenters disapproved of the new rate structure. The individual issues raised by the comments are discussed separately.

Intent of the Law

The Department received 64 comments, including five from members of Congress, which asserted that the Department was violating Congressional intent by seeking to reduce actual expenditures by 10 percent. (One other commenter agreed that the law mandates a 10 percent reduction in this area.) However, there was no unanimous view of Congress' intent. Indeed, even members of Congress appeared to differ in their interpretations of the intent. Two commentors maintained that the intent of this provision was to require an adjustment to the schedule of maximum reimbursements to achieve a 10 percent reduction in the average rate of reimbursement to sponsors. Another Congressional response, however, asserted that the intent was to require a 10 percent reduction in "the maximum rate of reimbursement," while yet another Congressional commenter stated that the Department was to reduce "the total amount of reimbursement provided" for administrative reimbursement.

Members of the general public also held differing views of Congress' intent. Five sponsors and one State administering agency believed that the rates were to have been cut by 10 percent. (One sponsor, however, argued that Congress intended a 10 percent reduction in expenditures or rates, while another referred to "maximum rates.") Three sponsors and two advocacy groups asserted that the intent was to cut the maximum available reimbursement by 10 percent. Thirteen commenters maintained that actual expenditures were to be reduced, but not by more than 10 percent (in reference to the fact that some sponsors would experience reductions in excess of 10 percent).

The Department does not believe that it has misinterpreted Congressional intent. Rather, it is felt that the wording in the law—"total amount of reimbursement provided to institutions"—refers to actual expenditures. It follows, consequently, that Congress intended to achieve a 10 percent saving in payments actually made to sponsors. Indeed, Congress reduced expenditures to home care providers by exactly that amount in mandating a 10 percent reduction in providers' meal rates. (Unlike centers and sponsoring organizations, providers automatically receive the applicable rate for each meal served.)

Had Congress intended only a reduction in rates, the language would have approximated that of the preceding passage, which reduces meal rates for providers. Rather, this provision calls for an adjustment in the rates (called "maximum allowable levels") in order to achieve a reduction in the amount of reimbursement provided.

The Department also disagrees with those commenters who maintained that the 10 percent reduction was to be made in maximum available reimbursement. One sponsor, for instance, implies that the phrase "provided to" means possible reimbursement, whether paid or not. The Department notes, however, that there are no adjectives modifying the word "reimbursement", which is best used in a context indicating a payment made for expenses incurred. This meaning, indeed, is the one used by the Department throughout the CCFP regulations. Moreover, the phrase "provided to" indicates a transaction in contrast to "provided for", which may be taken to mean "made available for a given purpose." Finally, in view of the system whereby sponsors of day care homes are reimbursed for administrative expenses, it is not possible to predict how much would actually be saved if the maximum available reimbursement were reduced by 10 percent. Since Congress clearly intended that Pub. L. 97–35 achieve a significant savings in Program expenditures, it does not seem reasonable that Congress would have intended a saving of uncertain size (but definitely less than 10 percent) in this segment of the Program.

As one final note, several commenters objected to the fact that a given sponsor might realize a reduction in reimbursement of more than 10 percent. The law mandated a reduction in the *total amount* of reimbursement paid to *sponsors* (emphasis added). In developing new rates which would reduce actual expenditures for the entire Program, the Department had to account for the fact that many sponsors actually receive less than the maximum available reimbursement calculated by the rates. Consequently, many sponsors that have been receiving their maximum available reimbursement can expect reductions of more than 10 percent. By the same token, some sponsors will expect reductions of less than 10 percent.

Methodology

The Department received 70 comments on various aspects of the methodology employed in developing the new rates. Nine commenters addressed themselves to the new tiers (four approved; five disapproved). Fourteen commenters took issue with the initial 15 percent adjustment which the Department made to all four tiers. Seven commenters questioned the data sources employed by the Department in developing this structure. Two commenters asserted that the amounts of the reductions were not proportionate to sponsor size, and 16 commenters maintained that the new rates are unfair to smaller sponsors. Seven commenters urged that factors such as the conditions experienced by sponsors in rural areas be considered.

Before discussing the specific issues raised by commenters, the Department believes it would be useful to restate the method by which the new rates were developed. In adjusting the rates to achieve the mandated reduction, the Department was directed to "increase the economy of scale factors used to distinguish institutions that sponsor a greater number of family or group day care homes from those that sponsor a lesser number of such homes." When the previous rate structure was established in the 1980 regulations, the Department considered that reasonable economies of scale for sponsors could be discerned at the levels of 25 and 75 homes. Therefore, the Department initiated a three-tiered structure with those breakpoints.

However, because of the growth of the day care segment of the Program in the months following the structure's implementation, it became clear that the three-tiered structure did not adequately reflect the reality of the Program. Therefore, based on the Department's experience with the Program and data developed in a study of the Program, it was determined that more realistic

levels would be at 50 homes, 200 homes and 1,000 homes. Indeed, one sponsor has commented that it has experienced some economies of scale at these points. While not all sponsors may have the same experience, the Department believes that the new tiers designate small, medium, large and very large sponsors more accurately than the old tiers.

Having decided on new tiers, the Department then determined the rates for these tiers which would be equivalent to those earned under the three-tiered system. Since each of the first two tiers in the new system overlaps two of the old tiers (1–50 overlaps 1–25 and 26–75; 51–200 overlaps 26–75 and 76 and above), it was necessary to calculate weighted rates for these two tiers. (The equivalent rate for the final two tiers is the same as under the old system, since no overlapping occurs.) The calculated weighted rates for the first two tiers are as follows:

First 50 homes	$40/home
51 to 200 homes	$37/home

In determining how much to reduce these equivalent rates in order to comply with Pub. L. 97–35, the Department first took into account the fact that the actual reimbursement provided to many sponsors is less than the maximum amount calculated by the rates. This situation occurs frequently because sponsors receive less than the maximum available reimbursement if their actual costs or approved budget are lower than the amount allowed by the rates. For Fiscal Year 1981, the sponsors operating in States where the Program is administered by the Department (Regional Office Administered Programs, or ROAPs) actually received only about 81 percent of the maximum amount calculated by the rates. It was clear, therefore, that a reduction of only 10 percent in the equivalent rates would not achieve the 10 percent reduction in actual expenditures mandated by the law. Therefore, the Department adjusted the equivalent rates to account for this fact.

The Department did not make a 19 percent adjustment, however, because the Department considered that this adjustment must also allow for the fact that late or revised claims could increase the proportion of actual to maximum reimbursement. Therefore, the Department made only a 15 percent adjustment. Moreover, this adjustment was made equally to all four tiers. ROAP data shows that smaller sponsors actually receive a smaller percentage of their maximum available reimbursement than do larger sponsors. The Department, however, did not wish to adjust the lowest tier to the actual level claimed by smaller sponsors, since the resulting adjustment would have been about 30 percent.

After making this 15 percent adjustment for all tiers, the Department made no further reductions in the first two tiers. However, the Department did reduce the third and fourth tiers to levels sufficient to permit a projected 10 percent savings in total actual expenditures, as mandated by Pub. L. 97–35.

Data Sources. Several commenters disputed the validity of the information used to develop the rates. Essentially, the Department employed two data sources: the list of sponsors operating in ROAPs and the statistical model developed by the study of day care homes mandated by Congress. The study model is based on information derived from 45 sponsors selected in a random sample in November 1980 and interviewed between January and June 1981. This information was updated in July 1981 to provide a statistically reliable basis for projecting Program expenditures. By entering potential rate structures into this model, the Department achieved a set of rates which projected a 10 percent decrease in expenditures. The Department recognizes that not all States were represented in the study's sample. However, all States and all sponsors in the relevant universe had an equal chance of being selected, and the selection process conformed to accepted statistical practices. Therefore, while conditions for certain sponsors in certain States may not be identical to those observed in the study, the sample is valid for the Program as a whole. Moreover, the study sample is the only national survey of this magnitude ever undertaken in the CCFP.

The Department also wishes to emphasize that the projections used to develop the new rates were derived from the study's statistical model and not from the final report of the study's findings. Some commenters were concerned that they had not been given an opportunity to review the report, but the report was not completed when the interim rule was published. However, the unavailability of the final report was not relevant to this project, since the statistical model will not be influenced by the report. When the report is completed, copies will be made available to the public upon request.

The second data source was the reimbursement record for sponsors operating in ROAPs. This source provided the information that sponsors receive only about 81 percent of their maximum available reimbursement. This source is comprised of all the sponsors operating in 14 States located in every FNS Region but one (Midwest). The total number of sponsors was 196, or a little less than one-third of all sponsors in the Program. These sponsors operated over 15,000 homes, also about one-third of all homes nationwide. The size of the source, therefore, offers a high degree of likelihood that the results would be applicable throughout the Program. Moreover, there is no reason to believe that conditions in ROAPs differ substantially from those in State agency programs. Finally, the data on which the rates were based encompassed the entire 1981 Fiscal Year, thereby minimizing the influence that any one month could have on the overall results. For these reasons, the Department considers that ROAP data provides a reasonable basis for making decisions about the Program as a whole.

Fifteen Percent Adjustment. Several commenters were concerned about the initial adjustment made to account for the difference between actual expenditures and the maximum available reimbursement calculated by the rates. Some asserted that smaller sponsors generally require a greater proportion of their maximum than larger sponsors and should, therefore, be exempted from the adjustment. Others believed that actual expenditures should be greater but frequently are not, due to the failure of sponsors, particularly smaller sponsors, to claim all allowable expenses. Many commenters believed the national data did not apply to their particular situation or to sponsors generally in their State. One commenter also suggested that actual expenditures would approximate the maximum available reimbursement more closely once sponsor growth levels off.

The Department does not consider these criticisms to be justified. First, smaller sponsors as a group are less likely to receive all of their maximum available reimbursement than larger ones. The Department considers such an adjustment to be essential before trying to achieve a 10 percent reduction in actual expenditures.

The Department also believes that an across-the-board adjustment is necessary in order to account for the fact that the rates for the lowest tier affect all sponsors. Moreover, the rates established by the Department cannot be tailored to conditions in a particular State. Although sponsors in a given State may already be receiving the maximum available to them, the new rates must ensure that expenditures are

reduced nationally in compliance with the law. In developing new rates, therefore, the Department had to take into account the fact that, nationally, actual reimbursement does not equal maximum available reimbursement, regardless of the reason.

Impact on Smaller Sponsors. Several commenters believe the new rate structure is unfair to smaller sponsors, and two commenters contend that the reductions are erratic in that some smaller sponsors will experience greater reductions than many larger sponsors. This second criticism is based on a comparison of the maximum available reimbursement for sponsors of a certain size under the old structure with the maximum available to the same size sponsors under the new system. The Department does not consider this criticism to be valid, however. The new tiers designate small sponsors as those operating between 1 and 50 homes, rather than between 1 and 25 homes as was formerly the case. By the same token, sponsors are no longer designated as large if they operate as few as 76 homes. The new tiers are more accurate representations of sponsor size than the old tiers. All adjustments and reductions, therefore, pertain only to the new structure, and it is not relevant to refer to the former system.

Some commenters asserted that the rates for smaller sponsors should actually be raised rather than lowered. However, since Pub. L. 97–35 mandated reductions for all other institutions and facilities in the CCFP, the Department does not consider that rates for a given class of sponsors could be increased over what they formerly had been. The Department also notes that smaller sponsors have received a smaller portion of their maximum available reimbursement than larger sponsors. Therefore, while raising rates for the lowest tier would not necessarily benefit smaller sponsors, it would have the potential of increasing expenditures to larger sponsors, since all sponsors are affected by the rates for the lowest tier. The Department emphasizes, moreover, that no reductions were made to the rates in the lower tiers after the initial 15 percent adjustment. Consequently, the Department does not consider that the new tiers and the rates earned by homes in those tiers are unfair to smaller sponsors.

Suggested Alternatives. Several commenters suggested a variety of alternatives to the new rate structure. Most of these suggestions would involve increasing the rates for lower tiers and making corresponding decreases in the rates for higher tiers. The Department did not accept these suggestions because, as noted above, smaller sponsors are less likely to claim additional reimbursement than are larger sponsors. Therefore, increasing the rates in the lower tiers would not have the national effect envisioned by the commenters. Moreover, the Department considers that further reductions in the third and fourth tiers (the only tiers reduced after the initial 15 percent adjustment) could be unfair to larger sponsors. The Department believes the new rates balance the needs of sponsors of all sizes. Some other commenters maintained that the Department should take into account the fact that other sources of revenue for sponsors (e.g., Title XX funds) have also been reduced. In this view, the Department should increase its rates in recognition of the overall loss of funding experienced by sponsors. However, the law mandates a reduction in funding for the CCFP; therefore, the Department cannot make a lesser reduction based on other programs' mandates. Finally, one commenter recommended that the Department eliminate the rate structure and simply base reimbursement on negotiated budgets. However, the Department considers that rates are necessary to establish a reasonable maximum within which sponsors must operate.

Effective Date

Although the interim rule was published on January 28, 1982, the rates were retroactive to January 1, 1982, because that was the effective date mandated by Pub. L. 97–35. Sixteen commenters disapproved of the January 1 effective date. Six commenters maintained that sponsors had been given insufficient time to prepare for the reductions; five commenters suggested a variety of alternative dates ranging from February 1, 1982, to two months after publication of a final rule; and three commenters asserted that the new rates cannot be imposed prior to the end of the 60-day comment period.

Since the law specifically mandated the January 1, 1982, effective date for this provision, the Department has no discretion to establish a different implementation date. The Department regrets that it was necessary to implement the new rates retroactively. However, due to the complexity of this issue, it was not possible to publish the rule sooner, or to publish it first in proposed form. The Administrative Procedures Act includes provisions for publishing regulations without first proposing them, and given the time constraints, the Department had no choice but to proceed with the interim rule and apply the rates retroactively.

Monitoring

The interim rule included a provision reducing from four to three the number of Federally required annual visits which sponsors make to each of their homes. The Department received 33 comments on this provision. Eight commenters favored the reduction. Twelve commenters, 11 of whom were sponsors, disapproved of this provision on the grounds that reduced monitoring could lead to an increase in Program deficiencies. Eight other commenters remarked that the decrease would have little, if any, effect on their ability to cope with reduced administrative reimbursement, while five sponsors recommended a further reduction to two annual visits.

The Department considers that the monitoring requirement in the interim rule balances the need for sponsors to render assistance with the reduction in administrative reimbursement. The Department recognizes that the effect of this provision will vary among sponsors, but on the whole, most sponsors should expect to realize some reduction in costs and burden. A further reduction to two annual visits per home is not feasible, however. The Department emphasizes the need to ensure that home care providers receive training and assistance at reasonable intervals. The Department also wishes to note that this requirement represents only the Federal burden. If circumstances indicate a need, States may require more than three visits. Moreover, sponsors may make additional visits when necessary, and are encouraged to visit homes as often as possible.

Additional Burden Reductions

The Department also requested commenters to suggest other areas in which the sponsors' administrative burden could be reduced without compromising Program integrity. Seventeen commenters responded to this request. Some of these suggestions would increase Program expenditures. One commenter, for instance, suggested that start-up funding be more readily available, while another recommended increasing sponsors' reimbursment for recruiting efforts. In view of the need to reduce Federal expenditures, however, the Department cannot act on such recommendations.

Other commenters recommended the elimination of the requirement that sponsors establish the eligibility of providers' children for free or reduced-price meals. This responsibility,

however, was mandated by Pub. L. 97–35 and cannot, therefore, be relaxed. Several other commenters requested that the overall reporting and recordkeeping burden be reduced but did not indicate any specific provisions. Several commenters, however, did make specific recommendations, especially in the areas of applications and claims. One sponsor, for example, suggested that applications be required every three years rather than annually, and the Department received a number of requests to reduce the burden associated with the review of menus. The Department will consider these recommendations if additional rulemaking is proposed in the future. One commenter also recommended that the burden on administering agencies be reduced. The Department will also review this aspect of the Program, although it will have no impact on the costs incurred by sponsors.

Therefore, for the reasons discussed above, the Department is making no changes to the interim regulation published on January 26, 1982.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs, Health, Infants and children, Surplus agricultural commodities.

PART 226—CHILD CARE FOOD PROGRAM

Accordingly, 7 CFR Part 226 is amended as follows:

1. By amending § 226.12(a) to revise (a)(3) (i), (ii) and (iii) and add (iv) to read as follows:

§ 226.12 Administrative payments to sponsoring organizations for day care homes.

(a) * * *

(3) * * *

(i) Initial 50 day care homes by 42 dollars;

(ii) Next 150 day care homes by 32 dollars;

(iii) Next 800 day care homes by 25 dollars; and

(iv) Additional day care homes by 22 dollars. During any fiscal year, administrative payments to a sponsoring organization may not exceed 30 percent of the total amount of administrative payments and food service payments for day care home operations.

* * * * *

2. By revising § 226.16(d)(4)(ii) to read as follows:

§ 226.16 Sponsoring organization provisions.

* * * * *

(d) * * *

(4) * * *

(ii) Three times each year at each day care home, provided at least one review is made during each day care home's first four weeks of Program operations and not more than six months elapse between reviews;

* * * * *

(Secs. 810 and 820, Pub. L. 97–35, Omnibus Reconciliation Act of 1981; Sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779))

Dated: June 22, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82-17241 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Parts 272 and 273

[Amdt. No. 197]

Food Stamp Program; Recertification of SSI Households

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule permits food stamp households containing applicants for and recipients of Supplemental Security Income (SSI) to apply for food stamp recertification at offices of the Social Security Administration (SSA). This action is required by a partial summary judgment in the case of *James Campbell, et al. v. United States Department of Agriculture, et al.* This rule's effect will be to offer an alternate recertification procedure for many food stamp households.

DATE: This rule is effective July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302. Phone (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been reviewed under Executive Order No. 12291 and Secretary's Memorandum No. 1512–1. This action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individuals, Federal, State or local governments, or geographical regions. Additionally this rule will not have significant effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has determined that this rule is not major.

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator of the Food and Nutrition Service has certified that this rule does not have a significant impact on a substantial number of small entities. State welfare agencies, their local offices, and the offices of the Social Security Administration will be minimally affected by this change in procedure.

This regulation contains no reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Background

Section 11(i)(2) of Pub. L. 95–113, the Food Stamp Act of 1977, required USDA and the Department of Health and Human Services (HHS) to develop a procedure whereby households in which all members are SSI applicants or recipients could apply for food stamps at SSA offices. USDA, with the approval of HHS, published a final rule on this subject in the April 22, 1980, **Federal Register** (45 FR 27426).

The rule required State agencies to either arrange for SSA to complete and forward food stamp applications, or to outstation State food stamp eligibility workers at the SSA offices. Where a State agency had arranged for SSA employees to complete and forward food stamp applications, the rule permitted a household to apply for food stamp certification if all of its members were receiving SSI or were applying for it. In areas where a State agency employee would be outstationed at an SSA office, a household could apply for food stamps there if it contained at least one SSI applicant or recipient, or if it contained an applicant for or a recipient of Retirement, Survivors and Disability Insurance and the State agency and SSA agreed to allow the processing of this type of household. According to this rule a household could apply for recertification at SSA offices only if the household had applied initially at a SSA office, had received its food stamp notice of expiration, and had gone to a SSA office for a redetermination of its SSI case by the fifteenth day of the last month of its certification period.

On June 4, 1981, the United States District Court for the District of Columbia issued a partial summary

judgment in the case of *James Campbell, et al. v. United States Department of Agriculture, et al.* (Civil Action No. 80-0282). The Court ordered the Department to implement a system by which SSI households may apply for recertification at SSA offices. The Department published an interim final rule on August 4, 1981, (46 FR 39561) to comply with the court order. The interim final rule adopted the criteria published in April 22, 1980, for determining a household's entitlement to joint certification processing as the criteria to be used also for determining a participating household's entitlement to joint recertification processing.

The Department received 8 comment letters on the interim final regulations. Comments were received from two State agencies, one local agency, three FNS Regional offices and two public interest groups.

General Comments

Four commenters expressed general support for the interim final rule. One State agency suggested that in cases where SSA accepts and forwards food stamp applications, it should be required to obtain all necessary verification prior to forwarding the applications to the food stamp office. The current rules only require the SSA to forward any available verification to the designated food stamp office. The Department believes that current rules give State agencies sufficient time to obtain necessary information. Requiring SSA to employ and train personnel to administer the verification requirements which may vary from State to State would thus be an unwarranted administrative burden. Therefore, this suggestion was not adopted.

Another State agency suggested that SSI and food stamp certification periods for SSI recipients be coordinated in some fashion. This commenter believed that coordinating the two periods would simplify administration of this rule. As we previously discussed in the preamble to the interim regulation, because of the considerable procedural difference in the way food stamp and SSI recipients are certified, implementing this suggestion would require a prohibitive number of procedural changes in both the Food Stamp and SSI Programs. Adopting this suggestion would, thus, complicate administration of the SSI and Food Stamp Programs.

Revised Notice of Expiration

The interim final rule requires State agencies to issue revised notices of expiration to recipients informing them that any household consisting only of SSI applicants or recipients is entitled to apply for food stamp recertification at an SSA office. One State agency submitted a comment on this notice that raised an operational issue unique to the State's particular situation. This issue has since been resolved with the State agency and thus does not need to be addressed by this rulemaking. The Department is revising § 273.14(b)(3) which lists the type of information that must be included in a notice of expiration to include the requirement contained in the interim final rule that the notice must also inform recipients of their possible entitlement to apply for food stamp recertification at an SSA office. This revision merely clarifies the existing rule and will not result in any procedural changes in the recertification process.

Timely Application for Recertification

One Regional office suggested that § 273.14(b)(3), which defines when an application for recertification is timely, should address the issue of SSI households applying for recertification at SSA offices. The commenter suggested that this section specifically provide that the determination of whether or not these applications are filed on time would be based on the date they are received by the SSA office. Section 273.2(k)(1)(i), which describes procedures for SSA's completing and forwarding of food stamp applications, already provides that applications will be considered filed for normal processing purposes when the signed application is received by SSA. Nevertheless, to avoid possible confusion, the Department has decided to include in § 273.14(b)(3) a statement providing that a recertification application shall be considered filed when it is received by SSA.

One public interest group suggested that the Department's Management Evaluation (ME) procedures be revised to require ME reviewers to review State agencies' revised notice of expiration forms. Such review, however, is already required by current regulations at 7 CFR 275.8(b)(4)(ii).

Management Evaluations

The interim final rule requires SSA offices which accept food stamp recertification applications from SSI households to forward these applications to the State agency within one working day after receipt. One commenter suggested that the Department's Management Evaluation (ME) procedures be revised to evaluate the timeliness of SSA's processing and forwarding of recertification applications to State agencies. Making this change would probably also necessitate reviewing SSA's forwarding of initial food stamp applications.

Although the Department cannot compel the SSA to forward applications on time, ME reviewers could check the date the applications were forwarded to or received by the State agency. In cases where the State agency was having difficulties meeting the 30 day application processing standard, information concerning the date the application was received could be helpful in devising an appropriate corrective action plan. Requiring the review of all SSA forwarding dates, however, would present an unwarranted administrative burden for State agencies, as, in most cases, the date the SSA forwards the application will not affect the timeliness with which benefits are issued.

Current ME rules require reviewers to determine whether or not delays in application processing are the fault of the State agency. In making this determination, ME reviewers would note whether late application forwarding by SSA was a factor in a State agency's failure to meet the 30 day processing standard. Because the current rules assure that late application forwarding by SSA would be noted if it becomes a problem and because the recommended changes would present a substantial administrative burden without producing significantly more helpful information, the suggestion is not adopted in the final rule.

Implementation

The provisions of the interim final rule were required to be implemented on October 5, 1981. Because these provisions have already been implemented and because this final rulemaking does not make substantive changes in any of the requirements of the interim final rule, the regulatory language in § 272.1(g)(3), concerning the implementation of the interim final rulemaking, is removed in the final rule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

The revisions to § 273.2(k) published in the August 4, 1981, Federal Register as

an interim final rulemaking are adopted as final without change. However, for the convenience of the user this section is reprinted below. In addition, §§ 272.1 and 273.14 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING AGENCIES

§ 272.1 [Amended]

1. In § 272.1, paragraph (g)(33) is removed and reserved.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

2. In § 273.2, the introductory text of paragraph (k) and paragraph (k)(2)(ii) are adopted without change as a final rule as follows:

§ 273.2 Application processing.

* * * * *

(k) *SSI households.* For purposes of this paragraph, SSI is defined as Federal SSI payments made under Title XVI of the Social Security Act, federally administered optional supplementary payments under section 1616 of that Act, or federally administered mandatory supplementary payments made under section 212(a) of Pub. L. 93–66. Except in cashout States (§ 273.20), households which have not applied for food stamps in the thirty preceding days, and which do not have applications pending, may apply and be certified for food stamp benefits in accordance with the procedures described in § 273.2(k)(1)(i) or § 273.2(k)(1)(ii) and with the notice, procedural and timeliness requirements of the Food Stamp Act of 1977 and its implementing regulations. These household's food stamp eligibility and benefit levels shall be based solely on food on food stamp eligibility criteria. The State agency shall make an eligibility determination based on information provided by SSA or by the household.

* * * * *

(2) *Recertifications.* * * *

(ii) Households shall be entitled to make a timely application (in accordance with § 273.14(b)(3)) for food stamp recertification at an SSA office under the following conditions.

* * * * *

3. Section 273.14 is amended by revising paragraph (b)(3) to read as follows:

§ 273.14 Recertification.

* * * * *

(b) * * *

(3) The notice of expiration shall inform the household of the date the current certification period ends; the date by which the household must file an application to receive uninterrupted benefits; the household's right to request an application and have the State agency accept an application as long as it is signed and contains a legible name and address; the address of the office where the application must be filed; the consequences of failure to comply with the notice of expiration; the household's right to file the application by mail or through an authorized representative; and the household's right to a fair hearing if the State agency refuses to accept as good cause the household's reasons for failure to comply with the notice of expiration. The notice shall also inform recipients that any household consisting only of Supplemental Security Income (SSI) applicants or recipients is entitled to apply for food stamp recertification at an office of the Social Security Administration (SSA). Each State agency shall use the notice of expiration designed by FNS unless FNS approves a deviation. Deviations shall be granted under the same conditions deviations from the application form are granted in § 273.2(b). The State agency is encouraged to include an application form with the notice of expiration and/or an appointment for an interview. Regardless of when the interview date is assigned, the household has timely applied if the application is received by the 15th day of the last month of certification. In cases where households consisting of applicants or recipients of Supplemental Security Income (SSI) apply for food stamp recertification at offices of the Social Security Administration (SSA) in accordance with § 273.2(k)(1)(ii), an application shall be considered filed for normal processing purposes when the signed application is received by SSA.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs No. 10551, Food Stamps)

Dated: June 22, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-17185 Filed 6-24-82; 9:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 724

Fire-Cured, Dark Air-Cured, Virginia Sun-Cured, Cigar-Binder (Types 51 and 52), and Cigar-Filler and Binder (Types 42–44 and 53–55) Tobaccos; Removal of Marketing Quota Proclamations and Determinations Provisions

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule removes the regulations codified at 7 CFR 724.2 through 724.17, which relate to marketing quota proclamations and determinations. Previously, these proclamations and determinations were published each year in the **Federal Register** and subsequently codified in the Code of Federal Regulations. In the future, however, they will be published as a notice in the **Federal Register** and will no longer be codifed in the Code of Federal Regulations.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, (ASCS), Analysis Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–5187.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures for implementing Executive Order 12291 and Secretary's memorandum 1512–1. This rule has been classified "not major" since it will not result in : (1) An annual effect on the economy of $100 million or more, (2) major increases in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units

of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Under the provisions of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is required to proclaim national marketing quotas for tobacco other than flue-cured and burley for three year periods. In addition, the Secretary must also determine and announce the amount of the national marketing quote for such tobaccos for the first year of each three year period. Within 30 days after the proclamation of national marketing quotas, a referendum is conducted to determine whether producers are in favor of or opposed to such marketing quotas. If producers of these tobaccos approve quotas, marketing quotas are determined and announced for each kind of tobacco for the second and third year of the three year period. The proclamation, determination and announcement of marketing quotas for these tobaccos were previously published annually in the **Federal Register** as final rules and subsequently codified in the Code of Federal Regulations. Effective with the publication of this rule, the marketing quota proclamations and determinations will appear in the **Federal Register** in the notice section but will no longer be codified in the Code of Federal Regulations.

Since this final rule makes no substantive change in the regulations codified in the Code of Federal Regulations, but merely deletes therefrom proclamations, determinations, and announcements of national marketing quotas for these tobaccos for prior crop years, it has been determined that no further public rulemaking is required. However, proclamations, determinations and announcements previously appearing in 7 CFR § 724.2 through § 724.17 remain applicable to the crops to which each refers.

Final Rule

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

§§ 724.2 through 724.17 [Removed]

Accordingly, the regulations at 7 CFR 724.2 through 724.17 relating to proclamations, determinations and announcements of marketing quotas for Fire-cured, Dark air-cured, Virginia Sun-cured, Cigar-Binder (types 51 and 52), and Cigar-Filler and Binder (types 42–44 and 53–55) tobaccos and the Subparts and section headings thereto are hereby removed from the Code of Federal Regulations.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C., June 4, 1982.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-16888 Filed 6-24-82; 8:45 am]
BILLING CODE 3410-05-M

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7 CFR Part 725

[Amendment 3]

Flue-Cured Tobacco; 1981–82 Average Market Price and 1982–83 Penalty Rate

AGENCY: Agricultural Stabilization Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth the average market price received by producers of flue-cured tobacco for the 1981–82 marketing year and the penalty rate for excess tobacco for the 1982–83 marketing year for such kind of tobacco. As required by Section 314 of the Agricultural Adjustment Act of 1938, as amended, marketing quota penalties are assessed at the rate of 75 percent of the previous year's average market price.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas R. Burgess, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447–2715. The Final Regulatory Impact Analysis covering this final rule will be available on request from Thomas R. Burgess.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and Secretary's Memorandum 1512–1 and has been classified "not major." This final rule has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Load and Purchases; Number: 10.051. This rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Marketing quota penalties are required by Section 314 of the Agricultural Adjustment Act of 1938, as amended, to be assessed whenever a kind of tobacco is marketed in excess of the marketing quota for the farm on which such tobacco is produced. The rate of penalty per pound of a kind of tobacco as prescribed by Section 314 of the 1938 Act is 75 percent of the previous year's average market price for such tobacco.

Since the 1981–82 average market price producers received for flue-cured tobacco and the rate of penalty reflect only mathematical computations which are required to be made in accordance with a statutory formula, it has been determined that no further public rulemaking is required. Accordingly, this final rule shall become effective June 25, 1982.

List of Subjects in 7 CFR Part 725

Marketing quotas, Penalties, Tobacco.

Final Rule

PART 725—FLUE-CURED TOBACCO

Accordingly, the regulations at 7 CFR Part 725 are amended by revising § 725.92 paragraph (b) to read as follows:

§ 725.92 Rate of penalty.

* * * * *

(b)(1) *Average market price.* The average market prices as determined by the Crop Reporting Board for the marketing years specified were:

AVERAGE MARKET PRICE

Marketing year	Cents per pound
1975–76	98.8
1976–77	110.4
1977–78	117.5
1978–79	125.9
1979–80	140.0
1980–81	144.5

AVERAGE MARKET PRICE—Continued

Marketing year	Cents per pound
1981–82	166.4

(2) *Rate of penalty per pound.* The penalty per pound for marketings of excess tobacco subject to marketing quotas during the marketing years specified shall be:

RATE OF PENALTY

Marketing year	Cents per pound
1976–77	75
1977–78	83
1978–79	88
1979–80	101
1980–81	105
1981–82	106
1982–83	125

(Sections 301, 313, 314, 317, 372, 375, 52 Stat. 38, as amended, 88 Stat. 1089, as amended, (7 U.S.C. 1301, 1313, 1314, 1314c, 1372, 1375))

Signed at Washington, D.C. on June 18, 1982.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-17078 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 726

Burley Tobacco; Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results; Deletion of Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This rule deletes the regulations codified at 7 CFR 726.1, 726.11, and 726.21, which relate to quota proclamations, determinations and referendum results. Previously, these proclamations, determinations, and announcements were published each year in the **Federal Register** and subsequently codified in the Code of Federal Regulations. In the future, however, they will be published in the **Federal Register** in the notice section and will no longer be codified in the Code of Federal Regulations.

EFFECTIVE DATE: June 25, 1982

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, (ASCS), Analysis Division, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. (202) 447–5187.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures for implementing Executive Order 12291 and Secretary's Memorandum 1512–1. This rule has been classified "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program that this notice applies to are: Title—Commodity Loan and Purchases; Number 10.051, as set forth in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Under the provisions of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is required to issue a proclamation of marketing quotas for burley tobacco for three-year periods. In addition, the Secretary determines and announces in the proclamation the amount of the national marketing quota for burley tobacco for the first year of each such year period. Within 30 days after the issuance of such proclamation, a referendum is conducted to determine whether producers are in favor of or opposed to marketing quotas. If producers of burley tobacco approve quotas, marketing quotas are determined and announced for the second and third of each such year period. The proclamation of marketing quotas, the determination and announcement of marketing quotas and the results of referendums for burley tobacco were previously published annually in the **Federal Register** as final rules and subsequently codified in the Code of Federal Regulations. Effective with the publication of this rule, the maketing quota proclamations, determinations, and referendum results will appear in the **Federal Register** in the notice section but will no longer be codified in the Code of Federal Regulations.

Since this final rule makes no substantive changes in the regulations codified in the Code of Federal Regulations, but merely deletes therefrom proclamations, determinations, and announcements of national marketing quotas and referendum results for burley tobacco for prior crop years, it has been determined that no further public rulemaking is required. However, proclamations, determinations and announcements previously appearing in 7 CFR 726.1, 726.11 and 726.21 shall remain applicable to the crops to which each refers.

Final Rule

PART 726—BURLEY TOBACCO

§§ 726.1, 726.11 and 726.21 [Removed]

Accordingly, the regulations at 7 CFR 726.1, 726.11, and 726.21 relating to proclamations, determinations and announcements of marketing quotas and referendum results for burley tobacco and the Subpart and section headings thereto are hereby removed from the Code of Federal Regulations.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C., June 16, 1982.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 82-16999 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 365]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 27–July 3, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 27, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's

Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on June 22, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is moderate.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.665 is added as follows:

§ 910.665 Lemon regulation 365.

The quantity of lemons grown in California and Arizona which may be handled during the period June 27, 1982, through July 3, 1982, is established at 275,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 24, 1982

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-17483 Filed 6-24-82; 11:47 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization; Field Service; Revised Border Patrol Sectors

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule formalizes removal of the Ogdensburg, N.Y., Border Patrol Sector and incorporates its four stations into the neighboring Buffalo, N.Y., and Swanton, Vt. sectors. This realignment is expected to improve the efficiency of the Service and strengthen its overall enforcement operations.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048

For specific information: Roger P. Brandemuehl, Assistant Commissioner, Border Patrol, Room 7232, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3073

SUPPLEMENTARY INFORMATION: This amendment to the Immigration and Naturalization Service, Statement of Organization, formalizes the Service's decision to improve management efficiency and border patrol effectiveness by eliminating the Ogdensburg Sector, incorporating its patrol stations into the adjoining sectors of Buffalo, N.Y. and Swanton, Vt. The Buffalo Sector now includes the Watertown, N.Y. station, formerly part of the Ogdensburg Sector. The Malone, N.Y., Massena, N.Y., and Ogdensburg stations, previously in the Ogdensburg sector, are now part of the Swanton Sector.

The elimination of Ogdensburg as a sector is the result of a management review of activity over the past several years. It was concluded that the continuation of a sector headquarters staff at Ogdensburg was unjustified, and the replacement of some of the sector's administrative and clerical positions by patrol officers would benefit enforcement.

Compliance with 5 U.S.C. 553 as to proposed rulemaking and delayed effective date is not required because the rule deals with Service organization and will have no adverse impact on the public.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities because it deals solely with jurisdiction of Service offices and has no adverse impact on the public.

This rule is exempt from the requirement of E.O. 12291 as provided for by section 1(a)(3) of the Executive Order because it relates to agency organization.

Lists of Subjects in 8 CFR Part 100

Administrative practice and procedure, Aliens, Authority delegation, Organization and functions.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 100—STATEMENT OF ORGANIZATION

In § 100.4, paragraph (d) is amended by revising Sectors 2 and 4 and removing Sector 3 to read as follows:

§ 100.4 Field Service.

* * * * *

(d) * * *

Sector No. 2—Swanton, Vt.

Beecher Falls, Vt.
Derby Line, Vt.
Richford, Vt.
Swanton, Vt.
Rouses Point, N.Y.
Malone, N.Y.
Massena, N.Y.
Ogdensburg, N.Y.

Sector No. 3 [Removed]

Sector No. 4—Buffalo, N.Y.

Buffalo, N.Y.
Niagara Falls, N.Y.
Watertown, N.Y.

* * * * * *

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103))

Dated: June 22, 1982.

Perry A. Rivkind,

Acting Associate Commissioner, Management, Immigration and Naturalization Service.

[FR Doc. 82-17186 Filed 6-24-82; 8:45 am]

BILLING CODE 4410-10-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3 and 145

Registration Forms and Conforming Rule Amendments

AGENCY: Commodity Futures Trading Commission.

ACTION: Adoption of revised forms and final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted, as modified, registration Form 3–R, Form 7–R and Schedules A, B and C thereto, and Forms 8–R, 8–S and 8–T to implement previously-adopted registration rules which become effective on July 1, 1982. The Commission has also adopted certain conforming and technical amendments to Commission rules § 3.31 and § 145.6.

DATES: The revised forms are effective June 25, 1982. The revised rules are effective July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, Division of Trading and Markets, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–9703.

SUPPLEMENTARY INFORMATION:

A. Revised Forms and Conforming Rule Amendments

Regulations governing the sponsorship of associated persons ("APs") and the submission of fingerprint cards by certain registrants and their principals will become effective on July 1, 1982.[1] In order to fully implement these new regulations, the Commission has revised its registration forms [2] to conform to the new regulations, to apprise affected individuals of their filing obligations under those regulations, and to facilitate the use of those forms in conjunction with the Commission's new automated data processing system.

The new regulations require that each applicant for registration as an associated person be "sponsored" by a futures commission merchant which must screen that person's application and certify that it is accurate and complete to the best of the FCM's knowledge, information, and belief. Those regulations also require the fingerprinting of certain Commission registrants or their principals.

As part of the rulemaking process described above, the Commission adopted new Forms 8–S and 8–T and changes to Form 8–R.[3] Certain additional nonsubstantive changes are now being made to those forms, as well as to Forms 3–R and 7–R, to improve their design and appearance, to simplify and clarify instructions, and to combine or eliminate a number of the questions on Schedules A, B and C to Form 7–R. The registration forms have also been modified to facilitate automated data processing by assigning to each applicant, registrant and principal a CFTC identification number which will assist the Commission in information storage and retrieval.

The Commission is also adopting technical amendments to rules § 3.31(a), § 3.31(c)(3) and § 145.6(b). Rule § 3.31(a), which requires FCMs, CTAs and CPOs to keep current Form 7–R and the Schedules thereto, and rule § 145.6(b), which specifies which portions of the forms are not deemed to be publicly available, are being amended to eliminate obsolete references to the old forms. Rule § 3.31(c)(3) is being amended to reflect a change in the name of one of the forms cited in that rule.

Although the revised registration procedures will not become effective until July 1, 1982, applicants for registration (or for renewal thereof) and their principals may begin using the new forms immediately. The existing Forms 3–R, 7–R, and 8–R will continue to be accepted by the Commission until June 30, 1981; after that date, however, the use of the new registration forms will be mandatory. The new registration forms and fingerprint cards may be ordered in bulk from the Commission's Registration Unit at Sears Tower, Suite 4600, 233 S. Wacker Drive, Chicago, Illinois 60606.

B. Paperwork Reduction Act; Privacy Act

The Commission has submitted certain of the amendments to its registration regulations, the revisions to Form 3–R, Form 7–R and Schedules A, B and C thereto, and Form 8–R, and new Forms 8–S and 8–T, to the Office of Management and Budget ("OMB") for its review pursuant to the Paperwork Reduction Act of 1980. OMB has reassigned to those rules and forms the OMB control number which had previously been assigned to the Commission's existing registration program and the Commission is now amending those regulations to include OMB control numbers so that the text of each section which involves an information collection request is followed by the OMB control number.

The Commission has also submitted to OMB and to the Congress a New Systems Report, pursuant to the Privacy Act of 1974 (5 U.S.C. 552a(o)), which describes the alterations to two of the systems of records maintained by the Commission under the Privacy Act which will result from the revised registration procedures.[4]

C. Related Matters

In adopting these rule amendments and forms, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

The amendments to the forms, which are effective immediately, are predominantly nonsubstantive in nature; the few substantive changes to those forms relieve burdens on the affected public by simplifying, combining and eliminating unnecessary or repetitive questions. The amendments to rules § 3.31(a), § 3.31(c)(3) and § 145.6(b) are effective, as are the remainder of the Commission's revised registration rules, on July 1, 1982. The conforming amendments to rules § 3.31 and § 145.6 are technical and nonsubstantive. The Commission therefore finds that the notice and public comment procedures of 5 U.S.C. 553 are not required.

List of Subjects

17 CFR Part 3

Registration requirements, Registration forms.

17 CFR Part 145

Freedom of information, Registration forms.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in

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[1] 46 FR 24940 (May 4, 1981); 45 FR 80485 (December 5, 1980).

[2] The Form 8–R is used by APs and floor brokers as an application for registration and by the principals of futures commission merchants ("FCMs"), commodity trading advisors ("CTAs"), and commodity pool operators ("CPOs") as a biographical supplement to the applications for registration filed by FCMs, CTAs and CPOs. The Form 8–S is a Certificate of Special Registration for Certain Associated Persons. *See* § 3.12(d), 17 CFR 3.12(d), *as amended by* 46 FR 24940, 24943 (May 4, 1981). The Form 8–T is used by FCMs to report the termination of, or failure to become associated by, an AP and by FCMs, CTAs and CPOs to report the termination of a principal. The Form 7–R is the application form used by FCMs, CTAs and CPOs. (Schedules A, B and C, which accompany the Form 7–R, are used by FCMs, CTAs and CPOs, respectively.) The Form 3–R is used by all registrants and principals to report changes and corrections to the foregoing forms. The Form 1–FR, which must accompany an application for initial registration as an FCM, is not being revised at this time.

[3] 46 FR 24940 (May 4, 1981).

[4] The New Systems Report was submitted to OMB and Congress on April 14, 1982. A copy of that Report was published in the Federal Register on May 6, 1982 (47 FR 19575).

particular sections 2, 4d, 4e, 4f, 4k, 4m, 4n and 8a thereof, 7 U.S.C. 2 and 4, 6d, 6e, 6f, 6k, 6m, 6n, and 12a, and the authority contained in 5 U.S.C. 552, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 3—REGISTRATION

1. Section 3.31 is amended by revising paragraphs (a) and (c)(3) as follows:

§ 3.31 Deficiencies, inaccuracies, and changes to be reported.

(a) Except as is otherwise provided in paragraph (c) of this section, each applicant or registrant as a futures commission merchant, commodity trading advisor or commodity pool operator must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in Form 7–R or Schedules A, B or C of Form 7–R which no longer renders accurate and current the information contained in Form 7–R or Schedules A, B or C of Form 7–R. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions contained therein.

* * * * *

(c) * * *

(3) Any notice required by paragraph (c) of this section must be filed on Form 8–T or on a Uniform Termination Notice for Securities Industry Registration.

2. Part 3 of Chapter I of Title 17 of the Code of Federal Regulations is amended by adding parenthetically the OMB numbers listed in the second column below following the text of the corresponding Section listed in the first column:

CFR citation	OMB control No.
Section:	
3.10	3038–0023
3.11	3038–0023
3.12	3038–0023
3.13	3038–0023
3.14	3038–0023
3.21	3038–0023
3.22	3038–0023
3.31	3038–0023
3.33	3038–0006

PART 145—COMMISSION RECORDS AND INFORMATION

3. Section 145.6 is amended by revising paragraph (b) as follows:

§ 145.6 Commission offices to contact for assistance; registration records available at Chicago regional office.

* * * * *

(b) The Chicago regional office of the Commission will have available for public inspection and copying the publicly available portions of applications for registration (Forms 7–R and 8–R), Certificates of Special Registration (Form 8–S), and Notices of Termination (Form 8–T). The Form 8–R also serves as a biographical supplement for principals of those persons filing the Form 7–R. Unless disclosure is required under the Freedon of Information Act, the fingerprint card, and any supplementary attachments filed in response to items 6–9, 16–21 and 24–26 of Form 8–R, to item 2 of Form 8–S, or to items 3–5 and 11–13 of Form 8–T, generally will not be made available for public inspection and copying. When such fingerprint cards and supplementary attachments are on file or when a Form is subject to a petition for confidential treatment filed under § 145.9, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.

Issued in Washington, D.C. on June 21, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82–17236 Filed 6–24–82; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 76C–0045]

D&C Green No. 5

Correction

In FR Doc. 82–14966, published at page 24278, on Friday, June 4, 1982 make the following corrections:

1. On page 24279, in the second column, in the first paragraph under "III.", the second through fourth lines should read "disodium salt of 2,2'-[(9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)diimino]bis-[5-methylbenzesulfonic acid] (CAS Reg."

2. On page 24281, in the third column, in the eighth line from the top, "tests/body" should be corrected to read "testes/body".

3. On page 24284, in the third column, in § 74.1205(a)(1), the third through fifth lines should read "disodium salt of 2,2'-[(9,10-dihydro-9,10-dioxo-1,4-anthracenediyl)diimino]bis-[5-methylbenzenesulfonic acid] (CAS Reg."

4. On page 24285, in the first column, in § 74.1205(c)(1), the fifth line should read "nylon 6[poly-(e-caprolactam)]".

BILLING CODE 1505–01–M

21 CFR Part 436

[Docket No. 81N–0285]

Incorporation by Reference Regulatory Text; Further Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the incorporating regulatory text in a human antibiotic regulation to make clear that an incorporation by reference is intended. This action is being taken to meet the drafting requirements for incorporation by reference as set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATES: Effective June 25, 1982; comments by July 26, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Theodore E. Herman, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: Title 1 of the Code of Federal Regulations (1 CFR 51.6, 51.7, and 51.8) requires, in addition to other information, specific language in a regulation that makes clear that an incorporation by reference is intended.

In the **Federal Register** of March 5, 1982 (47 FR 9396), FDA amended certain regulations in Title 21 of the Code of Federal Regulations to bring them into compliance with the drafting requirements prescribed in 1 CFR 51.6, 51.7, and 51.8. In that document, FDA failed to revise the incorporation by reference text in 21 CFR 436.103(a). This document corrects that omission.

List of Subjects in 21 CFR Part 436

Antibiotics.

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC DRUGS AND ANTIBIOTIC-CONTAINING DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11,

1981)), Part 436 is amended in § 436.103 by removing the footnote and by revising the last sentence and adding a new sentence in paragraph (a), to read as follows:

§ 436.103 Test organisms.

(a) * * * Test organism letters A through K, M, and N correspond to those used in "Outline of Details for Official Microbiological Assays of Antibiotics," A. Kirshbaum and B. Arret, "Journal of Pharmaceutical Sciences," Vol. 56, No. 4, p. 512 (April 1967), which is incorporated by reference. Copies are available from the American Pharmaceutical Association, 2215 Constitution Ave. NW., Washington, DC 20037, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

* * * * *

The agency has determined that because this amendment does not make a substantive change in the regulation but merely is editorial, bringing the incorporation by reference text into compliance with the drafting requirements of 1 CFR 51.6, 51.7, and 51.8, notice, public procedure, and delayed effective date are unnecessary. However, interested persons may, on or before July 26, 1982, submit to the Dockets Management Branch (address above), written comments regarding this amendment. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. If the agency determines by the comments received that the amended text should be modified, a notice containing those modifications will be published in the Federal Register. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: June 17, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17001 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 610 and 630

[Docket No. 78N-0100]

Viral and Rickettsial Vaccines; Implementation of Efficacy Review

Correction

In FR Doc. 82-15288 appearing at page 24696 in the issue of Tuesday, June 8, 1982, make the following changes:

(1) On page 24696, first column, under "Dates", third line, "December 8, 1984." should read, "December 10, 1984."

(2) On page 24698, third column, under *"Effective date."*, fourth line, "December 8, 1984." should be changed to read, "December 10, 1984.", and fifth line, "December 8, 1984" should be changed to read, "December 10, 1984".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Secret Service

31 CFR Part 408

Designation of Temporary Residence of the President

AGENCY: Secret Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document contains a revision of Part 408 to designate the building and grounds which constitute the temporary residence of the President in order to restrict access pursuant to the Omnibus Crime Control Act of 1970 (Pub. L. 91-644).

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: John M. Meenan, Office of Legal Counsel, United States Secret Service, Room 842, 1800 G Street, NW., Washington, D.C. 20223, 202-535-5771.

SUPPLEMENTARY INFORMATION: This document contains a revision of regulations located in 31 CFR Part 408. Part 408 is amended to designate the building and grounds which constitute the temporary residence of the President. The designation of the buildings and grounds and the regulations governing ingress or egress contained in this amendment are promulgated pursuant to the authority vested in the Secretary of the Treasury by the Act of January 2, 1971, 84 Stat. 1891 (18 U.S.C. 1752).

Title V of the Act of January 2, 1971, 84 Stat. 1891 (18 U.S.C. 1752) provides for the exercise of Federal criminal jurisdiction over certain conduct relating to the buildings and grounds designated in this amendment. It was enacted to enhance the physical security of the President and to provide for the orderly conduct of executive business when the President is absent from the Executive Mansion in Washington, D.C.

Drafting Information

The principal author of this document was John M. Meenan, Office of Legal Counsel, United States Secret Service.

Special Analyses

For the reasons set forth below no general notice of proposed rulemaking is required by 5 U.S.C. 553. Accordingly, no Regulatory Flexibility Analysis is required for this rule. Further, the Director of the United States Secret Service has determined that this is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Notice

Because this amendment merely designates the buildings and grounds of the temporary residence of the President, as required by 18 U.S.C. 1752, notice and public comment thereon is found to be unnecessary and good cause exists for disposing with a delayed effective date under 5 U.S.C. 553.

List of Subjects in 31 CFR Part 408

Federal buildings and facilities, Security measures.

Amendments to Regulations

Accordingly, Chapter IV of Subtitle B, Title 31, Code of Federal Regulations is hereby amended by revising Part 408 to read as follows:

PART 408—DESIGNATION OF TEMPORARY RESIDENCE OF THE PRESIDENT AND TEMPORARY OFFICES OF THE PRESIDENT AND HIS STAFF—RULES GOVERNING ACCESS

Sec.
408.1 Authority.
408.2 Designation.
408.3 Rules governing access.

Authority: The provisions of this part are issued under 18 U.S.C. 1752 (84 Stat. 1891).

§ 408.1 Authority.

The designation of the buildings and grounds in this part which constitute the temporary residence of the President and the temporary offices of the President and his staff and the regulations governing access to such buildings and grounds and to posted, cordoned off, or otherwise restricted areas where the President is or will be temporarily visiting are promulgated pursuant to the authority vested in the Secretary of the Treasury by 18 U.S.C. 1752 (84 Stat. 1891).

§ 408.2 Designation.

(a) For the purpose of 18 U.S.C. 1752, the buildings and grounds which constitute temporary residence of the President are as follows: *Santa Barbara*

County, California home. That certain tract of land in the County of Santa Barbara, State of California, shown and designated as "Parcel 1" on Parcel Map No. 11697 filed January 2, 1973 in Book 11, page 40 of Parcel Maps in the office of the County Recorder of said County. This property and the related conditions, restrictions, reservations, easements, rights and rights of way of record are more fully described in a Grant Deed recorded with the Santa Barbara County Recorder's Office (Book 2540, Pages 1381–1385).

§ 408.2 Rules governing access.

(a) For the purposes of 18 U.S.C. 1752 (84 Stat. 1891), ingress or egress to or from the buildings or grounds designated in § 408.2 and any posted, cordoned off, or otherwise restricted areas of a building or grounds where the President is or will be temporarily visiting is authorized only for the following persons:

(1) Invitees: Persons invited by or having appointments with the President, the President's family, or members of the President's staff,

(2) Members of the President's family and staff,

(3) Military and Communications Personnel assigned to the Office of the President,

(4) Federal, State and local law enforcement personnel engaged in the performance of their official duties and other persons, whose presence is necessary to provide services or protection for the premises or persons therein,

(5) Holders of grants of easement to the property, provided such persons or their authorized representatives show title to the grant of easement and obtain authorization from the United States Secret Service.

(b) Authorized persons must possess and display identification documents issued by or satisfactory to the United States Secret Service.

(c) Unauthorized entry is prohibited.

John R. Simpson,

Director.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement & Operations).

May 28, 1982.

[FR Doc. 82-17254 Filed 6-24-82; 8:45 am]

BILLING CODE 4810-42-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 763

Rules Governing Public Access; Entry Regulations for Kaho'olawe Island, Hawaii

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: This rule sets forth revised regulations governing entry upon Kaho'olawe Island, Hawaii. These regulations limit entry upon Kaho'olawe Island to authorized persons because the island is used as a target area for bombing and gunnery practice in order to maintain and improve combat readiness of United States military forces.

EFFECTIVE DATE: June 25, 1982.

ADDRESS: Any written comment on these regulations should be sent to: Commander Third Fleet, Pearl Harbor, Hawaii 96860.

FOR FURTHER INFORMATION CONTACT: Capt. Jim Carson, Commander Third Fleet (Code 01K), Pearl Harbor, Hawaii 96860, Telephone No. (808) 472–6209.

SUPPLEMENTARY INFORMATION: These regulations supersede the Entry Regulations for Kaho'olawe Island which were published as a final rule in 45 FR 51776, August 5, 1980, at which time continuing public comment with respect to the regulations was invited by the Department of the Navy. It has been determined, in accordance with 32 CFR 296 and 701.57, that advance publication of these revised regulations for additional public comment prior to their adoption is impracticable and unnecessary since the nature and national importance of naval operations on Kaho'olawe Island, as well as the dangerous conditions existing there, mandate the immediate, uninterrupted effectiveness of these regulations. Interested persons, however, are again invited to comment in writing on these regulations. All written comments received will be considered in making subsequent amendments or revisions to Subpart A of 32 CFR 763 or the regulations upon which they are based. Changes may be initiated on the basis of comments received.

List of Subjects in 32 CFR Part 763

Federal buildings and facilities, Military law, National defense, Navy Department, Restricted access areas, Security measures.

Therefore, 32 CFR Part 763, is hereby revised as follows:

PART 763—RULES GOVERNING PUBLIC ACCESS

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

Sec.

763.1 Purpose.
763.2 Definition.
763.3 Background.
763.4 Entry restrictions.
763.5 Entry procedures.
763.6 Violations.

Authority: 50 U.S.C. 797; DOD Dir. 5200.8 of August 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011, 32 CFR 700.702; 32 CFR 700.714; Exec. Order No. 10436, 3 CFR 1949–1953 Comp. p. 930, (1958).

Subpart A—Entry Regulations for Kaho'olawe Island, Hawaii

§ 763.1 Purpose.

The purpose of this Subpart is to promulgate regulations for entry to Kaho'olawe Island, Hawaii, and its adjacent waters.

§ 763.2 Definitions.

For the purpose of this Subpart, Kaho'olawe Island includes that portion reserved for naval purposes by Executive Order No. 10436 of February 20, 1953.

§ 763.3 Background.

(a) Kaho'olawe Island is used by the armed forces of the United States as a training area including bombing and gunnery training ranges under authority granted by Executive Order No. 10436. Training operations frequently involve the use of live ordnance, creating an obvious danger to persons on or near the island. Moreover, a large amount of unexploded ordnance is present on Kaho'olawe Island and in adjacent waters.

(b) Individuals who enter the island of Kaho'olawe without authority expose themselves to extremely hazardous conditions. In addition, the presence of unauthorized persons on Kaho'olawe Island or in adjacent waters is likely to interfere with the use of the island for military training. Accordingly, it is necessary to prohibit entry to Kaho'olawe Island except under the controlled circumstances set forth in this Subpart.

§ 763.4 Entry restrictions.

(a) Entry by any person upon Kaho'olawe Island for any purpose is prohibited without advance authorization from Commander THIRD Fleet. This prohibition applies to all areas of Kaho'olawe Island reserved for naval purposes by Executive Order No. 10436.

(b) Entry by any person into the restricted waters adjacent to Kaho'olawe Island for any purpose is prohibited without advance authorization from Commander THIRD Fleet. This prohibition applies to all waters described in 33 CFR 204.223(4).

§ 763.5 Entry procedures.

(a) It is the policy of the Commander THIRD Fleet to authorize, in accordance with the spirit of the American Indian Religious Freedom Act (1978), reasonable access to Kaho'olawe Island during periods when it is not used for military training. However, because there are bombs and other explosives on and under the surface and in the waters of the island, and because there are significant archaeological resources thereon (in 1981, the island was placed on the National Register of Historical Places as an Archaeological District), Navy representatives accompany each island visitation to safeguard both the vistitor(s) and the island's archaeological resources. In this regard, in order to ensure the safety of visitors to the island and its archaeological resources, persons and organizations wishing access to Kaho'olawe Island must comply with the following appropriate procedures: Civilians (except authorized U.S. and State representatives) must:

(1) Request, in writing, access authorization from Commander THIRD Fleet (Code 01K), Pearl Harbor, Hawaii 96860, at least 15 days prior to the access requested, providing therein confirmed access plans (including the exact number of visitors, time, and location of access, designation of person in charge, and any other pertinent information); and

(2) Submit to Commander THIRD Fleet (at the aforementioned address) properly endorsed Standard Liability Release Form (obtainable from Commander THIRD Fleet), for each access participant, at least five (5) days prior to the requested access.

(b) In evaluating each request, the factors just enumerated will be weighed against training commitments, safety requirements, specical projects, and the amount and cost of military supervision necessitated by a granting of the request. Requests for entry will be considered on an individual basis. If a request is granted, the permission to enter Kaho'olawe Island authorizes one visit only, and shall not be construed as authorization for more than one entry unless the authorization itself specifically states otherwise. Moreover, entry pursuant to advance consent, which is not in accordance with the terms and conditions permitted by Commander THIRD Fleet, shall be deemed a violation of this Subpart.

(c) For safety reasons, it is not Commander THIRD Fleet's policy to permit children below the age of 15 access to Kaho'olawe Island.

§ 763.6 Violations.

(a) Any person who violates this subpart is subject to prosecution under 18 U.S.C. 1382, which provides in relevant part:

> Whoever * * * goes upon any * * * naval * * * reservation * * * for any purpose prohibited by law or lawful regulation * * * shall be fined not more than $500 or imprisoned not more than six months, or both.

(b) Additionally, persons who violate this Subpart are subject to prosecution under the Internal Security Act of 1950 (50 U.S.C. 797), violations of which may result in a maximum penalty of imprisonment for one year, or a fine of $5,000 or both.

Dated: June 22, 1982.

H. D. Campbell,

Captain, JAGC, U.S. Navy Alternate, Federal Register Liaison Officer.

[FR Doc. 82-17219 Filed 6-24-82; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[AH-FRL-2133-4]

Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revises regulations pertaining to construction of new stationary sources of air pollution and modifications of existing sources. In particular, this rule deletes requirements: (1) For inclusion of vessel emissions in determinations of whether a proposed new source or modification would emit a pollutant in "significant" or "major" amounts; and (2) for inclusion of mobile source emissions as secondary emissions in assessments of the air quality impact of proposed new sources and modifications. This rule also terminates the December 7, 1981 order staying the requirements described above to the extent that they encompassed vessel emissions.

DATE: This rule is effective on June 25, 1982.

ADDRESSES: EPA has established a docket for this rulemaking (Docket No. A-81-39). The docket contains all significant information submitted to or otherwise considered by EPA in this proceeding. Documents in the docket are available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday (except holidays), at EPA's Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, Chief, New Source Review Section, Office of Air Quality, Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27111, 919-541-5591 (FTS-629-5591).

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 17, 1981, EPA proposed amendments to certain regulations, revised in 1980, relating to the construction of new sources of air pollution and modifications to existing sources, specifically 40 CFR 51.24, 52.21, 51.18(j), Appendix S to Part 51, and 52.24.[1] *See* 46 FR 61613. In the December 17 notice of proposed rulemaking (NPRM), EPA proposed to delete the requirements contained in the 1980 revisions for the inclusion of certain vessel emissions in threshold applicability determinations [2] for proposed construction or modification of marine terminal facilities and for the inclusion of certain other vessel emissions as "secondary emissions" in assessments of air quality impact of such construction or modification.

EPA simultaneously stayed the requirement for the inclusion of vessel emissions in threshold applicability

[1] 40 CFR 51.24 specifies the minimum requirements that a state-adopted permit program for the prevention of significant air quality deterioration ("PSD") must contain in order to warrant EPA approval as a revision to the state implementation plan ("SIP"). 40 CFR 52.21 delineates the federal PSD permit program, which currently applies in most states. 40 CFR 51.18(j) specifies the elements of an approvable state program for preconstruction review for nonattainment purposes. Appendix S of 40 CFR Part 51 embodies EPA's "Emissions Offset Interpretative Ruling." 40 CFR 52.24 embodies the construction moratorium for certain nonattainment areas.

[2] In general, the five sets of regulations apply only to new "major stationary sources" and "major modifications" and then only to those pollutants that the source or modification would emit in "significant" or "major" amounts, depending on the regulations in question. *See* 46 FR 61613-14. All five sets define "major" and "significant" in terms of rates of emissions. The calculation of the rate at which a new project would emit a pollutant is known as a "threshold applicability determination."

determinations and air quality impact assessments pending final action on the proposal.[3] *See* 46 FR 61612. This stay replaced a temporary stay that EPA had issued previously, 46 FR 36695 (July 15, 1981).

Both the proposal and the stay stemmed from EPA's reconsideration of the 1980 requirements in response to challenges to them from industry. After reexamining the basis for the requirements, EPA concluded, contrary to its original position, that vessels were indeed "mobile sources" within the meaning of section 110(a)(5) of the Clean Air Act, 42 U.S.C. 7410(a)(5). In general, that section prohibits EPA from conducting, or requiring States to conduct, facility-by-facility reviews of stationary sources to the extent such reviews include emissions from mobile sources attracted to the stationary sources (i.e., "indirect source reviews").[4] Accordingly, EPA decided that it could not require that vessel emissions be included in threshold applicability determinations or air quality impact assessments for either PSD or nonattainment purposes.

An additional reason which EPA gave for the proposal was that the Agency had failed at the proposal stage for the 1980 revisions to give adequate notice that it might require inclusion of vessel emissions for applicability purposes. *See* 46 FR 61614–61615. EPA sought to correct that error through this rulemaking.

EPA requested that comments on the December 17 proposal be submitted by January 18, 1982. Upon request of the State of California, the comment period was extended to February 2, 1982, and interested persons were given an opportunity to request a public hearing to present their comments orally. 47 FR 4096 (January 28, 1982). No request for a hearing was received.

Comments were received from about 50 individuals, corporations, interest groups, and State and federal governmental agencies. Those comments have been placed in the public docket for this rulemaking (Docket No. A–81–39), along with all other documents upon which this rule is based.

After considering the comments, EPA has decided to promulgate the amendments proposed in the NPRM, with only minor revisions. The rest of this notice is concerned primarily with summarizing and responding to the comments.

II. Summary and Analysis of Comments

Of the comments received, approximately 60% supported the proposed amendments; the remainder objected to the proposals on general or specific grounds. Many of the comments were identical or very similar to comments received by EPA in response to the initial temporary stay of the 1980 requirements and the proposal to extend the stay. *See* 46 FR 36695 (July 15, 1981). EPA's responses to those earlier comments appear at 46 FR 61615–61617, in the preamble of the December 17, 1981 NPRM. Where appropriate, the discussion below will refer to those responses.

A. Comments Supporting the Proposed Amendments

Of the comments supporting the proposed rulemaking, 12 merely expressed general approval of EPA's proposals and rationale. The remaining favorable comments suggested certain changes or contained some reservations.

Three commenters suggested that use of the term "marine vessel" in the proposed amendments could be construed as limiting their scope to ocean-going vessels and to terminals that handle ocean-going vessels. The commenters pointed out that many vessels and terminal facilities operate entirely on inland or coastal waterways and that these vessels are also "mobile sources" under section 110(a)(5) of the Clean Air Act. Accordingly, these commenters suggested that wherever the term "marine vessel" was used in the proposed amendments that it be replaced by a term which covered all water-borne vessels.

EPA agrees that all vessels are mobile sources under the terms of the Act, and intended the term "marine vessel" to encompass all water-borne vessels. EPA made no distinction between types of vessels in its dicussion of the proposed amendments. Nonetheless, to avoid any possible confusion on this issue, this final rule uses the more inclusive term "vessels" instead of "marine vessels," wherever appropriate.

On a similar matter, one commenter pointed out that the proposed amendments relating to applicability determinations referred only to the activities of vessels, while the proposed amendments relating to secondary emissions specifically referred to emissions from any "mobile source," including motor vehicles, trains, or marine vessels. 46 FR 61616. The commenter claimed that this difference could be construed to mean that EPA considered vessels to be somehow different from other types of mobile sources.

EPA did not intend to imply any distinction between different kinds of mobile sources. The specific purpose behind these amendments to the applicability provisions is to correct the express interpretation placed on those provisions in the preamble to the 1980 revisions. *See* 45 FR 52695–96. Under that prior interpretation, EPA had specifically included the emissions from certain activities of docked vessels as part of the emissions of the marine terminal. *See* 45 FR 52695–52696 (August 7, 1980). There never has been any question, however, as to the status of motor vehicle emissions under these regulations; EPA has always treated such emissions as being separate from the emissions of stationary sources. *See e.g.*, 40 CFR Part 51, Appendix S, II. G. (1981); 43 FR 26403, n.9 (June 19, 1978). Therefore, EPA believes that it is appropriate to amend the threshold applicability provisions as proposed in the NPRM.

Several commenters (shipowners, terminal operators, and their associations) objected to the suggestion in the NPRM that States may retain the authority under sections 116 and 110(a)(5)(A) of the Act to consider vessel emissions in reviews of marine terminal facilities or to impose direct controls on vessel emissions. *See* 46 FR 61616. These comments were generally based on the argument that State regulation would lead to inconsistent and burdensome requirements and would cause substantial interference with interstate and international commerce. The commenters claimed that regulation of vessel emissions is an area that requires uniformity that only the federal government can provide. Most commenters suggested that the U.S. Coast Guard would be the most appropriate agency to regulate vessel emissions, at least in so far as direct vessel emission controls are concerned.

Some of these commenters apparently conceded that States currently have authority to regulate vessel emissions, at least through indirect source review, and suggested that EPA take some action (*e.g.*, request Congressional revision of the Clean Air Act) to preempt both direct and indirect State regulation of vessel emissions.

Other commenters suggested, however, that the States have already been preempted from exercising such authority. These commenters rely

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[3] The stay order expressly states that the stay expires when EPA takes final action on the proposal. The final action announced here, therefore, terminates the stay.

[4] An exception is contained in section 110(a)(6)(B) which authorizes EPA to promulgate and enforce "regulations under section 110(c) respecting indirect source review programs which apply only to federally assisted highways, airports, and other major federally assisted indirect sources and federally owned or operated indirect sources."

primarily on another federal statute, the Ports and Waterways Safety Act, as amended, 46 U.S.C. 391(a) *et seq.*, and a case interpreting that act, *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978). The commenters claim that this act precludes State regulation in this area.

The extent to which States may be preempted, if at all, by the Ports and Waterways Safety Act, as amended, from setting standards for, or imposing direct controls on, vessel emissions is uncertain.

However, it is not necessary for EPA to reach any specific conclusion on this matter at this time. The rule being promulgated here involves only the prohibition on *EPA's* authority under section 110(a)(5) to require consideration of vessel emissions. The rule is not affected by the scope of State authority over vessel emissions. Therefore, EPA does not express any opinion on the subject of preemption of State authority to impose direct emission controls on vessels and withdraws its earlier statements in the NPRM on the subject.

Other commenters who favored the proposed amendments sought to buttress them with assertions that compliance with the 1980 regulations would be extremely burdensome and impracticable. They contended that: marine terminal operators have very little, if any, control over shipowners and operators; levels of vessel emissions are very difficult to predict accurately; information is lacking on availability and adequacy of vessel emission controls; and low sulfur fuel is not readily available at many ports.

EPA has reviewed these comments, but has reached no conclusion on their merits since the statutory prohibition of section 110(a)(5) requires EPA to promulgate this rule without regard to the burden which was created under the 1980 rules.

B. Comments Opposing the Proposed Rule

Of the comments opposing the proposal, six objected to it without specifying reasons, or on the general grounds that vessels are sources of large amounts of pollution and that the amendment would result in increased air pollution in their areas. EPA, however, has no discretion to take into account the potential air quality impact of the amendments. As stated above, these amendments are being promulgated because section 110(a)(5) of the Clean Air Act requires them.

One commenter conceded that EPA's interpretation of section 110(a)(5) was correct, but suggested that the final rule be postponed indefinitely or until EPA could analyze in detail the potential impact of the rule and proposed specific regulatory options to the States. As stated above, however, EPA has no authority to postpone this rule under section 110(a)(5). In addition, delaying this rule would merely extend the current administrative stay of the 1980 regulations which is already in effect.

Several commenters also objected to the issuance of both the temporary stay of July 1981 and the indefinite stay of December 1981. Many of these objections were adequately answered in the NPRM. 46 FR 61615–61617. However, all of those comments are now moot since this rule terminates the indefinite stay. Therefore, EPA does not need to address those comments specifically. In any event, some of the objections to the stays are also advanced as objections to this regulation and, where relevant, they are addressed below.

The remaining objections to the proposed amendments fall into three groups: (1) Objections to EPA's legal interpretation of section 110(a)(5); (2) assertions of fact made to show that the rule is "unreasonable, arbitrary, and capricious;" and (3) objections to EPA's concession of procedural error in promulgating the August 1980 revisions.[5]

1. *Objections to EPA's Interpretation of Section 110(a)(5).* Several commenters made lengthy arguments that section 110(a)(5) does not apply to reviews of emissions from vessels while docked at marine terminals.

The major contention raised was that EPA erred in concluding that vessels are "mobile sources" within the meaning of section 110(a)(5). In the NPRM, EPA concluded that: (a) The common meaning of "mobile source" clearly includes vessels; (b) nothing in the Act or its legislative history expressly excludes vessels from the term; (c) more specific references to other types of mobile sources (*i.e.*, motor vehicles) are made in section 110 and other sections, implying that "mobile source" was intended to be more broadly interpreted; (d) the Conference Committee, in shaping section 110(a)(5) in 1977 deleted a narrow definition of "mobile source-related pollutant" which would have excluded vessel emissions, implying that Congress did not intend to exclude vessels from that section; and (e) the logic and rationale for section 110(a)(5) found in the legislative history is just as applicable to marine terminals and vessel emissions as it is to shopping centers and automobiles and other facilities attracting mobile sources. *See* 46 FR 61615. Therefore, EPA concluded that Congress meant "mobile source" to cover vessels, as well as airplanes and motor vehicles.

Certain commenters, including the Natural Resources Defense Council (NRDC), challenged each of EPA's arguments. With regard to (a), (b), and (c) above, NRDC conceded that "mobile source" is ordinarily broad enough to include vessels, but alleged that its statutory context and legislative history implicitly limit the meaning of the term to automobiles and airplanes.

NRDC relied in part on section 110(a)(5)(C), which defines an "indirect source" as a facility that attracts mobile sources, and which uses as examples certain facilities that attract motor vehicles. NRDC argued that use of these examples implied that Congress intended "mobile sources" to encompass only motor vehicles. However, NRDC's argument is inconsistent and unpersuasive. The examples of "indirect sources" in section 110(a)(5)(C) are not expressly exclusive of other types of indirect sources. Moreover, NRDC ignores the fact that the statutory language expressly covers any "*facility, building, structure, installation, real property,* road, or highway, which attracts, or may attract, mobile sources * * *" (Emphasis added.) Each of the italicized terms is clearly broad enough to include marine terminals. Finally, NRDC's argument that the examples referring to motor vehicles exclude all other types of mobile sources from section 110(a)(5) would, if true, exclude airplanes as well as vessels. Such a conclusion would be patently unreasonable, since, as NRDC concedes elsewhere in its comments, aircraft are "mobile sources" under section 110(a)(5) and the prohibition of that section extends to both aircraft and motor vehicle emissions at airports. Therefore, the definition of "indirect source" in section 110(a)(5)(C) must be construed to include facilities which attract mobile sources other than motor vehicles.

Several commenters also claimed that Congress' intent to limit the meaning of "mobile source" to motor vehicles is shown by the context in which the term is used in certain other sections of the

[5] One commenter also claimed that EPA had not complied with the procedural requirements of section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), with this rulemaking. The commenter objected that the NPRM did not expressly offer an opportunity for oral comments to be heard and did not contain a specific "statement of basis and purpose * * *" 42 U.S.C. 7607(d)(3) and 7607(d)(5). EPA rejects this comment since the NPRM complied in substance with all the requirements of section 307(d), and since the opportunity to request a hearing in this matter was expressly made public in a **Federal Register** notice published on January 28, 1982 (47 FR 4096). In addition, the commenter never requested a hearing or even alleged that lack of one would cause it any harm.

Act. Specifically, one commenter relied for support on section 108(a)(1) (which requires EPA to publish air quality criteria for certain air pollutants resulting from mobile sources), section 108(f)(1)(A) (which requires EPA to publish information on methods to control pollutants, including but not limited to certain motor vehicle emission control programs),[6] and section 108(f)(1)(B) (which requires publication of information on additional methods of control of "mobile source-related pollutants" during emergency episodes and periods in which standards would be exceeded). The commenter alleged that the references to motor vehicles and mobile sources in the same section and then the same subsection implies that Congress meant "mobile source" to cover only motor vehicles and not vessels.

EPA rejects this claim for several reasons. First, according to this argument, "mobile source" would not include aircraft, which Congress clearly meant it to do (as the commenter concedes). Second, section 108(f)(1)(A) does not contain any language indicating that Congress intended the list of control methods in that section to be an exhaustive list of information on control methods for other mobile sources. Third, use of the terms "mobile source" and "motor vehicle" in different paragraphs of the same section, without any clear indication that the different terms were to have exactly the same meaning, tends to imply that the terms are not, in fact, synonymous. (*See* 46 FR 61615).[7]

NRDC also relied on certain statements in the legislative history of the Clean Air Act to support its interpretation. That reliance is misplaced. Again, NRDC depends almost entirely on isolated references to facilities which attract motor vehicles as examples of "indirect sources." EPA is well aware that the legislative history contains such references and that Congress (especially the House of Representatives) plainly did intend sources attracting motor vehicles to be covered by section 110(a)(5). *See, e.g.*, H.R. Rep. 95–294, 95th Cong., 1st Sess., 220 (1977) (hereinafter "H.R. Rep. 95–294"). However these references do not indicate that Congress was exclusively interested in motor vehicles. Other references in the legislative history are clearly broad enough to include all types of mobile sources under section 110(a)(5). (*See e.g.*, H.R. Rep. 95–294, at 220–221; Conf. Rep. 95–564, 95th Cong., 1st Sess., 506–507 (1977) (hereinafter Conf. Rep. 95–564).)

In addition, Congress' major concerns in enacting section 110(a)(5) apply as well to marine terminals as to motor vehicle-attracting facilities. First, Congress considered it "inherently inequitable" to attempt to control mobile source emissions indirectly through restrictions placed on indirect sources. H.R. Rep. 95–294, at 221. Indirect source review programs unfairly transfer the burden of controlling mobile source emissions from the manufacturers of such sources to stationary source operators who have much less, if any, ability to control such emissions (except by restricting the number of mobile sources which would otherwise use the stationary facility). Id. Congress clearly did not favor imposing such a penalty and that inclination can be extended easily to marine terminal operators who also generally have relatively little control over the emissions of the vessels which call at their terminals.

Second, Congress recognized that it was much less efficient to control mobile source emissions by indirect methods aimed at stationary sources, which can only achieve piecemeal, localized, benefits. Long-term, nationwide benefits can best be achieved by placing "primary emphasis" on direct control of the mobile sources themselves (id.), i.e., at the manufacturer or owner level.[8] This Congressional antipathy towards roundabout, indirect, control methods applies with regard to indirect control of vessel emissions in that area as well.

Finally, as stated above, if NRDC's theory were accepted, the references cited by that commenter would have to be read as excluding airplane emissions at airports from section 110(a)(5), a conclusion which even NRDC does not advocate. Therefore, EPA rejects the argument that the legislative history of section 110(a)(5) precludes extending the prohibition against "indirect source review" requirements to vessels and marine terminals.

NRDC's other arguments against EPA's interpretation of section 110(a)(5) boil down to a single theory; *i.e.*, that since there are no statements in the Act or the legislative history expressly including vessels in the term "mobile sources," Congress therefore did not intend vessels or marine terminals to be covered by section 110(a)(5). EPA must also reject this claim. Congress did not expressly limit "mobile source" to motor vehicles and airplanes in section 110(a)(5), and did not expressly exclude vessels or any other sources from the term, strongly implying that Congress intended the term to be construed broadly and according to common understanding.[9] This presumption is supported by the significant fact that the 1977 Conference Committee bill, which was eventually enacted, deleted a narrow definition of "mobile source-related pollutant" which would have excluded vessel emissions. *Compare* H.R. Rep. 95–294, at 437 *with* Conf. Rep. 95–564, at 93. EPA believes that this action strongly indicates that Congress did not intend to define "mobile source-related pollutant" narrowly.[10]

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[6] The commenter claimed that the 18 control methods or programs as to which section 108(f)(1)(A) specifically requires EPA to publish information all pertain to motor vehicles. However, section 108(f)(1)(A)(ii) requires information on "vapor emissions from fuel transfer and *storage* operations and operations using *solvents* * * *" (Emphasis added.) This requirement apparently is not exclusively related to motor vehicle emissions and can easily be applied to vapor emissions from other types of mobile sources as well as from stationary sources.

[7] EPA also rejects similar arguments by the same commenter based on section 110(e)(1)(A) and 202(a)(3)(E). The former section deals with extensions of NAAQS implementation dates and refers to "* * * emission sources (or classes of moving sources) * * *" The commenter claims that the reference to "classes" of moving sources limits that term to motor vehicles and aircraft since those are the only sources expressely referred to as "classes" by the Act. EPA disagrees with the commenter. Although sections 202(a)(1) and 231(a)(2) require EPA to classify motor vehicles and aircraft, nothing in the Act precludes EPA from classifying any other sources, moving or otherwise. In fact, section 171(3) of the Act specifically refers to "class[es]" of stationary sources.

Section 202(a)(3)(E) requires EPA to conduct studies on air pollutants from heavy duty motor vehicles or engines and "other sources of mobile source related pollutants." Again, the commenter claimed that this reference shows that "motor vehicle" and "mobile source" are synonymous. Again, however, the commenter's argument takes no account of the fact that airplanes are concededly mobile sources and that section 202(a)(3)(E)'s reference to "other sources of mobile sources related pollutants" is broad enough to include non-motor vehicles.

[8] Congress also expressed some concern about the potentially disruptive economic consequences of indirect source controls. The House of Representatives Committee which originally drafted section 110(a)(5) feared that such programs might discourage efforts to revitalize urban areas by creating unwarranted delays and additional costs in construction of indirect sources. H.R. Rep. 95–294 at 221 and 222. Although most of the references in the Committee's report are to facilities attracting motor vehicles, its concern for the economic welfare of areas where construction or modification of an indirect source could be of critical importance is also applicable to situations involving marine terminal facilities.

[9] NRDC claims that this implication is precluded by legislative history demonstrating a contrary intent, but as stated above, NRDC's reading of the legislative history is not persuasive.

[10] NRDC offered two unsupported alternative reasons for Congress' action in dropping the narrow definition of "mobile source-related pollutant." Both of NRDC's explanations attempt to read an entirely speculative meaning into Congress' action. First, NRDC suggests that Congress might have deleted the definition because section 110(a)(5) was already

Therefore, EPA rejects the claims of NRDC and other commenters and stands by the conclusion reached in the preamble of the NPRM that vessels are "mobile sources" within the meaning of section 110(a)(5).

Several commenters (including NRDC) also challenged EPA's interpretation of section 110(a)(5) on the ground that, even if a vessel is a mobile source when approaching or leaving a terminal, it nonetheless becomes part of a stationary source when it is docked. These commenters generally turned for support to the EPA regulations of August 1980, which characterized certain emissions of docked vessels as part of the stationary source's primary emissions, but counted the emissions of vessels moving to or from the marine terminal as secondary emissions.[11]

EPA must reject this "bootstrap" argument. The 1980 regulations were based on the premise that vessels are not "mobile sources" at all within the meaning of section 110(a)(5). *See* 45 FR 52696 (August 7, 1980). As discussed in detail above, EPA has now decided that vessels are, in fact, "mobile sources" and that the interpretation underlying the 1980 regulations was erroneous. Therefore, the commenters' reliance on those regulations is entirely inappropriate.

Furthermore, section 110(a)(5), in general, prohibits EPA from requiring a preconstruction review program which applies in any way to a project because of emissions from a mobile source.

This clear prohibition contains no exception for mobile sources which temporarily come to a stop at a stationary source. In addition, if the reasoning of the commenters on this issue were accepted, then it would logically allow EPA (to make an exception from the prohibition of section 110(a)(5) for emissions from motor vehicles (*e.g.*, freight trucks) and airplanes which are idling while loading and unloading at their terminals. This result would be directly contrary to the intent behind section 110(a)(5) and the logic which would lead to it must be rejected.

On a similar matter, another commenter alleged that section 110(a)(5) does not apply to vessels and marine terminals because marine terminals do not "attract" vessels within the meaning of that section. However, the commenter did not offer any support for this conclusion and did not even explain what it considered "attract" to mean. EPA rejects this comment and reaffirms its conclusion that marine terminals do attract vessels in the same way that other "major industrial or commercial developments" (including airports, railroad stations, and other freight terminals) attract other mobile sources. *Cf.* H.R. Rep. 95–294, at 220. The attractiveness of a marine terminal equipped to load or unload cargo and passengers from vessels is no less than that of other commercial transportation and shipping facilities which are clearly covered by section 110(a)(5).[12]

2. *Objections That Amendments are "Arbitrary, Capricious, and an Abuse of Discretion".* Several commenters claimed that the proposed amendments would arbitrary, capricious, and an abuse of discretion because of alleged facts that they claimed make it reasonable and necessary to include emissions of docked vessels as part of the emissions of a marine terminal. Additional factual information, similar in many respects to that submitted in response to the July 15, 1981 **Federal Register** notice, was also submitted. Major allegations included: (a) vessel emissions are the dominant pollutants at some marine terminals and exclusion of such emissions from preconstruction reviews will cause significant adverse effects on the air quality of some areas (including possible violations of NAAQS) (b) exclusion of vessel emissions from these regulations in some cases will put an additional burden on other on-shore facilities to reduce their emissions to compensate for the vessel emissions; (c) vessel emissions are reasonably predictable and controllable using available technology; and (d) vessels docked at a terminal are, or could be, under sufficient control of the terminal operator (through contracting or other arrangements) to make it fair and reasonable to charge vessel emissions to the terminal.[13]

EPA has considered all of these claims and the information submitted, as it did before publishing the NPRM, as well as the information submitted by supporters of this rule. It should be noted that some of the claims made by opponents of the rule are hotly disputed by its supporters. This is especially true in the areas of predictability and controllability of vessel emissions and of the degree of control, if any, exercised by terminal operators over vessels.

However, although EPA has considered all of this information, it is not necessary to reach any conclusion on the relative merits of the claims. As NRDC and certain other commenters conceded, these factual claims are relevant *only if* EPA has discretion over whether or not to exclude vessel emissions from this regulation. As stated elsewhere in this preamble and in the NPRM, EPA has no discretion in this matter (except with respect to some "federal" facilities). To obey the express prohibition of section 110(a)(5), EPA must revise the regulations as it is doing today, regardless of the claims of supporters and opponents of the rule as to its effects. Therefore, EPA's action is neither arbitrary, capricious, nor an abuse of discretion.

3. *Objections to Concession of Procedural Error in Promulgating the 1980 Regulations.* Several commenters alleged that EPA was incorrect in its conclusion that it committed a major procedural error in promulgating the requirement for inclusion of vessel emissions in threshold applicability determinations in the 1980 revisions. EPA has conceded that it failed to give adequate advance notice, as required by section 307(d) of the Clean Air Act, 42 U.S.C. 7607(d), that a docked vessel's emissions might be included in a marine terminal's emissions for *applicability* determinations. *See* 46 FR 61615.

EPA also concluded that this failure deprived potential commenters, including GATX Terminals Corporation (GATX), of the opportunity to submit relevant and significant comments before promulgation of the requirement

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so narrowly drawn that an additional definition was unnecessary. But as this discussion has shown, that characterization of section 110(a)(5) is not realistic. NRDC's second theory is that if Congress had defined "mobile source-related pollutant," it might have caused confusion over pollutants which come from both mobile and stationary sources. EPA's explanation however, is a more logical inference, *i.e.*, that Congress did not define "mobile source-related pollutant" narrowly because if did not want it to be defined narrowly.

[11] One commenter took this theory one step further by asserting that a vessel becomes "functionally linked" to, and therefore part of, a marine terminal facility even when the vessel is not docked, if the vessel is engaged in lightering its cargo to shore. However, EPA must reject this extension for the same reasons that it must reject the premise that docked ships become part of a stationary source.

[12] The same commenter also asserted, again without citing any support, that the PSD and non-attainment programs which this rule amends do not involve the kind of "facility-by-facility review" contemplated by section 110(a)(5)(D). The commenter claimed that the review contemplated by that section is a kind of environmental impact assessment covering transportation and planning issues. EPA does not know on what grounds this comment is based, but EPA believes that the PSD and nonattainment preconstruction review programs are clearly "facility-by-facility" reviews under any reasonable construction of that term.

[13] On a related matter, one commenter claimed that the proposed (now final) amendments were overly broad because they covered all vessels, including those owned and operated by the operator of the stationary source in question. Section 110(a)(5), however, applies to all mobile sources and does not make or allow EPA to make any exceptions on the basis of ownership.

and that this error was "so serious and related to matters of such central relevance . . . that there is a substantial likelihood that the rule would have been significantly changed . . ." if the error had not been committed. 42 U.S.C. 7607(d)(8). Since an error of this type would have been grounds for judicial invalidation of the requirement, correction of the error was an also an adequate alternative ground for the amendments proposed in December 1981.

Certain commenters, including NRDC, challenged EPA's conclusions. Primarily these commenters alleged that: (a) GATX, and therefore the marine terminal industry, had adequate advance notice of EPA's intent to regulate vessel emissions; (b) GATX and one other industry representative had submitted comments on the subject of vessel emissions which were considered by EPA before the promulgation of the 1980 revisions; (c) GATX subsequently raised no issue that it had not already raised (except the key issue of whether section 110(a)(5) barred review of vessel emissions); and (d) there was therefore no substantial likelihood that the rule would have been changed even if EPA had actually failed to give proper notice at the proposal stage.

EPA rejects all of the above arguments. First, EPA has always acknowledged that GATX and at least one other member of the affected industry were aware, as their comments show (Docket Nos. A–79–35–III–C–1, at 46–47; A–79–35–III–B–1183, at 4–5; A–79–35–III–B–212, at 2) that EPA was considering including vessel emissions as "secondary emissions" under PSD and nonattainment programs. *See* 46 FR 36697 (July 15, 1981). However, they were not informed that EPA was considering including vessel emissions directly with terminal emissions in making *applicability* determinations under those programs. *Id.; see also* 46 FR 61615. In fact, EPA twice indicated in 1979 that vessel emissions would be considered as secondary emissions from a marine terminal but gave no indication that vessel emissions might be included in marine terminal applicability determinations.[14] Consequently, the vessel emissions comments received from these two industry commenters prior to August 1980 were extremely brief and general and concerned almost entirely with the question of whether vessel emissions should be considered "secondary emissions." [15] 46 FR 36697 (July 15, 1981).

EPA believes that if proper public notice had been given, much more detailed comments probably would have been received on issues key to the question of whether vessel activities should have been included under the "stationary source" definitions for applicability purposes. This conclusion is supported by comparing the very few and brief comments received prior to August 1980 which were silent on the applicability issue, with the numerous detailed comments received from members of the affected public (including industry and environmental groups) in response to the July 15, 1981 stay and the December 17, 1981 proposal. These comments contained a great deal of relevant information on important legal, procedural, and factual matters that were not considered by EPA in promulgating the August 1980 rules.

EPA also rejects NRDC's claim that the opinion of the court in the case of *Alabama Power Co.* v. *Costle, supra,* in December 1979 (after the September 1979 notice of proposed rulemaking) somehow provided additional notice of the possible change in the final 1980 applicability rules. The court in *Alabama Power* merely directed EPA to specify in its final rules whether the term "source" would include pipelines, railroads, and unloading of vessels at marine terminals, for PSD purposes, noting that EPA had "not yet given adequate notice" on this issue. 636 F. 2d at 397. However, this brief judicial statement was not in itself an adequate substitute for fair notice to the general public by EPA that it was considering such a question in the 1980 rulemaking, especially in light of EPA's statements earlier in 1979 indicating clearly that vessel emissions would only be considered "secondary." Neither before nor after the Court's decision in December 1979 did EPA specifically indicate that it might require the inclusion of vessel emissions in PSD and nonattainment applicability determinations.[16]

In addition, NRDC claims that GATX submitted no information in its petitions for reconsideration of the 1980 rules that it had not already presented prior to August 1980, and that this implies that GATX was not denied reasonable notice and an opportunity to comment on all the relevant issues. EPA disagrees. As stated above, GATX's comments submitted pursuant to the September 1979 proposed rulemaking were extremely brief and limited to the question of characterizing vessel emissions as "secondary emissions". GATX submitted must more detailed factual information in the petitions for reconsideration on several crucial issues, including: control (or lack of control) of vessels by marine terminal operators; costs of compliance and practicability of imposing controls on vessels; unpredictability of vessel emissions; and effects of the 1980 rule on interstate and international commerce.

In addition, on a point apparently overlooked by NRDC, the procedural error in the 1979–1980 rulemaking denied

[14] On August 2, 1979, EPA filed a response to an industry petition with the U.S. Court of Appeals for the District of Columbia in *Alabama Power Co.* v. *Costle,* 636 F.2d 323 (1979), in which EPA classified under existing regulations "emissions of a ship coming to, *staying at,* or going from a terminal as 'secondary emissions' of the terminal." Respondent's Response to Industry Petitioners' Motion for Clarification and Petitions for Rehearing and Reconsideration, at 21 (D.C.Cir., Docket No. 78–1006) (emphasis added).

On September 5, 1979, EPA published a notice of proposed rulemaking (44 FR 51924) for the rules which were eventually promulgated in August 1980. In that notice, EPA stated that secondary emissions include "emissions from ships or trains coming to or from a source or modification" (44 FR 51947), and that secondary emissions would not be included in deciding whether a source was subject to PSD review. *Id.* Nothing in either the August 1979 response or the September 1979 Federal Register notice indicated that EPA was also considering including vessel emissions as primary emissions of the stationary source. In fact, under both the rules existing at the time and under the 1979 proposed rule, "stationary source" was indirectly defined to include *only* activities "owned or operated" by the same person. *See* 44 FR 51948 (September 5, 1979). This would have excluded most vessels docked at marine terminals.

[15] Specifically, one commenter to the 1979 proposed rule (Environmental Research and Technology, Inc.) suggested that if emissions of vessels approaching and leaving marine terminals were considered secondary emissions, that emissions of vessels docked at a marine terminal should also be considered as secondary emissions (unless the vessel is owned or operated by the marine terminal owner or operator). (Docket No. A–79–35–III–B–212, at 2). GATX's written comments merely object to the classification of vessel emissions as secondary emissions at all on the ground that mobile source emissions are not legally or logically appropriate for inclusion in a stationary source review program. (Docket No. A–79–35–III–B–118, at 5). GATX's oral testimony at the October 15, 1979 hearing on the proposed rule (Docket No. A–79–35–III–C–1, at 46–47) adds nothing to the written comment. The only other commenter on the issue of vessel emissions (the Sierra Club Legal Defense Fund) also addressed itself, briefly, to the question of secondary emissions, suggesting that emissions from docked vessels should be included as secondary emissions from a marine terminal, and that secondary emissions should be included in the "potential to emit" of stationary sources. (Docket No. A–79–35–III–B–180).

[16] A January 30, 1980, Federal Register notice (45 FR 6802) issued by EPA did *not,* contrary to NRDC's assertions, directly invite comments on the question of vessel emissions. That notice merely invited comments on the general question of the use of "proximity and control as the sole factors in grouping" polluting activities into a single stationary source. (*Id.* at 6803). This broad invitation did not cure the Agency's original error and was not adequate to satisfy section 307(d)'s requirement for fair notice and opportunity to comment.

the rights not only of GATX, but of all interested members of the public (both for and against the final rule) to comment on critical issues. The magnitude of this error is illustrated by comparing the three brief comments regarding vessel emissions submitted in 1979 with the numerous and detailed comments submitted since July 1981 when EPA agreed to reconsider the issue.

Therefore, EPA's procedural error clearly had much broader effects than its impact on GATX and, contrary to NRDC's conclusion, was clearly "so serious and related to matters of such central relevance * * * that there is a substantial likelihood that the rule would have been changed * * *" but for the error.[17] This in itself justifies EPA's effort to remedy the error by revising the applicability regulations.

C. Conclusion

On the basis of the analyses presented in the preamble of the NPRM and in this notice, and after consideration of all comments received, EPA has concluded that the proposed revisions, as slightly modified, should be promulgated.

IV. Miscellaneous

A. *Executive Order 12291.* Under Executive Order 12291, EPA must judge whether a regulation is a "major rule" and therefore subject to the requirement for preparation of a Regulatory Impact Analysis. EPA has determined that this regulation is not a "major rule" because it relieves a regulatory burden and will not have any significant adverse effects on the economy.

This regulation has been submitted to the Office of Management and Budget for review under Executive Order 12291. Any comments from that office, and EPA's responses to any such comments, have been placed in the docket for this proceeding and are available for public inspection at the times and place described earlier in this preamble.

B. *Economic Impact Assessment.* The requirement for performing an Economic Impact Assessment under section 317 of the Clean Air Act, 42 U.S.C. 7617, does not apply because this regulation does not make "substantial revisions" to existing regulations. These revisions are not "substantial" because they relieve a current regulatory burden and because the current regulations were issued in violation of the Act.

C. *Regulatory Flexibility Act Certification.* As required by section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) I certify that this regulation will not have a significant adverse impact on any small entities because it relieves an existing regulatory burden and imposes no significant new burdens.

D. *Effective Date.* As stated earlier in this notice, this rule is effective immediately upon publication in the Federal Register. EPA has concluded that, under section 307(d)(1) of the Clean Air Act, the requirement of section 4(d) of the Administrative Procedure Act (APA), 5 U.S.C. 553(d), for a thirty-day waiting period before making a rule effective is not applicable. In any event, section 4(d) of the APA would authorize EPA to make this rule effective immediately because it "relieves a restriction."

In addition, EPA finds that there is "good cause" under section 4(d) of the APA to make this rule effective immediately because this rule: (a) Corrects an erroneous interpretation of the Clean Air Act and (b) corrects a serious procedural error made by EPA in promulgating prior regulations.

E. List of Subjects

40 CFR Part 51

Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbon, Carbon monoxide.

40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 101(b)(1), 110, 160–169, 171–178, and 301(a), Clean Air Act, as amended (42 U.S.C. 7401(b), 7410, 7470–7479, 7501–7508, and 7601(a)); sec. 129(a), Clean Air Act Amendments of 1977 (Pub. L. 95–95, 91 Stat. 685 (August 7, 1977))

Dated: June 22, 1982.

Anne M. Gorsuch,

Administrator.

Accordingly, Parts 51 and 52 of title 40 of the Code of Federal Regulations are amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

§ 51.18 [Amended]

1. Section 51.18, *State Plans for New Source Review for Nonattainment Purposes,* is amended:

a. By adding the following clause at the end of the first sentence of paragraph (j)(1)(ii) immediately before the period: "except the activities of any vessel"; and

b. By removing the last sentence of paragraph (j)(1)(viii) and substituting the following:

"* * * Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."

§ 51.24 [Amended]

2. Section 51.24, *Requirements for State PSD Plans,* is amended:

a. By adding the following clause at the end of the first sentence of paragraph (b)(6) immediately before the period: "except the activities of any vessel"; and

b. By removing the last sentence of paragraph (b)(18) and substituting the following:

"* * * Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as

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[17] NRDC attempts to dismiss completely the important legal arguments raised by GATX [and subsequently by others] regarding section 110(a)(5). NRDC claims that GATX did not raise the argument in its petitions for reconsideration of the 1980 rule, and first raised it in a brief filed in February 1981 in a case challenging the 1980 regulations (*Chemical Manufacturers Assn. v. EPA* (No. 79–112, D.C. Cir.)). NRDC claims this fact bars GATX from now pressing that claim under section 307(d)(7)(B) of the Clean Air Act (42 U.S.C. 7407(d)(7)(B)).

NRDC's comment is wrong in several respects. First, although section 110(a)(5) was not expressly mentioned in GATX's petitions, the basis for raising that issue was clearly laid when GATX pointed out that vessels are "mobile sources" and that EPA's 1980 rules were requiring "indirect source" reviews. *See* 1st Petition for Reconsideration by GATX Terminal, Inc., at 12, 13 (October 3, 1980). (Docket No. A–81–34). Second, even though GATX did not expressly raise the statutory interpretation issue in its petitions for reconsideration, that omission has no effect on the merits of GATX's analysis (which EPA has accepted in part). Third, section 307(d)(7)(B) only bars *judicial* review of objections to rules which were not raised during the comment period or in a petition for reconsideration. Section 307(d)(7)(B) does not bar EPA from considering legitimate objections to existing rules no matter when or how they are brought to EPA's attention. Fourth, since EPA in 1981 granted GATX's petition to reconsider the rule in question and twice invited public comment, GATX and all other interested parties are free to comment on all relevant legal and factual issues.

emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."

Appendix S [Amended]

3. Section II of Appendix S of Part 51, *Emission Offset Interpretative Ruling*, is amended:

a. By adding the following clause at the end of the first sentence of subsection (A)(2) immediately before the period: "* * * except the activities of any vessel"; and

b. By removing the last sentence of subsection (A)(8) and substituting the following:

"* * * Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

§ 52.21 [Amended]

4. Section 51.21, *New Source Review for PSD Purposes*, is amended as follows:

a. By adding the following clause at the end of the first sentence of paragraph (b)(6) immediately before the period: "except the activities of any vessel"; and

b. By removing the last sentence of paragraph (b)(18) and substituting the following:

"* * * Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."

§ 52.24 [Amended]

5. Section 51.24, *Restrictions on Construction for Nonattainment Areas*, is amended:

a. By adding the following clause at the end of the first sentence of paragraph (f)(2) immediately before the period: "except the activities of any vessel"; and

b. By removing the last sentence of paragraph (f)(18) and substituting the following:

"* * * Secondary emissions include emissions from any offsite support facility which would otherwise not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel."

[FR Doc. 82-17202 Filed 6-24-82; 8:45 am]
BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Thirty-Eighth Revised S.O. No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-eighth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., June 22, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840 or 275-1559.

Decided: June 18, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 27.C., the authority for the Fort Worth and Denver Railway Company (FWD) to extend its operations from Amarillo eastward to include Groom, Texas. Further, Appendix A to the previous order was revised by adding at Item 28, the authority for a new operator, the Okarche Central Railway, Inc. (OCRI), to operate between Enid and El Reno, Oklahoma, a distance of approximately 59 miles. OCRI also requested authority to operate between El Reno and Council, Oklahoma, and at El Reno, however, that authority is currently held by the North Central Oklahoma Railway, Inc. (NCOR). That portion of the application, as granted to OCRI, remains as overlapping authority with NCOR to assure that shippers will continue to receive service while OCRI establishes divisions and interchange agreements, and until such time as OCRI and NCOR mutually agree on terms for handling NCOR traffic over the overlapping segments, at which time the order may be modified to reflect such agreement.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 22, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*
   A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (PPU):*
   A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
   B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).
3. *Union Pacific Railroad Company (UP):*
   A. Beatrice, Nebraska.
   B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
4. *Toledo, Peoria and Western Railroad Company (TPW):*
   A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
5. *Chicago and North Western Transportation Company (CNW):*
   A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
   B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
   C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.
   D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
   E. From East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).
   F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
   G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
   H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
   I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
   J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
   K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
   L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
   M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
   N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
   O. At Sibley, Iowa.
   P. At Worthington, Minnesota.
   Q. From Carlisle to Indianola, Iowa.
   R. At Omaha, Nebraska, (between milepost 502 to milepost 504).
   S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).
6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*
   A. From West Davenport, through and including Muscatine, to Fruitland, Iowa.

including the Iowa-Illinois Gas and Electric Company near Fruitland.
B. At Washington, Iowa.
C. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
D. From Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).
E. At Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*
A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.
B. At North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*
A. From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).
B. From Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. *Missouri Pacific Railroad Company (MP):*
A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
B. From Little Rock, Arkansas (milepost 135.2) to to Pulaski, Arkansas (milepost 141.0).
C. From Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).
D. From Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*
A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.
B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.
C. From Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.
D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*
A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*
A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
B. At Vinton, Iowa (milepost 120.0 to 123.0).
C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*
A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.
B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*
A. At Alva, Oklahoma.
B. At St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*
A. From Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

17. *Iowa Northern Railroad Company (IANR):*
A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).
B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*
A. From Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.
B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4. miles.
C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage is currently leased to the CNW, see Item, 5.E.)
E. From East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance of 113.79 miles.
F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)
G. From Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35).
H. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
I. At Rock Island, Illinois including 20th Street Yard.
J. From Altoona to Pella, Iowa.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*
A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*
A. From Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
B. From Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*
A. From Belleville (milepost 107.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 343 miles. Kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordination operations.

22. *North Central Texas Railway, Inc. (NCTR):*
A. From Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).
B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*
A. From Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.
B. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*
A. From Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).
B. From Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).
C. From Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).
D. From El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railroad, Inc. (SCAR):*
A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*
A. At Burlington, Iowa (milepost 0 to milepost 2.06).

B. At Okeene, Oklahoma.
C. At Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*
A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.
B. At North Fort Worth, Texas (mileposts 603.0 to 611.4).
*C. From Amarillo, Texas (milepost 760.6) to Groom, Texas (milepost 718.9).

28. *Okarche Central Railway, Inc. (OCRI):*
A. From Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).
B. From El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).
C. At El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

*Added.

FR Doc. 82-17230 Filed 6-24-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

REA Requirements for Telephone Sets, PE-41

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by revising REA Bulletin 345-74, REA Specification for Improved 500 Type Telephone Sets, PE-41. This proposed revision will relax the transmission requirements, include electronic telephone set requirements, and include ringer requirements from REA Specification for Ringers, PE-47. The revision, where applicable, would adopt requirements from the Electronic Industries Associaton (EIA) Standard RS-470, "Telephone Instruments for Voiceband Applications with Loop Signaling," published in 1981. Also, to broaden its scope the title would be changed to "Specification for Telephone Sets."

DATE: Public comments must be received by REA no later than August 24, 1982.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-8665. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by revising REA Bulletin 345-74, REA Specification for Improved 500 Type Telephone Sets, PE-41. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs of prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act and it is not subject to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

A copy of the proposed revision is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

Background

In July 1978, REA revised REA Specification PE-41 to upgrade the requirements covering the physical characteristics and to include changes in transmission requirements of telephone sets. None of the manufacturers of standard telephone sets were able to comply with the transmission requirements of the July 1978 revision, therefore a "File With" to the Specification was issued in July 1979 which permitted marginal noncompliance with the transmission requirements to be considered as being acceptable by REA. Further test results have shown that manufacturers will not be able to meet the original transmission requirements of the July 1978 specification. In addition there exists a need in the telephone industry to consolidate the testing requirements of standards which have the same transmission objectives. The EIA standard (RS-470) has the same basic objectives as PE-41 and is accepted by the telephone industry and the Defense Department.

This proposed revision will produce an achievable specification which consolidates PE-41 requirements with applicable EIA Standard RS-470 requirements. The resultant specification will reduce the number of different tests required of telephone set manufacturers to show compliance with the same or similar requirements of different specifications or standards with similar objectives.

Therefore the Administrator hereby proposes to amend Appendix A—REA Bulletins by revising REA Bulletin 345-74, REA Specification for Improved 500 Type Telephone Sets (PE-41).

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Loan programs—communications, Telecommunications, Telephone.

Dated: June 18, 1982.

Jack Van Mark,
Acting Administrator.

[FR Doc. 82-17228 Filed 6-24-82; 8:45 am]
BILLING CODE 3410-15-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 248

Changes in Nonimmigrant Classification and in Regulations on Nonimmigrant Students and Schools Approved for Their Attendance; Extension of Comment Period

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Immigration and Naturalization Service proposes to amend its regulations regarding nonimmigrant students and schools approved for their attendance. The proposal would eliminate certain burdensome and time consuming paperwork and filing requirements while ensuring that the students and the schools they attend are bona fide. The proposed rule also would implement the provisions of the Immigration and Nationality Act Amendments of 1981

which authorizes a new M nonimmigrant student classification for vocational students. The comment period for this rule is extended an additional thirty days.

DATE: Comment period is extended to July 27, 1982.

ADDRESS: Please submit written comments, in duplicate, to the Commissioner of Immigration and Naturalization Service, Room 7100, 425 I Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

For Specific Information: Alice Strickler, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–5014.

SUPPLEMENTARY INFORMATION: On May 28, 1982, the Service published a proposed rule at 47 FR 23463 which relates to foreign nonimmigrant students; the 30-day comment period was to end on June 28, 1982; due to requests from the public for additional time within which to submit written comments, the Service is extending the comment period for an additional 30 days. The comment period is now extended to July 27, 1982 to provide ample time for interested parties to submit their written comments.

Dated: June 22, 1982.

Perry A. Rivkind,

Associate Commissioner, Management.

[FR Doc. 82-17196 Filed 6-24-82; 8:45 a.m.]

BILLING CODE 4410-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 680

[Docket No. 82N–0028]

Allergenic Products; Equivalent Methods

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the additional standards for Allergenic Products to provide manufacturers of these licensed biological products an opportunity to use a manufacturing method or process that may be a modification of the methods of processes set forth in the additional standards. This action is consistent with the existing provisions under the additional standards for other types of injectable biological products, such as bacterial vaccines and viral vaccines.

DATES: Comments by August 24, 1982. The proposed effective date of the final rule based on this proposal is 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION:

Allergenic extract products include approximately 6,000 individual products (most of which are administered to humans by injections for the diagnosis or treatment of allergies) that are regulated under the provisions of section 351 of the Public Health Service Act (42 U.S.C. 262) and the Federal Food, Drug, and Cosmetic Act. Regulations applicable to these products include the additional standards for Allergenic Products under Part 680 (21 CFR Part 680), which apply generically to all allergenic extract products.

The additional standards regulations that apply to specific products are intended to supplement the more general biological regulations or good manufacturing practice regulations. The additional standards for specific biological vaccines under Parts 620 and 630 (21 CFR Parts 620 and 630) include a provision for each vaccine that would permit a manufacturer to apply for use of a manufacturing method or process that is satisfactory but different than the method or process specified in the additional standards for that specific product. Under such a provision, a manufacturer may submit an amendment to the license application for use of the different method or process to the Director, Bureau of Biologics. The amendment must include evidence that the modification would provide assurances of the safety, purity, potency, and efficacy of the product that are equal to or greater than the assurances provided by the additional standards. The manufacturer may use the modification after written approval is received from the Director, Bureau of Biologics.

FDA believes that a similar provision is appropriate for the large number and variety of allergenic extract products covered by the additional standards under Part 680. Accordingly, the agency is proposing to add new § 680.5 *Equivalent methods.* This proposed regulation adds no new requirements nor removes existing requirements for allergenic extract products.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposal would provide manufacturers of allergenic products, who choose to do so, an opportunity to apply for use of a manufacturing method or process that is modified from that prescribed in the specific additional standards regulations. While the immediate effect of the proposed rule is neutral, i.e., it neither adds nor removes requirements from the additional standards for Allergenic Products, a manufacturer may benefit from the flexibility permitted under the proposed rule if the result is FDA approval of a modified method or process that would require the use of less time or resources than may be required by a method or process prescribed under the additional standards. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

List of Subjects in 21 CFR Part 680

Biologics, Blood.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Part 680 be amended by adding new § 680.5 to read as follows:

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

§ 680.5 Equivalent methods.

Modification of any particular manufacturing method or process or the

conditions under which it is conducted as required in the additional standards for Allergenic Products shall be permitted only under the following conditions:

(a) The manufacturer presents evidence, in the form of an amendment to the license application, that demonstrates the modification will provide assurances of the safety, purity, potency, and efficacy of the Allergenic Product that are equal to or greater than the assurances provided by the additional standards for Allergenic Products; and

(b) Approval of the modification is received in writing from the Director, Bureau of Biologics.

Interested persons may, on or before August 24, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 3, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-17179 Filed 6-24-82; 8:45 am]

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DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Parole, Release, Supervision and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents; Proposed Changes in Policy Guidelines

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would make a number of changes in the offense severity examples contained in the Commission's paroling policy guidelines. These examples are the guides by which the Commission evaluates the relative seriousness of each prisoner's offense behavior in determining when to set a release date. The large majority of these amendments merely clarify present policy and improve the organization of the offense behavior examples, while others are expected to result in actual changes in time customarily served.

DATE: Comments must be received by October 10, 1982.

ADDRESS: Send comments to U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, MD 20815; Attn: Peter B. Hoffman.

FOR FURTHER INFORMATION CONTACT: Peter B. Hoffman, Research Director, U.S. Parole Commission, telephone (301) 492-5980.

SUPPLEMENTARY INFORMATION:

Background

The factors which the Commission must consider in evaluating the application of a Federal prisoner for release on parole have been established by Congress at 18 U.S.C. 4206(a)(1976) which provides that:

If an eligible prisoner has substantially observed the rules of the institution or institutions to which he has been confined, and if the Commission, upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, determines:

(1) That release would not depreciate the seriousness of his offense or promote disrespect for the law; and

(2) That release would not jeopardize the public welfare; subject to the provisions of subsections (b) and (c) of this section, and pursuant to guidelines promulgated by the Commission pursuant to section 4203(a)(1), such prisoner shall be released.

Congress has mandated that the Commission establish paroling policy guidelines making explicit the Commission's national paroling policy (18 U.S.C. 4203 (1976)). The paroling policy guidelines that have been established pursuant to this statutory mandate (at 28 CFR 2.20) contain two dimensions. The first dimension contains a listing of offense behavior examples that provides a means by which the Commission may rate the seriousness of each prisoner's offense. (The offense behavior examples are currently listed in seven categories: Low, Low Moderate, Moderate, High, Very High, and Greatest I and II. In the proposed rule these categories will be relabeled as follows: Low=CATEGORY 1; Low Moderate=CATEGORY 2; Moderate=CATEGORY 3; High=CATEGORY 4; Very High=CATEGORY 5; Greatest I=CATEGORY 6; Greatest II=CATEGORY 7). The second dimension is an actuarial table (salient factor score) which aids the Commission in assessing the degree to which the applicant's background indicates likely success or failure on parole (i.e., whether release would jeopardize the public welfare).

For each combination of offense severity rating and degree of parole risk, the guidelines provide a suggested range of months to be served (assuming the prisoner's good institutional conduct). Once it has calculated the appropriate guideline range in the case under consideration, the Commission exercises its discretion to determine whether individual circumstances justify a decision above or below the indicated range. If a decision to require service of a term within the guidelines is reached, then the Commission also exercises discretion to determine at what point within the guidelines release is most appropriate.

In this manner, the Parole Commission discharges its complex duty of converting three separate judgments (as to prison conduct, the severity of the offense, and the risk that release would entail) into a term of imprisonment that reflects an appropriate balancing of each consideration.

Nature and Impact of the Proposed Changes

Most of the proposed changes represent either a clarification of present practice or the addition of offense behavior examples to make the severity scale more comprehensive and enable the Commission to avoid inconsistent severity ratings. (If an offense behavior is not presently listed in the guidelines, the proper category is obtained by comparing the severity of that offense behavior with that of similar behaviors listed.)

Other proposed amendments would change the duration of confinement prisoners would serve for particular offenses. For example, the offense behavior concerning possession of a sawed-off shotgun would be raised by one category.

Two important points should be kept in mind in evaluating these proposed changes. First, the examples within the severity categories are not intended to be used as a form of criminal code. They are merely guideposts for the exercise of discretion, and individual circumstances in actual cases may justify a decision or a severity rating different from that listed. Second, the examples are not comprehensive either as to all possible variations in circumstances or as to all types of behavior that are deemed criminal under Federal law. Commonly recurring types have been selected and are defined in general terms so as to focus attention on what the Commission considers to be the most relevant factors (e.g., for drug offenses, the amount and purity of the illicit substance involved).

In general, the Commission's conclusion is that the proposed changes would not be the cause of any appreciable change in prison population either upward or downward.

Implementation

The Commission has previously adopted a policy that guideline changes requiring a greater period of confinement will not be applied retroactively to any prisoner who has received his or her initial hearing prior to the effective date of the final rule. However, the Commission will apply changes requiring a lesser period of confinement retroactively to prisoners already considered for parole. This reconsideration would be accomplished at the prisoner's next regularly scheduled hearing or review. Given the period specified for public comment, the Commission contemplates that the final rule would become effective in early 1983.

The Rule Making Process

Because the changes proposed herein involve some complex issues in evaluating the relative seriousness of the various types of offenses listed, the Commission has deemed it appropriate to provide an extended period for study and for the submission of public comment.

The amendments proposed herein cover a wide variety of criminal offenses. Moreover, since the Commission is dealing with a comparative scale of seriousness, each proposal will have some bearing upon numerous collateral issues. Therefore, it is to be stressed that the Commission invites public comment not only on the actual changes proposed, but on any aspect of the offense severity table or the guideline ranges themselves that may be of concern to interested members of the public. Particularly, the Commission is interested in public comment as to whether further refinement or subdivision of Greatest II offenses (to be relabeled as CATEGORY 7) is appropriate (see 46 FR 14904, March 3, 1981).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure; Prisoners; Probation and parole.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.20 is amended as follows:

The examples of offense behaviors in the Guideline Table are deleted; the category listings are amended as follows: Low=Category 1, Low Moderate=Category 2, Moderate=Category 3, High=Category 4, Very High=Category 5, Greatest I=Category 6, Greatest II=Category 7, and the following List of Offense Behaviors is added as a table at the end of the section.

U.S. PAROLE COMMISSION OFFENSE BEHAVIOR SEVERITY INDEX

Chapter One—Offenses of General Applicability

Chapter Two—Offenses Involving the Person

Subchapter A—Homicide Offenses
Subchapter B—Assault Offenses
Subchapter C—Kidnaping and Related Offenses
Subchapter D—Sexual Offenses
Subchapter E—Offenses Involving Aircraft
Subchapter F—Communication of Threats

Chapter Three—Offenses Involving Property

Subchapter A—Arson/Property Destruction Offenses
Subchapter B—Criminal Entry Offenses
Subchapter C—Robbery, Extortion, and Blackmail
Subchapter D—Theft and Related Offenses
Subchapter E—Counterfeiting and Related Offenses
Subchapter F—Bankruptcy Offenses
Subchapter G—Violations of Securities/Investment Regulations and Antitrust Offenses

Chapter Four—Offenses Involving Immigration, Naturalization, and Passports

Chapter Five—Offenses Involving Revenue

Subchapter A—Internal Revenue Offenses
Subchapter B—Customs Offenses
Subchapter C—Contraband Cigarettes

Chapter Six—Offenses Involving Governmental Process

Subchapter A—Impersonation of Officials
Subchapter B—Obstructing Justice
Subchapter C—Official Corruption

Chapter Seven—Offenses Involving Individual Rights

Subchapter A—Offenses Involving Civil Rights
Subchapter B—Offenses Involving Privacy

Chapter Eight—Offenses Involving Explosives and Weapons

Subchapter A—Explosives/Other Dangerous Articles
Subchapter B—Firearms

Chapter Nine—Offenses Involving Illicit Drugs

Subchapter A—Heroin/Opiate Offenses
Subchapter B—Marihuana/Hashish Offenses
Subchapter C—Cocaine Offenses
Subchapter D—Other Drug Offenses

Chapter Ten—Offenses Involving National Defense

Subchapter A—Treason and Related Offenses
Subchapter B—Sabotage and Related Offenses
Subchapter C—Espionage and Related Offenses
Subchapter D—Selective Service Offenses
Subchapter E—Other National Defense Offenses

Chapter Eleven—Offenses Involving Organized Criminal Activity, Gambling, Obscenity, Sexual Exploitation of Children, Prostitution, and Non-Governmental Bribery

Subchapter A—Organized Crime Offenses
Subchapter B—Gambling Offenses
Subchapter C—Obscenity
Subchapter D—Sexual Exploitation of Children
Subchapter E—Prostitution/White Slave Traffic
Subchapter F—Non Governmental Bribery

Chapter Twelve—Miscellaneous Offenses

Chapter Thirteen—General Notes and Definitions

Subchapter A—General Notes
Subchapter B—Definitions

Chapter One—Offenses of General Applicability

101 Conspiracy. Except as specifically provided in these rules, grade conspiracy in the same category as the underlying offense.

102 Attempt. Except as specifically provided in these rules, grade attempt in the same category as the offense attempted.

103 Aiding and abetting. Except as specifically provided in these rules, grade aiding and abetting in the same category as the underlying offense.

Note to Chapter One

Clearly voluntary withdrawal by the offender prior to completion of the offense may be considered as a mitigating factor sufficient to consider a decision below the guidelines.

Chapter Two—Offenses Involving the Person

Subchapter A—Homicide Offenses

201 Murder. Murder in the first or second degree, or a homicide resulting from the commission of a felony, shall be graded as Category 7.

202 Voluntary manslaughter. Category 7.

203 *Involuntary manslaughter.* Category 4.

Subchapter B—Assault Offenses

211 *Assault during commission of another offense*

(a) If serious bodily injury* results or is clearly intended (e.g., a weapon intentionally fired at a person), grade as category 7;

(b) If bodily injury* results, or a weapon is fired by any offender, grade as Category 6;

(c) If any offender provokes the legitimate firing of a weapon (e.g., by law enforcement authorities) in circumstances which create a significant risk to other persons, grade as Category 6;

(d) Otherwise, grade as Category 5.

212 *Assault*

(a) If serious bodily injury* results or is clearly intended, grade as Category 7;

(b) If bodily injury* results or a dangerous weapon is used by any offender, grade as Category 5;

(c) Otherwise, grade as Category 2.

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*Terms marked by an asterisk are defined in Chapter Thirteen.

(d) *Exception:* If the victim was known to be a "protected person"* or criminal justice official, grade conduct under (a) as Category 7, (b) as Category 6, and (c) as Category 3.

Subchapter C—Kidnaping and Related Offenses

221 *Kidnaping*

(a) If the purpose of the kidnaping is for ransom or terrorism or sexual assault, or if serious bodily injury* results, grade as Category 7;

(b) If a victim is used as a shield or hostage in a confrontation with law enforcement authorities, grade as Category 7;

(c) If a person is held hostage for purposes of extortion (e.g., forcing a bank manager to drive to a bank to retrieve money by holding a family member hostage at home), grade as Category 7;

(d) If not for ransom or terrorism, and no bodily injury to victim, and limited duration (e.g., abducting the driver of a truck during a hijacking and releasing him unharmed an hour later), grade as Category 6;

(e) Otherwise, grade as Category 7.

222 *Demand for ransom*

(a) If a kidnaping has, in fact, occurred, grade as Category 7;

(b) Otherwise, grade as Category 5.

223 *Ransom money, receiving, possessing, disposing*

(a) If a kidnaping has, in fact, occurred, grade as Category 7;

(b) Otherwise, grade as Category 5.

Subchapter D—Sexual Offenses

231 *Forcible rape/forcible sodomy*

(a) Category 7, except as provided below;

(b) If both a significant prior consensual relationship and no serious bodily injury, grade as Category 6.

232 *Carnal knowledge*

(a) Category 4; except as provided below:

(b) If the relationship is clearly consensual and the victim is at least 14 years old, and the age difference between victim and offender is less than four years, grade as Category 1.

Subchapter E—Offenses Involving Aircraft

241 *Aircraft piracy.* Category 7.

242 *Interference with a flight crew*

(a) If the conduct or attempted conduct has potential for creating a significant safety risk to an aircraft or passengers, grade as Category 7.

(b) Otherwise, grade as Category 2.

Subchapter F—Communication of Threats

251 *Communicating a threat [to kill, assault, kidnap]*

(a) If not for purposes of extortion, grade as Category 4;

(b) If for purposes of extortion, grade as extortion (see Chapter Three).

(c) *Note:* Any overt act committed for the purposes of carrying out a threat in this subchapter may be considered as an aggravating factor.

Chapter Three—Offenses Involving Property

Subchapter A—Arson and Other Property Destruction Offenses

301 *Property destruction by arson or explosives*

(a) If the conduct involves any property where persons are present or likely to be present, or results in serious bodily injury,* grade as Category 7;

(b) If the conduct involves any building or structure (e.g., an unoccupied warehouse), or results in bodily injury,* grade as Category 6;

(c) Otherwise, grade as 'property destruction other than listed above' but not less than Category 5.

302 Wrecking a train. Category 7.

303 Property destruction other than listed above

(a) If the conduct results,* or if serious bodily injury is clearly intended, grade as if 'assault during commission of another offense';

(b) If damage of more than $500,000 is caused, grade as Category 6;

(c) If damage of more than $100,000 but not more than $500,000 is caused grade as Category 5;

(d) If damage of at least $20,000 but not more than $100,000 is caused, grade as Category 4;

(e) If damage at least $2,000 but less than $20,000 is caused, grade a Category 3;

(f) If damage of less than $2,000 is caused, grade as Category 1.

(g) *Exception:* If a significant interruption of a government or public utility function is caused, the conduct shall be grade as not less then Category 3.

Subchapter B—Criminal Entry Offenses

311 Burglary/unlawful entry

(a) If the conduct involves an armory (of facility where weapons or explosives are stored) for the purpose of theft or destruction of weapons or explosives, grade as Category 6;

(b) If the conduct involves an inhabited dwelling (whether or not a victim is present); or any premises with a hostile confrontation with a victim, grade as Category 5;

(c) If the conduct involves use of explosives or safecracking, grade as Category 5;

(d) Otherwise, grade as a 'theft' offense, but not less than Category 2.

(e) *Exception:* If the grade of the applicable 'theft' offense exceeds the grade under this subchapter, grade as a 'theft' offense.

Subchapter C—Robbery, Extortion, and Blackmail

321 Robbery

(a) Category 5, except as provided below.

(b) *Exceptions:*

(1) If a grade of the applicable 'theft' offense exceeds the grade for robbery, grade as a 'theft' offense;

(2) If any offender forces a victim to accompany any offender to a different location; or if a victim is forcibly detained for a significant period, grade as Category 6.

(3) Pickpocketing (stealth-no force or fear), see Subchapter D.

322 *Extortion*

(a) If by threat of physical injury to person or property, or extortionate extension of credit (loansharking), grade as Category 5;

(b) If by use of official governmental position, grade according to Chapter Six.

(c) *Exceptions:*

(1) If the grade of the applicable theft offense exceeds the grade under this subchpater, grade as a 'theft' offense;

(2) If a victim is physically held hostage for purposes of extortion, grade under Chapter Two, Subchapter C.

323 *Blackmail* (threat to injure reputation or cause of crime) Grade as a theft offense according to the value of the property demanded, but not less than Category 3. The extent to which reputation is actually damaged may be treated as an aggravating factor.

Subchapter D—Theft and Related Offenses

331 *Theft, forgery, fraud, trafficking in stolen property, interstate transportation of stolen property, receiving stolen property, mail fraud, embezzlement, and related offenses*

(a) If the value of the property* is more than $500,000, grade as Category 6;

(b) If the value of the property* is more than $100,000 but not more then $500,000, grade as Category 5;

(c) If the value of the property* is at least $20,000 but not more than $100,000, grade as Category 4;

(d) If the value of the property* is at least $2,000 but less than $20,000, grade as Category 3;

(e) If the value of the property* is less than $2,000 grade as Category 1.

(f) *Exceptions:*

(1) Offenses involving stolen checks or mail, forgery, interstate transportation of stolen/forged securities or trafficking in stolen property, fraud, or embezzlement shall be graded as not less than Category 2;

(2) Theft of an automobile shall be graded as no less than Category 3; unless the vehicle was recovered within 48 hours with no significant damage (e.g., no damage more than $100), and there is no indication that the theft was intended for resale. In such case, grade as Category 1.

(g) *Note:* In theft offenses, the total amount of the theft committed or attempted by the offender (or others acting in concert with the offender) is to be used.

332 *Pickpocketing* (stealth-no force or fear) Grade as a 'theft' offense, but not less than Category 3.

333 *Fraudulent loan applications.* Grade as a 'theft' offense according to the amount of the loan.

334 *Preparation or possession of fraudulent documents*

(a) If for purposes of committing another offense, grade according to the offense intended;

(b) Otherwise, grade as Category 2.

Subchapter E—Counterfeiting and Related Offenses

341 *Passing/possession of counterfeit currency or other medium of exchange**

(a) If the face value of the currency or other medium of exchange is more than $500,000, grade as Category 6;

(b) If the face value is more than $100,000 but not more than $500,000, grade as category 5;

(c) If the face value is at least $20,000 but not more than $100,000, grade as Category 4;

(d) If the face value is at least $2,000 but less than $20,000, grade as Category 3;

(e) If the face value is less than $2,000, grade as Category 2.

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*Terms marked by an asterisk are defined in Chapter Thirteen.

342 *Manufacture of counterfeit currency or other medium of exchange* or *possession of instruments for manufacture.* Grade manufacture or possession of instruments for manufacture (e.g., a printing press or plates) according to the quantity printed (see passing/possession), but not less than Category 5. The term 'manufacture' refers to the capacity to print or generate multiple copies; it does not apply to pasting together parts of different notes.

Subchapter F—Bankruptcy Offenses

351 *Fraud in bankruptcy or concealing property.* Grade under the applicable category as a 'theft' offense.

Subchapter G—Violation of Securities/Investment Regulations or Antitrust Offenses

361 *Violation of securities/investment regulations* (e.g. U.S.C. 77ff,80)
(a) If for purposes of fraud, grade according to the underlying offense;
(b) Otherwise, grade as Category 2.

362 *Antitrust offenses*
(a) If estimated economic impact is more than one million dollars, grade as Category 4;
(b) If the estimated economic impact is more than $100,000 but not more than one million dollars, grade as Category 3;
(c) Otherwise, grade as Category 2.

Chapter Four—Offenses Involving Immigration, Naturalization, and Passports

401 *Unlawfully entering the United States as an alien.* Category 2.

402 *Smuggling an alien into the United States.* Category 3.

403 *Offenses involving passports*
(a) Making an unlawful passport for distribution to another or possession with intent to distribute/distribution of an unlawful passport, grade as Category 3;
(b) Fraudulently acquiring or improperly using a passport, grade as Category 2.

404 *Offenses involving naturalization or citizenship papers*
(a) Forging or falsifying naturalization or citizenship papers for distribution to another or possession with intent to distribute/distribution, grade as Category 3;
(b) Acquiring fraudulent naturalization or citizenship papers for own use or improper use of such papers, grade as Category 2;
(c) Failure to surrender canceled naturalization or citizenship certificate(s), grade as Category 1.

Chapter Five—Offenses Involving Revenue

Subchapter A—Internal Revenue Offenses

501 *Tax evasion (income tax and other taxes).* Grade as a "theft" offense according to the amount of tax evaded or evasion attempted, not the gross amount of income.

502 *Operation of an unregistered still.* Grade as a "tax evasion" offense, but not less than Category 2.

Subchapter B—Customs Offenses

511 *Smuggling goods into the United States:*
(a) If the conduct was for the purpose of tax evasion, grade as a "tax evasion" offense;
(b) If the article is prohibited from entry to the country absolutely (e.g., illicit drugs or weapons), use the grading applicable to possession with intent to distribute/sale of such articles, or the grading applicable to tax evasion, whichever is higher, but not less than Category 2;
(c) If the conduct involves breaking seals, or altering or defacing customs marks, or concealing invoices, grade according to (a) or (b), as applicable, but not less than Category 2.

512 *Smuggling goods into foreign countries.* Category 2.

Subchapter C—Contraband Cigarettes

521 *Trafficking in contraband cigarettes (re: 18 U.S.C. 2342). Grade as a tax evasion offense, but not less than Category 2.*

Chapter Six—Offenses Involving Governmental Process

Subchapter A—Impersonation of Officials

601 *Impersonation of Official:*
(a) If for purposes of commission of another offense, grade according to the offense attempted, but not less than Category 2;
(b) Otherwise, grade as Category 2.

Subchapter B—Obstructing Justice

611 *Perjury:*
(a) If the perjured testimony concerns another offense, grade according to the underlying offense, but not less than Category 3;
(b) Otherwise, grade as Category 3;
(c) Suborning perjury, grade as perjury.

612 *Unlawful false statements not under oath.* Category 2.

613 *Tampering with evidence-witness:*
(a) If the underlying purpose concerns another offense, grade according to the offense involved, but not less than Category 3; otherwise grade as Category 3;
(b) *Exception:* Intimidating witnesses by threat of physical harm, grade as not less than Category 5.

614 *Accessory after the fact:*
(a) Grade as two categories below the underlying offense;
(b) If the underlying offense is graded as Category 3 or less, grade as Category 1.

615 *Misprison of a felony:*
(a) Grade as two categories below the underlying offense, but not higher than Category 3;
(b) If the underlying offense is graded as Category 3 or less, grade as Category 1.

616 *Harboring a fugitive.* Grade as misprison of a felony using the Category of the offense for which the fugitive as the underlying offense.

617 *Escape/failure to appear.* If while in custody on another federal offense for which a severity rating can be assessed, grade the underlying offense and apply the rescission guidelines to determine an additional penalty. Otherwise, grade as Category 3.

Subchapter C—Official Corruption

621 *Bribery/extortion (use of official position-no physical threat):*
(a) Grade as a "theft offense" according to value of the bribe/demand or the favor received (whichever is greater) but not less than Category 3. *Note:* The extent to which the criminal conduct involves a breach of the public trust, therefore causing injury beyond that describable by monetary gain, shall be considered as an aggravating factor;
(b) If the purpose of the conduct is the obstruction of justice, grade as if "perjury";
(c) *Note:* The grading in this subchapter applies to each party to a bribe.

622 *Other unlawful use of governmental position/influence.* Category 2.

Chapter Seven—Offenses Involving Individual Rights

Subchapter A—Offenses Involving Civil Rights

701 *Conspiracy against rights of citizens* (re: 18 U.S.C. 241):
(a) If death results, grade as Category 7;
(b) Otherwise, grade as if "assault".

702 *Deprivation of rights under color of law* (re: 18 U.S.C. 242):
(a) If death results, grade as Category 7;
(b) Otherwise, grade as if "assault".

703 *Federally protected activity* (re: 18 U.S.C. 245):
(a) If death results, grade as Category 7;
(b) Otherwise, grade as if "assault".

704 *Intimidation of persons in real estate transactions based on racial discrimination* (re: 42 U.S.C. 3631):
(a) If death results, grade as Category 7;
(b) Otherwise, grade as if "assault".

705 *Transportation of strikebreakers* (re: 18 U.S.C. 1231). Category 2.

Subchapter B—Offenses Involving Privacy

711 *Interception and disclosure of wire or oral communications* (re: 18 U.S.C. 2511). Category 2.

712 *Manufacture, distribution, possession and advertising of wire or oral communication intercepting devices* (re: 18 U.S.C. 1512):
(a) Grade as Category 3;
(b) *Exception:* If simple possession, grade as Category 2.

713 *Opening mail.* Category 2.

Chapter Eight—Offenses Involving Explosives and Weapons

Subchapter A—Explosives Offenses and Other Dangerous Articles

801 *Improper transportation or marking* (re: 18 U.S.C. 832, 833, 834):
(a) If negligence resulting in death or serious bodily injury, grade as Category 4;
(b) Otherwise, grade as Category 3.

802 *Unlawful possession of explosives; or use of explosives during a felony.* Grade according to offense intended, but not less than Category 5.

803 *Mailing explosives or other injurious articles with intent to commit a crime* (re: 18 U.S.C. 1716). Grade according to offense intended, but not less than Category 5.

Subchapter B—Firearms

811 *Possession by prohibited person* (e.g., ex-felon). Category 3.

812 *Possession of sawed-off shotgun or machine gun.* Category 5.

813 Unlawful sale of weapons or possession with intent to distribute:
(a) If single weapon—not sawed-off shotgun or machine gun, grade as Category 3;
(b) If multiple weapons, grade as Category 4;
(c) If sawed-off shotgun(s) and/or machine gun(s), grade as Category 5.

Chapter Nine—Offenses Involving Illicit Drugs

Subchapter A—Heroin/Opiate * Offenses

901 *Possession with intent to distribute/ distribution:*

(a) If managerial/proprietary interest * and extremely large scale (e.g., offense involving 1 kilogram or more of 100% pure heroin, or equivalent amount), grade as Category 7;

(b) If managerial/proprietary interest * and large scale (e.g., offense involving at least 50 grams, but less than 1 kilogram 100% pure heroin or equivalent amount), grade as Category 6;

(c) If medium scale or more (e.g., offense involving 5 or more grams of 100% pure heroin or equivalent amount), grade as Category 5;

(d) If small scale (less than 5 grams of 100% pure heroin, or equivalent amount), grade as Category 4, except as listed under (v);

(e) If evidence of opiate dependence and very small scale (e.g., offense involving less than 1.0 grams of pure heroin or equivalent amount), grade as Category 3.

Simple possession. Category 1.

902 *Simple possession.* Category 1.

Subchapter B—Marihuana/Hashish Offenses

911 *Possession with intent to distribute/ distribution:*

(a) If managerial/proprietary interest * and extremely large scale (e.g., 20,000 pounds or more of marihuana/2,000 pounds or more of hashish/20 liters or more of hash oil) grade as Category 6;

(b) If very large scale (e.g., 2,000 pounds or more of marihuana/200 pounds or more of hashish/2 liters or more of hash oil) grade as Category 5;

(c) If large scale or more (e.g., 200 or more pounds of marihuana/20 pounds or more of hashish/.2 liters or more of hash oil), grade as Category 4;

(d) If medium scale (e.g., 50–199 pounds of marihuana/5–19.9 pounds of hashish/.05–.19 liters of hash oil), grade as Category 3;

(e) If small scale (e.g., 10–49 pounds of marihuana/1–4.9 pounds of hashish/.01–.04 liters of hash oil), grade as Category 2;

(f) If very small scale (e.g., less than 10 pounds marihuana/less than 1 pound hashish/less than .01 liter hash oil), grade as Category 1.

912 *Simple possession.* Category 1.

Subchapter C—Cocaine Offenses

921 *Possession with intent to distribute/ distribution:*

(a) If managerial/proprietary interest* and very large scale (e.g., more than 1 kilogram 100% purity or equivalent amount), grade as category 6;

(b) If large scale or more (e.g., 100 grams or more of 100% purity, or equivalent amount), grade as Category 5;

(c) If medium scale (e.g., 5–99 grams of 100% purity, or equivalent amount), grade as Category 4;

(d) If small scale (e.g., 1.0–4.9 grams of 100% purity, or equivalent amount), grade as Category 3;

(e) If very small scale (e.g., less than 1 gram of 100% purity, or equivalent amount), grade as Category 2.

922 *Simple possession.* Category 1.

Subchapter D—Drugs Other Than Specifically Categorized*

931 *Possession with intent to distribute/ distribution:*

(a) If managerial/proprietary interest* and very large scale (e.g., more than 200,000 doses), grade as Category 6;

(b) If large scale or more (e.g., 20,000 or more doses), grade as Category 5;

(c) If medium scale (e.g., 1,000–19,999 doses), grade as Category 4;

(d) If small scale (e.g., 200–999 doses), grade as Category 3;

(e) If very small scale (e.g., less than 200 doses), grade as Category 2.

932 *Simple possession.* Category 1.

Notes to Chapter Nine

(1) Grade manufacture of synthetic illicit drugs as listed above, but not less than Category 5;

(2) "Equivalent amounts" for the cocaine and opiate categories may be computed as follows: 1 gm. of 100% pure is equivalent to 2 gms. of 50% pure and 10 gms. of 10% pure, etc.

Chapter Ten—Offenses Involving National Defense

Subchapter A—Treason and Related Offenses

1001 *Treason.* Category 7.

1002 *Rebellion or insurrection.* Category 7.

Subchapter B—Sabotage and Related Offenses

1011 *Sabotage and related offenses.* Category 7.

1012 *Enticing desertion or aiding desertion:*

(a) Enticing desertion, grade as Category 3;

(b) Harboring a deserter, grade as Category 2.

Subchapter C—Espionage and Related Offenses

1021 *Espionage and related offenses.* Category 7.

Subchapter D—Selective Service Offenses

1031 *Failure to register, report for examination or induction:*

(a) If committed during time of war or during a national defense emergency, grade as Category 4;

(b) If committed at any other time, when draftees are being inducted into the armed services, grade as Category 3;

(c) In any other case, grade as Category 2.

Subchapter E—Other National Defense Offenses

1041 *Offenses involving nuclear energy.* Unauthorized production, possession, or transfer of nuclear weapons or special nuclear material (re: 18 U.S.C. 2014) or receipt of or tampering with restricted data on nuclear weapons or special nuclear material, grade as Category 7.

Chapter Eleven—Offenses Involving Organized Crime Activity, Gambling, Obscenity, Sexual Exploitation of Children, Prostitution, and Nongovernmental Bribery

Subchapter A—Organized Crime Offenses

1101 *Racketeer influenced and corrupt organizations* (re: 18 U.S.C. 1963). Grade according to the underlying offense attempted, but not less than Category 5.

1102 *Interstate or foreign travel or transportation in aid of racketeering enterprise* (re: 18 U.S.C. 1952). Grade according to the underlying offense attempted, but not less than Category 3.

Subchapter B—Gambling Offenses

1111 *Gambling law violations—operating/ employment in an unlawful business* (re: 18 U.S.C. 1955):

(a) Managerial/proprietary interest* in large scale operation [e.g., Sports books (estimated daily gross more than $15,000); Horse books (estimated daily gross more than $4,000); Numbers bankers (estimated daily gross more than $2,000)], grade as Category 4;

(b) Managerial/proprietary interest* in medium scale operation [e.g., Sports books (estimated daily gross $5,000–$15,000); Horse books (estimated daily gross $1,500–$4,000); Numbers bankers (estimated daily gross $750–$2,000)], grade as Category 3;

(c) Managerial/proprietary interest* in small scale operation [e.g., Sports books (estimated daily gross less than $5,000); Horse books (estimated daily gross less than $1,500); Numbers bankers (estimated daily gross less than $750)], grade as Category 2;

(d) No managerial/proprietary interest,* grade as Category 1.

1112 *Interstate transportation of wagering paraphenalia* (re: 18 U.S.C. 1953). Category 3.

1113 *Wire transmission of wagering information* (re: 18 U.S.C. 1084). Grade as if "operating a gambling business".

1114 *Operating or owning a gambling ship* (re: 18 U.S.C. 1082). Category 3.

1115 *Importing or transporting lottery tickets; mailing lottery tickets or related matter* (18 U.S.C. 1301, 1302):

(a) Grade as if "operating a gambling business";

(b) *Exception:* If non-commercial, grade as Category 1.

Subchapter C—Obscenity

1121 *Mailing/importing/transportation of obscene matters:*

(a) If for commercial purposes, grade as Category 3;

(b) Otherwise, Category 1.

1122 *Broadcasting obscene language.* Category 1.

Subchapter D—Sexual Exploitation of Children

1131 *Sexual exploitation of children* (re: 18 U.S.C. 2251; 2252). Category 5.

Subchapter E—Prostitution/White Slave Traffic

1141 *Interstate transportation—commercial purposes* (re: 18 U.S.C. 2421, 2422):

(a) If physical coercion, or involving minor(s) of age less than 16, grade as Category 6;

(b) If involving minors of ages 16–17, grade as Category 5;

(c) Otherwise, grade as Category 4.

1142 *Prostitution.* Category 1.

Subchapter F—Nongovernmental Bribery

1151 *Bribery not involving federal, state, or local government officials:*

(a) If the value of the bribe or of the favor received (whichever is greater) is $20,000 or

more, grade as Category 3; otherwise, grade as Category 2;

(b) If the conduct involves bribery in a sporting contest, grade as Category 3.

Chapter Twelve—Miscellaneous Offenses

If an offense behavior is not listed, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed in Chapters One—Eleven. If, and only if, an offense behavior cannot be graded by reference to Chapters One—Eleven, the following formula may be used as a guide.

Maximum sentence authorized by statute (not necessarily the sentence imposed)	Grading (category)
<2 yr	1
2 to 3 yr	2
4 to 5 yr	3
6 to 10 yr	4
11 to 20 yr	5
21 to 29 yr	6
30 yr to life	7

Chapter Thirteen—General Notes and Definitions

Subchapter A—General Notes

1. If an offense behavior can be classified under more than one category, the most serious applicable category is to be used.

2. If an offense behavior involved multiple separate offenses, the severity level may be increased.

3. In cases where multiple sentences have been imposed (whether consecutive or concurrent, and whether aggregated or not) an offense severity rating shall be established to reflect the overall severity of the underlying criminal behavior. This rating shall apply whether or not any of the component sentences has expired.

4. The prisoner is to be held accountable for his own actions and actions done in concert with others; however, the prisoner is not to be held accountable for activities committed by associates (over which the prisoner had no control and could not have been reasonably expected to foresee).

5. Extreme cruelty/brutality to a victim of an offense may be considered as an aggravating factor sufficient to warrant a decision above the guidelines.

Subchapter B—Definitions

1. "Bodily injury" refers to injury of a type significant enough normally to require medical attention.

2. "Drugs other than specifically categorized" includes, but is not limited to, the following: amphetamines, hallucinogens, barbiturates, methamphetamines, phencyclidine (PCP).

3. "Managerial/Proprietary Interest" [e.g., in large scale drug cases] is defined to include offenders who have decision-making authority [e.g., concerning the distribution/sale, importation, cutting, or manufacture of such drugs, including those who sell or negotiate to sell such drugs] or who finance such operations. Cases to be excluded are peripherally involved offenders without any decision-making authority [e.g., a person hired merely as a courier].

4. "Opiate" includes heroin, morphine, opiate derivatives, and synthetic opiate substitutes.

5. "Other medium of exchange" includes, but is not limited to, postage stamps, governmental money orders, or governmental coupons redeemable for cash or goods.

6. "Protected Person" refers to a person listed in 18 U.S.C. 351 (relating to Members of Congress), 1114 (relating to certain officers and employees of the United States), 1116 (relating to foreign officials, official guests, and internationally protected persons), or 1751 (relating to presidential assassination and officials in line of succession).

7. "Serious bodily injury" refers to injury creating a substantial risk of death, protracted disability, disfigurement, or loss of a bodily function.

8. "Value of property" refers to the estimated replacement cost to the victim.

Note.—I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: June 8, 1982.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 82-17184 Filed 6-24-82; 8:45 am]

BILLING CODE 4410-06-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-779; RM-3870]

FM Broadcast Station in Abilene, Texas; Denial of Petition and Termination of Proceeding

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This action denies the petition of Salvador M. Ybarra to assign commercial FM Channel 232A to Abilene, Texas, and terminates the proceeding.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

Report and Order (Proceeding Terminated)

Adopted: June 10, 1982.

Released: June 15, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Abilene, Texas), BC Docket No. 81-779 RM-3870.

1. A *Notice of Proposed Rule Making* in this proceeding was published in the **Federal Register** on December 7, 1981 (46 FR 59562). The Commission proposed to assign FM Channel 232A to Abilene, Texas, as its fifth commercial FM channel assignment. The proceeding was instituted in response to a petition by Salvador M. Ybarra ("petitioner"). Raul F. Torres filed comments in support. Petitioner filed a reply.[1]

2. The *Notice* advised that the assignment would require a site restriction of 5.3 miles northwest of Abilene to avoid short-spacing to Station KEAN (Channel 286), Abilene.

3. Abilene (population 98,315),[2] the seat of Taylor County (population 110,932) and located partly in Jones County (population 17,268) is situated 232 kilometers (145 miles) west of Fort Worth, Texas. It has two daytime only AM stations (KBER and KEAN); two full-time AM stations (KRBC and KWKC); three commercial FM stations (KORQ, KEAN-FM, and KFMN); and one noncommercial educational station, KGNZ. A fourth commercial channel (Channel 257A) has two applications pending.

4. In support of the proposal, petitioner states that he would "provide the first minority ownership and a first and only full-time broadcast service to the Spanish speaking community of the city of Abilene." According to petitioner, as of September 1, 1977, the population of the Abilene Metro area was 130,300 of which 11,257 were Spanish. Petitioner states that the entire Hispanic community is aware of the great need for its own first local broadcast station. Petitioner further states that only a Spanish speaking station can truly serve the problems, needs and interest of this community.

5. Raul F. Torres supported the proposal and provided updated 1980 figures for the Spanish population in Abilene (12,427), which represent a 10% increase over the 1977 figure and 13% of the city's population.

6. Petitioner submitted a response to our request (in the *Notice*) to demonstrate that a Channel 232A assignment to Abilene with the required site restriction of 5.3 miles would provide a 70 dBu signal over the entire city limits of Abilene. Petitioner's engineering statement concedes that a

[1] Lilly Amador filed an opposition to the proposed assignment and a counter-proposal to assign Channel 232A to Anson, Texas. However, since we determined that another channel (Channel 276A) is available for assignment to that community, we have given separate consideration to that request.

[2] Population figures are taken from the 1980 U.S. Census, Advance Report.

Class A station could not cover the entire city limits of Abilene from a site 5.3 miles ouside the city. Rather, petitioner asks that we waive the principal community coverage requirement on the basis that it intends to serve only the Spanish speaking population of Abilene, which its signal will cover, and not the entire city.

7. This situation, according to petitioner, is parallel to that in *Pueblo, Colorado,* 38 R.R. 2d 629 (1976), where Station KRNX–FM (Channel 296A) operates as a Spanish speaking station and does not provide a 70 dBu signal over the entire city.

8. The cited case of *Pueblo, Colorado* is not similar to the instant situation. In that case, there was no site restriction involved and as far as the assignment of Channel 296A was concerned, there was no question concerning the required coverage of the assigned channel.

9. The difficulty with petitioner's proposal to provide a Spanish speaking station is not that Abilene does not need such a station but that from the rule making standpoint we cannot determine which party will ultimately receive the license. Thus, a party's programming proposal is irrelevant to the rule making determination of whether the requested channel assignment represents a fair, efficient and equitable distribution of frequencies to the various communities. See, *Atlanta, Georgia,* 49 F.C.C. 1270 (1974), *recons. den.* 55 F.C.C. 2d 62 (1975). Thus, we find that a waiver of the principal city coverage requirements is not justified.

10. Since it appears that Channel 232A cannot be assigned to Abilene in compliance with § 73.315(a) of the Commission Rules, the instant petition will be denied. See, *Attica, New York,* 54 F.C.C. 2d 1137 (1975).

11. Authority for the action taken herein is contained in section 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, §§ 0.281 and 0.204(b) of the Commission rules.

12. Accordingly, it is ordered, that the petition of Salvador M. Ybarra to assign FM Channel 232A to Abilene, Texas, is denied.

13. It is further ordered, that this proceeding is terminated.

14. For further information concerning the above, contact Phil Cross, Broadcast Bureau, (202) 632–5414.

Therefore, the proposed rule published on December 7, 1981 (46 FR 59562) is withdrawn.

(Secs. 4, 603, 48 Stat., as amended, 1066, 1062; 47 U.S.C. 154, 303.)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–17071 Filed 6–24–82; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 6)]

Boxcar Traffic; Exemption From Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of modification of proposed exemption.

SUMMARY: The Consolidated Rail Corporation petitioned the Commission to exempt from regulation all movements in boxcars having AAR equipment type designation A, B, R, or S when the movements are to, from, or via Conrail. This proposal included exemption for car hire and car service rules. In a notice published at 47 FR 4100, on January 28, 1982, comments and replies were sought. In its reply, Conrail amended its proposal with regard to car hire and car service, and introduced new evidence. The Commission seeks additional comments limited to the modification of the proposed exemption.

DATE: Comments are due on or before August 9, 1982.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7277.

SUPPLEMENTARY INFORMATION: Conrail petitioned the Commission to exempt from regulation all movements in boxcars having AAR equipment type designation A, B, R, or S when the movements are to, from, or via Conrail. The original exemption would apply to (1) all movements, loaded or empty, involving Conrail; (2) the complete movement over all railroads involved; (3) all regulated aspects, including rates divisions, *car hire, car service* and common carrier duties; (4) movements in both railroad and private cars; and (5) both interstate and intrastate movements.

In a **Federal Register** notice of January 28, 1982, we requested comments on any issue relating to Conrail's petition, as well as to the broadening of the exemption to include all boxcar movements by all railroads from some or all regulation. Comments were due March 1, 1982, and replies were due April 30, 1982.

In its petition for exemption and first comment, Conrail had argued that deregulation of car hire/car service rules was mandatory to reduce costs. Conrail discussed various plans it has for these areas which it would pursue under deregulation. Many parties addressed the general issue of complete exemption of car hire/car service rules in both their comments and replies.

In its reply, Conrail, noting the many comments against the deregulation of car hire/car service, and to allay those fears, altered its proposal. Under the amended request, the Commission, would retain jurisdiction in the following areas:

(1) Car hire and car service;
(2) Mandatory interchange;
(3) Reciprocal switching;
(4) Car supply;
(5) Rates on non-ferrous recyclables; and
(6) Railbox Pooling Agreement.

It is Conrail's intention to continue adhering to the packaging and loading requirements of the Uniform Freight Classification and the freight claims and liability provision of the statute.

Conrail proposes that car hire/car service jurisdiction would remain with the Commission, and that the present (prescribed) per diem charges would remain in effect. Nevertheless, Conrail contends that certain limited exemptions should be granted to balance the economic power of the car user and the car owner. Conrail now proposes that the boxcar exemption specifically authorize rail carriers to take the following actions with regard to equipment use:

(1) Assess charges for empty movements of cars where movements made at direction or request of car owner, AAR, or ICC.

(2) Store empty cars and reclaim car hire beginning 3 days after the car is made empty;

(3) Negotiate bilateral agreements governing per diem rates, empty movements, and storage.

The empty mileage charge would be subject to a maximum of 35 cents per mile, subject to increases for inflation. Storage reclaim could not begin until expiration of a 72-hour grace period from the time a car is made empty. These conditions would be made part of the exemption order.

Because of the alterations and the introduction of new evidence, several parties [1] have petitioned either to

[1] Bangor and Aroostook Railroad Company, Boston and Maine Corporation, Delaware and Hudson Railway Company, Maine Central Railroad Company and Pittsburgh and Lake Erie Railroad Company, Procter and Gamble Co., Central

dismiss the proceeding, and notice an entirely new proceeding, or notice for additional comments. They object to the substantial changes in Conrail's proposal and their having no opportunity to comment or to challenge the evidence or modifications. Conrail replied. While we will not dismiss the proceeding, we find merit in petitioners' objections and now seek additional comments. These are to be limited to the modifications and supporting evidence introduced by Conrail. We also request comments on the effect of the modifications on small entities.

It is unlikely that the changes proposed by Conrail, if adopted, will affect significantly either the quality of the human environment or the conservation of energy resources. However, comments are invited on these issues.

(49 U.S.C. 10505 and 5 U.S.C. 553)

The index terms covering 49 CFR 1039 are as follows: agricultural commodities, intermodal transportation, and railroads.

Decided: June 18, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17231 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

Vermont Railway, Detroit, Toledo and Ironton Railroad Company, Duluth, Winnipeg and Pacific Railway, Grand Trunk Western Railroad Company, National Railway Utilization Corporation, American Paper Institute, Inc., American Trucking Associations, Inc., Regular Carrier Common Conference, Trucking Associations, Inc., Regular Carrier Common Conference, the Brae Corporation, and the National Industrial Traffic League.

Notices

Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent and Senior Companion Programs; Income Eligibility Levels

AGENCY: Action.

ACTION: Notice of revision of income eligibility levels for foster grandparent and senior companion programs.

SUMMARY: this notice revises the schedules of income eligibility levels for individuals and families for the Foster Grandparent and Senior Companion Programs published in the **Federal Register** June 15, 1982 (47 FR 25751). The revised schedule is based on revised Poverty Income Guidelines from DHHS, effective April 9, 1982. This revision adopts as the income eligibility level for each State the higher amount of either (a) 125% of the DHHS Poverty Income Guideline, or (b) 100% of the DHHS Poverty Income Guideline plus the amount each state supplements Federal SSI.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Betty Brake, Director OAVP, ACTION, Room M–1006, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, or telephone toll free (800) 424–8580, Extension 239 or (202) 254–7310.

SUPPLEMENTARY INFORMATION: These ACTION programs are authorized pursuant to Sections 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Pub. L. 93–113, 87 Stat. 414. The income eligibility levels are determined by the currently applicable guideline published by DHHS pursuant to Sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty income guidelines to be adjusted for Consumer Price Index changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

SCHEDULE OF INCOME ELIGIBILITY LEVELS: FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

State	Individual	Family of 2	Family of 3
Alabama	$5,850	$7,775	$9,700
Alaska	9,000	12,900	14,700
Arizona	5,850	7,775	9,700
Arkansas	5,850	7,775	9,700
California	8,770	11,235	13,160
Colorado	5,850	8,280	11,205
Connecticut	6,055	7,775	9,700
Delaware	5,850	7,775	9,700
District of Columbia	5,850	7,775	9,700
Florida	5,850	7,775	9,700
Georgia	5,850	7,775	9,700
Hawaii	6,740	8,950	11,165
Idaho	5,850	7,775	9,700
Illinois	5,850	7,775	9,700
Indiana	5,850	7,775	9,700
Iowa	5,850	7,775	9,700
Kansas	5,850	7,775	9,700
Kentucky	5,850	7,775	9,700
Louisiana	5,850	7,775	9,700
Maine	5,850	7,775	9,700
Maryland	5,850	7,775	9,700
Massachusetts	6,325	8,790	10,715
Michigan	5,850	7,775	9,700
Minnesota	5,850	7,775	9,700
Mississippi	5,850	7,775	9,700
Missouri	5,850	7,775	9,700
Montana	5,850	7,775	9,700
Nebraska	5,850	7,850	9,790
Nevada	5,850	7,775	9,700
New Hampshire	5,850	7,775	9,700
New Jersey	5,850	7,775	9,700
New Mexico	5,850	7,775	9,700
New York	5,850	7,775	9,700
North Carolina	5,850	7,775	9,700
North Dakota	5,850	7,775	9,700
Ohio	5,850	7,775	9,700
Oklahoma	5,850	8,115	10,040
Oregon	5,850	7,775	9,700
Pennsylvania	5,850	7,775	9,700
Rhode Island	5,850	7,775	9,700
South Carolina	5,850	7,775	9,700
South Dakota	5,850	7,775	9,700
Tennessee	5,850	7,775	9,700
Texas	5,850	7,775	9,700
Utah	5,850	7,775	9,700
Vermont	5,850	7,775	9,700
Virginia	5,850	7,775	9,700
Washington	5,850	7,775	9,700
West Virginia	5,850	7,775	9,700
Wisconsin	5,875	8,150	10,075
Wyoming	5,850	7,775	9,700
Guam	5,850	7,775	9,700
Puerto Rico	5,850	7,775	9,700
Virgin Islands	5,850	7,775	9,700

For families of more than three-persons in the household, add the appropriate supplement for each member over three as follows:

	Per person
In-the 48 contiguous States	$1,925
Alaska	2,400
Hawaii	2,210

Signed at Washington, D.C., this 18th day of June, 1982.

Thomas W. Pauken,

Director.

[FR Doc. 82-17177 Filed 6-24-82; 8:45 am]
BILLING CODE 6050-01-M

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents) may be obtained from the agency clearance office.

INFORMATION ABOUT THIS PROPOSED COLLECTION:

Agency Clearance Officer, Richard D. English, 202–254–8501
Agency Address: ACTION, 806 Connecticut Ave., N.W., Washington, D.C. 20525
Title of Form: YVA Project Quarterly Report
Office of ACTION Issuing Proposal: VISTA/Service-Learning/Young Volunteers In ACTION
Agency Offical to Contact for Further Information: Barbara P. Wyatt, Director of YVA—254–8458
Type of Request: New
Frequency of Collection: Quarterly
General Description of Respondents: YVA sponsoring organizations
Estimated Number of Responses: 4 per year
Estimated Hours for All Respondents to Complete Form: 6.0 (includes clerical typing support)

Respondent's Obligation to Reply: Required for obtaining benefit
This is not a collection proposal under Sec. 3504(h) of the Paperwork Reduction Act.
Person responsible for OMB Review: James L. Thomas, 202–395–6880

Richard D. English,
Deputy Assistant Director, ACTION.

[FR Doc. 82-17178 Filed 6-24-82; 8:45 am]
BILLING CODE 6050-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Agricultural Marketing Service

Wool and Mohair Advertising and Promotion

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) and Agricultural Marketing Service (AMS), USDA.

ACTION: Notice of referendum.

SUMMARY: The purpose of this notice is to announce that a referendum will be conducted on August 16–27, 1982, among wool producers to determine if such producers are in favor of a proposed agreement between the American Sheep Producers Council, Inc. (ASPC) and the United States Department of Agriculture with respect to advertising and sales promotion programs. Under the proposed agreement the Department would make deductions for the 1982 through 1985 marketing years from price support payments which are made to wool producers for shorn wool and unshorn lambs under the National Wool Act of 1954, as amended (hereinafter referred to as the "Act"). The amounts so deducted would be used by the ASPC for advertising and sales promotion programs and for programs pertaining to the dissemination of information concerning wool, sheep, or the products thereof.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer, Emergency Operations and Livestock Programs Division, ASCS, USDA, Room 4095, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7674.
A final regulatory impact analysis is available from the above-name individual.

SUPPLEMENTARY INFORMATION: This notice is referendum had been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major." It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of referendum since ASCS and AMS are not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The title and number of the Federal assistance program that this notice of referendum applies to are: Title—National Wool Act Payments: NUMBER—10.059 as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of this action.

Section 708 of the Act authorizes the Secretary of Agriculture to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvements for wool, mohair, sheep, or goats or their products. These activities are administered for the Secretary by the Agricultural Marketing Service (AMS) of the Department of Agriculture. In order to defray the expenses for carrying out these activities, the agreements may provide for deductions to be made from price support payments which are paid to producers under the Act. However, as required by Section 708 of the Act, no agreement providing for any such deduction shall become effective unless the agreement is approved in a referendum by at least two-thirds of the producers voting or by producers with at least two-thirds of the volume of production represented in the referendum.

Since 1954, there have been seven agreements for advertising and sales promotion activities between the Secretary of Agriculture and the ASPC for the marketing years 1955 through 1981. Each of these agreements became effective following approval by producers in a referendum. The last of such agreements, which was approved by 75 percent of the producers voting in the 1978 referendum, expired on December 31, 1981.

It is proposed that a new agreement be entered into between the Secretary and the ASPC for the 1982 marketing years. The proposed agreement will be similar to the most recent agreement dated July 25, 1978 (published at 43 FR 32121, July 25, 1978), except that the maximum amount which can be deducted from price support payments which are made to wool producers for shorn wool and unshorn lambs for any of the marketing years is being increased from 2½ cents to 4 cents per pound of shorn wool marketed.

Since the purpose of this notice is only to announce the period when the referendum will be conducted and certain eligibility requirements for producers to participate in such referendum it has been determined that no further public rulemaking is required.

Therefore, a referendum of wool producers will be conducted on August 16–27, 1982, in accordance with the procedures set forth in 7 CFR Part 1270 in order to determine whether such producers are in favor of the proposed agreement between the Secretary of Agriculture and the ASPC.

Notice of Referendum

1. *Period of Wool Referendum for the 1982, 1983, 1984, and 1985 marketing years.* In accordance with Section 708 of the National Wool Act of 1954, as amended, the Secretary of Agriculture will conduct a referendum among wool producers to determine whether they approve of the proposed agreement between the American Sheep Producers Council, Inc., and Agricultural Marketing Service regarding advertising and sales promotion programs for wool, sheep, or the products thereof. The referendum will be conducted in accordance with the provisions of 7 CFR Part 1270 during the period August 16–27, 1982, inclusive. Voting will be conducted through county offices of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture. Copies of the proposed agreement are available at ASCS county offices and will be mailed to the individual producers.

2. *Eligibility requirements to participate in the referendum.* Only those producers who owned sheep (6 months old or older) in the United States for at least 30 consecutive days during 1981 are eligible to vote.

(Sec. 708, 68 Stat. 912, as amended (7 U.S.C. 1787)

Signed at Washington, D.C., on June 18, 1982.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

William T. Manley,

Deputy Administrator, Agricultural Marketing Service.

[FR Doc. 82-17135 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-05-M

Federal Grain Inspection Service

Request for Comments on Applicant for Designation in the Area Currently Assigned to the Fort Worth Grain Exchange Inspection Service, Inc.

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for designation as the official agency in the area currently assigned to Fort Worth Grain Exchange Inspection Service, Inc. (Fort Worth). The designation terminates August 31, 1982.

DATE: Comments to be postmarked on or before July 26, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The March 1, 1982, issue of the **Federal Register** (47 FR 8730) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the area currently assigned to Fort Worth. Applications were to be postmarked by March 31, 1982.

One qualified applicant requested designation for all of the geographic area currently assigned to Fort Worth. That applicant is Mr. Tom Jarvis, RFD 1, Afton, Oklahoma 74331, who proposes to establish an official agency.

The Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Texas, applied for a renewal of designation for an additional 3-year period. However, the Fort Worth Grain Exchange Inspection Service, Inc., has been determined to be not qualified as an applicant.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning Mr. Tom Jarvis, the applicant for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than July 26, 1982.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: June 22, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82-17328 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-EN-M

Rural Electrification Administration

Seminole Electric Cooperative, Inc.

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and REA Bulletin 20-21:320-21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to proposed financing assistance to Seminole Electric Cooperative, Inc., (Seminole) Tampa, Florida, for the construction of 13 km (8 mi) of 230 kV double circuit transmission line and a bay of three breakers to be built in conjunction with Florida Power and Light's construction of two sections of 230 kV single circuit transmission line 3 km (2 mi) in length, each, and a 500/230 kV substation. All these facilities are to be located in Putnam County, Florida.

FOR INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA), along with Seminole's Borrower's Environmental Report (BER) and related documents, may be reviewed in or requested from the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1400, or at the manager's office, Seminole Electric Cooperative, Inc., P.O. Box 17100, Tampa, Florida 33682, telephone (813) 933-7406.

SUPPLEMENTARY INFORMATION: Seminole submitted a BER addressing the impact of the proposed facilities. REA used the BER and the Final Environmental Impact Statement (FEIS) for the proposed Seminole Plant, Units 1 and 2, the facilities proposed in the BER are planned for construction on a right-of-way discussed in the FEIS to prepare an EA containing REA's independent evaluation of the environmental impacts of the proposed project. REA concluded that its proposed financing assistance would not be a major Federal action significantly affecting the quality of the human environment.

The BER and EA adequately consider potential impacts of the proposed project on resources. REA has determined that the proposed project will not be located in a 100- or 500-year floodplain, in wetlands, or on important farmlands. REA has also determined that no properties listed or eligible for listing in the National Register of Historic Places are located within the project area and the project will not affect federally listed threatened or endangered species or their habitats.

This project is an alternative to a transmission line that would have connected the Seminole Plant to Ft. White and Suwannee as described in the Seminole FEIS as route 3. It will lessen the environmental impact of the transmission line construction proposed in the FEIS by eliminating construction of 106 km (66 mi) of 230 kV double circuit and 101 km (63 mi) of 230 kV single circuit line. REA determined that the project proposed in the BER is the best alternate environmentally because

it meets with a minimum environmental impacts.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: June 17, 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-17136 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Critical Area Treatment RC&D Measures, New Hampshire; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for certain Critical Area Treatment RC&D Measures in New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G, Durham, New Hampshire, 03824; telephone 603–868–7581.

SUPPLEMENTARY INFORMATION: The environmental assessments of these types of federally assisted actions indicate that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Richard L. Porter, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects if the planned action and impacts are substantially as described in the finding of no significant impact for Critical Area Treatment RC&D Measures, New Hampshire.

The measures concern a plan for critical area treatment. The planned works of improvement include soil and water conservation practices to stabilize eroding areas. Practices include surface water control structures, subsurface drainage, riprap, streambank stabilization, and vegetation establishment including lime, fertilizer, and mulch.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. The basic data developed during the environmental assessments are on file and may be reviewed by contacting Mr. Richard L. Porter.

No administrative action on implementation of the proposal will be initiated until July 26, 1982.

Dated: June 10, 1982.

Richard L. Porter,

State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 82-17154 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-01-M

Lower Birch Creek Watershed, Montana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Birch Creek Watershed, Pondera County, Montana.

FOR FURTHER INFORMATION CONTACT: Van K Haderlie, State Conservationist, Soil Conservation Service, P.O. Box 970, Bozeman, Montana 59715; telephone 406–587–5271 Ext. 4322.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Van K Haderlie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for agricultural water management-irrigation, and watershed protection. Planned works of improvement include the installation of a system management plan, approximately 59 turnout measuring structures, repairing or replacing 23 canal structures, and accelerated technical assistance to 5,000 irrigated acres.

The Notice of a Finding of No Significant Impact (Notice) and Environmental Assessment (EA) has been forwarded to the Environmental Protection Agency, and sent to various federal, state, and local agencies and interested parties. A limited number of copies of the Notice and EA are available to fill single copy requests at the above address. Basic data developed during the evironmental evaluation are on file and may be reviewed by contacting Wallace A. Jolly.

No administrative action on implementation of the proposal will be taken until July 26, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: June 15, 1982.

Glen H. Loomis,

Acting State Conservationist.

[FR Doc. 82-17005 Filed 6-24-82; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Ohio Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio Advisory Committee to the Commission will convene at 10:00a and will end at 3:00p, on July 24, 1982, at the Holiday Inn—Riverview, 141 North Summit Street, Toledo, Ohio, 43604. The purpose of this meeting is to report on the Regional SAC Conference held July 7–9, 1982, discuss items for the National SAC Chairperson Conference in September and update the Hispanic equal educational opportunities activities in Northwest Ohio.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Henrietta H. Looman, 1222 Woodland Avenue, North West, Canton, Ohio, 44703, (216) 454–2278 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353–7479.

The meeting will be conducted pursuant to the provisions of the Rules and regulations of the Commission.

Dated at Washington, D.C., June 22, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-17204 Filed 6-24-82; 8:45 am]

BILLING CODE 5335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 194]

Approval for Expansion of Foreign-Trade Zone No. 40, Cleveland, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Cleveland-Cuyahoga County Port Authority, Grantee of Foreign-Trade Zone No. 40 in Cleveland, has applied to the Board for authority to expand its general-purpose zone to include a site in Brook Park, Ohio, adjacent to Cleveland Hopkins International Airport and within the Cleveland Customs port of entry;

Whereas, the application was accepted for filing on December 1, 1981, and notice inviting public comment was given in the **Federal Register** on December 9, 1981 (46 FR 60227);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed December 1, 1981. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations not mentioned in the application. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 18th day of June 1982.

Malcolm Baldrige,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

[FR Doc. 82-17245 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Subcommittee on Export Administration of the President's Export Council; Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Subcommittee on Export Administration of the President's Export Council will be held on Wednesday, July 21, 1982.

The Subcommittee on Export Administration was initially established on June 1, 1976. Executive Order 12258 of December 31, 1980, continued the Subcommittee until December 31, 1982.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 which deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Time and Place

The meeting will take place from 8:30 a.m. to 11:45 a.m., July 21, 1982, at the San Francisco Airport Hilton Hotel. The meeting is open to the public.

Agenda

Chairman's Report by David C. Scott
Status Report by Chairman of the Ad Hoc Working Groups
Question and Comment Session with the Public

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Kappler, Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–1455) or Ms. Elizabeth Maatsch, President's Export Council, Room 3213 (202/377–1125).

Dated: June 21, 1982.

Lawrence J. Brady,

Assistant Secretary for Trade Administration.

[FR Doc. 82-17288 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Revision to Federal Information Processing Standard 32, Character Sets for Optical Character Recognition (OCR)

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On June 18, 1981, notice was published in the **Federal Register** (46 FR 31913–31915) that a revision to Federal Information Processing Standard 32, Character Sets for Optical Character Recognition (OCR), was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this proposed revision were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary his approval of the revised standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved this revised standard as a FIPS, and that the standard shall be published as FIPS Publication 32–1. The provisions of the revised standard are effective on June 25, 1982.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The objective of this revised standard is to improve the automatic reading of printed data for entry into ADP systems. This revised standard adopts three approved voluntary industry standards for optical character recognition and magnetic ink character recognition character sets. This revised standard supersedes FIPS 32 in its entirety.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. With certain qualifications noted in the announcement portion, this FIPS represents the adoption of American National Standards X3.17–1981, Character Set for Optical Character Recognition (OCR–A), X3.49–1975, Character Set for Optical Character Recognition (OCR–B), and X3.2–1970 (R1976), Print Specifications for Magnetic Ink Character Recognition (MICR).

By arrangement with the American National Standards Institute, interested parties may purchase copies of this revised standard, including the specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this revised standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this revised standard may contact Mr. Thomas Bagg, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: June 22, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 32–1

Announcing the Standard for Character Sets for Optical Character Recognition (OCR)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Character Sets for Optical Character Recognition (OCR) (FIPS PUB 32–1).

Category of Standard. Hardware Standard, Character Recognition.

Explanation. This standard prescribes standard sets of printed graphic shapes and sizes to be used in Optical Character Recognition (OCR) systems employed by Federal agencies. This revised standard supersedes FIPS 32 in its entirety.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. Standards required to implement this FIPS PUB:

a. ANS X3.2–1970 (R1976), *American National Standard for Print Specifications for Magnetic Ink Character Recognition (MICR E–13B).*

b. ANS BSR X3.17–1981, *American National Standard for Character Set for Optical Character Recognition (OCR–A).*

c. ANS X3.49–1975, *American National Standard Character Set for Optical Character Recognition (OCR–B).*

Related Documents

a. Federal Information Processing Standards Publication (FIPS PUB) 89, *Optical Character Recognition (OCR) Character Positioning.*

b. Federal Information Processing Standards Publication (FIPS PUB) 90, *Guideline for Optical Character Recognition (OCR) Print Quality.*

c. Federal Information Processing Standards Publication (FIPS PUB) 85, *Optical Character Recognition (OCR) Inks.*

d. Federal Information Processing Standards Publication (FIPS PUB) 40, *Guideline for Optical Character Recognition Forms.*

e. Federal Information Processing Standards Publication (FIPS PUB) 1–1, *Code for Information Interchange.*

f. Federal Information Processing Standards Publication (FIPS PUB) 15, *Subsets of the Standard Code for Information Interchange.*

g. American National Standard BSR X3.93M–1981, *American National Standard for Optical Character Recognition (OCR) Character Positioning.*

h. ANS X3.86–1980, *American National Standard for Optical Character Recognition (OCR) Inks.*

i. ANS X3.4–1977, *American National Standard for Code for Information Interchange (ASCII).*

Applicability. This standard is applicable to Optical Character Recognition (OCR) systems utilizing any part or all of the character sets contained herein when used in data entry systems. However, when data or information is being prepared using OCR techniques for the purposes of the interchanging information, the appropriate graphic or control characters of FIPS PUB 1–1, *Code for Information Interchange,* or an appropriate subset as defined in FIPS PUB 15, *Subsets of the Standard Code for Information Interchange,* shall be used for such interchange.

Specifications. This standard specifies the shapes and sizes of printed characters designed to be automatically recognized by optical means. These characters are contained in three sets, designated as OCR–A, OCR–B, and MICR E–13B. MICR E–13B is intended for automated recognition by magnetic means. Optical recognition techniques applied to MICR E–13B characters under certain conditions can achieve higher recognition rates and can tolerate greater character skew. The number of characters to be employed and the sets from which they are selected shall be determined by the requirements of each application.

This standard adopts in whole, or that part indicated, ANS proposed BSR X3.17–1981, *Character Set for Optical Character Recognition (OCR–A)* , ANS X3.49–1975, *Character Set for Optical Character Recognition (OCR–B)* (with the additional requirements as explained in the Applicability section), and ANS X3.2–1970 (R1976), *Print Specifications for Magnetic Ink Character Recognition (MICR)* except Sections 5, 11, the Appendix, and related illustrations of X3.2–1970 (R1976)) by incorporating them into this standard by reference.

In addition, the following specifications apply to MICR Read Optically:

1. Character Skew—The maximum allowable character skew for MICR E–13B read optically is ±3.0 degrees, measured from a line which is perpendicular to the average bottom edge of characters, excluding special symbols 3 and 4. Note that the American National Standard X3.2–1970 (R1976), *Print Specifications for Magnetic Ink Characters,* limits the maximum character skew to ±1.5 degrees for magnetic ink character recognition applications (see Figure 18 of X3.2–1970 (R1976)).

2. Relationship to the American Standard Code for Information Interchange (ASCII) Code Table—The encoding of the MICR E-13B numerals and their placement is in accordance with the ASCII Code Table. The placement of these and of the four special symbols is shown in Table 1.

Qualifications. A family of related standards is required in order to describe the full set of character shapes, sizes, and performance characteristics necessary for a complete operational OCR system. This standard is a member of such a family. Other standards in the family cover OCR Forms, OCR Inks, OCR Character Positioning, and OCR Print Quality (see Related Documents section).

Special Information. This Federal Information Processing Standard Publication (FIPS PUB) 32–1, Character Sets for Optical Character Recognition (OCR), is issued to reflect revisions in the two American National Standards for OCR upon which it is based, and to include a MICR character set to meet unique needs of certain Federal agencies which process large volumes of MICR encoded financial documents.

Specific differences between the original FIPS PUB 32 and this revision are:

a. The inclusion of graphic shapes for 11 special characters of OCR–A, which extends the character set to accommodate the full code table of the ASCII (American Standard Code for Information Interchange), as provided in FIPS PUB 1–1 which adopts American National Standard X3.4–1977 except for two diacritic marks and the underline which are not used in OCR–A systems as stand-alone symbols.

b. The addition of three monetary shapes and the deletion of four punctuation characters of OCR–B, as reflected in American National Standard X3.2–1970 (R1976). This is a special set normally used in conjunction with MICR installations.

Implementation. The earlier version of this standard (FIPS PUB 32) became effective on

December 1, 1974. This revised version becomes effective on the date of the announcement of its approval, by the Secretary of Commerce, in the Federal Register.

All applicable equipment or services ordered on or after the date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below.

Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the effective date of this standard.

b. Where procurement actions are in the solicitation phase (i.e., Requests for Proposals or Invitations for Bids have been issued) prior to the effective date of this standard.

Waivers. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to procurement of non-conforming equipment or the use of non-conforming character sets will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Secretary of Commerce. They should describe the nature of the waiver and set forth the reasons therefor.

Forty-five days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be efffective until a reply is received from the National Bureau of Standards; however, the final decision for the granting of a waiver is a responsibility of the agency head.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 32-1 (FIPS PUB 32-1), and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

BILLING CODE 3510-CN-M

	b₇	0	0	0	0	1	1	1	1
	b₆	0	0	1	1	0	0	1	1
	b₅	0	1	0	1	0	1	0	1
b₄	b₃	b₂	b₁	0	1	2	3	4	5	6	7
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Table 1
Correspondence Between MICR E-13B Characters and the ASCII Code Table

[FR Doc. 82-17218 Filed 6-24-82; 8:45 am]
BILLING CODE 3510-CN-C

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Receipt of Application for Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application for deep seabed mining exploration license.

SUMMARY: Pusuant to section 116(a) of the Deep Seabed Hard Mineral Resources Act and 15 CFR 970.212(a), which was published at 46 FR 45901, September 15, 1981, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) received, on February 18, 1982, two applications from Ocean Mining Associates (OMA), Box 2, Gloucester Point, Virginia 23062, for licenses to conduct seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. Subject to 15 FR 970.902, which excludes certain information from public disclosure, interested persons will be permitted to examine the materials relevant to these applications and may submit written comments to NOAA.

DATES: Comments on the applications should be submitted to NOAA on or before August 24, 1982.

ADDRESS: An original and 5 copies of any comments should be addressed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

In addition, a copy of these comments should be sent to OMA at the address listed in the SUMMARY section of this notice.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Peter J. Bautz, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–7695.

Dated: June 25, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-17226 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-12-M

Deep Seabed Mining; Receipt of Application for Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application for deep seabed mining exploration license.

SUMMARY: Pursuant to section 1116(a) of the Deep Seabed Hard Mineral Resources Act and 15 CFR 970.212(a), which was published at 46 FR 45901, September 15, 1981, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) received on February 18, 1982, four applications from Ocean Management, Inc. (OMI), One New York Plaza, New York, New York 10004, for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clifferton Fracture Zone. Subject to 15 CFR 970.902, which excludes certain information from public disclosure, interested persons will be permitted to examine the materials relevant to these applications and may submit written comments to NOAA.

DATE: Comments on the applications should be submitted to NOAA on or before August 24, 1982.

ADDRESS: An original and 5 copies of any comments should be addressed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235

In addition, a copy of these comments should be sent to OMI at the address listed in the SUMMARY section of this notice.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurback or Peter J. Bautz, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–7695.

Dated: June 25, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-17227 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-12-M

Deep Seabed Mining; Receipt of Application for Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application for deep seabed mining exploration license.

SUMMARY: Pursuant to section 116(a) of the Deep Seabed Hard Mineral Resources Act and 15 CFR 970.212(a), which was published at 46 FR 45901, September 15, 1981, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) received, on February 17 and March 12, 1982, two applications from the Kennecott Consortium (KCON), Ten Stamford Forum, Stamford, Connecticut 06904, for licenses to conduct deep seabed mining exploration activities at two sites in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. Subject to 15 CFR 970.902, which excludes certain information from public disclosure, interested persons will be permitted to examine the materials relevant to these applications and may submit written comments to NOAA.

DATE: Comments on the applications should be submitted to NOAA on or before August 24, 1982.

ADDRESS: An original and 5 copies of any comments should be addressed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

In addition, a copy of these comments should be sent to KCON at the address listed in the SUMMARY section of this notice.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Peter J. Bautz, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–7695.

Dated: June 25, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-17228 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-12-M

Deep Seabed Mining; Receipt of Application for Exploration License

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of application for deep seabed mining exploration license.

SUMMARY: Pursuant to section 116(a) of the Deep Seabed Hard Mineral

Resources Act and 15 CFR 970.212(a), which was published at 46 FR 45901, September 15, 1981, notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) received, on January 27, 1982, two applications from Ocean Minerals Company (OMCO), 465 N. Bernardo Avenue, Mountain View, California 94043, for licenses to conduct deep seabed mining exploration activities at two sites in the Northeastern Equatorial Pacific Ocean within the seabed generally known as the Clarion-Clipperton Fracture Zone. Subject to 15 CFR 970.902, which excludes certain information from public disclosure, interested persons will be permitted to examine the materials relevant to these applications and may submit written comments to NOAA.

DATES: Comments on the applications should be submitted to NOAA on or before August 24, 1982.

ADDRESS: An original and 5 copies of any comments should be addressed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

In addition, a copy of these comments should be sent to OMCO at the address listed in the SUMMARY section of this notice.

FOR FURTHER INFORMATION CONTACT: Laurence J. Aurbach or Peter J. Bautz, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Suite 410, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235, (202) 653–7695.

Dated: June 25, 1982.

Francis J. Balint,

Director, Office of Information and Management Services.

[FR Doc. 82-17229 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-12-M

Issuance of Permit

On May 17, 1982, Notice was published in the **Federal Register** (47 FR 21118) that an application had been filed with the National Marine Fisheries Service by Mr. Michael Graybill, Oregon Institute of Marine Biology, University of Oregon, Charleston, Oregon 97420 for a Scientific Research Permit to take harbor seals (*Phoca vitulina*) by potential harassment.

Notice is hereby given that on June 18, 1982, the National Marine Fisheries Service issued a Scientific Research Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), to Mr. Michael Graybill subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: June 18, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17255 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council its Scientific and Statistical Committee and its Advisory Panel; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The North Pacific Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) and an Advisory Panel (AP) to assist the Council in carrying out its responsibilities under the Act. The Council, its SSC and AP will hold separate public meetings.

DATES: The Council meeting will convene at approximately 9 a.m., on Wednesday, July 21, 1982, in the Aft Deck of the Hotel Captain Cook, Anchorage, Alaska, and will adjourn on Thursday, July 22, 1982, at approximately 5 p.m. The SSC meeting will convene on Monday, July 19, 1982, at approximately 1:30 p.m., and will adjourn on Tuesday, July 20, 1982, at the Council's Headquarter's Conference Room, 333 West Fourth Avenue, Suite 32, Anchorage. The AP meeting will convene on Tuesday, July 20, 1982, at approximately 9 a.m., and will adjourn at approximately 5 p.m., in the Adventure Room of the Hotel Captain Cook. The meetings may be lengthened or shortened depending upon progress on the agenda.

Proposed Agenda

Council—A detailed agenda will be sent to the public around July 6, 1982. The Council will hear reports on domestic and foreign fisheries, enforcement and surveillance and joint venture operations.

The Council will also review proposed revisions to the Bering/Chuckchi Sea Herring Fishery Management Plan (FMP); discuss "housekeeping" amendments to remove inconsistencies between State and Federal Tanner crab regulations, and discuss a draft amendment to establish a fishery development zone north of Unimak Pass. The Council will also take final action on the Alaska Longline Fishermen's Association proposal in the Gulf of Alaska Groundfish Amendment 11, to establish an exclusive hook and line fishery for sablefish and discuss the status of pollock in the Gulf of Alaska. The Council will confer with the halibut limited entry study contractor to reduce the number of options to be studied for the remainder of the contract and may also consider applications from ships of foreign nations and various contract.

SSC and AP. Same as Council.

FOR FURTHER INFORMATION: North Pacific Fishery Management Council, 333 West Fourth Avenue, Suite 32, Anchorage, Alaska 99501, Telephone: (907) 274–4563.

Dated: June 21, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-17253 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

International Standards; Issues and Implications for the 80's; Meeting

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming workshop on International Standards—Issues and Implications for the 80's. This two-day workshop for interested industry and government representatives will focus on current and future international standards activities and their impact on: Common Carriers, Telecommunications Users, and Equipment Manufacturers. The standardization process in the United States and in International CCITT Study Groups will be described. Other major relevant international and regional standards activities (e.g., ISO, CEPT) will be summarized. The impact of these international standards efforts on U.S. industry and government organizations will be addressed. Motives and methods for participating in national and international CCITT working groups will be presented. Specific issues to be

discussed include: Integrated Services Digital Network (ISDN), Open Systems Interconnection (OSI), New Services (e.g., Teletex, Videotex, etc.), Signalling Systems, and Facsimile. Registrations are requested by mail or phone by June 29, 1982.

DATES: July 21, 1982, 8:30 a.m. to 5:30 p.m.; July 22, 1982, 8:30 a.m. to 5:30 p.m.

ADDRESS: U.S. Department of Commerce Laboratories, 325 Broadway, Boulder, CO.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph A. Hull, National Telecommunications and Information Administration, Institute for Telecommunication Sciences (2.1), 325 Broadway, Boulder, CO (303/497-5136).

Charles M. Rush,

Acting Director, Institute for Telecommunication Sciences.

[FR Doc. 82-16941 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-60-M

[Docket No. 2822-112]

Public Telecommunications Services Grant Program; Request for Proposals and Policy Statement

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Request for proposals and policy statement.

SUMMARY: NTIA, through its Satellite Applications Program, announces that it is seeking proposals from nonprofit, non-Federal entities to "assist in market aggregation, technology transfer, and possible development of domestic * * * public satellite services." Presidential Directive 42 (PD-42). Applications must be filed with NTIA on or before July 28, 1982. It is anticipated that approximately $650,000 will be awarded in the form of grants.

In issuing this request for proposals for Public Telecommunications Services (PTS) grants, NTIA is also announcing several policy changes concerning the eligibility of applicants and proposals, the evaluative criteria, the method of evaluation and the preferences (priorities) which NTIA will give to applicants. NTIA's decision to make a grant award will be based on: the degree of innovation shown by the applicant; the efficiency (cost effectiveness) of the proposed project; and the likelihood of continued operation after the end of the grant. NTIA will give preference to applications evincing ownership or control by women and/or minorities. The Administrator will retain the complete discretion to make final evaluations of the applications and to make grant recommendations to the Department of Commerce (Department). NTIA will only accept applications from nonprofit organizations and no longer requires that applications proposed national or regional projects.

AUTHORITY: NTIA derives its authority for this grant activity from the 1976 National Civil Space Policy as contained in PD-42, and the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. No. 95-224).

DATE: All applications must be submitted by July 28, 1982. Since this grant activity is now subject to the provisions of Office of Management and Budget Circular A-95, applicants must also file a copy of their PTS application with the appropriate A-95 clearinghouse(s) by July 28, 1982. NTIA expects to make awards by September 30, 1982.

FURTHER INFORMATION: Persons desiring further information concerning the application process or desiring to obtain an application kit should contact: Robert H. Fleming, Satellite Applications Program Manager (Acting), NTIA/DOC, Main Commerce, Room 4720, Washington, DC 20230. Telephone: (202) 377-1895.

SUPPLEMENTARY INFORMATION:

I. Request for Proposals.

NTIA's Satellite Applications Program is now seeking proposals for projects to "assist in market aggregation, technology transfer, and possible development of domestic * * * public satellite services." PD-42. NTIA intends to award approximately $650,000 in the form of PTS grants to one or more organizations on or about September 30, 1982.

Eligibility: To be eligible to obtain a PTS grant an organization must: (1) be a non-Federal and nonprofit entity (including State and local governments and their national or regional organization); and (2) propose a project to "assist in market aggregation, technology transfer, (or) possible development of domestic * * * public satellite services." PD-42. For example, applicants for PTS grants may propose various methods of offering opportunities for training, teleconferencing, education, information dissemination, electronic publishing, broadcast document distribution, and other services to a wide variety of public service entities, including Federal, State and local government agencies, and other public service organizations. PTS funds are not available for the production of programming or the distribution of sectarian programming.

Applications: Applicants must file proposals on NTIA approved application forms with a narrative description of the proposed project by July 28, 1982.[1] Applicants may obtain application forms and instructions for preparing the narrative from: Robert H. Fleming, Satellite Applications Program Manager (Acting), NTIA/DOC, Main Commerce, Room 4720, Washington, DC 20230. Telephone: (202) 377-1895. Eligible organizations which have current grant applications on file with NTIA under the Public Telecommunications Facilities Program (PTFP) need only file a letter requesting NTIA to consider its PTFP application under the Satellite Applications Program concurrently with its consideration under the PTFP. All such letters must be filed by July 28, 1982, with: Robert H. Fleming, Satellite Applications Program Manager (Acting), NTIA/DOC, Main Commerce, Room 4720, Washington, DC 20230.

II. Policy Statement

During the decades of the 1960's and 1970's, the National Aeronautics and Space Administration organized and co-sponsored a number of experiments and demonstrations of the use of communications satellites for the delivery of public services. Many of these experiments and demonstrations proved that the use of satellites could improve the productivity of a wide variety of such services in a cost-effective manner. Consequently, PD-42 instructed NTIA to formulate policy to "assist in market aggregation, technology transfer, and possible development of domestic * * * public satellite services." PD-42.

For the past two years, NTIA has operated a grant-in-aid program under PD-42 to assist various organizations in accomplishing the aims listed above. During this time, NTIA has informally used a list of criteria in evaluating the applications it received. NTIA believes it is desirable to simplify these criteria. In evaluating applications filed during this grant cycle, therefore, NTIA will base its determination to award a grant on its evaluation of the application based on the following criteria: (1) The degree of innovation of the proposed project's use of satellite technology; (2) the efficiency (cost-effectiveness) of the proposed project; and (3) the likelihood of continued operation after the end of the grant.

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[1] The Office of Management and Budget (OMB) has approved the information collection contained in NTIA's application for PTS grants. OMB Approval No. 0660-0004.

In addition, NTIA is changing its method of evaluating grant applications. During prior grant cycles, the agency employed a review panel to read and evaluate all the applications received. Because of the limited number of applications which NTIA has received in the past (and anticipates receiving during the present cycle), NTIA believes it is sufficient for the agency itself to evaluate the applications using the criteria discussed above. In all cases, the Administrator will retain the complete discretion to make final evaluations of the applications and to make grant recommendations to the Department.

Under the Satellite Applications Program, NTIA will give preference (priority) only to applicants which clearly evidence some degree of ownership or control by women and/or minorities. Furthermore, NTIA will no longer require that eligible proposals have a national or regional scope. Additionally, since no appropriation has been requested for future fiscal years, applicants must show that the services which they propose in their applications will become economically viable when the grant funds have been expended.

As a final matter, NTIA has recognized that a number of the grant applications it has received under the PTFP would qualify for funding under either the PTFP or the Satellite Applications Program. In order to expand the variety of proposals to be considered under the Satellite Applications Program and to allow PTFP applicants the greatest possible number of opportunities to obtain funding for their projects, NTIA will consider funding any qualifying PTFP application currently on file with the agency under the Satellite Applications Program as well as under the PTFP. PTFP applicants whose projects would "assist in market aggregation, technology transfer, (or) possible development of domestic * * * public satellite services," in order to obtain consideration of their PTFP applications under the Satellite Applications Program, need only file a letter requesting NTIA to do so with: Robert H. Fleming, Satellite Applications Program Manager (Acting), NTIA/DOC, Room 4720, Main Commerce, Washington, DC 20230.

(Catalog of Federal Domestic Assistance No. 11.551)

Dated: June 23, 1982.

Bernard J. Wunder, Jr.,

Administrator.

[FR Doc. 82-17334 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-60-M

Office of the Secretary

[Department Organization Order 40-1]

Order Series; International Trade Administration

This Order effective February 15, 1982 supersedes the material appearing at 45 FR 6148 of January 25, 1980.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the International Trade Administration (ITA). Department Organization Order 10-3 prescribes the functions and the scope of authority of the Under Secretary for International Trade.

.02 This revision reflects a realignment of functions under the Assistant Secretaries for International Economic Policy and Trade Development, and the Director General of the Commercial Sevices. Outstanding amendments to the Order are also incorporated.

Section 2. Organization Structure

The principal organization structure and line of authority of ITA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Under Secretary for International Trade

The *Under Secretary for International Trade* (the "Under Secretary") determines policy, directs the programs, and is responsible for all activities of ITA. The Under Secretary coodinates all issues concerning trade administration, international trade and commercial policy, and trade development; and, in the absence of the Secretary of Commerce, represents the Department on the Trade Policy Committee, as ex-officio member of the Board of the Export-Import Bank of the United States and, as assigned, serves on all other Secretarial-level boards, committees, or panels of which the primary focus is international trade. The Office of the Under Secretary is responsible for Congressional liaison for ITA in coordination with the Assistant Secretary for Congressional Affairs, and includes the Planning and Evaluation Staff which identifies issues or problems requiring the attention of the Under Secretary or coordination between program areas; monitors and coordinates the preparation of studies, reports, Congressional testimony, speeches and other items addressing these issues; directs, coordinates and monitors ITA participation in interagency staff activity and represents ITA in this activity when appropriate; and develops and reviews policy options and recommendations on issues when requested by the Under Secretary.

Section 4. Deputy Under Secretary for International Trade

.01 The *Deputy Under Secretary for International Trade* (the "Deputy Under Secretary") is the principal deputy to the Under Secretary, performs such duties as the Under Secretary may assign, and performs the functions of the Under Secretary in the latter's absence or disability or in the event of a vacancy in that office. The Deputy Under Secretary is responsible for the day-to-day management of ITA.

.02 The Office of the Deputy Under Secretary includes the *Director of Administration* who is the principal advisor to the Under Secretary and the Deputy Under Secretary on management policy for the International Trade Administration. Specifically, the Director of Administration:

a. Develops and administers, for Civil Service personnel, personnel management programs including recruitment and placement, employee development, classification, labor-management relations, equal employment opportunity, employee relations, and provides liaison with the Departmental Office of Personnel;

b. Provides management, organization and systems analysis, including management studies and surveys and organizational planning studies; coordinates ADP systems development; performs the committee management, directives management, records management, forms management, files management, correspondence management and reports management functions for the ITA; coordinates GAO and Departmental audits activity in ITA; coordinates activity under the Freedom of Information Act and the Privacy Act of 1974; operates an ITA-wide text processing system; and provides liaison with the Departmental Office of Organization and Management Systems, the Office of Information Management, the Office of Program Planning and Evaluation, and the Office of Inspector General;

c. Formulates, presents, executes, and assesses program effectiveness of the ITA budget; effects financial and budgetary controls; prepares budget reports; and provides liaison with the Departmental Office of Budget;

d. Provides administrative support services for ITA, including safety, security, correspondence control, space

management, and procurement liaison; and

e. Advises on all public affairs and information service matters; provides ITA centralized information services, conducts and is responsible for publications programs, consonant with the provisions of Department Organization Order 20–9, "Office of Publications;" provides speech writing and scheduling services; coordinates all audiovisual, exhibit, and advertising activities; maintains liaison with the Departmental Office of Publications, the Departmental Office of Public Affairs and the news and trade media consonant with the provisions of Department Organization Order 15–3, "Office of Public Affairs;" and publishes *Business America* magazine.

Section 5. Director General of the Commercial Services

The *Director General of the Commercial Services* (the "Director General") is responsible for providing management processes and for providing management support functions for the Foreign Commercial Service (FCS) and the U.S. Commercial Service (USCS). The Director General will coordinate the appropriate functions with the Assistant Secretary for International Economic Policy (and the Regional Deputy Assistant Secretaries) for specific FCS country program and supervisory purposes; with the Assistant Secretary for Trade Development (and the Deputy Assistant Secretary for Export Development) for USCS program supervision purposes; and with the Director of Administration for USCS personnel management purposes. Specifically, the Director General:

.01 Serves as visible spokesperson for the Commercial Services as a whole, notably with business and other external constituencies;

.02 Develops, in coordination with the Departmental Office of Personnel and the Department of State, and administers for Foreign Service and Foreign Service National (FSN) employees of the FCS, personnel management programs including recruitment and placement, employee development, classification, labor-management relations, equal employment opportunity, employee relations, promotions, career planning and separations, and provides liaison with the Department of State on FCS personnel issues;

.03 Develops and implements personnel programs for the Commercial Services, including: recruitment, training, career development, and personnel assignments. The Director General retains overall responsibility for all senior FCS and USCS performance evaluations (coordinating with the appropriate line Deputy Assistant Secretary who evaluates senior personnel for program purposes);

.04 Develops and implements a unified personnel and post goal-setting and evaluation process which integrates the activities of the two services with each other and the rest of ITA;

.05 Develops and manages a country planning process in coordination with the revelant regional and trade program Deputy Assistant Secretaries;

.06 Administers a system of Foreign Commercial Service posts located in commercial centers throughout the world, which, in accordance with the country plan, support and carry out trade promotion activities, develop marketing and commercial intelligence, facilitate U.S. investment, monitor U.S. rights and opportunities created by trade agreements, support ITA import and export administration activities, and provide representation to host governments on behalf of U.S. business firms. The senior commercial officer in a country has overall responsibility for all ITA activities and personnel in that country.

.07 Administers a system of U.S. Commercial Service District Offices (see Exhibit 2)[1] located in commercial centers throughout the United States which, in accordance with plans developed by the Assistant Secretary for Trade Development, offer U.S. firms counselling on overseas marketing, technical export information, and guidance on marketing opportunities and strategies; conduct seminars, workshops, and conferences; obtain commercial information from U.S. firms for use in planning and evaluating trade programs; and disseminate to the business community information on trade developments, trade policy issues and technological developments;

.08 Publishes the *Commerce Business Daily* and directs Federal procurement assistance and services programs;

.09 Carries out emergency preparedness functions through District Office Directors in the Uniform Federal Regional Council cities who serve as Regional Emergency Coordinators; and

.10 The Director General is assisted in carrying out these functions by the Deputy Assistant Secretary for the Commercial Services who serves as principal deputy to the Director General and assumes the duties of the Director General in the latter's absence.

[1] A copy of Exhibit 2 is on file with the original of this document in the Office of the Federal Register.

Section 6. Assistant Secretary for International Economic Policy

The *Assistant Secretary for International Economic Policy* (the "Assistant Secretary") advises on the analysis, formulation, and implementation of U.S. international economic policies of a bilateral, regional, or multilateral nature and carries out programs to promote world trade and to strengthen the international trade and investment position of the United States. Specifically, the Assistant Secretary has responsibility for devising and implementing appropriate bilateral, regional and multilateral trade and investment policies; promoting U.S. trade objectives in particular countries and regions through supervision of the relevant program activities of the Foreign Commercial Service posts overseas (through the regional Deputy Assistant Secretaries, and in coordination with the Director General); managing bilateral joint commissions and other institutions; participating as appropriate, together with the Assistant Secretary for Trade Development, in reviewing international sectoral issues which arise in a bilateral, regional, or multilateral context; implementing and monitoring the results of the Multilateral Trade Negotiation; and coordinating ITA participation arising in the context of the GATT and in international organizations such as the OECD, UN, UNCTAD, and others. The Assistant Secretary carries out these functions through:

.01 The *Deputy Assistant Secretary for International Economic Policy* who:

a. Serves as the principal deputy to the Assistant Secretary, performs such duties as the Assistant Secretary may assign, and assumes the duties of the Assistant Secretary during the latter's absence;

b. Develops positions on international economic and trade policy issues which arise in a multilateral context (participating as appropriate, together with Trade Development officials, in reviewing international sectoral issues which arise in a bilateral, regional or multilateral context);

c. Develops positions on outward investment issues and functional trade policy issues which are not country or sector specific; and

d. Ensures effective cooperation by overseeing, with the Director General, the regional Deputy Assistant Secretaries in the supervision of the program activities of the FCS country posts abroad.

.02 The following regional Deputy Assistant Secretaries:

a. The Deputy Assistant Secretary for Europe;

b. The Deputy Assistant Secretary for the Western Hemisphere;

c. The Deputy Assistant Secretary for East Asia and the Pacific; and

d. The Deputy Assistant Secretary for Africa, the Near East and South Asia.

.03 Each of the regional Deputy Assistant Secretaries, for the countries within his/her region:

a. Analyzes and develops recommendations for international economic, trade and investment policy strategies and objectives and serves as the focal point within the Department for dealing with bilateral international economic, investment and commercial policy issues;

b. Formulates Departmental positions on economic and commercial policies affecting the region, including preparation and representation at interagency and international meetings and negotiations on bilateral and regional economic issues;

c. Monitors information on economic and commercial developments and maintains in-depth commercial and economic expertise on individual countries and the region; and

d. Provides geographic supervision of the Foreign Commercial Service country senior officers overseas, and, jointly with the Director General, appraises their performance. The Deputy Assistant Secretary and his/her country offices are the contact point within ITA for FCS overseas posts on country program issues.

Section 7. Assistant Secretary for Trade Administration

The *Assistant Secretary for Trade Administration* assists and advises on the development of policies pertaining to, and the implementation of, Departmental programs dealing with import and export administration issues, including industrial mobilization and foreign boycotts; exercises the functions of the "Secretary" and "administering authority" of U.S. antidumping and countervailing duty laws within the meaning of Title VII of the Tariff Act of 1930, as amended. The Assistant Secretary carries out these functions through:

.01 The *Deputy Assistant Secretary for Import Administration* who:

a. Coordinates the formulation and implementation of U.S. antidumping and countervailing duty policies and programs, ensuring that actions taken are consistent with overall U.S. trade policy;

b. Coordinates the development of Departmental positions with regard to specific antidumping and countervailing duty cases and general antidumping and countervailing duty issues which are to be discussed in domestic and international forums, such as meetings of the interagency Trade Policy Committee and the GATT Antidumping and Countervailing Duty Code Committees;

c. Ensures the proper administration of antidumping and countervailing duty laws, including the expeditious conduct of investigations, the administration of antidumping and countervailing duty orders, and the administration of antidumping and countervailing duty suspension agreements;

d. Conducts, as directed by the Assistant Secretary for Trade Administration, negotiations with foreign manufacturers or governments to suspend antidumping or countervailing duty investigations, except where the U.S. Trade Representative elects to lead U.S. negotiating teams; and

e. Administers Departmental programs relating to foreign-trade zones, allocation of watch quotas, duty-free entry of scientific instruments, and importation of foreign excess property.

.02 The *Deputy Assistant Secretary for Export Administration* who:

a. Carries out the Department's responsibilities for regulating exports of U.S. goods and technology for purposes of national security, foreign policy, and short supply;

b. Provides staff support for the Export Administration Review Board, the Advisory Committee on Export Policy, and the Subcommittee of the Advisory Committee on Export Policy (Sub-ACEP);

c. Coordinates and conducts the Department's activities regarding industrial mobilization for national defense, including priorities and allocations, industrial resources, and emergency preparedness programs;

d. Investigates and determines if imports threaten to impair the national security, and, if appropriate, recommends remedial action through the Under Secretary and the Secretary to the President;

e. Carries out, in consultation with the Departments' General Counsel, a compliance program to enforce the Export Administration regulations relating to exports of U.S. goods and technology for purposes of national security, foreign policy and short supply; and

f. Administers programs concerning foreign boycotts against countries friendly to the United States, and develops and coordinates measures for opposing such boycotts.

Section 8. Assistant Secretary for Trade Development

The *Assistant Secretary for Trade Development* (the "Assistant Secretary") advises on trade and investment policies pertaining to U.S. business sectors and carries out programs to promote world trade and to strengthen the international trade and investment position of the U.S. In carrying out these functions, the Assistant Secretary directs the Department's programs for participation in trade fairs, trade missions and other overseas trade promotion events; conducts programs within the U.S. to expand the export-consciousness of American firms and to facilitate entry into international trade; implements and monitors the results of the Multilateral Trade Negotiations (MTN) and provides advice and assistance to U.S. businesses on rights and opportunities resulting from the MTN; carries out special industry activities to promote exports of major projects and high technology products; examines and develops trade policy recommendations which are industry sector or product-specific in nature (with appropriate consultation with units of International Economic Policy, where significant country or regional issues are involved); obtains private sector views with respect to international economic and commercial policy issues; conducts programs aimed at assistance to industries faced with import competition; and manages ITA's trade-related information and research gathering and dissemination functions. The Assistant Secretary advises Departmental and ITA officials on policies and programs relating to these functions and serves as the National Export Expansion Coordinator and coordinator of the National Coal Export Policy. The Assistant Secretary carries out these functions through:

.01 The *Deputy Assistant Secretary for Trade Development* who serves as the principal deputy to the Assistant Secretary and assumes the duties of the Assistant Secretary in the latter's absence.

.02 The *Deputy Assistant Secretary for Export Development* who:

a. Develops domestic and overseas programs designed to stimulate the expansion of U.S. exports, including activities to foster an export consciousness among U.S. manufacturing and service industries and evaluates the effectiveness of these programs;

b. Directs the delivery of export development programs which are

carried out by the District Offices of the U.S. Commercial Service;

c. Provides Departmental recognition of domestic and foreign trade promotion events;

d. Directs overseas event scheduling and staffing, including exhibitor recruitment, resource management and staging of the Department's trade promotion events;

e. Develops programs to improve the access of U.S. products and services to foreign markets, including identifying barriers and surveying U.S. laws and practices affecting international trade; and

f. Carriers out the provisions of Pub. L. 91–269 related to Federal recognition and participation in international expositions held in the United States.

.03 The *Deputy Assistant Secretary for Industry Projects* who:

a. Examines and develops trade policy recommendations which are industry sector or product-specific in nature (with appropriate consultation with units of International Economic Policy, where significant country or regional issues are involved); obtains private sector views with respect to international economic and commercial policy issues;

b. Implements, monitors, and participates in international consultation and renegotiation of MTN tariff, non-tariff, and other agreements for non-agricultural industries and services and develops and provides U.S. business with information and assistance on new U.S. rights and opportunities under the MTN codes and other agreements;

c. Represents the Department in international finance and development assistance affairs; provides representation on or staff support to Departmental representatives on committees or other groups dealing with export finance, export guarantees, credit insurance, and related issues; and

d. Conducts a program to assist U.S. companies to compete for major infrastructure and industrial systems contracts abroad.

.04 The *Deputy Assistant Secretary for Trade Information and Analysis* who:

a. Initiates and reviews research studies and forecasts on developments affecting U.S. international trade and competitiveness and manages a program of trade and international economic analyses and statistics for U.S. Government and business;

b. Monitors and analyzes foreign investment in the United States; prepares studies and reports on its economic effects and represents the Department on committees or groups concerned with these issues; and

c. Develops and operates export information programs, including an automated trade policy data and information system, and an automated export information transfer system.

.05 The *Deputy Assistant Secretary for Textiles and Apparel* who:

a. Assists and advises Departmental officials on the economic condition of the U.S. textile and apparel industries, domestically and internationally; negotiates and monitors bilateral textile and apparel restraint agreements in conjunction with the United States Trade Representative, the Department of State, Treasury and Labor, consulting and coordinating with the relevant Inernational Economic Policy regional Deputy Assistant Secretary; monitors imports from controlled agreement countries and uncontrolled countries;

b. Manages operation of the Committee for the Implementation of Textile Agreements (CITA), and advisory committees related to the textile and apparel program; prepares economic data and performs analyses of conditions in the domestic textile and apparel markets, including the impact of imports; promotes the expansion of exports of textiles and apparel, and in conjunction with the United States Trade Representative and other organizations, reduction of non-tariff barriers; and

c. Prepares statistical data on imports; classifies problems arising under agreements, and trains foreign officials in U.S. classification procedures; and provides structural assistance to the industry on technology, research and development, and management training.

.06 The *Deputy Assistant Secretary for Trade Adjustment Assistance* who develops policies and provides guidance to implement the trade adjustment assistance program; certifies firms and communities as eligible to apply for trade adjustment assistance; provides trade adjustment technical and financial assistance to certified firms; provides trade adjustment assistance to trade-impacted industries and communities; develops a systematic adjustment assistance monitoring program to assure that firms comply with the terms of their adjustment proposals and any agreements pertaining to the adjustment assistance received; establishes produces for dealing with delinquent firms, including innovative approaches to maintain the viability of firms; evaluates the performance of firms which have received adjustment assistance and establishes correlations among their success or failure, their adjustment assistance proposals, and performance of the Trade Adjustment Assistance Centers (TAACs); coordinates the trade adjustment assistance program with other Federal agencies, including the Department of Labor, the International Trade Commission, and the Office of the United States Trade Representative (USTR); and provides representation for the Commerce Labor Adjustment Action Committee (CLAAC).

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82–17281 Filed 6–24–82; 8:45 am]

BILLING CODE 3510–17–M

[Department Organization Order 40–1; Amdt. 1]

Department Organization Order Series; International Trade Administration

This Order is effective May 10, 1982.

Department Organization Order 40–1, dated February 16, 1982 is hereby amended as shown below. The purpose of this amendment is to incorporate the transfer of certain compliance programs under the Export Administration Act of 1979 from the Deputy Assistant Secretary for Export Administration to the newly established Deputy Assistant Secretary for Export Enforcement and change the titles of the Director General of the Commercial Services and the deputy.

1. In pen and ink, in Section 5. change references to the "Director General of the Commercial Services" and "Deputy Assistant Secretary for the Commercial Services" to read "Director General of the U.S. and Foreign Commercial Services" and "Deputy Assistant Secretary for the U.S. and Foreign Commercial Services."

2. *Section 7. Assistant Secretary for Trade Administration.* a. In pen and ink, at the end of subparagraph .02d. add the word "and."

b. Subparagraphs .02e. and .02f. are deleted. A new subparagraph .02e. and a new paragraph .03 are added to read as follows:

"e. Enforces, in consultation with the Department's General Counsel and the Deputy Assistant Secretary for Export Enforcement, those Export Administration Regulations relating to short supply commodity controls.

".03 The *Deputy Assistant Secretary for Export Enforcement* who:

"a. Carries out, in consultation with the Department's General Counsel, a compliance program to enforce the Export Administration Regulations relating to foreign boycotts against countries friendly to the United States and to exports of U.S. goods and technology for purposes of national security and foreign policy; and

"b. Administers programs concerning foreign boycotts against countries friendly to the United States, and develops and coordinates measures for opposing such boycotts."

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82-17282 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 30-2B]

Department Organization Order Series; National Bureau of Standards

This Order effective April 27, 1982 supersedes the material appearing at 46 FR 7421 of January 23, 1981.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the National Bureau of Standards (NBS). The scope of authority and functions are set forth in Department Organization Order 30-2A.

.02 This revision is a general update of the Order. Major changes include: the transfer of the Office of Product Standards to NBS and changing its title to the Office of Product Standards Policy; dismantling the Center for Field Methods and assigning its resources to the Associate Director for Programs, Budget, and Finance; and the incorporation of outstanding amendments to this Order.

Section 2. Organization

The organization structure and line of authority of NBS shall be as depicted in the attached organization chart (Exhibit 1). A copy of the Organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Director

.01 The *Director* shall determine the policies of NBS and direct the development and execution of its programs.

.02 The *Deputy Director* shall assist the Director in the direction of NBS and perform the functions of the Director in the latter's absence.

Section 4. Staff Functions Reporting to the Director

.01 The *Legal Adviser* shall, under the professional supervision of the Department's General Counsel and Assistant General Counsel for Economic Affairs, and as provided in Department Organization Order 10-6, serve as the law office of, and have responsibility for all legal services at NBS.

.02 The *Office of Congressional Affairs* shall in cooperation with the Departmental Office of Congressional Affairs, coordinate and advise on all Bureau activities relating to the Congress; maintain liaison between NBS and the Congressional Committees having authorizing and oversight jurisdiction over NBS; serve as the focal point for handling all Congressional correspondence and inquiries and for the exchange of information with the Congress; advise on the development of legislation required by the Bureau; and provide the Bureau management with information on pending legislation, newly introduced legislation, and Congressional activities of interest to or affecting the Bureau.

.03 The *Associate Director for International Affairs* shall serve as the Bureau's principal adviser and consultant on international science and technology affairs, including the conduct of international programs, and the interpretation of foreign policy guidelines set by the Departments of State and Commerce; serve as liaison between NBS and the international science and technology offices of other Government agencies, foreign governments, and international bodies; provide NBS representation on various delegations to international meetings and on international committees; manage NBS bilateral and multilateral cooperative programs, and represent the Director in the negotiation on such international agreements; serve as the contact point for foreign visitors and guest workers; provide assistance to NBS travelers visiting foreign laboratories and institutions; and arrange for Bureau services to users in friendly countries (15 U.S.C. 273), the NBS Special Foreign Currency Program, and the transfer of funds program from AID.

.04 The *Chief, EEO Support Division* shall report to the Director of Administration; except that, on matters pertaining to EEO or affirmative action, the Chief shall be directly responsible and have access to the Director and/or Deputy Director of NBS. Such direct responsibilities shall primarily include EEO and affirmative action policy recommendations to these officials and the NBS Executive Board, fulfilling EEO objectives, accomplishing the Affirmative Action Plan, and monitoring NBS' progress in these areas through formal quarterly reviews.

.05 The *Public Affairs Officer* shall serve as the public information spokesperson for the NBS; serve as Chief of the Public Information Division; and work with the NBS Executive Board in developing communications strategies for the Bureau, using the resources of the Division in implementing those strategies. The Public Affairs Officer shall report to the Director of Administration; except that, on certain matters pertaining to public relations or the dissemination of information to the public, the Officer shall be directly responsible and have access to the Director of NBS.

.06 The *Office of Product Standards Policy* shall formulate and implement policy related to standardization, product testing and certification practices, laboratory accreditation, and weights and measures; maintain liaison with domestic, foreign, and international organizations concerned with standardization, weights and measures, and related measurement activities; execute standards policy functions and recommend Federal policies relating to the development, approval, and use of voluntary standards, the participation of individuals and organizations in the development of standards, and the development and implementation of standards coordinating mechanisms; chair the Interagency Committee for Standards Policy, coordinate actions by which Federal agencies implement standards policies, and monitor Federal participation in voluntary standards activities; carry out technical responsibilities for product standards programs; administer the Voluntary Product Standards program, the National Voluntary Laboratory Accreditation Program, and other programs related to standardization; operate the Technical office and National Center for Standards and Certification Information called for under the Trade Agreements Act of 1979; provide expert guidance and services relating to weights and measures to State and local governments, business, and industry; through these activities and sponsorship of the National Conference on Weights and Measures, promote measurement uniformity and equity in commerce, including assurance of traceability to national standards; carry out U.S. obligations derived from membership in the International Organization of Legal Metrology (OIML), developing consensus positions on legal metrology issues and managing U.S. participation in the activities of the Organization.

Section 5. Associate Director for Programs, Budget, and Finance

The *Associate Director for Programs, Budget, and Finance* shall plan, develop, and evaluate Bureau-level programs and formulate and carry out policies and strategies for programmatic, budgetary, and financial matters; develop techniques for and coordinate the review of technical and overhead

programs; serve as the Director's staff for Bureau-level programmatic, budget formulation and execution, and finance matters; develop and maintain mechanisms to monitor planned and actual use of resources by providing integrated, evaluated information on program progress, opportunities, and resources to the NBS Director; advise management on significant changes and deviations; recommend programs, budget, finance, and accounting priorities to the NBS Director; serve as the focal point of intelligence and feedback for Bureau-level programmatic issues; coordinate the formulation of the NBS budget and other Bureau-wide information packages and critique documents developed by line units; administer the NBS systems of accounting, financial management, travel, and payments; analyze resource and program proposals and investment levels; recommend distributions of the Working Capital Fund and Director's Reserve of funds, positions, and equipment to the NBS Director; and through the Comptroller, who shall report directly to the NBS Director on these matters, provide certification of official accounting records and reports and the control of funds.

a. The *Program Office* shall perform the functions of policy development, program analysis, and program development; sponsor, coordinate, and participate in issue studies and Bureau-wide information packages; develop analytical techniques for and coordinate the review of Bureau technical and overhead programs; generate strategies, guidelines, and format for Bureau planning; articulate and document Bureau-level program plans and status and for internal and external use; and define alternatives for resource allocation and advise Bureau management on their implications.

b. The *Budget Office* shall provide advice and assistance to line management in the preparation, review, justification, presentation, and execution of the Bureau's budget, including financial management and resource allocation monitoring on the Bureau's total resources; interpret regulations and develop budgetary policy and procedures for the budget process; provide assistance in integrating program planning with the budgetary process using as a principal vehicle the Program and Financial Plan; maintain external liaison on budgetary matters; assist in the solution of budget and financing problems; design procedures for the resource monitoring system and review the execution of these procedures; perform analyses and continuing reviews of status of funds in relation to fiscal plans; advise on appropriate use of resources; and review other-agency orders for conformance to policy and regulations.

c. The *Office of the Comptroller* shall manage a comprehensive accounting and finance programs for the Bureau; administer the NBS system of accounting, payments, billings and collections, and financial reports; execute agreements for obtaining other-agency funds; analyze and develop improved financial policies and practices; monitor the fiscal health of the NBS Working Capital Fund; and monitor the overall fund controls and certify the official NBS accounting records and reports.

Section 6. Director of Administration

The *Director of Administration* shall manage and operate Bureau-wide administrative programs and equal employment opportunity support services; and shall establish and implement the related policies and plans, ensuring maximum responsiveness to the needs of NBS technical programs. The Director shall be assisted by a *Deputy Director of Administration,* who shall assist the Director in the performance of administrative functions, and serve as the Director during the latter's absence. The administrative functions are carried out in the following divisions:

a. The *EEO Support Division* shall develop program policy recommendations for the Director of NBS and members of the NBS Executive Board; assist the Director and Deputy Director of NBS and the Executive Board and line managers with their responsibilities for fulfilling the objectives of EEO and Affirmative Action Plan compliance throughout NBS, and the requirements of civil rights statutes, Executive Orders, and other regulatory provisions relating to equal opportunity and affirmative action; advise and assist the Personnel Division and line managers in the development and implementation of recruitment programs of qualified minorities, women, veterans, and handicapped persons assuring unbiased and equitable treatment of applicants; cooperate with the Minority Business Development Agency and the minority business community in support of minority business development; administer NBS' internal discrimination complaint system; coordinate the Special Emphasis Programs for Women, Hispanics, Handicapped, Veterans, Grants to Black Colleges, and Minority Business; and carry out related activities in cooperation with the EEOC, OPM, the Departmental Office of Civil Rights, the NBS Legal Adviser and the Department's General Counsel.

b. The *Library Division* shall furnish full bibliographic, document, information, and information referral services to the staff of the Bureau; provide consulting and training services for computerized information search and retrieval systems, initiate experimental projects to evaluate applications of new information storage, transmission, and retrieval technologies to the library's operations and services; participate in library and information networking and consortia activities in order to facilitate resource sharing among area and regional libraries; carry out the Bureau's library services and related information retrieval functions using both traditional and computerized information resources and methods; provide limited reference, loan, information, and training services to members of the outside scientific and academic communities.

c. The *Technical Information and Publications Division* shall carry out the overall planning and management of the NBS publications program, including: NBS policy, editorial, and procedural guidelines, publication budgeting, publication editing, design, and production, research and development on advance electronic typesetting technologies and their adaptation to NBS use, computer automation of publication statistics, and the distribution and archiving of all publications that record results of NBS scientific and technical research; coordinate technical and policy review of manuscripts prepared at Gaithersburg for publication; provide secretariat for the Washington Editorial Review Board; and serve as the central information center for users of the Bureau's outputs.

d. The *Public Information Division* shall serve as the focal point of Bureau communications with the public through interaction with the print and broadcast media, and by means of conferences, tours, and exhibits; advise on the public affairs impact and ramifications of program decisions; and coordinate handling and dissemination of information for the public.

e. The *Management Systems Division* shall conduct studies and provide consultive services to line management to develop or improve the organization, procedures, and other management systems within NBS; plan, design, develop, implement, maintain, and improve automated administrative information systems; administer and maintain the NBS directives system; perform committee management, reports management, and office technology

management functions; provide ADP systems analysis and programming support to NBS' executive and administrative management functions and to other NBS program areas as requested; evaluate and implement new methods and improved technologies for supporting administrative information systems; support applications-oriented systems used for such administrative functions as data base management, data entry, computer graphics, text processing, and telecommunications; and develop and maintain liaison with Commerce and other Federal agencies on administrative matters.

f. The *Plant Division* shall be responsible for the design, construction, alterations, and maintenance of all buildings, structures, roads, grounds, and utilities systems for NBS-Gaithersburg; manage all Bureau-owned and leased real property; operate and maintain the central steam and chilled water generation plant at NBS-Gaithersburg; provide administration and field inspection on all physical plant and construction, alteration, and repair contracts; manage space planning and utilization; and coordinate the energy conservation program for the NBS-Gaithersburg site.

g. The *Facilities Services Division* shall provide physical security protection, fire protection, ambulance service, building, laboratory, and office cleaning for the NBS-Gaithersburg site; maintain property records; arrange for the transportation of materials and household moves; operate NBS storerooms; distribute and store Standard Reference Materials; provide audio-visual and conference facilities, mail, messenger, telecommunications, and warehouse services; and manage the NBS motor vehicle fleet.

h. The *Occupational Health and Safety Division* shall administer the Bureau's occupational safety/health (OSH) program; provide radiation protection services to Bureau users of ionizing and nonionizing radiation sources and lasers; conduct educational and preventive health programs for the staff; provide treatment of minor ailments and injuries with initial treatment and referral of emergencies of a more serious nature; carry out the NBS worker's compensation program; provide technical direction on safety matters to the NBS fire protection unit; and conduct medical surveillance as determined by Occupational Safety and Health Administration (OSHA) standards.

i. The *Personnel Division* shall advise on personnel policy and utilization; administer recruitment, placement, classification, employee development, employee relations, labor relations, and special programs activities; advise and assist operating officials and employees on these and other aspects of personnel management; and process employee security clearances.

j. The *Office Management Division* shall, within the limitations on procurement authority spelled out in pertinent Department Orders, procure materials/services, prepare awards and administer grants, cooperative agreements, and contracts; arrange for repair of office machines and equipment; provide visual arts, quick copy, and printing services; conduct records management programs, and operate NBS records holding area; and ensure safeguarding of classified records materials.

Section 7. National Measurement Laboratory

The *National Measurement Laboratory* shall provide the national system of physical and chemical and materials measurement; coordinate the system with measurement systems of other nations and furnish essential services leading to accurate and uniform physical and chemical measurement throughout the Nation's scientific community, industry, and commerce; conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and government; provide advisory and research services to other Government agencies; conduct physical and chemical research; develop, produce, and distribute Standard Reference Materials; provide standard reference data; provide calibration services; and collaborate with the Bureau's major organizational units in carrying out the responsibilities of the National Measurement Laboratory.

a. The *Center for Absolute Physical Quantities* shall develop and maintain the scientific competences and laboratory facilities necessary to preserve and continue to refine the base physical quantities upon which the Nation's measurement system is constructed; perform research, both experimental and theoretical, at the frontiers of physics in order to improve our measurement capability and our quantitative understanding of basic physical processes that underlie measurement science; improve, maintain, and transfer the measurement base for time, frequency, electricity, temperature, pressure, mass, and length; coordinate the National base standards with the Bureau International des Poids et Mesures and national laboratories; measure at the highest level of accuracy the fundamental constants of nature; work closely with other centers of NBS in the interdisciplinary development of measurement science; and maintain scientific exchange programs with other measurement laboratories, including a continuing cooperative program with the University of Colorado.

b. The *Center for Radiation Research* shall develop and maintain the scientific competences and experimental facilities necessary to provide the Nation with a central basis for uniform physical measurements, measurement methodology, and measurement services in the areas of optical radiation, ultraviolet radiation, and ionizing radiation (x-ray, gamma rays, electrons, neutrons, radioactivity, etc.); provide government, industry, and the private sector with essential calibrations for field radiation measurements needed in such applied areas as nuclear power, health care, radiation processing, advanced laser development, and radiation protection for public safety; carry out research in order to develop improved radiation standards, new radiation measurement technology, and improved understanding of atomic and nuclear radiation processes; collect, compile, critically evaluate, and supplement the existing atomic and nuclear data base in order to meet the major demands of the Nation for such data; and participate in collaborative efforts with other centers in the interdisciplinary applications of radiation.

c. The *Center for Chemical Physics* shall develop and maintain the scientific competences and experimental facilities necessary to provide the Nation with measurement methodologies and measurement services in the areas of thermodynamics, chemical kinetics, surface science, and molecular spectroscopy; provide Federal, State, and local governments, industry, and the academic community with essential standards and certified Standard Reference Materials needed to maintain the integrity of the measurement system; develop standards and techniques of measurement, conduct theoretical and experimental research; provide consultative services in the fields of thermodynamics, kinetics, surface science, and molecular spectroscopy; measure, compile, critically evaluate, and disseminate thermal, chemical kinetic, and spectroscopic data to the industrial, government, and academic communities nationally and internationally; and participate in collaborative efforts with other NBS centers in interdisciplinary developments involving

thermodynamics, kinetics, surface science, and molecular spectroscopy.

d. The *Center for Analytical Chemistry* shall carry out basic and applied research in analytical chemistry; develop and improve methods for the separation, analysis, and characterization of materials, including Standard Reference Materials; conduct fundamental investigations of the phenomena on which measurement of the composition and behavior of chemical systems is based; use these measurement methods to improve the accuracy of composition measurement, and thereby the comparability among laboratories throughout the United States as well as ensuring measurement compatibility with other nations; use these techniques to assist in the solution of problems of national impact, e.g., in improving the accuracy of clinical analytical chemistry, air and water pollution anaiysis, and in providing advisory services in analytical chemistry to government agencies, scientific organizations, and industry; and participate in collaborative efforts with other centers in the interdisciplinary applications of analytical chemistry.

e. The *Center for Materials Science* shall characterize and conduct research on the structure of materials, key chemical reactions, and key physical and chemical properties which lead to the safest, most efficient uses of materials, improve materials technologies, and encourage recycling; provide standards, measurement methods, data, concepts, and information concerning the properties and performance of metals, polymers, and inorganic materials, and disseminate this information to industry, government, universities, and consumers; and maintain and develop research reactor activities which provide precise information about these materials.

Section 8. National Engineering Laboratory

The *National Engineering Laboratory* shall develop engineering data and measurement techniques; provide calibration services, special tests and measurement assurance services; provide engineering services for measurement traceability; develop test methods and propose engineering standards and code changes, and verify new engineering practices; provide expert technical advice to government, industry, and academia on selected engineering problems; conduct research in engineering and applied science pursuant to the above; transfer results of its work to users; build and maintain competence in the necessary disciplines required to carry out this research and technical service; and focus its programs on areas where the lack of such engineering information, or its ineffective use, is recognized as a barrier to the solution of national problems, and where they are particularly qualified to contribute by reason of technical capability, legislative mandate, or a position of impartiality.

a. The *Center for Applied Mathematics* shall conduct research, collaborate with, and provide support to all Bureau activities and to other Federal agencies in selected fields of the mathematical and computer sciences important in science and engineering; undertake specialized computational support and services for high-technology science and engineering programs; develop tools for mathematical work such as mathematical models, statistical models and computational methods, mathematical tables, handbooks, and manuals, and advise on their use; provide training in disciplines related to these functions; operate, on a reimbursable basis, the Bureau's central computing facility that serves NBS and other agencies; provide the systems software and hardware support required for efficient operation of the facility; conduct computer performance monitoring and determine needs for additional hardware and systems software; maintain records of use of computing resources; and provide consulting and training to assist users in the effective utilization of the computing resources.

b. The *Center for Electronics and Electrical Engineering* shall provide a focus in NBS for research, development, and applications in the field of electronic and electrical materials and engineering; maintain and develop competences in measurements and analytic methods, in fabrication processes, in performance evaluation, and in practical applications appropriate to a wide range of electrical and electronic materials, devices, instruments, and systems; identify technologies for the achievement of National goals; conduct responsive applied research to yield the requisite practical data, measurement methods, theory, standards, technology, and technical services; and provide national reference standards and engineering measurement traceability and deliver the results for the benefit of the government, industry, the scientific community, and the consumer, either directly or through effective intermediaries.

c. The *Center for Manufacturing Engineering* shall provide competence and develop technical data, findings, and standards in production engineering, mechanical metrology, and automation and control technology; provide instrument design, fabrication, modification, and repair; provide industrial and mechanical engineering in support of a program to develop standards, interfaces, recommended practices, and associated technology to be made available to the discrete parts manufacturing industries; and coordinate advisory services to the Statutory Import Programs Staff (ITA) on Scientific Equivalency of Instruments (Florence Agreement).

d. The *Center for Building Technology* shall perform analytical, laboratory, and field research involving architecture, engineering, and physical and social sciences to produce performance criteria and methods of evaluation, and tests and measurements for codes and standards; serve building owners, occupants, designers, manufacturers, builders, regulatory authorities of State and local governments and Federal agencies with building programs; provide for demonstration, implementation, and evaluation of improved building practices by means of cooperative programs with other research organizations, professional societies, standards-writing organizations, State and local governments and other Federal agencies; and apply these methods and disciplines for the purposes of improving safety in building construction and use, energy conservation in buildings, establishment of sound technical bases for the solar heating and cooling of buildings, more useful and economical new buildings, and effective use of existing buildings.

e. The *Center for Fire Research* shall perform and support research in all aspects of fire with the aim of providing scientific and technical knowledge applicable to the prevention and control of fires, including: (1) basic and applied research for the purpose of arriving at an understanding of the fundamental processes underlying fires, including the physics and chemistry of combustion processes and products, early stages of fires and structural influences in fire behavior, fire-safe design concepts for buildings, and specific fire hazards; (2) research into the biological, physiological, and psychological factors affecting human victims of fire, and the performance of individual members of fire services, including the psychological factors leading to arson and the prediction and cure of such behavior;

and (3) operation tests, demonstration projects, and fire investigations in support of such activities.

f. The *Center for Consumer Product Technology* shall perform research and development toward establishing and advancing measurement techniques and test methodology to evaluate the safety, energy efficiency, and other performance characteristics of consumer products and law enforcement equipment; apply the disciplines of mechanical and electrical engineering, consumer and behavioral sciences, economics, and operations research to programs involving consumer product technology and product-user interactions; develop the technical and analytical bases for performance standards and characterizing product attributes; provide technical assistance, analyses, and evaluations related to consumer product technology to other agencies of Government; and produce descriptive literature and information for the public.

g. The *Center for Chemical Engineering* shall serve the continuous process industries (chemical, petrochemical, petroleum, rubber, metal, etc.) and help these industries meet their measurement and data needs; and perform basic and applied research to provide engineering design data, measurement principles and standards, data-predictive models, design concepts and correlations, and measurement services and traceability for industry, academia, and government.

Section 9. Office of the Director, NBS/ Boulder Laboratories

The *Office of the Director, NBS/ Boulder Laboratories*, located in Boulder, Colorado, shall provide administrative support to the technical programs of the NBS/Boulder Laboratories. These laboratories shall conduct research comprising work on measurement science for the National Measurement Laboratory in time and frequency, quantum physics, thermodynamics, materials science, and the development of essential technical data in quantum physics, thermodynamics, and materials science; and conduct programs for the National Engineering Laboratory in electromagnetics and chemical engineering. The following administrative divisions are located in the Boulder Laboratories: Instrument Shops Division, and Plant Division.

Section 10. Institute for Computer Sciences and Technology

The *Institute for Computer Sciences and Technology*, in accordance with Pub. L. 89-306 (40 U.S.C. 759), shall develop and recommend Federal Information Processing Standards and participate in the development of voluntary commercial ADP standards, conduct research in the science and technologies of automatic data processing, computers, and related systems; provide scientific and technical advisory services to the Office of Management and Budget and the General Services Administration to support the formulation of Federal automatic data processing policies; provide advisory services and technical assistance to other Government agencies; build and maintain competence in computer science and engineering necessary to carry out these programs; and collaborate with the National Measurement Laboratory and the National Engineering Laboratory in carrying out the Institute's responsibilities.

a. The *Center for Programming Science and Technology* shall maintain computer science and engineering competence and experimental facilities support in order to provide Federal computer system and software standards and related guidelines for use in evaluation and management of computer utilization. Technical areas include computer programming languages, operating systems, text editors, data base management systems programming tools and other utility software, data elements and codes, computer security, system certification and validation, performance assurance, and evaluation techniques such as auditing, programming productivity measurement, workload characterization, and system performance measurement. The Center also shall: (1) Provide Federal agencies with technology assessments and advisory services in these and related technical areas, and (2) provide the computer science research and technology base for the Federal ADP standards program.

b. *The Center for Computer Systems Engineering* shall maintain computer science and engineering competence and experimental facilities support in order to provide Federal computer system and network standards and related guidelines for use in the procurement and operation of Federal computer systems and networks, and their hardware and software components. Technical areas include computer system and network architecture, network protocols, local networks and office systems, network measurement, computer system interfaces, data communications, data acquisition and storage, terminals and peripherals, data interchange media, network access control, and system specification languages and verification techniques. The center also shall: (1) Provide technology forecasts in these and related technical areas for use in establishing priorites for the standards program and for use by Federal agencies in their planning for future requirements; (2) provide advisory services for Federal agencies in these and related technical areas; and (3) provide the computer technology research and engineering base for the Federal ADP standards program.

Section 11. Transfers

The personnel, property, records, funds, and other related assets of the Office of Product Standards (DOO 30-6) are hereby transferred and assigned to the National Bureau of Standards.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82-17280 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 25-1]

Department Organization Order Series; United States Travel and Tourism Administration

This Order effective January 29, 1982 supersedes the material appearing at 44 FR 71445 of December 11, 1979.

Section 1. Purpose

.01 This Order prescribes the organization and assignment of functions within the United States Travel and Tourism Administration (USTTA). The scope of authority and functions of the USTTA are set forth in DOO 10-7.

.02 In accordance with Pub. L. 97-63, this revision reconstitutes the United States Travel Service as the United States Travel and Tourism Administration, and prescribes its organization and functions.

Section 2. Organization Structure

The principal organization structure and lines of authority shall be as depicted on the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Under Secretary

.01 The *Under Secretary for Travel and Tourism* (hereinafter the "Under Secretary") has overall responsibility for the policies and direction of USTTA. The Under Secretary establishes basic policies and objectives for USTTA, establishes and maintains relations with government and industry officials at all

levels to facilitate tourism policies and programs, and advises the Secretary and Deputy Secretary on all matters related to tourism. The Under Secretary serves as the Vice Chairman of the Tourism Policy Council and acts as Chairman of the Council in the absence of the Chairman (the Secretary). The Under Secretary serves as ex-officio member of the Travel and Tourism Advisory Board.

.02 The *Deputy Under Secretary for Travel and Tourism* (hereinafter the "Deputy Under Secretary") serves as a principal advisor to the Under Secretary for travel and tourism, and assists in the performance of all of the duties of that office; performs the duties of the Under Secretary in the latter's absence or disability, or in the event of a vacancy in that office; assists the Under Secretary in the overall planning, development, and implementation of the Department's tourism programs; recommends to the Under Secretary policy and legislative initiatives which will advance the objectives of the National Tourism Policy Act; interprets, translates, and implements policies established by the Under Secretary, and carries out other responsibilities as assigned by the Under Secretary.

Section 4. Office of the Assistant Secretary for Tourism Marketing

.01 The *Assistant Secretary for Tourism Marketing* (hereinafter the "Assistant Secretary") serves as an advisor to the Under Secretary; is responsible for the development of the annual marketing plan; supervises and directs day-to-day operations of USTTA marketing activities, field representatives and regional office performance; provides policy guidance for programs and projects developed within USTTA; makes recommendations to the Under Secretary on all matters related to tourism marketing and carries out other responsibilities as assigned by the Under Secretary.

.02 The *Office* plans and develops marketing programs based on international tourism policies as approved by the Office of the Under Secretary. The *Office* develops and coordinates the production and distribution of information programs and materials; develops, coordinates, and processes familiarization and inspection tours for representatives of the travel trade and the media; develops and supervises joint USTTA/industry promotion programs; develops incentive travel programs for implementation by USTTA offices abroad; and maintains working relationships with U.S. travel sector in providing technical assistance, training, and coordination; recommends to the Under Secretary allocation of budget resources for the offices abroad and supervises the overall operations of the Regional Field Offices, and field representatives as well as the International Congress Office; and coordinates activities for the special markets program and related activities.

.03 *Regional Field Offices* perform the primary role in implementing programs of USTTA in their respective markets, and are responsible for travel information and services to be provided to the foreign travel trade and to the consumer. Regional Field Offices develop marketing plans for approval by headquarters. They are responsible for implementing and monitoring all travel promotion programs such as market development, consumer information, sales promotion, advertising, and product information in their primary and special markets.

.04 The *International Congress Office* is responsible for implementing the International Conventions Program. The Office identifies international conventions and Congresses which are are prime prospects for selecting the U.S. as a site for their meetings; motivates and persuades those prospects to hold Congresses in the U.S.; promotes foreign attendance at national U.S. conventions; and collects, analyzes, and furnishes International Association profile data for sales follow-up activities.

.05 *Field Representatives* conduct agency technical assistance outreach program which provide on-going training, assistance, marketing coordination and industry-agency liaison to the many elements of the U.S. travel industry.

Section 5. Office of Policy and Planning

The *Office of Policy and Planning* provides staff support to the Under Secretary and the Assistant Secretary in the development of domestic and international tourism policy, legislative initiatives, and planning functions, including preparation of position papers on tourism issues and legislative proposals, and related analyses, comments, and testimony.

The Office coordinates Congressional relations and serves as the channel for exchange of information with members of Congress, through and in recognition of the responsibilities of the Department's Office of Congressional Affairs. The Office interacts with the travel trade, other governmental policy offices, and with intergovernmental bodies and international organizations. The Office also develops policy and planning strategies in the area of international travel and tourism agreements, and represents the Department as official participants in international travel and tourism meetings.

Section 6. Office of Management and Administration

The *Office of Management and Administration* advises and assists the Under Secretary in developing and implementing overall policies in the areas of administrative, personnel, and financial matters; ensures that proper administrative and financial procedures are carried out; performs budget formulation and execution functions; develops and conducts administrative evaluations and management analyses to assist the Office of the Under Secretary in assuring that effective management practices are utilized throughout USTTA; and provides administrative services as required. The Office assists in establishing overall USTTA performance goals, and develops program evaluation studies to determine individual program effectiveness. The Director assists the Assistant Secretary in carrying out the day-to-day operations of USTTA.

Section 7. Office of Research

The *Office of Research* provides staff support to the Under Secretary and develops economic and marketing data required for strategic and program planning in the public and private sectors; conducts market research in direct support of USTTA objectives and strategies; reviews and recommends action on specific research projects proposed in Regional Field Office Country Marketing Plans and in the domestic tourism program; conducts periodic evaluation studies to determine the effectiveness of marketing programs and activities; selects contractors to perform special research projects, monitors these projects, and evaluates contractor performance; and maintains a data bank on international travel.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 82-17279 Filed 6-24-82; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982 Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 26, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 2540

Cushion Assembly, Seat Back
2540-01-085-8258

Class 8465

Cover, Field Pack, Desert, Cotton & Nylon Twill
8465-01-103-0959

U.S. Postal Service Item

Lead Seal with Cord Attachment
P.S. Item No. 0815

SIC 7349

Janitorial/Custodial
Federal Building
Athens, Georgia

Janitorial/Custodial
J. Marvin Jones Federal Building and Courthouse
Amarillo, Texas

C. W. Fletcher,
Executive Director.

[FR Doc. 82-17234 Filed 6-24-82; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1982 Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1982 commodities to be produced by and a service to be provided by workshops for the other severely handicapped.

EFFECTIVE DATE: June 25, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145

SUPPLEMENTARY INFORMATION: On November 20, 1981, April 9, 1982, March 19, 1982, and January 29, 1982, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 57107, 47 FR 15403, 47 FR 11918, and 47 FR 4328) of proposed additions to Procurement List 1982, November 12, 1981 (46 FR 55740).

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities and service are hereby added to Procurement List 1982:

Class 3990

Pallet, Warehouse
3990-00-NSH-0011 (40" x 48")
(Requirements for Army and Air Force Exchange Service, Oakland Army Base, California only)

Class 7210

Towel, Bath, Disposable
7210-01-029-0370

Class 7520

Trimmer, Paper
7520-00-634-4875
7520-00-163-2568

Class 8465

Case, Map and Note, Field
8465-00-634-1903

SIC 7349

Janitorial/Custodial
Federal Building
U.S. Post Office
Spokane, Washington

C. W. Fletcher,
Executive Director.

[FR Doc. 82-17233 Filed 6-24-82; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Connecticut; Environmental Impact Statement; Intent To Prepare

AGENCY: U.S. Army Corps of Engineers, DOD, New England Division.

ACTION: Notice of intent to prepare a draft environmental impact statement.

To prepare a Draft Environmental Impact Statement (DEIS) for the proposed navigation improvements for Bridgeport—Black Rock Harbors, Connecticut.

SUMMARY: (1) The proposed action involves the deepening of the main channel and turning basis in Bridgeport Harbor to a depth forty feet (40 ft.); construction of 20- and 24-acre anchorage areas to 8 feet and construction of breakwaters at the mouth of Black Rock Harbor; and the construction of a 28-acre anchorage to 6 feet in Cedar and Burr Creek.

(2) The identification of the nature of and extent of navigation improvements desired and potential environmental problems were the subject of a public meeting held December 19, 1979.

(3) Alternatives evaluated are those relevant to various dredging and disposal methods and include two areas which appear viable for the development of disposal container facilities. The selected plan also contains mitigation measures to reduce potential impacts to commercial oyster resources.

(4) The DEIS is scheduled to be completed and available for review in December, 1982.

ADDRESS: Information concerning the proposed action and DEIS can be obtained by contacting Gib Chase, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, MA, 02254, ATTN: NEDPL–IE, Phone (617) 894–2400, extension 236; (FTS 839–7236).

Dated: June 16, 1982.

C. E. Edgar, III,
Colonel, Corps of Engineers, Division Engineers.

[FR Doc. 82-17244 Filed 6-24-82; 8:45 am]
BILLING CODE 3710-24-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on July 12–16 and 19–23, 1982, at the Naval Ocean Systems Center, 271 Catalina Blvd., San Diego, California. Sessions of the meeting will commence at 8:00 a.m. and terminate at 5:00 p.m. on all days. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of Navy theater nuclear forces; reliability, availability and maintainability; very high speed integrated circuits; and other related intelligence. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the

interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: Captain J. B. Morris, U.S. Navy, Office of Naval Research (Code 700), 800 North Quincy Street, Arlington, Virginia 22217; telephone (202) 696–5086.

Dated: June 18, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 82–17222 Filed 6–24–82; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Indian Wells Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration hereby gives notice of a Proposed Remedial Order which was issued to Indian Wells Oil Company of Kearney, Missouri.

The Proposed Remedial Order charges Indian Wells Oil Company with pricing violations in the amount of $1,327,892.44 in sales of natural gas liquids and natural gas liquid products (propane, butane, and natural gasoline) during the period September 1, 1973 through July 31, 1976.

In the Proposed Remedial Order, the Economic Regulatory Administration proposes that refunds be made to Bueling, Groebner Associates and to Gates Lear Jet, both of which are consumers of the products they purchased; to Farmland Industries, Inc., a cooperative association which by the operation of its by-laws will distribute the benefit of the refund to its customers; and to other companies in the industry which were overcharged. The latter companies are Permian Petroleum, Petroleum Products, T&T Gas Products, and Union Texas Petroleum.

The Economic Regulatory Administration also proposes that a substantial part of the refund be paid to the Department of Energy for distribution after the proper disposition of the money can be determined. That part of the refund is attributable to sales to Propane Industrial, Inc. That company has resisted efforts by the Economic Regulatory Administration to review its sales of covered products during the relevant period, with the result that the Economic Regulatory Administration is unable to identify specific persons injured by the overcharges.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466. With 15 days of publicatioin of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri on the 4th day of June 1982.

David H. Jackson,

Director, Kansas City Office, Economic Regulatory Administration.

Concurrence:

Robert J. Wehrle-Einhorn,

Office of General Counsel.

[FR Doc. 82–17250 Filed 6–24–82; 8:45 am]

BILLING CODE 6450–01–M

Action on Consent Order With the Permian Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Adoption of proposed consent order as final.

SUMMARY: The Department of Energy (DOE) hereby gives the notice required by 10 CFR 205.199J that it has adopted the Consent Order with The Permian Corporation ("Permian"), executed on March 5, 1982 and published for comment in 47 FR 11765 on March 16, 1982, as a final order of DOE. The Consent Order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations, with the one exception noted in the Consent Order, for the period August 19, 1973 through January 27, 1981. To remedy any violations that may have occurred during the period, Permian has agreed to monetary remedies totalling $21,500,000.

As required by the regulation cited above, DOE received comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. Eight comments were received by April 19, 1982, the thirtieth day following publication of the notice of the proposed Consent Order. Four additional comments were received after that deadline. DOE has considered all comments, including those which were filed late, and determined that the Consent Order should be made final without modification. The Consent Order was made effective as a final order of the DOE on June 1, 1982, by written notice to Permian.

FOR FURTHER INFORMATION CONTACT:

Leslie Wm. Adams, Deputy Soilicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvanina Avenue, N.W., Room 3115, Washington, D.C. 20461, Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Permian Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W., Room 1E–190, Washington, D.C.

SUPPLEMENTARY INFORMATION:

The Consent Order

On March 16, 1982, DOE published notice in the **Federal Register** at page 11765 announcing the execution of a proposed Consent Order between Permian and DOE. In compliance with DOE Regulations, that notice, and a press release issued on March 16, 1982, summarized the Consent Order and the fact behind it. The notice and press release also gave instructions for obtaining copies of the Consent Order and the address for the submission of claims after the Consent Order has been made final.

The proposed Consent Order can be summarized as follows:

1. The Consent Order marks the conclusion of the Economic Regulatory Administration (ERA) audit of Permian's and Western Oil Transportation Company's compliance with the Federal petroleum price and allocation regulations, including the entitlements and mandatory oil import programs, for the period August 19, 1973 through January 27, 1981 (the audit period). With the exception of the matter specifically excluded from the settlement in the Consent Order, the Consent Order resolves all administrative and civil issues not perviously resolved concerning the allocation and sale of covered petroleum products during the audit period.

2. Within 10 days after the effective date of this Consent Order, Permian shall remit a certified check payable to the United States Treasury in the amount of $7,000,000, to be deposited as miscellaneous receipts in the U.S. Treasury. Within 30 days after the effective date of this Consent Order, Permian shall establish an interest-bearing escrow account in the amount of $14,500,000 in a federally-chartered national bank in the United States. At the expiration of 12 months after the effective date of this Consent Order, and again at the expiration of 24 months thereafter, Permian shall direct the escrow agent to remit a certified check payable to the United States Treasury in an amount to the lesser of (a) $7,000,000 or 50% of the balance of the escrow account not the subject of a civil suit or a claim by a third party. The balance in the escrow account remaining 36 months from the effective date of this Consent Order shall be remitted to the United States Treasury to be deposited as miscellaneous receipts.

3. From the escrow account, amounts will be paid on behalf of Permian to third parties to satisfy claims arising from the matters covered by the Consent Order. Claims may be paid pursuant to any final judgment in a contested action, notice of the filing of any such action having been previously given to DOE by Permian, or pursuant to any settlement reached between Permian and a claimant and approved by DOE. Claims should be submitted to: The Permian Corporation, Attn: DOE Escrow Account (Suite 1102), P.O. Box 1183, Houston, Texas 77001. Claimants must allege a violation of the Federal petroleum price and allocation regulations. Permiam may require additional information in its consideration of a claim. Claimants may be required to execute a release prior to receiving payment.

4. The Consent Order also provides details concerning enforcement of the provisions of the Consent Order itself. These provisions address Permian's obligation under DOE recordkeeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Permian. The Consent Order provides that Permian has waived its right to an administrative appeal or judicial review of the Consent Order. The Consent Order does not constitute an admission by Permian nor a finding by DOE of a violation of any federal petroleum price and allocation statutes or regulations.

Comments Received

As noted above, DOE received a total of 12 comments on the proposed Permian Consent Order. Comments were submitted by the States of Maine, Florida, California, New York, and Connecticut, Mobil Oil Corporation, the Independent Refining Corporation, Cities Service Company, law firms representing Farmland Industries, Inc., CRA, Inc., and Energy Cooperative, Inc., the Transportation Group, and the National Consumer Law Center. DOE has considered all comments and determined that the Consent Order should be made final without modification. The significant points raised by the comments are discussed below.

Nearly all the comments questioned the appropriateness of depositing the $7,000,000 payment in the U.S. Treasury as miscellaneous receipts, and several comments questioned the provision for undistributed monies from the claims fund also to be deposited in the Treasury as miscellaneous receipts, citing *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F. 2d 717 (TECA 1982).

In its enforcement actions, DOE attempts to identify individual purchasers who may have been overcharged and to implement restitutionary remedies directed at such purchasers. In this case, that restitution is achieved by the procedures of the Consent Order setting aside substantial sums of money in an escrow account for the settlement of claims. Thus, commenters and others who believe they have been injured may present claims and supporting documentation to Permian and attempt to reach a resolution of those claims or pursue their claims in a private action against the company. The claims funds is available to satisfy judgments in private actions provided Permian has previously given notice to DOE of the filing of such actions and to satisfy settlements reached between Permian and a claimant. DOE will review settlements to determine if payment is justifiable in the circumstances of each case. Under these procedures, parties who demonstrate their injury will receive restitution from the claims fund. Thus, the negotiated remedy is fully consistent with the preference of the *Citronelle* court which favors the implementation of remedies designed to compensate parties injured by alleged overcharges.

Under the circumstances of this case, DOE was unable to determine who bore the burden in the challenged transactions. Permian's customers were themselves refiners or resellers of the crude oil. We believe it most unlikely that other resellers retained the effects of any overcharge that may have occurred. In addition, alleged overcharges to refiners were mitigated by the Entitlements Program. The combined effect of these facts makes it too speculative to attempt to make specific refunds in the Consent Order. Thus the use of a claims fund permits the identification and redress of specific injuries. Furthermore, any effects were dispersed, affecting all direct and indirect users of petroleum products throughout the United States. In light of these circumstances, depositing a portion of the settlement funds in the Treasury as miscellaneous receipts is an appropriate remedy in this case.

For the reasons noted above, distribution of settlement monies to the States, as suggested in a number of comments, does not appear appropriate in this case. Escheat cases cited in the comments are inapposite to this Consent Order. This is not a situation where these monies either belong to identifiable injured parties who, for one reason or another, cannot be reimbursed or belong to no identifiable parties but have a nexus to a particular location. Because of the Entitlements Program, and the operation of the refiner price rules, it is impossible to determine who ultimately bore the burden of the alleged overcharges. All direct and indirect users of petroleum products nationwide may have been affected. Accordingly, there appears to be no rational basis for the allocation of funds among the states. To the extent a state believes it has been overcharged by Permian, it may, of course, file a claim.

Several comments suggested that it would be appropriate in this case to petition the Office of Hearings and Appeals (OHA) under Subpart V of the Regulations (10 CFR Part 205, Subpart V) for the implementation of special refund procedures. Contrary to the assertions of some commenters, the use of Subpart V is not mandated by the Regulations. In this case, the claims fund procedures established in the Consent Order provide a satisfactory mechanism through which persons who believe they may have been injured as a result of Permian's alleged violations may seek restitution.

Some comments noted that the Consent Order does not specify a standard of proof for claimants to meet in making their claims. As noted, the Consent Order envisions that claimants will file claims and supporting documentation with Permian with the purpose of demonstrating that the claimant had been overcharged. Supporting materials documenting alleged overcharges should include the amount of crude oil purchased, the price paid, and any information that the claimant believes indicates a violation

of the regulations with respect to the transactions on which the claim is based. The Consent Order contemplates that Permian will review claims and supporting material with a view toward settlement. DOE will review each settlement to determine if payment is justifiable under the particular circumstances of each case.

Having considered all comments received, we determined that the proposed Consent Order with Permian should be made final without modification. The Consent Order was made final and effective by providing written notice to that effect to Permian on June 1, 1982.

Issued in Washington, D.C. June 18, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-17251 Filed 6-24-82; 8:45 am]

BILLING CODE 6450-01-M

John L. Cox; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with John L. Cox and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: July 26, 1982.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 201W, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Dallas Office, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird, Room 201W, Dallas, Texas 75247, 214/767-7536. (Copies of Consent Order may be obtained free of charge by writing or calling this office.)

SUPPLEMENTARY INFORMATION: On June 14, 1982, the ERA executed a proposed Consent Order with John L. Cox of Midland, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

John L. Cox (Cox) with his office located in Midland, Texas, produced and sold crude oil, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR, Parts 105, 210, 211, 212, in connection with Cox's transactions involving crude oil during the period August 19, 1973 through January 27, 1981 ("the period covered by this Consent Order"), the ERA and Cox entered into a Consent Order, the significant terms of which are as follows:

A. The ERA conducted an audit of Cox to determine Cox's compliance with the crude oil pricing regulations of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D. This Consent Order is intended by the signatories to settle the civil issues between the ERA and Cox relating to Cox's compliance with these regulations during the period covered by this Consent Order.

B. ERA and Cox disagree in several respects concerning the proper application of such regulations, and requirements to Cox's activities during the settlement period. ERA and Cox each believe that their respective positions on the legal issues underlying such disagreements are meritorious. Neither Cox nor ERA disavows any position it has taken with respect to such legal issues.

C. Notwithstanding the above, Cox undertakes to enter into this Consent Order to avoid the expense of protracted, complex litigation and further disruption of its orderly business functions. Execution of the Consent Order constitutes neither an admission by Cox nor a finding by ERA of any violation by Cox of any statute or regulations.

II. Refunds

Disposition of Refunds. Under this Consent Order, Cox will remit the sum of $1,400,000 including interest to the DOE within thirty (30) days after the effective date of this Consent Order for deposit in the U.S. Treasury as miscellaneous receipts. Upon full satisfaction of the terms and conditions of this Consent Order by Cox, the DOE releases Cox from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

The foregoing provisions for payment of the refund amount were concurred in after ERA attempted to determine and identify all injured parties. These attempts were unsuccessful due to the nature of the business transctions in which Cox was engaged during the period covered by this Consent Order. Cox's activities were of such a nature so as to make it impossible to identify specific parties who or which may have been injured.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation "Comments on the John L. Cox Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on 30 days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the proceedings in 10 CFR 205.9(f).

Issued in Dallas, Texas, on the 14th day of June, 1982.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 82-17175 Filed 6-24-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Renewal

This notice is published in accordance with the provisions of Section 7 of the Office of Management and Budget Circular No. A-63, Revised. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the committee Management, Secretariat, General Services Administration, notice is hereby given that the Energy Research Advisory Board Charter has been renewed for a two-year period ending on June 19, 1984.

The purpose of the Energy Research Advisory Board is to advise the Secretary, Deputy Secretary, Under Secretary and Assistant Secretaries as well as the Director, Office of Energy Research on overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

The renewal of the Energy Research Advisory Board has been determined essential and in the public interest in connection with the performance of duties imposed on DOE by law. The Board will operate in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix, Pub. L. No. 92-463, 86 Stat. 770), the Department of Energy Organization Act (42 U.S.C. 7101 et seq., Pub. L. No. 95-91, 91 Stat. 567), OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of those Acts.

Further information regarding this Board may be obtained from the Department of Energy Advisory Committee Management Officer (202) 252-8799.

Issued in Washington, D.C. on June 21, 1982.

James B. Edwards,

Secretary of Energy.

[FR Doc. 82-17174 Filed 6-24-82; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Interim Power Marketing Policy and Revised Proposed Long-Term Marketing Policy, Kerr-Philpott System of Projects

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of issuance of both interim power marketing policy and revised proposed long-term marketing policy for Kerr-Philpott System of Projects.

SUMMARY: SEPA has determined that the proposed power marketing policy for its Kerr-Philpott System of Projects published July 3, 1980, 45 FR 45349, must undergo major revisions requiring additional public input. Because of the nature of the revisions, SEPA has determined that public input should be invited in the same comprehensive way as utilized with respect to the original proposed policy. SEPA has additionally determined that the delay in adopting and implementing a policy is adversely affecting SEPA and its customers and pursuant to Section 11 of Procedure for Public Participation in the Formulation of Marketing Policy published July 6, 1978, 43 FR 29186, has issued and is publishing herewith an interim marketing policy to be effective until a long-term policy can be adopted and implemented. SEPA has also developed and is publishing herewith a revised proposed long-term marketing policy. This policy when finalized will replace the interim policy and will constitute written guidelines for long-term disposition of power from the system. The revised proposed policy is developed under authority of Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and Section 302(a) of the Department of Energy Organization Act of 1977, 42 U.S.C. 7152. Interested persons are invited to submit comments directly to SEPA and/or consult and/or present written or oral views, data or arguments at the public comment forum on the proposed policy.

DATES: Written comments are due on or before January 17, 1983. A public comment forum will be held in South Hill, Virginia on November 18, 1982.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forum will begin at 10:00 a.m. on the following date and at the following location: November 18, 1982, Holiday Inn, Atlantic Street, South Hill, Virginia 23970.

FOR FURTHER INFORMATION CONTACT: Mr. Harry C. Geisinger, Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, 404-283-3261.

SUPPLEMENTARY INFORMATION: SEPA concluded after evaluation of comments received at the public comment forum, at numerous conferences and in writing that major problems respecting the proposed marketing area, proposed allocations of power and implementation of the proposed power marketing policy require the issuance of a revised proposed marketing policy and the receipt of further public input. The major problems involve (1) enlargement of proposed marketing area to include a portion of the Appalachian Power Company service area within SEPA's marketing area, (2) establishment of a viable approach to power allocations following determination that the capacity without energy concept cannot be implemented, and (3) problems inherent in allocating power to and serving North Carolina municipals located in VEPCO service area who have elected to receive service from CP&L. Major issues raised by the revised proposed policy are determination of marketing area, allocation of power among area customers, utilization of area utility systems for power integration, firming, wheeling, exchange and other essential relationships, wholesale rates, handling of resale relationships, and conservation measures. The following identifiable studies were used in the development of the revised proposed marketing policy:

Power Marketing Policy Considerations, October 1977

Preference Agency Loads in the Proposed Kerr-Philpott Marketing Area

Capacity and Energy Sales by Customer Groups and by Utility Areas for Kerr-Philpott System

Computer Printouts of Simulated Project Operations of Kerr-Philpott System, June 1980 and April 1981

Kerr-Philpott System Rate and Repayment Studies, May 1981 and June 1982.

These studies are available for inspection or copying at the headquarters offices of Southeastern Power Administration in accordance with the Freedom of Information Act, 5 U.S.C. 552.

Additionally, an Environmental Assessment has been drafted indicating that the revised proposed power marketing policy will not have a significant effect upon the quality of the human environment. Comments on the draft EA are invited through January 17, 1983. A copy may be obtained by contacting the Administrator at the address or telephone number listed above.

The public comment forum will not be adjudicative in nature. The Administrator shall act as or appoint a forum chairman. At the start of the forum the chairman shall briefly explain procedures and rules. Customers and the public shall be allowed to make oral statements and comments, introduce relevant documents and ask questions regarding the revised proposed power marketing policy of SEPA representatives at the forum. Persons desiring to speak shall so notify SEPA at least three days before the forum is scheduled so that a list of forum participants can be prepared. If necessary, the chairman may establish time limitations for oral presentations by these participants to assure that all who register to speak shall have an opportunity to do so. Others will be permitted to speak if time allows. Those unable to speak because of time limitations and others who so desire may submit written comments. The chairman and SEPA representatives may question forum participants and the chairman, at his discretion, may permit other participants a like privilege. Questions not answered by SEPA representatives during the forum shall be specifically identified by the chairman in the transcript and shall be

subsequently responded to by SEPA in writing. All documents introduced and written answers to questions shall be available for inspection and copying at SEPA headquarters in accordance with the Freedom of Information Act. Forum proceedings shall be transcribed. Copies of the transcript may be purchased from the reporter. Customers and the public may consult or file written comments and questions with SEPA regarding the revised proposed marketing policy on or before January 17, 1983. All such questions shall receive expenditious response, and all such comments, questions and answers shall be available at SEPA headquarters for inspection or copying in accordance with the Freedom of Information Act. The forum transcript will likewise be available for inspection at SEPA headquarters in Elberton, Georgia.

Issued at Elberton, Georgia, June 18, 1982.

Harry C. Geisinger,

Administrator.

Revised Proposed Long-Term Power Marketing Policy, Kerr-Philpott System of Projects

General. The projects and power subject to this policy are:

Projects	Capacity (kw) (name-plate)	Energy (mwh) (average annual)
John H. Kerr	204,000	432,000
Philpott	14,000	25,000

The long-term policy for the Kerr-Philpott System of Projects will replace the interim policy published here with and will be implemented as soon as contracts negotiated pursuant to the interim policy can be replaced.

The long-term policy will be implemented through negotiated contracts for terms not to exceed 10 years.

Transmission facilities owned by Virginia Electric and Power Company (VEPCO), Carolina Power & Light Company (CP&L) and Appalachian Power Company (APC) will be used for all necessary purposes including transmitting power to load centers. Deliveries may be made at the projects, at utility interconnections or at customer substations, as determined by SEPA. The projects will be hydraulically, electrically and financially integrated and will be operated to make maximum contribution to the respective utility areas. Preference in the sale of the power will be given to public bodies and cooperatives.

Marketing Area. The SEPA marketing area shall be a combination of the following areas: (1) that area within the VEPCO service area in both Virginia and North Carolina within a radius of 150 miles of the Kerr Project; (2) that area within the CP&L service area in North Carolina and South Carolina within a radius of 165 miles of a point on the Virginia-North Carolina state line where CP&L's Kerr Dam-Henderson line interconnects with the VEPCO System; and (3) that area within the APC service area within a radius of 100 miles of the Philpott Project. The combined SEPA marketing area of approximately 65,000 square miles contains 89 eligible public bodies and cooperatives, as listed on Appendix A attached hereto.

Allocations of Power. Approximately the output of the Philpott Project and approximately two-thirds of the output of the Kerr Project will be allocated on a long-term basis to customers located in the SEPA served portion (Virginia and North Carolina) of the VEPCO service area and to customers located in the SEPA served portion of the APC service area and the remainder of the output of the Kerr Project will be allocated to customers located in the SEPA served portion of the CP&L area. Except where duplication of allocation would result, each public body and cooperative within the marketing area as shown on Appendix A will be entitled to an allocation of power as hereinafter provided.

It is SEPA's goal to allocate all available and usable system power to preference customers including capacity which is presently being sold to VEPCO and CP&L.

Existing preference customers within the VEPCO service area will be entitled to retain their 65 megawatts of project capacity and those within the CP&L area will be entitled to retain their 30 megawatts. As to the capacity now sold the Companies, both new and existing preference customers within the VEPCO and APC service areas and those within the (CP&L) service area will be entitled, after provision for reserves and losses, to share equitably in such capacity; provided that preference customers in the APC area will be limited to the available capacity output of the Philpott Project.

Allocations of capacity to a particular preference customer within a particular utility service area will be based on the relationship of such customer's maximum 1980 demand to the sum of the 1980 maximum demands of all preference customers in a given utility service area sharing in such power.

Capacity sold new preference customers will be accompanied by minimum quantities of energy necessary to make such capacity viable on such customers' systems, at least equal to the firm energy available from the projects (approximately 650 kilowatt-hours per kilowatt per year). The remainder of the energy available to the VEPCO, APC and CP&L service areas shall be allocated to existing preference customers in the respective areas based on their capacity allocations.

Utilization of Utility Systems. In the absence of transmission facilities of its own, SEPA will use area generation and transmission systems to integrate the Government's projects, provide firming, wheeling, exchange and backup service and such other functions as may be necessary to dispose of system power under reasonable and acceptable marketing arrangements. Utility systems providing such services shall be entitled to adequate compensation. Specific terms and conditions of such arrangements shall be the subject of negotiations between SEPA and the generation and transmission utilities providing the services. Individual preferred agencies directly affected by the negotiations shall stand in an advisory role to SEPA and shall be kept currently advised as to the status and progress of negotiations.

Wholesale Rates. Rate schedules shall be drawn so as to recover all costs associated with producing and transmitting the power in accordance with then current repayment criteria. Production costs will be determined on a system basis and rate schedules will be related to the integrated output of the projects. Rate schedules may be revised periodically.

Resale Rates. Resale rate provisions requiring the benefits of SEPA power to be passed on to the ultimate consumer will be included in each SEPA customer contract which provides for SEPA to supply more than 25 percent of the customers' total power requirements during the term of the contract.

Conservation Measures. Each customer purchasing SEPA power shall agree to take reasonable measures to encourage the conservation of energy by ultimate consumers.

PREFERENCE AGENCIES IN THE KERR-PHILPOTT SYSTEM AREA

Preference agencies served by CP&L:

North Carolina

Brunswick EMC	Pee Dee EMC
Carteret-Craven EMC	Piedmont EMC
Central EMC	Pitt & Greene EMC
Four County EMC	Randolph EMC
Halifax EMC	South River EMC
Harker's Island EMC	Tideland EMC
Jones-Onslow EMC	Tri-County EMC
Lumbee River EMC	Wake EMC

Apex	Louisburg
Ayden	Lumberton
Benson	New Bern
Clayton	Pikeville
Farmville	Red Springs
Fayetteville	Rocky Mount
Fremont	Selma
Hookerton	Smithfield
Kinston	Wake Forest
LaGrange	Wilson
Laurinburg	

South Carolina

Bennettsville

Preference agencies served by VEPCO:

North Carolina

Albemarle EMC	Halifax EMC
Edgecombe-Martin County EMC	Roanoke EMC
	Tideland EMC
Belhaven	Hobgood
Edenton	Robersonville
Elizabeth City	Scotland Neck
Enfield	Tarboro
Greenville	Washington
Hamilton	Windsor
Hertford	

Virginia

B-A-R-C EC	Prince George EC
Central Virginia EC	Prince William EC
Community EC	Rappahannock EC
Craig-Botetourt EC	Shenandoah Valley EC
Mecklenburg EC	Southside
Northern Neck EC	
Blackstone	Harrisonburg
Culpeper	Iron Gate
Elkton	Wakefield
Franklin	

Preference agencies served by utilities other than CP&L or VEPCO:

City	*Served by*
Black Creek	Wilson
Fountain	Wilson
Lucama	Wilson
Macclesfield	Wilson
Oak City	Edgecombe-Martin County EMC
Pinetops	Wilson
Princeville	Tarboro
Sharpsburg	Rocky Mt.
Stantonsburg	Wilson
Walstonburg	Wilson
Winterville	Greenville

Preference agencies served by APC:

Bedford	Radford
Danville	Richlands
Martinsville	Salem

Interim Power Marketing Policy; Kerr-Philpott System of Projects

Introduction. Major unresolved problems have delayed issuance of a long-term power marketing policy for the Kerr-Philpott System of Projects resulting in continued sale of capacity to non-preference customers rather than preference customers. Because additional time will be required to solve these problems, and because SEPA and preference customers continue to be adversely affected by these delays, this interim marketing policy effective upon publication and subject to implementation as promptly as possible has been issued. This action was taken pursuant to Section 11 of SEPA's Procedure for Public Participation in the Formulation of Marketing Policy published July 6, 1978, 43 FR 29186, and is predicated upon the extraordinary circumstances which have prevented finalization of the long-term policy. The interim policy will remain in place only so long as necessary to complete the formulation of a long-term policy now under active consideration.

Interim Policy. Approximately the output of the Philpott Project and approximately two-thirds of the output of the Kerr Project will be delivered to the VEPCO System and the remainder of the output of the Kerr Project will be delivered to the CP&L System. To the maximum extent feasible and practical, all capacity and energy delivered to the respective systems will be allocated to existing preference customers served from the respective systems in proportion to existing capacity allocations.

Implementation. Contracts with the Companies and preference customers to implement the above interim policy will be negotiated and placed in effect as soon as possible, to remain in effect only so long as needed to secure replacement contracts under a long-term policy.

[FR Doc. 82-17173 Filed 6-24-82; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Central Valley Project; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment—Central Valley Project.

SUMMARY: The Western Area Power Administration (Western) is proposing power rate increases for the Central Valley Project (CVP). Power rates must, by law, be sufficient to recover the annual power expenses plus repay the power and certain nonpower investment costs of the CVP within prescribed time periods. The CVP power revenues have been insufficient to recover the annual CVP power expenses for several years.

The rates currently in effect, designated CV-F4 (Schedule of Rates for Wholesale Firm Power) and CV-P3 (Schedule of Rates for Commercial Irrigation and/or Drainage Pumping Service and for Wholesale Firm Power Service When Supplied in Conjunction Therewith), provide for a composite yield of 9.76 mills/kWh, each utilizing a demand charge of $2.00/kW/month and an energy charge of 5.11 mills/kWh. These rates were placed in effect on an interim basis by Rate Order No. WAPA-2 (44 FR 57962, October 9, 1979). The CVP does not currently have a rate for the transmission (wheeling) of non-CVP power over the CVP transmission system.

The existing rates were submitted to the Federal Energy Regulatory Commission (FERC) for confirmation and approval on a final basis by the Assistant Secretary for Resource Application's letter of October 2, 1979. Because they were placed in effect on an interim basis of up to one year, they were extended for an additional year, through October 31, 1981, by Rate Order No. WAPA-5 (45 FR 67442, October 10, 1980) and for a third year, through October 31, 1982, by Rate Order No. WAPA-10 (46 FR 47655, September 29, 1981).

By Order dated May 4, 1982 (Docket EF 80-5011-000), FERC disapproved the current rates. FERC's disapproval of the existing rates, however, does not preclude the implementation of this proposed power rate adjustment.

Several firm power rates will be offered for consideration as well as a rate for the delivery of non-CVP power over CVP's transmission system.

The proposed firm power rates, interruptible power rate, and wheeling rates offered by Western for consideration are:

Uniform Rate With a Single Energy Stair Step

Capacity Charge: $3.50/kW of monthly billing demand
Energy Charge: May 25, 1983–December 31, 1985—14.26 mills/kWh; January 1, 1986, and thereafter—32.78 mills/kWh
Composite Yield: May 25, 1983–December 31, 1985—21.94 mills/kWh; January 1, 1986, and thereafter—40.40 mills/kWh

Uniform Rate With Periodic Energy Stair Steps

Capacity Charge: $3.50/kW of monthly billing demand
Energy Charge: May 25, 1983–December 31, 1983—10.50 mills/kWh; January 1, 1984–December 31, 1984—13.87 mills/kWh; January 1, 1985–December 31, 1985—17.23 mills/kWh; January 1, 1986, and thereafter—32.78 mills/kWh
Composite Yield: May 25, 1983–December 31, 1983—18.29 mills/kWh; January 1, 1984–December 31, 1984—21.51 mills/kWh; January 1, 1985–December 31, 1985—24.86 mills/kWh;

January 1, 1986, and thereafter—40.40 mills/kWh

Tip-Up Rate

Capacity Charge: $3.50/kW of monthly billing demand

Energy Charge: From May 25, 1983–December 31, 1985, the first 270 kWh/kW of actual monthly demand will be at 5.85 mills/kWh. All energy in excess of the first 270 kWh/kW of actual monthly demand, but not in excess of the delivery obligation under the contract, will be at 26.99 mills/kWh.

Composite Yield: From May 25, 1983–December 31, 1985—21.94 mills/kWh

Energy Charge: From January 1, 1986, and thereafter, the first 270 kWh/kW of actual monthly demand will be at 5.85 mills/kWh. All energy in excess of the first 270 kWh/kW of actual monthly demand, but not in excess of the delivery obligations under the contract, will be at 66.39 mills/kWh.

Composite Yield: January 1, 1986, and thereafter—40.40 mills/kWh

Rate for Interruptible Power Service

The charge for capacity and energy for interruptible power service would be the same as for the uniform rate for firm power with the exception that for the months that Western requests the participating customers to shed load, the billing demand to which the capacity charge applies would be based on each participating customer's contribution to the CVP's simultaneous peak during each month. The rate for interruptible service would not be imlemented if a tip-up rate is adopted for firm power.

Rate for Wheeling Over CVP's Transmission System

The proposed rate for both firm and nonfirm wheeling is 1 mill/kWh.

A brochure will be distributed to all CVP customers and other interested parties, and public information and comment forums will be held in accordance with the current procedures for public participation in general rate adjustments. The brochure will explain the need for the rate increases. After public discussions and review of public comments, Western will decide on the proposed rates which it believes should be implemented and will make its recommendation to the Assistant Secretary for Conservation and Renewable Energy.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** and will end not less than 90 days thereafter. The proposed rates are to become effective on or before May 25, 1983.

A public information forum at which Western will explain the need for an increase, review alternatives, and answer questions will be held on July 13, 1982, at the Holiday Inn, Holidome, 5321 Date Avenue, Sacramento, California, beginning at 9:30 a.m. The public comment forum at which the public may comment on the proposed rate increase will be held at the same location in Sacramento, California, beginning at 9:30 a.m. on August 17, 1982. At the public comment forum, Western's representatives may ask questions of the persons commenting but will not be required to answer questions concerning the proposed rates. A transcript will be made at both forums.

Persons planning to speak at the comment forum should sent their names and affiliation to the address noted below by August 13, 1982, so that a speaker list may be developed. Time permitting, other persons will be allowed to comment at the comment forum.

Written comments may be submitted at the comment forum or may be submitted to the address below throughout the consultation and comment period, but should be received at that address on or before September 23, 1982.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484–4251.

SUPPLEMENTARY INFORMATION: Power rates for the CVP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*) as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project and divisions thereof.

The Secretary of Energy delegated to the Assistant Secretary for Resource Applications, by Delegation Order No. 0204–33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western, confirm, approve, and place into effect on an interim basis, power and transmission rates for Western. The delegation order also gave to the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving or remanding such rates. On March 19, 1982, Delegation Order No. 0204–33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications" (46 FR 25426, May 7, 1981).

In accordance with the Public Utility Regulatory Policies Act of 1978, the standards set forth by section 111 of that act will be considered in conjunction with this rate adjustment.

Procedures for public participation in rate adjustments for power marketed by Western were published in the **Federal Register** (45 FR 86983, December 31, 1980). Corrections and amendments thereto were also published in the **Federal Register** (46 FR 6864, January 22, 1981, and 46 FR 25426, May 7, 1981).

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the CVP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for CVP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and Department of Energy (DOE) regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694–20701), Western is conducting an environmental evaluation of the proposed rate adjustments.

Section D of the above guidelines states that for rate increases for products or services marketed by DOE, the level of documentation under NEPA depends on the magnitude of the rate increase as it relates to the rate of inflation since the last rate increase. If, as in the case of this proposed rate, it exceeds the rate of inflation since the last rate increase, an environmental assessment (EA) is normally required. The EA currently being prepared by Western will determine whether there are significant environmental impacts which would require further NEPA documentation.

Executive Order 12291

The Department of Energy has determined that this is a major rule pursuant to the criteria of section 1(b) of the Order. However, Western has received an exemption from sections 3, 4, and 7 of Executive Order 12291 and therefore will not prepare a regulatory impact statement.

Availability of Information

All brochures, studies, comments, letters, memorandums and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, California 95825, (916) 484–4251.

Issued at Washington, DC, June 21, 1982.

Ronald K. Greenhalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 82-17200 Filed 6-24-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 81011; TSH-FRL 2146-2]

Toxic Substances Control Act Chemical Substances Inventory; Availability of Cumulative Supplement II

Correction

In FR Doc. 82–15045, published at page 25767, on Tuesday, June 15, 1982, on page 25768, in the first column, in the first paragraph under "III", in the third line, "nearly 7 percent" should be corrected to read "nearly 97 percent".

BILLING CODE 1505-01-M

[OPTS–59092; TSH–FRL 2155–3]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: July 23, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59092]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the public reading room, E–107.

TME 82–26

Close of Review Period. July 29, 1982.

Manufacturer. Confidential.

Chemical. (G) Polyquaternary methacrylamide ammonium acetate.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: dermal, a total of 4 workers, up to 1 hr/da.

Environmental Release/Disposal. Less than 10 kg/yr released to air and land.

TME 82–27

Close of Review Period. July 30, 1982.

Manufacturer. Confidential.

Chemical. (G) Reaction product of alkyl isocyanate with 3-(trimethoxysilyl)-1-propanethiol.

Use/Production. (G) In assembly of automotive components. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and other operations: dermal, total of 7 workers, up to 8 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Process wastes incinerated, products containing substances landfilled.

Dated: June 18, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-17200 Filed 6-24-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–53038; TSH–FRL 2156–4]

Premanufacture Notices; Monthly Status Report for May 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for May 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53038]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington D.C. 20460, (202–382–3748).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during May; (b) PMNs received

previously and still under review at the end of May; (c) PMNs for which the notice review period has ended during May; (d) chemical substances for which EPA has received a notice of commencement to manufacture during May; and (e) PMNs for which the review period has been suspended. Therefore, the May 1982 PMN Status Report is being published.

Dated: June 18, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, May 1982

I. 77 Premanufacture Notices Received During the Month

PMN No.	Identity/and generic Name	FR citation	Expiration date
82-323	Generic name: t-alky peroxyester	47 FR 20853 (5/14/82)	Aug. 1, 1982.
82-324	Generic name: Phenoxy ester resin	47 FR 20853 (5/14/82)	Do.
82-325	Generic name: Acrylic resin	47 FR 20853 (5/14/82)	Do.
82-326	Generic name: Substituted pyridine	47 FR 20853 (5/14/82)	Do.
82-327	Generic name: Hydroxy, amine-substituted anthraquinone	47 FR 20853 (5/14/82)	Aug. 2, 1982.
82-328	Generic name: Modified amine	47 FR 20853 (5/14/82)	Do.
82-329	Generic name: Poly[(aminoalkylamino) alkylene oxide]	47 FR 20853 (5/14/82)	Do.
82-330	Generic name: Poly(vinyl acrylate)	47 FR 20853 (5/14/82)	Aug. 3, 1982.
82-331	Generic name: Nitrophenyl amide	47 FR 20853 (5/14/82)	Do.
82-332	Generic name: Aminophenyl amide	47 FR 20853 (5/14/82)	Do.
82-333	Generic name: Polyacrylate	47 FR 20853 (5/14/82)	Do.
82-334	Generic name: 5-chloro-4-nitro-2-substituted aryloxydimethylaniline	47 FR 20853 (5/14/82)	Aug. 4, 1982.
82-335	Generic name: 5-chloro-2-substituted aryloxyaniline	47 FR 20853 (5/14/82)	Do.
82-336	Generic name: 2-chloro-4(N,N-dimethylamino)-5-substituted aryloxydiazonium tetrafluoroborate	47 FR 20854 (5/14/82)	Do.
82-337	Generic name: 5-chloro-2-substituted aryloxydimethylaniline	47 FR 20854 (5/14/82)	Do.
82-338	Generic name: Disubstituted triazolidine	47 FR 20854 (5/14/82)	Do.
82-339	Generic name: Disubstituted triazolidine salt	47 FR 20854 (5/14/82)	Do.
82-340	Generic name: Complex quaternary ammonium chloride	47 FR 22214 (5/21/82)	Aug. 5, 1982.
82-341	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-342	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-343	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-344	Generic name: Unsaturated hydrocarbons modified rosin	47 FR 22214 (5/21/82)	Do.
82-345	Generic name: Polyhalo alkoxyaryl nitrile	47 FR 22214 (5/21/82)	Aug. 8, 1982.
82-346	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 22214 (5/21/82)	Aug. 9, 1982.
82-347	Generic name: Polyurethane of a diisocyanate and a substituted alkanediol	47 FR 22214 (5/21/82)	Do.
82-348	Generic name: Urea/carbamate elastomer	47 FR 22214 (5/21/82)	Do.
82-349	Generic name: Polycyclic sulfonic acid salt	47 FR 22215 (5/21/82)	Aug. 10, 1982.
82-350	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-351	Generic name: Titanium (4) mixed alcohol complex	47 FR 22215 (5/21/82)	Do.
82-352	Generic name: Naphthalenedisulfonic acid, [[aminosulfohydroxy naphthalenyl]azo]-, trisodium salt	47 FR 22215 (5/21/82)	Do.
82-353	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Aug. 11, 1982.
82-354	Generic name: Substituted phenyl-pyrimidine	47 FR 22215 (5/21/82)	Do.
82-355	Generic name: Substituted phenyl-pyrimidin bicyclic azo heterocyclic merocyanine	47 FR 22215 (5/21/82)	Do.
82-356	Generic name: Polyer of 1,4-benzenedicarboxylic acid dimethyl ester; dihydroxyalkane; 1,6-hexanediol; alpha hydro-omega hydroxy poly (oxy-1, 4-butanediyl).	47 FR 22215 (5/28/82)	Do.
82-357	Generic name: 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt	47 FR 23552 (5/28/82)	Aug. 12, 1982.
82-358	Generic name: Modified phenoxy—S resin	47 FR 23552 (5/28/82)	Do.
82-359	Generic name: Polyester resin	47 FR 23552 (5/28/82)	Do.
82-360	Generic name: Trisubstituted benzisoxazole	47 FR 23553 (5/28/82)	Do.
82-361	Generic name: Tetrasubstituted benzene	47 FR 23553 (5/28/82)	Do.
82-362	Generic name: Substituted benzamide	47 FR 23553 (5/28/82)	Do.
82-363	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 23553 (5/28/82)	Aug. 15, 1982.
82-364	Generic name: Poly[oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-365	Generic name: Poly[oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-366	Generic name: Poly[oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-367	Generic name: Poly[oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	47 FR 23553 (5/28/82)	Do.
82-368	Generic name: Alkenyl alkyl siloxane alkoxy terminated	47 FR 23553 (5/28/82)	Aug. 16, 1982.
82-369	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-370	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 23553 (5/28/82)	Do.
82-371	Generic name: Disubstitued alkane	47 FR 23553 (5/28/82)	Do.
82-372	Generic name: ((Substituted phenyl)azo)-dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile	47 FR 23554 (5/28/82)	Do.
82-373	Generic name: Poly(ester-urethane)	47 FR 23554 (5/28/82)	Aug. 18, 1982.
82-374	Generic name: Alkyl thiadiazole	47 FR 23554 (5/28/82)	Do.
82-375	Generic name: Formaldehyde polymer with 2-furanmethanol and methyloxirane capped	47 FR 23554 (5/28/82)	Do.
82-376	Generic name: Polymer of trimethylol propane, 1,6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.	47 FR 23554 (5/28/82)	Do.
82-377	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-378	Generic name: Hybrid urethane	47 FR 23554 (5/28/82)	Do.
82-379	Generic name: Tetrasubstituted benzisoxazole	47 FR 23554 (5/28/82)	Do.
82-380	Generic name: Disubstituted benzoxazole	47 FR 23554 (5/28/82)	Do.
82-381	Generic name: Tetrasubstituted benzisoxazole	47 FR 25400 (6/11/82)	Do.
82-382	Generic name: Polymer of alkenoic acid alkyl esters, 2-propenoic acid, and 2-propenoic acid, 2-methyl.	47 FR 25400 (6/11/82)	Aug. 19, 1982.
82-383	Generic name: Brominated xylenol	47 FR 25400 (6/11/82)	Aug. 22, 1982.
82-384	Generic name: Bis[bromo xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-385	Generic name: Bis[xylenol]sulfide	47 FR 25400 (6/11/82)	Do.
82-386	Generic name: Metal complex of disazo aromatic acids, sodium salt	47 FR 25400 (6/11/82)	Aug. 23, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	Do.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-389	Reaction product of [[(phosphonomethyl]imino] bis-[6,1-hexanediyl-nitrilobis(methylene)]] tetrakis-phosphonic acid (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).	47 FR 25401 (6/11/82)	Do.
82-390	Polymer of styrene, 2-propenoic acid, 1,1-dimethylethyl ester of 2-propenoic acid, 2-ethylhexyl ester of 2 propenoic acid, and 2-hydroxy propyl acrylate.	47 FR 25401 (6/11/82)	Do.
82-391	Generic name: Invalid		
82-392	Generic name: Hydroxy ethyl ester substituted polybis imide of pyromellitic dianhydride	47 FR 25401 (6/11/82)	Aug. 25, 1982.
82-393	Amines, N-(3-aminopropyl)-N-tallowalkyltri-methylenebis-[3-aminopropyl]-N-tallowamine	47 FR 25401 (6/11/82)	Do.
82-394	Generic name: Modified polyurethane from diisocyanate, substituted alkanol and a substituted alkane diol.	47 FR 25401 (6/11/82)	Do.
82-395	Generic name: Polymer of a vegetable oil derivative, alkane diols and a carbomonocyclic anhydride.	47 FR 25401 (6/11/82)	Do.

I. 77 Premanufacture Notices Received During the Month—Continued

PMN No.		Identity/and generic Name	FR citation	Expiration date
82-396	Generic name:	Substituted oxirane reacted with polyalkylene glycol	47 FR 25401 (6/11/82)	Do.
82-397	Generic name:	Tetrasubstituted benziscoxazole	47 FR 25402 (6/11/82)	Ayg. 26, 1982.
82-398	Generic name:	A mixture of benzamide, N-((substituted naphthyl)azo)phenyl-(substituted amino-hydroxy-sulfonaphthyl)azo) and benzamide, N-((substituted naphthyl)azo)phenyl-((substituted amino-hydroxy-sulfonaphthyl)azo, compounded with organic acids.	47 FR 25402 (6/11/82)	Do.
82-399	Generic name:	$C_{n>12}$-alkyl mercaptoacetates reaction products with dichlorodioctylstannane and trichloro-octylstannane.	47 FR 25402 (6/11/82)	Do.

II. 79 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.		Identity/generic name	FR citation	Expiration date
82-243	Manganic acetylacetonate		47 FR 15407 (4/9/82)	June 30, 1982.
82-244	Generic name:	Antimony pentafluoride-substituted amine complex	47 FR 16403 (4/16/82)	Do.
82-245	Generic name:	Modified polyurethant	47 FR 16403 (4/16/82)	July 1, 1982.
82-246	Generic name:	Barium sulfonated red	47 FR 16403 (4/16/82)	Do.
82-247	Generic name:	2-anthracenesulfonic acid, 1-amino-4-substituted phenylamino-9,10-dihydro-9,10-dioxo-sodium salt.	47 FR 16403 (4/16/82)	Do.
82-248	Generic name:	Polymer of alkanediols and a carbomocyclic anhydride	47 FR 16403 (4/16/82)	Do.
82-249	Generic name:	Modified hydroxy functional acrylic copolymer	47 FR 16404 (4/16/82)	Do.
82-250	Generic name:	Mixture of Naphthalenedisulfonic acid, [azoxy bis[(substituted phenyl)azo]]bis [substituted-, and its sodium salts.	47 FR 16404 (4/16/82)	Do.
82-251	3,4-dichlorophenol		47 FR 16404 (4/16/82)	Do.
82-252	Generic name:	Isocyanate terminated polyester polyurethane prepolymer	47 FR 16404 (4/16/82)	July 4, 1982.
82-253	Generic name:	Urethane polyether	47 FR 16404 (4/16/82)	Do.
82-254	Generic name:	Modified polymer of styrene, alkanoic acid, alkenoic esters and substituted alkenoic esters.	47 FR 16404 (4/16/82)	Do.
82-255	Void.			
82-256	Generic name:	Poly[(aminoalkylamino)alkylene oxide], aqueous solution	47 FR 16404 (4/16/82)	July 5, 1982.
82-257	*m*-chlorophenylphenylether		47 FR 16404 (4/16/82)	Do.
82-258	Generic name:	Heterocyclic-methoxyphenylazo substance	47 FR 16404 (4/16/82)	Do.
82-259	Generic name:	Aliphatic oligomeric carbonate diol	47 FR 16404 (4/16/82)	Do.
82-260	Generic name:	Disubstituted benzene	47 FR 16404 (4/16/82)	Do.
82-261	Generic name:	Substituted naphthalene	47 FR 16404 (4/16/82)	Do.
82-262	Generic name:	Substituted naphthalene	47 FR 16405 (4/16/82)	Do.
82-263	Generic name:	A mixture of the sodium salts, lithium salts, and mixed sodium/lithium salts of naphthalene disulfonic acid, [azoxy bis [(substituted-phenyl)azo]]bis[substituted.	47 FR 16405 (4/16/82)	Do.
82-264	Generic name:	The reaction products of: mixed branched 2,5-furandiones; polyalkylene substituted phenol, condensed with aldehyde and mixed amines; coco glycerides with mixed acid and alcohol; sulfur.	47 FR 16405 (4/16/82)	July 6, 1982.
82-265	4,4'-bis(2,5-dimethylstyryl)-diphenyl		47 FR 16405 (4/16/82)	July 7, 1982.
82-266	Generic name:	Alkyl quaternary ammonium hydroxide	47 FR 16405 (4/16/82)	Do.
82-267	Generic name:	Acid blocked amine	47 FR 16405 (4/16/82)	July 5, 1982.
82-268	Generic name:	Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-269	Generic name:	Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-270	Generic name:	Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-271	Generic name:	Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-272	Generic name:	Heterocyclic-alkylphenyl azo substance	47 FR 16405 (4/16/82)	July 8, 1982.
82-273	*m*-chlorophenylphenylsulfide		47 FR 16405 (4/16/82)	Do.
82-274	Generic name:	Triethylene glycol ether	47 FR 17666 (4/23/82)	July 11, 1982.
82-275	Generic name:	Saturated linear butylene mixed acids copolyester	47 FR 17666 (4/23/82)	July 12, 1982.
82-276	Generic name:	Bis(substituted-6,6,6-triacryloyloxymethyl-4-oxahexyl)ethyl-methly-disubstituted heteromonocycle.	47 FR 17666 (4/23/82)	July 11, 1982.
82-277	Generic name:	Polymer of aliphatic and aromatic diacids and an aliphatic diol	47 FR 17666 (4/23/82)	July 12, 1982.
82-278	Generic name:	Di-quaternary ammonium salt with formal linkage	47 FR 17666 (4/23/82)	Do.
82-279	Generic name:	Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	July 13, 1982.
82-280	Generic name:	Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	Do.
82-281	Generic name:	Polyether alkanyl esters	47 FR 17667 (4/23/82)	Do.
82-282	Generic name:	Polyhalogenated aromatic polyacrylate	47 FR 17667 (4/23/82)	June 9, 1982.
82-283	Generic name:	t-butylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-284	Generic name:	Methylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-285	Generic name:	Isopropylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-286	Generic name:	Substituted alyl alkyl siloxane	47 FR 17667 (4/23/82)	July 14, 1982.
82-287	Generic name:	Disubstituted benzene	47 FR 18652 (4/30/82)	July 15, 1982.
82-288	Generic name:	Polymer of disubstituted acrylic acid, disubstituted benzene, and substituted acrylic acid.	47 FR 18652 (4/30/82)	Do.
82-289	Polymer of ethylene oxide; bisphenol A; epichlorohydrin; acrylonitrile; ethylene glycol; xylylenediamine; isophorodiamine.		47 FR 18652 (4/30/82)	Do.
82-290	Generic name:	Disubstituted benzene	47 FR 18653 (4/40/82)	July 18, 1982.
82-291	Generic name:	Sulfonated copper phthalocycanine dye	47 FR 18653 (4/30/82)	Do.
82-292	Generic name:	Substituted trialkoxy silane	47 FR 18653 (4/30/82)	Do.
82-293	2,2,6-trimethyl-4H-1,3-dioxin-4-one		47 FR 18653 (4/30/82)	Do.
82-294	Generic name:	Metallic beta diketonate	47 FR 18653 (4/30/82)	Do.
82-295	Cis-4-decen-1-ol		47 FR 18653 (4/30/82)	July 19, 1982.
82-296	Generic name:	9,10-anthracenedione sulfonic acid, sodium salt	47 FR 18653 (4/30/82)	Do.
82-297	Generic name:	Isocyanate terminated polyether polyurethane prepolymer	47 FR 18653 (4/30/82)	Do.
82-298	Generic name:	Polymer of alkyl acrylate and acrylamide	47 FR 18653 (4/30/82)	Do.
82-299	Generic name:	Polymer of alkyl acrylate, vinyl heteromonocycle and acrylic acid	47 FR 18653 (4/30/82)	Do.
82-300	Generic name:	Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	July 20, 1982.
82-301	Generic name:	Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	Do.
82-302	Generic name:	Polysilazane	47 FR 18654 (4/30/82)	Do.
82-303	Generic name:	Inert fluorocarbon	47 FR 18654 (4/30/82)	Do.
82-304	Generic name:	Quaternary amine functional polyether urethane modified polyglycidyl ether of Bisphenol A.	47 FR 18654 (4/30/82)	July 21, 1982.
82-305	Generic name:	Modified hydroxyethylcellulose	47 FR 19781 (5/7/82)	July 22, 1982.
82-306	Generic name:	Disubstituted benzenamine	47 FR 19781 (5/7/82)	Do.
82-307	Generic name:	Polyhaloalkoxyaroyl halide	47 FR 19781 (5/7/82)	July 25, 1982.
82-308	Generic name:	Substituted benzotriazole	47 FR 19782 (5/7/82)	Do.

II. 79 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
82-309	Generic name: Cationic substituted acid amide	47 FR 19782 (5/7/82)	Do.
82-310	Generic name: Cationic substituted acid amide polymer	47 FR 19782 (5/7/82)	Do.
82-311	Generic name: Unsaturated alkyl amino alkyl dioxolane	47 FR 19782 (5/7/82)	Do.
82-312	Generic name: Diheloethylacetate	47 FR 19782 (5/7/82)	Do.
82-313	Acetamide, 2,2-, dichloro-N-(1,3-dioxlan-2-hymethyl)-N-2-propenyl	47 FR 19782 (5/7/82)	Do.
82-314	Generic name: Copolymer of alkyl acrylates and methacrylates	47 FR 19782 (5/7/82)	July 25, 1982.
82-315	Generic name: Polyester polymer derived from a carbomonocyclic anhydride and containing a mixture of substituted alkane diols.	47 FR 19782 (5/7/82)	Do.
82-316	4-butylmorpholine	47 FR 19782 (5/7/82)	Do.
82-317	Generic name: Metal alkanoate	47 FR 19782 (5/7/82)	July 27, 1982.
82-318	Generic name: A mixture of naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo) and naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo), compounded with organic acids.	47 FR 19782 (5/7/82)	July 25, 1982.
82-319	Generic name: Alkyl oligoglycosides	47 FR 19782 (5/7/82)	Do.
82-320	Phenol, 4-nitroso-, magnesium salt, hexahydrate	47 FR 19782 (5/7/82)	Do.
82-321	Generic name: Polyester random copolymer	47 FR 19782 (5/7/82)	Do.
82-322	Generic name: Styrene acrylates copolymer	47 FR 20853 (5/14/82)	July 29, 1982.

III. 100 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.	Identity and generic name	FR citation	Expiration date
81-580	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	46 FR 57127 (Nov. 20, 1981)	Feb. 23, 1982.
82-46	Polymer from 1-propanesulfonic acid, 2-methyl-2-((1-oxo-2-propenyl)amino), formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (Feb. 4, 1982)	May 3, 1982.
82-52	Generic name: Hybrid urethane	47 FR 5933 (Feb. 9, 1982)	May 5, 1982.
82-53	Generic name: Substituted benzene sulfonamide	47 FR 6363 (Feb. 11, 1982)	May 3, 1982.
82-54	Generic name: Polyamide-acrylic resin	47 FR 6364 (Feb. 11, 1982)	Do.
82-55	Generic name: Polymer of vegetable oil acids, alkane diols, and carbomonocyclic anhydrides	do.	Do.
82-56	Generic name: Modified polymer of styrene alkyl methacrylate and a substituted alkyl methacrylate.	do.	Do.
82-57	Generic name: Disubstituted carbomonocycle	do.	Do.
82-58	Generic name: Polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers	47 FR 6365 (Feb. 11, 1982)	May 4, 1982.
82-59	Generic name: Polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers	do.	Do.
82-70	α[(1,3-dioxolan-2-ylmethoxy)amino]benzene-acetonitrile	47 FR 7311 (Feb. 18, 1982)	Do.
82-71	Generic name: Alkyl aryl amino polyol	do.	May 5, 1982.
82-72	Generic name: Alkenoic acid ester of a halogenated alkyl aryl ether	do.	Do.
82-73	De-acetylated anionic heteropolysaccharide of D-glucose, 6-deoxy L-mannose and D-glucuronic acid.	47 FR 7485 (Feb. 19, 1982)	May 6, 1982.
82-74	Generic name: Carbomonocyclic diester	do.	Do.
82-75	Generic name: Substituted pyridinium bromide	47 FR 7487 (Feb. 19, 1982)	Do.
82-76	Petroleum resin, polymer with mixed vegetable oil acids; 1,3 isobenzofuradione; and 2,2-bis (hydroxymethyl)-1,3-propanediol.	do.	Do.
82-77	Generic name: Higher alkyl acrylate-copolymer	do.	Do.
82-78	Generic name: Alkyl acrylate alkylmethacrylate polymer	do.	May 9, 1982.
82-79	Generic name: Resorcinol modified phenoxy-S resin	do.	Do.
82-80	Generic name: Resorcinol modified phenoxy-S resin	47 FR 7486 (Feb. 19, 1982)	Do.
82-81	Generic name: Polyurethane from aromatic isocyanate and alkanols	47 FR 7489 (Feb. 19, 1982)	Do.
82-82	Alpha-methyl glucoside propoxylate	47 FR 7752 (Feb. 22, 1982)	Do.
82-83	Alpha-methyl glucoside propoxylated ethoxylated	do.	Do.
82-84	Generic name: Alkylthio metallic mercaptan	47 FR 7753 (Feb. 22, 1982)	Do.
82-85	Generic name: Aromatic sulfonate salt	do.	May 10, 1982.
82-86	A mixture of 1-amino-8-naphthol-4,6-disulfonic acid and its mono and disodium salts	do.	Do.
82-87	Octadecyl docosenate	do.	Do.
82-88	Void		
82-89	Generic name: (Dialkylaminophenylazo) azo-benzene sulfonic acid	47 FR 8677 (Mar. 1, 1982)	May 12, 1982.
82-90	Generic name: Siloxanes and silicones, aminoalkyl me, di—me	do.	Do.
82-91	Octanoic acid, heptyl ester	47 FR 8840 (Mar. 2, 1982)	May 11, 1982.
82-92	Octanoic acid, decyl ester	47 FR 8841 (Mar. 2, 1982)	Do.
82-93	Octanoic acid, dodecyl ester	do.	Do.
82-94	Octanoic acid, tetradecyl ester	do.	Do.
82-95	Octanoic acid, hexadecyl ester	do.	Do.
82-96	Decanoic acid, butyl ester	do.	Do.
82-97	Decanoic acid, pentyl ester	do.	Do.
82-98	Decanoic acid, isopentyl ester	do.	Do.
82-99	Decanoic acid, hexyl ester	do.	Do.
82-100	Decanoic acid, heptyl ester	do.	Do.
82-101	Decanoic acid, octyl ester	do.	Do.
82-102	Decanoic acid, tetradecyl ester	do.	Do.
82-103	Decanoic acid, hexadecyl ester	do.	Do.
82-104	Decanoic acid, octadecyl ester	do.	Do.
82-105	Dodecanoic acid, propyl ester	do.	Do.
82-106	Dodecanoic acid, butyl ester	do.	Do.
82-107	Dodecanoic acid, isobutyl ester	do.	Do.
82-108	Dodecanoic acid, pentyl ester	do.	Do.
82-109	Dodecanoic acid, heptyl ester	do.	Do.
82-110	Tetradecanoic acid, propyl ester	47 FR 8842 (Mar. 23, 1982)	Do.
82-111	Tetradecanoic acid, isobutyl ester	do.	Do.
82-112	Tetradecanoic acid, pentyl ester	do.	Do.
82-113	Tetradecanoic acid, isopentyl ester	do.	Do.
82-114	Tetradecanoic acid, hexyl ester	do.	Do.
82-115	Tetradecanoic acid, heptyl ester	do.	Do.
82-116	Tetradecanoic acid, octyl ester	do.	Do.
82-117	Hexadecanoic acid, propyl ester	do.	Do.
82-118	Hexadecanoic acid, pentyl ester	do.	Do.
82-119	Hexadecanoic acid, isopentyl ester	do.	Do.
82-120	Hexadecanoic acid, hexyl ester	do.	Do.
82-121	Hexadecanoic acid, heptyl ester	do.	Do.

III. 100 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-122	Hexadecanoic acid, decyl ester	do	Do.
82-123	Hexadecanoic acid, dodecyl ester	do	Do.
82-124	Octadecanoic acid, propyl ester	do	Do.
82-125	Octadecanoic acid, pentyl ester	do	Do.
82-126	Octadecanoic acid, isopentyl ester	do	Do.
82-127	Octadecanoic acid, heptyl ester	do	Do.
82-128	Generic name: Naphthalenesulfonic acid, 5-phenyazo-8-toluidino azo	47 FR 8675 (Mar. 1, 1982)	May 17, 1982.
82-129	Generic name: Esterified copolymer of a vinyl compound and an unsaturated carboxylic acid	do	Do.
82-130	Generic name: Nitrobenzene sulfonate	do	Do.
82-131	Generic name: Zinc-containing alkenyl carboxamide	do	May 18, 1982.
82-132	Generic name: Terpene ester	47 FR 8676 (Mar. 1, 1982)	Do.
82-133	Generic name: Substituted cyclopentadiene	do	Do.
82-134	Propenoic acid/methylenebutanedioic acid copolymer sodium salt	do	Do.
82-135	Polymer of 2-propenoic acid and methylenebutanedioic acid	do	Do.
82-136	Generic name: Disubstituted heteromonocycle	47 FR 8842 (Mar. 2, 1982)	May 19, 1982.
82-137	Generic name: Substituted amine complex	47 FR 8843 (Mar. 2, 1982)	May 20, 1982.
82-138	Generic name: Trisubstituted phenol	do	Do.
82-139	Polymer of hexanedioic acid and 2-(methylamino) ethanol	do	Do.
82-140	Generic name: Oxirane (chloromethyl) polymer with 2-(substituted)ethyl amine fractionation forecuts, methyl oxirane and oxirane.	47 FR 10073 (Mar. 9, 1982)	May 23, 1982.
82-141	Adduct of bis (isocyanatomethyl) benzene with 2-ethyl-2 (hydromymethyl)-1,3-propane-diol	47 FR 10074 (Mar. 9, 1982)	May 24, 1982.
82-142	Generic name: Isocyanate terminated polyether prepolymer	do	Do.
82-143	Generic name: Heterocyclic-phenyl azo substance	do	Do.
82-144	Generic name: Heterocyclic-alkoxyphenyl azo substance	do	Do.
82-145	Generic name: Modified polyester polyurethane from substituted alkanediols, alkanedioic acid, and a diisocyanate.	do	Do.
82-146	Generic name: Acrylic copolymer	47 FR 10075 (Mar. 9, 1982)	Do.
82-147	Generic name: Organorhodium complex	do	Do.
82-148	Generic name: Ethylene interpolymer	do	Do.
82-149	Generic name: Trisubstitued phenol	do	Do.
82-150	Polymer of methyl methacrylate	do	May 25, 1982.
82-151	Generic name: Polymer of aliphatic and aromatic diacids and an aliphatic diol	47 FR 10076 (Mar. 9, 1982)	Do.
82-152	Generic name: Fatty acids, tall oil, polymers with alicyclic glycol, phthalic anhydride and trimethylol propane.	do	Do.
82-153	Generic name: Alkyl (substituted aryl) alkylate	do	Do.
82-154	Generic name: Alkyl (substituted aryl)	do	Do.
82-155	Generic name: Polyether alkanyl esters	do	May 26, 1982.
82-166	Generic name: Disubstituted-6,13-dichloro-4,11-triphenodioxazine disulfonic acid	47 FR 10900 (Mar. 12, 1982)	Do.
82-167	Generic name: Disubstituted benzene	do	May 30, 1982.
82-168	Generic name: Urethane of substituted alkanols and a diisocyanate	do	May 31, 1982.
82-169	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	do	Do.
82-170	1,6-hexanedioic acid, polymer with 1,2-ethanediol, 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, and 1,6-hexanediol.	do	Do.

NOTE.—PMNs 82-156 thru 82-165 are suspended due to problems with chemical identity.

IV. 52 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
79-18	4-amino-N-substituted benzene sulfonamide	45 FR 1675 (Jan. 8, 1980)	May 3, 1982.
80-152	Generic name: 5-[6-(3-substituted phenyl-amino)-4-chloro-(1,3,5-triazin-2-yl)-amino]-3-(3-substituted-2-hydroxy-5-sulfophenylazo)-4-hydroxy-naphthalene-2,7-disulfonic acid, copper complex, salt.	45 FR 37278 (June 2, 1980)	Do.
80-154	Generic name: Reaction products of [(amino-disubstituted-carbomonocyclic)azo] carbomonocyclesulfonic acid and [(amino-monosubstituted carbomonocyclic)azo] carbomonocyclesulfonic acid with carbonic dichloride.	45 FR 51648 (Aug. 4, 1980	November 1981.
80-351	Generic name: Substituted alkanoic acid, alkyl ester	46 FR 87119 (Jan. 27, 1981)	Sept. 1, 1981.
81-32	Generic name: (Substitutedphenoxy)alkanoic acid	46 FR 16116 (Mar. 11, 1981)	Oct. 9, 1981.
81-42	Generic name: (Substitutedphenoxy)alkanoic acid, alkyl ester	46 FR 15944 (Mar. 10, 1981)	Sept. 18, 1981.
81-78	Generic name: Tetrasubstitutedphenol	45 FR 19307 (Mar. 30, 1981	Aug. 26, 1981.
81-84	Generic name: Tetrasubstitutedphenol	do	Aug. 14, 1982.
81-174	Generic name: Disubstitutednaphthalenol	46 FR 24966 (May 4, 1981)	Oct. 8, 1981.
81-175	Generic name: Disubstitutednaphthalenol	do	Feb. 1, 1982.
81-176	Generic name: Disubstitutednaphthalenol	46 FR 26862 (May 15, 1981)	Aug. 26, 1981.
81-202	Generic name: Polyether alkenyl alkanyl esters	46 FR 29524 (June 2, 1981)	Apr. 1, 1982.
81-206	Generic name: Substitutedthiol salt	46 FR 29527 (June 2, 1981)	Aug. 21, 1981.
81-234	Generic name: Disubstitutedalkanamide	45 FR 30884 (June 11, 1981)	Mar. 1, 1982.
81-253	N-[2-(4-hydrazinophenyl)ethyl)]-methanesulfonamide hydrochloride	46 FR 35342 (July 8, 1981)	Sept. 17, 1981.
81-258	Di(2-propenyl) 3,4,5,6-tetrabromo-1,2-benzene-dicarboxylate	46 FR 35345 (July 8, 1981)	Apr. 23, 1982.
81-289	Benzenediazonium, 4-(((sulfonylphenyl)amino)carbonyl)-, sulfate (2:1)	46 FR 35339 (July 8, 1981)	Apr. 8, 1982.
81-293	Generic name: Silylated organic sulfonic acid	do	Apr. 30, 1982.
81-382	Generic name: Polymer of disubstitutedbenzene, disubstitutedbenzene and substituted acrylic acid	46 FR 42330 (Aug. 20, 1981)	Apr. 16, 1982.
81-415	Generic name: Polymer of propenoic acid derivative and a heteromonocycle	46 FR 45997 (Sept. 16, 1981)	Apr. 28, 1982.
81-417	Generic name: Modified poly(urea/urethane)	46 FR 45998 (Sept. 16, 1981)	May 12, 1982.
81-487	2-naphthalenesulfonic acid, 6-(acetylamino)-4-hydroxy-, sodium salt	46 FR 47856 (Sept. 30, 1981)	Dec. 28, 1981.
81-555	Generic name: Sulfonylphenylalkane	46 FR 55003 (Nov. 5, 1981)	Apr. 8, 1982.
81-582	Generic name: Polymer of polymer diol, monocarboxylic acid diol, diamine and a diisocyanate	46 FR 57127 (Nov. 20, 1981)	Apr. 28, 1982.
81-595	Generic name: Tall oil/soya/safflower-styrene/acrylic copolymer resin	46 FR 58358 (Dec. 1, 1981)	Feb. 16, 1982.
81-596	Generic name: Phenylenediimino-bis (chlorotriazinyl-imino-substituted phenyleneazo-naphthalenesulfonic acid), hexasodium salt.	46 FR 58359 (Dec. 1, 1981)	May 3, 1982.
81-597	Butanamide, 2-(2-methoxyphenyl)azo)-N-(2, 3-dihydro-2-oxo-1H-benzimiazol-5-yl)-3-oxo-	do	May 6, 1982.
81-608	Polyethylene glycol di-2-ethyl hexoate	46 FR 60496 (Dec. 10, 1981)	May 12, 1982.
81-616	Generic name: Trisubstitutedcellulose	46 FR 60981 (Dec. 14, 1981)	Apr. 16, 1982.
81-619	Generic name: Tetrasubstitutedcellulose salt	do	Apr. 16, 1982.
81-650	Polymer of hexanedioic acid and 2, 2'-iminobis-ethanol	47 FR 338 (Jan. 5, 1982)	Mar. 29, 1982.
81-655	Generic name: Substituted pyran	47 FR 1022 (Jan. 8, 1982)	Apr. 20, 1982.
81-680	3, 3-dimethylbicyclo (2.2.1) heptane-2-carboxylic acid	47 FR 1410 (Jan. 13, 1982)	Mar. 29, 1982.
82-6	Generic name: (Dialkylaminophenylazo)azo benzene sulfonic acid	47 FR 2399 (Jan. 15, 1982)	May 17, 1982.

IV. 52 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
82-11	Generic name: Polymer of a dihalo alkene, an alkyl alkenoate, and a substituted alkyl alkenoate	47 FR 2401 (Jan. 15, 1982)	Apr. 30, 1982.
82-17	Generic name: Sulfomonoazo dye, 2,2'-iminobis ethanol salt	47 FR 3593 (Jan. 26, 1982)	Apr. 26, 1982.
82-26	Generic name: Naphthalenedisulfonic acid, monoazo acid dye, lithium salt	47 FR 3592 (Jan. 26, 1982)	Do.
82-32	Generic name: Dichlorotriazinylamino-substituted sulfophenylazo-sulfonaphthalenylazo-benzene-disulfonic acid, tetra sodium salt.	47 FR 4143 (Jan. 28, 1982)	May 3, 1982.
82-36	Generic name: Reaction product of a dehydroacid ester, polyhydric anhydride and substituted isocyanate.	47 FR 4144 (Jan. 28, 1982)	May 5, 1982.
82-37	Generic name: Neutralized substituted alkanoic ester	47 FR 4145 (Jan. 28, 1982)	May 5, 1982.
82-38	Generic name: Modified alkyd polymer from fatty acid oils, glycerin and a carbomonocyclic anhydride.	do	May 6, 1982.
82-41	Generic name: Naphthalenedisulfonic acid diazo acid dye, lithium salt	47 FR 4735 (Feb. 2, 1982)	May 17, 1982.
82-43	Generic name: Organic acid, lead salt	47 FR 5330 (Feb. 4, 1982)	Apr. 27, 1982.
82-46	Generic name: Polymer from 1-propane sulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (Feb. 4, 1982)	May 18, 1982.
82-51	Trimethyltallpolydichloride	47 FR 5331 (Feb. 4, 1982)	May 20, 1982.
82-53	Generic name: Ethoxylated ethanol, fatty acid ester	47 FR 5329 (Feb. 4, 1982)	Apr. 29, 1982.
82-73	De-acetylated anionic heteropolysaccharide of D-glucose, 6-deoxy L-mannose, and D-glucuronic acid.	47 FR 7466 (Feb. 19, 1982)	May 7, 1982.
82-85	Generic name: Aromatic sulfonate salt	47 FR 7753 (Feb. 22, 1982)	June 1, 1982.
82-89	Generic name: [Diallylamino[(phenylazo)azo-benzene sulfonic acid	47 FR 8677 (Mar. 1, 1982)	May 17, 1982.
82-128	Generic name: Naphthalenesulfonic acid, 5-phenylazo-8-toluidino azo	47 FR 8675 (Mar. 1, 1982)	Do.
82-152	Generic name: Fatty acids, tall oil, polymers with alicyclic glycol, phthalic anhydride and trimethylol propane.	47 FR 10076 (Mar. 9, 1982)	May 25, 1982.
82-169	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	47 FR 10900 (Mar. 12, 1982)	June 1, 1982.

V. 16 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity/generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methylbutylidene)	45 FR 48243 (July 18, 1980)	Sept. 22, 1980
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methylbutylene)	do	Do.
80-146	Phosphorodithioic acid *O,O'*-di[isohexyl, isoheptyl, isooctyl, isononyl, isodecyl] mixed esters, zinc salt.	45 FR 49153 (July 23, 1980)	Sept. 17, 1980
80-147	Phosphorodithioic acid *O,O'*-di[isohexyl, isoheptyl, isooctyl, isononyl, isodecyl] mixed esters	do	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-Methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis]	45 FR 43127 (Nov. 4, 1980)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (Oct. 29, 1981)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinylamino-2-naphthalenesulfonic acid disodium salt.	46 FR 55146 (Nov. 6, 1981)	Jan. 27, 1982.
81-559	5-Acetylamino-4-hydroxy-3-(2-hydroxyl-4-(2-hydroxy-sulfonyl) ethylsulfonyl)-5-methylphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex.	46 FR 55146 (Nov. 6, 1981)	Do.
81-561	4-[4-[2-(hydroxysulfonyloxy) ethylsulfonyl)-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (Nov. 6, 1981)	Do.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (Dec. 30 1981)	Feb. 18, 1982.
81-644	Generic name: Cationic acrylamide copolymer	do	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)-phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (Jan. 8, 1982)	Mar. 29, 1982.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy) ethylsulfonyl) phenylazo)-8-(3-sulfophenyl) amino-2-naphthalenesulfonic acid trisodium salt.	do	Do.
82-23	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 3595 (Jan. 26, 1982)	May 12, 1982.
82-59	Generic name: Aromatic diazo dye	47 FR 5330 (Feb. 4, 1982)	Apr. 20, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (Feb. 9, 1982)	Apr. 15, 1982.

[FR Doc. 82-17190 Filed 6-24-82; 8:45 am]
BILLING CODE 6560-50-M

[ER-FRL-2155-2]

Availability of Environmental Impact Statements Filed June 14 Through June 18, 1982, Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson (202) 382-5074/Procedural Inquiries General Information 382-5075 or 382-5076

Corps of Engineers:

EIS No. 820396, Draft, COE, CA, Cottonwood Creek Flood Control Project, Tehama and Shasta Counties, Due: Aug. 9, 1982.

EIS No. 820395, Draft, COE, SEV, NY, NJ, Ports of New York and New Jersey, Dredge Disposal Site, Due: Aug. 9, 1982.

EIS No. 820411, Final, COE, SEV, PRO, CT, RI, NY, Long Island Sound Region, Dredged Material Disposal, Due: July 26, 1982.

Department of Interior:

EIS No. 820409, Draft, BLM, CA, Bodie-Coleville Planning Units, Grazing Management Plan, Mono County, Due: Aug. 9, 1982.

EIS No. 820410, Draft, BLM, ID, North Idaho Management Framework Plan, Amendment, Payette NF, Due: Aug. 30, 1982.

EIS No. 820401, Draft, BLM, NV, Schell Livestock Grazing Mgmt. Plan, Lincoln, Nye and White Pine Cos., Due: Aug. 17, 1982.

EIS No. 820408, Draft, BLM, OR, Roseburg Ten-Year Timber Mgmt. Plan, Douglas, Lane and Jackson Cos., Due: Aug. 20, 1982.

EIS No. 820412, Final, BLM, CA, San Gorgonio Pass Wind Energy Fields, Site-Specific 1, Riverside Co, Due: July 26, 1982.

EIS No. 820399, Final, BLM, ID, Twin Falls Livestock Grazing Management Program, Twin Falls County, Due: July 26, 1982.

EIS No. 820407, DSuppl, OSM, SEV, REG, Surface Mining Control Program Regulations, Revisions, Due: Aug. 25, 1982.

EIS No. 820402, Draft, MMS, SEV, ATL, 1983 OCS Oil/Gas Lease Sale #76 Offshore the Mid-Atlantic States, Due: Aug. 9, 1982.

Department of Transportation:

EIS No. 820406, Draft, FHW, OR, Mission Street Improvements, 12th to 24th Streets, Salem, Marion Co., Due: Aug. 9, 1982.

EIS No. 820400, Final, FHW, SEV, GA, SC, Augusta RR Demonstration Project/ Seaboard Coastline RR, Due: July 26, 1982.

EIS No. 820398, Final, FHW, MN, US, 12/I-394 Construction, MN-101 to I-94, Hennepin County, Due: July 26, 1982.

Department of Housing and Urban Development:

EIS No. 820397, Draft, HUD, ND, Country Oaks PUD, Mortgage Insurance, Dickinson, Stark County, Due: Aug. 9, 1982.

Department of Agriculture:

EIS No. 820405, Draft, AFS, MT, Anaconda Stillwater Mining Approval, Custer NF, Stillwater County, Due: Aug. 23, 1982.

EIS No. 820406, Draft, AFS, TN, Citico Creek Wilderness Study Area, Cherokee NF, Monroe County, Due: Sept. 25, 1982.

EIS No. 820404, Draft, AFS, SEV, TN, GA, Big Frog Wilderness Study, Cherokee and Chattahoochee NFs, Due: Sept. 25, 1982.

Amended Notice:

EIS No. 820267, DSuppl, COR, TN, West Tennessee Tributaries Flood Control Obion-Forked Deer R. Basin, Due: July 16, 1982.[1]

Dated: June 22, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-17282 Filed 6-25-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51419; TSH-FRL 2155-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(A)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATE: Close of Review Period:

PMN 82-432, 82-433, 82-434, 82-435, 82-436, 82-437, 82-438 & 82-439; September 12, 1982.

PMN 82-440, 82-441, 82-442 & 82-444; September 13, 1982.

PMN 82-443; September 14, 1982.

Written comments by: PMN 82-432, 82-433, 82-434, 82-435, 82-436, 82-437, 82-438 & 82-439; August 13, 1982.

PMN 82-440, 82-441, 82-442 & 82-444; August 14, 1982.

PMN 82-443; August 15, 1982.

[1] Published FR 6/14/82—Review extended due to availability of appendicies.

ADDRESS: Written comments, identified by the document control number "[OPTS-51419]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TD-794), Office of Toxic Substances, Environmental Protection Agency, Rm E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacture on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-432

Importer. Antoine Chiris Division, Sanofi, Inc.

Chemical. (S) Reaction mixture containing: isobornyl acetylacetate, isobornyl acetate and ethylacetylacetate.

Use/Import. (S) Industrial usage. Import range: 100-8,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 82-433

Importer. Antoine Chiris Division, Sanofi, Inc.

Chemical. (S) Para methyl phenoxy ethanal phenyl ethyl hemiacetal.

Use/Import. (S) Industrial usage. Import range: 1-100 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 82-434

Manufacturer. Confidential.

Chemical. (G) Polyquaternary methacrylamide ammonium acetate.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-435

Manufacturer. Confidential.

Chemical. (G) Poly[oxy(methy1-1, 2-ethanediyl)] aliphatic ether amide of dialkenoic acid.

Use/Production. (G) Open use. Prod. range: 1,500-50,000 lb/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 10 workers, up to 8 hrs/da, up to 260 da/yr.

Environmental Release/Disposal. 10-100 lb/yr released to water. Disposal by publicly owned treatment works (POTW).

PMN 82-436

Manufacturer. Edward A. Lasher DBA A & A Research.

Chemical. (S) Soybean oil polymer with maleic anhydride, neopentyl glycol, tetrahydrophthalic anhydride and trimethylol propane.

Use/Production. (S) General industrial coatings. Prod. range: 25,000-1,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 3 workers, up to 1.5 hrs/da, up to 280 da/yr.

Environmental Release/Disposal. No release.

PMN 82-437

Manufacturer. Confidential.

Chemical. (G) Modified polyester of a carbomonocyclic anhydride and a substituted alkanediol.

Use/Production. (G) Open use. Prod. range. 0-9,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, inhalation and eye, a total of 63 workers, up to 6 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 10-10,000 kg/yr to land. Disposal by incineration.

PMN 82-438

Manufacturer. Confidential.

Chemical. (G) Aromatic amine ester.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Confidential.

Exposure. Manufacture, processing and use: dermal, a total of 8 workers, up to 2 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by hazardous waste disposal site and landfill.

PMN 82-439

Manufacturer. Hach Company.

Chemical. (G) Sulphonated phenyl arsine dibromide.

Use/Production. (S) Analytical reagent. Prod. range: 0.100-10.00 kg/yr.

Toxicity Data. Acute oral: 670 mg/kg; Skin irritation: Non-irritant.

Exposure. Manufacture and processing: oral and dermal, a total of 3 workers.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by POTW.

PMN 82-440

Importer. Emser Industries, Inc.

Chemical. (G) Copolyesters.

Use/Import. (S) Polymers for producing formulations of metal coating fine powders. Import range: Confidential.

Toxicity Data. Acute oral: > 10,000 mg/kg.

Exposure. No exposure.

Environmental Release/Disposal. No release.

PMN 82-441

Manufacturer. U.C.T., Inc.

Chemical. (G) Alkylphenol, formaldehyde, alkanolamine, alkylene oxides reaction product.

Use/Production. (S) Industrial manufacture of rigid urethane foam. Prod. range: 20,000-6,000,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 6 workers, up to 8 hrs/da intermittently.

Environmental Release/Disposal. Less than 10 kg/yr released to air, water and land. Disposal by incineration.

PMN 82-442

Manufacturer. Confidential.

Chemical. (G) Aromatic acids, polyether polyol alkyd.

Use/Production. (S) Resin for low volatile organic content coatings. Prod. range: 5,000-50,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal, a total of 53 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water with 100 to more than 10,000 kg/yr to land. Disposal by POTW and approved landfill.

PMN 82-443

Manufacturer. Confidential.

Chemical. (G) Alkyl substituted mercaptan.

Use/Production. (G) Plastic additive. Prod. range: Confidential.

Toxicity Data. Acute oral: > 7,100 mg/kg; Acute dermal: >8,000 mg/kg; Skin irritation: 2.2/8.0; Eye irritation: Non-irritant; DNA Repair Bioassay: Negative; Ames Test: Negative.

Exposure. Manufacture and use: dermal and inhalation, a total of 64 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air and water. Disposal by incineration.

PMN 82-444

Importer. Cincinnati Milacron.

Chemical. Further clarification needed before information may be released to the public files.

Use/Import. (S) Industrial mold release agent. Import range: 50-800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing and disposal: spraying and rinse, a total of 5 workers, up to 2 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. 10-100 kg/yr released to air and water 2 hrs/da, 240 da/yr. Disposal by POTW.

Dated: June 18, 1982.

Denise F. Swink,

Acting Director, Management Support Division.

[FR Doc. 82-17201 Filed 6-24-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-27]

Burlington Industries, Inc. (Acting on Behalf of Wholly Owned Subsidiary, Klopman International S.P.A., Frosinone, Italy) v. The Italian Line Steamship Co.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Burlington Industries, Inc. (acting on behalf of a wholly owned subsidiary, Klopman International S.p.A., Frosinone, Italy) against the Italian Steamship Company was served May 14, 1982. Complainant alleges that respondent has subjected it to payment of rates for ocean transportation in violation of sections 16 and 17 of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-17198 Filed 6-24-82; 8:45 am]

BILLING CODE 6730-01-M

[Fact Finding Investigation No. 12]

Bloc Voting by Conference Members in the United States Pacific Trades; Extension of Investigation

This Investigation was commenced by Commission Order of April 22, 1981 to ascertain the existence, nature, extent and impact of alleged bloc voting by conference members in the United States Pacific trades. That Order named an Investigative Officer and directed him to issue to the Managing Director interim progress reports every three months and a final report of findings no later than one year after the publication of that Order in the **Federal Register.**

Due to delays resulting from the resolution of Motions to Quash certain subpoenas issued by the Investigative Officer, this Investigation is hereby extended until February 1, 1983.

Therefore, it is ordered, that pursuant to sections 21, 22 and 29 of the Shipping Act, 1916 and section 214(a) of the Merchant Marine Act of 1936, Fact Finding Investigation No. 12 is extended to February 1, 1983.

It is further ordered, that notice of this Order be published in the **Federal Register.**

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-17199 Filed 6-24-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-30]

Contract Marine Carriers, Inc.; Order of Investigation and Hearing

Contract Marine Carriers, Inc. (CMC) is a tariffed common carrier operating an independent liner service in the U.S. Atlantic and Gulf/European trades. Information before the Commission indicates that CMC has been providing transportation of cargoes for certain contract shippers in the same trade, and sometimes on the same vessel, at rates less than, or different from, those rates and charges specified in its tariffs on file with the Commission and duly published and in effect at the time.

In response to a document production order issued by the Commission pursuant to Section 21 of the Shipping Act, 1916 (46 U.S.C. 820), CMC submitted approximately 2,000 bills of lading which included 30 instances where CMC had carried, on a single sailing, the same commodities on both a common and contract basis. A comparison between the contract rates, where available, and the tariff rates for the same commodity, revealed that CMC

charged a rate other than its tariff rate to its contract shippers. In many instances this resulted in freight savings to CMC's contract shippers which were not available to those common carriage shippers who shipped per CMC's tariff rates.

Section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. 817(b)), provides in pertinent part that:

> No common carrier by water in foreign commerce * * * shall charge or demand or collect or receive a greater or less or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariffs on file with the Commission and duly published and in effect at the time * * *

CMC's practice of charging its contract shippers a rate other than its published tariff rate, when it maintains a tariff rate on file with the Commission for the commodity in question, appears violative of this section.

CMC's practice of simultaneously carrying, on both a common and contract carriage basis, identical commodities in the same trade, but at different rates appears also violative of Section 16, Second of the Shipping Act, 1916 (46 U.S.C. 815) which states, in relevant part that:

> * * * It shall be unlawful for any common carrier by water * * * to allow any person to obtain transportation for property at less than the regular rates or charges then established and enforced * * * by means of * * * any * * * unjust or unfair device or means.

The private carriage of cargo at contract rates which very from the tariffed rates, also appears unjustly discriminatory in violation of section 14, Fourth, of the Shipping Act, 1916 (46 U.S.C. 812) which provides in relevant part:

> That no common carrier by water shall, directly or indirectly * * * make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered * * *

This practice also appears to contravene section 14(b) of the Shipping Act, 1916 (46 U.S.C. 813(a)). Section 14(b) allows the Commission to:

> * * * Permit the use by any common carrier or conference of such carriers in foreign commerce of any contract, amendment, or modification thereof, which is available to all shippers and consignees on equal terms and conditions, which provides lower rates to a shipper or consignee who agrees to give all or any fixed portion of his patronage to such carrier or conference of carriers unless the Commission finds that the contract, amendment, or modification thereof will be detrimental to the commerce of the United States or contrary to the public interest, or unjustly discriminatory or unfair as between shippers, exporters, importers or ports * * *

To the extent that CMC is offering contact rates to certain shippers or consignees which are lower than its otherwise published rates, CMC may in effect be employing a dual rate system which has not been approved by the Commission under section 14(b) of the Shipping Act, 1916, and which may not contain certain provisions required by sections 14(b)(1) through 14(b)(9).

Finally, CMC's practice of carrying tariffed commodities at contract rates, also appears to violate section 17 of the Shipping Act, 1916 (46 U.S.C. 816) which provides in pertinent part:

> That no common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjustly discriminatory between shippers or ports * * *

Therefore, it is ordered, That pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821), a formal investigation and hearing is hereby instituted to determine whether CMC's practice of simultaneously carrying, on both a contract and common carrier basis, identical commodities in the same trade, at rates which vary, as to contract shipments, from the rates filed with the Commission in its tariffs in effect at the time, is violative of sections 14, 14(b), 16, 17 and 18 of the Shipping Act, 1916 (46 U.S.C. 812, 813(a), 815, 816 and 817);

It is further ordered, That Contract Marine Carriers, Inc. be named Respondent in this proceeding;

It is further ordered, This matter be assigned to an Administrative Law Judge for public hearing and decision at a date and place to be hereafter determined by the Administrative Law Judge. This hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue otherwise requires an oral hearing and cross-examination for the development of an adequate record;

It is further ordered, That notice of this Order be published in the **Federal Register** and that a copy thereof be served upon the Respondent and the Commission's Office of Hearing Counsel;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 502.72 of the Commission's Rules (46 CFR 502.72);

It is further ordered, That all future notices, orders, or decision issued in this proceeding, including notice of the time and place of hearing or prehearing conference, be mailed directly to all parties of record; and

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commisison, Washington, D.C. 20573, in accordance with § 502.118 of the Commission's rules of practice and procedure (46 CFR 502.118) as well as being mailed directly to all other parties of record.

Francis C. Hurney,

Secretary.

FR Doc. 82-17187 Filed 6-24-82; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82M-0023]

Interface Biomedical Laboratories Corp.; Premarket Approval of Superstat™ Modified Collagen Hemostatic Sponge

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Superstat™ Modified Collagen Hemostatic Sponge, sponsored by Interface Biomedical Laboratories Corp., Brooklyn, NY. After reviewing the recommendation of the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 26, 1982.

ADDRESS: Requests for copies of the summary of safety effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles Kyper, Bureau of Medical Devices (HFK-402), Food and Drug

Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On August 5, 1981, Interface Biomedical Laboratories Corp., Brooklyn, NY, submitted to FDA an application for premarket approval of the Superstat™ Modified Collagen Hemostatic Sponge for use when hemostasis is desired along suture lines, in diffusely bleeding sites, in incisions, dissections, and around arterial or venous anastomoses. Superstat™ is indicated in oozing bleeding, either capillary or venous, in almost all types of incisions or wounds, and as an adjunct to conventional closure techniques. The application was reviewed by the General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 29, 1982, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based in on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Bureau of Medical Devices. Contact Charles Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 26, 1982, file with the Dockets Management Branch (address above), four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 16, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17067 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N–0240; DESI 1796]

Certain Single-Entity Coronary Vasodilators; Revocation of Exemption and Notice of Opportunity for Hearing Rescinded for Certain Drugs

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice rescinds a previous notice insofar as it pertains to eight drug products. That notice revoked the exemption for continued marketing and proposed to withdraw approval of certain coronary vasodilators.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 23, 1982 (47 FR 17673), the Director of the Bureau of Drugs revoked the temporary exemption for continued marketing of certain single-entity coronary vasodilators and offered an opportunity for hearing on a proposal to withdraw approval of their new drug applications or abbreviated new drug applications.

The sponsors of the drug products named below had complied with conditions under which a temporary exemption for continued marketing had been established, and the products were erroneously included in the notice revoking their exemption. Therefore, as it affected the following products, the April 23, 1982 notice is hereby rescinded. Other products named in it are not affected by this notice.

1. ANDA 86–186; Isosorbide Dinitrate (sustained release) Capsules, containing 40 mg of the drug per capsule; The Vitarine Co., Inc., 227–15 N. Conduit Ave., Springfield Gardens, NY 11413.

2. ANDA 86–193; Pentaerythritol Tetranitrate (sustained release) Tablets containing 80 mg of the drug per tablet; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726.

3. ANDA 86–855; Isosorbide Dinitrate (sublingual) Tablets, containing 5 mg of the drug per tablet; Lederle Laboratories, Inc., North Middletown Rd., Pearle River, NY 10965.

4. ANDA 86–858; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Lederle.

5. ANDA 86–861; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Lederle.

6. ANDA 86–862; Isosorbide Dinitrate (sublingual) Tablets containing 10 mg of the drug per tablet; Lederle.

7. ANDA 86–891; Nitroglycerin (sustained release) Capsules containing 2.5 mg of the drug per capsule; Lederle.

8. ANDA 86–894; Nitroglycerin (sustained release) Capsules containing 6.5 mg of the drug per capsule; Lederle.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: June 6, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-17101 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 78N–0339 and 78N–0340; DESI Nos. 8615, 9152, 9188, 50168, and 10210]

Certain Ophthalmic Combination Drugs Containing a Steroid and Anti-Infective(s) for Human Use; Drug Efficacy Study Implementation; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: The Food and Drug Administration is correcting a document that announced revised labeling requirements for ophthalmic combination drug products containing a steroid and one or more anti-infective agents.

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Ellsworth, Bureaus of Drugs and Biologics (HFD–32), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In FR Document 82–13279 appearing at page 21296 in the **Federal Register** of May 18, 1982, the following correction is made: On page 21300, the first complete sentence in the third column is corrected to read "They are also indicated in chronic anterior uveitis and corneal injury from chemical, radiation, or thermal burns, or penetration of foreign bodies."

Dated: June 6, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82–1718 Filed 6–24–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0170]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hexamethylene bis(3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant and stabilizer for polyoxmyethylene homopolymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3623) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, New York 10532, proposing that Part 177 (21 CFR Part 177) and Part 178 (21 CFR Part 178) of the food additive regulations be amended to provide for the safe use of hexamethylene bis(3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant and stabilizer for polyoxmyethylene homopolymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: June 17, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–17183 Filed 6–24–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0171]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phosphoric acid, mono- and dihexyl esters, compounds with tetramethylnonylamines and C_{11-14} alkylamines as an adjuvant in lubricants with incidental food contact.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3631) has been filed by the Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of phosphoric acid, mono- and dihexyl esters, compounds with tetramethylnonylamines and C_{11-14} alkylamines as an adjuvant in lubricants with incidental food contact.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–17182 Filed 6–24–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81N–0132]

Preparations Containing Carbazochrome Salicylate; Extension of Effective Date of Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is extending the effective date of the withdrawal of approval of the new drug application for Adrenosem Salicylate tablets, syrup, and solution.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: By an order published in the **Federal Register** of June 4, 1982 (47 FR 24423), the Food and Drug Administration (FDA) denied a request by Beecham Laboratories for a hearing regarding the effectiveness of Adrenosem Salicylate tablets, syrup, and solution and withdrew approval of the new drug application (NDA) for the product, effective June 14, 1982. On June 8, 1982, Beecham Laboratories requested a stay of the effective date of the withdrawal of the NDA pending final judicial determination on the merits of a petition for review of the Commissioner's order by a United States Court of Appeals.

FDA believes that it would be inconsistent with the agency's statutory responsibilities under the Drug Efficacy Study Implementation (DESI) program to issue an administrative stay of indefinite length pending judicial review. The agency believes that the delay resulting from a stay pending judicial review would be contrary to the public interest, because the effectiveness of Adrenosem is unsupported when measured against the applicable requirements of the Federal Food, Drug, and Cosmetic Act and attending regulations. The Commissioner believes, however, that it is appropriate for the effective date of a DESI withdrawal order to be long enough after publication of the order so that sponsors have a reasonable amount of time to decide how to respond to the order and, if desired, to request judicial review, including interim relief. The agency, therefore, extends the effective date of its order to July 14, 1982.

For several years, FDA's general practice has been to make the effective date of drug withdrawal orders 10 days after the date of publication. Upon reconsideration, the agency has decided

to make these orders effective 30 days after publication, a period that will allow sponsors reasonable time to decide on a course of action.

Dated: June 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17330 Filed 6-23-82; 11:49 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0052]

Sodium Pentobarbitiol and Carbromal for Oral Use; Extension of Effective Date of Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is extending the effective date of the withdrawal of approval of the new drug application for Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir.

EFFECTIVE DATE: July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: By an order published in the **Federal Register** of June 4, 1982 (47 FR 24432), the Food and Drug Administration (FDA) denied a request by Parke, Davis and Co., Division of Warner-Lambert Co., for a hearing regarding the effectiveness of Carbrital Kapseals, Carbrital Half-Strength Kapseals, and Carbrital Elixir, and withdrew approval of the new drug application for the products, effective June 14, 1982. On June 19, 1982, Warner-Lambert requested a stay of the effective date of the withdrawal of the new drug application to file a petition for reconsideration of the Commissioner's order. Warner-Lambert also requested an additional 30 days, in the event of a denial of the petition, to pursue "other relief."

FDA believes that it would be inconsistent with the agency's statutory responsibilities under the Drug Efficacy Study Implementation (DESI) program to issue an administrative stay of indefinite length pending a petition for reconsideration and possible judicial review. The agency believes that the delay resulting from such a stay would be contrary to the public interest, because the effectiveness of Carbrital is unsupported when measured against the requirements established by the Federal Food, Drug, and Cosmetic Act and attending regulations. The Commissioner believes, however, that it is appropriate for the effective date of a DESI withdrawal order to be long enough after publication of the order so that sponsors have a reasonable amount of time to decide how to respond to the order and, if desired, to request judicial review, including interim relief. The agency, therefore, extends the effective date of its order to July 14, 1982.

Dated: June 22, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17329 Filed 6-23-82; 11:48 am]

BILLING CODE 4160-01-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Ch. 35). The following are those packages submitted to OMB since the last list was published on June 18.

Public Health Service

National Institutes of Health
- Subject: Survey of Caries Preventive Programs in U.S. Communities (0925-0026)—Reinstatement
- Respondents: State dental directors
- OMB Desk Officer: Richard Eisinger

Food and Drug Administration
- Subject: Medical Device Listing (0910-0057)—Extension
- Respondents: Owners or operators of medical device establishments
- OMB Desk Officer: Fay S. Iudicello

Social Security Administration
- Subject: Recapitulation of States' Report of Wages Paid (SSA-3962)—Reinstatement
- Respondents: State or local governments
- Subject: State's Return of Contributions Payable Under the Social Security Act (SSA-3961)—Reinstatement
- Respondents: State or local governments
- Subject: Streamlined Title IV-A (Aid to Families with Dependent Children Program) State Plan Preprint (SSA-1346)—Reinstatement
- Respondents: State or local governments
- OMB Desk Officer: Milo Sunderhauf

Office of the Secretary
- Subject: Billing Instructions and Financial Reporting Requirements (HHS 646)—New
- Respondents: Organizations that hold cost type contracts
- OMB Desk Officer: Richard Eisinger

Health Care Financing Administration
- Subject: Billing Form for the Alcoholism Services Coverage Demonstration (HCFA-1480A)—New
- Respondents: Businesses
- Subject: Medicare Home Health Agency Cost Report (HCFA 1728)—Revision
- Respondents: Businesses
- OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collection should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer)

Dated: June 18, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-17140 Filed 6-24-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Alaska; Application for Pipeline Right-of-Way

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Alaska Pipeline Company has applied for a right-of-way for a 12¾ inch natural gas pipeline and related metering facilities on the following land.

Seward Meridian

T. 6N., R., 10 W.
Section 7

The pipeline will accept and convey gas across approximately 615 lineal feet of the Kenai National Wildlife Refuge in conjunction with the Marathon Oil Company pipeline. This notice is to inform the public that the United States Fish and Wildlife Service is considering whether the application should be approved, and if so, under what terms and conditions.

Written comments may be sent to the Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 East

Tudor Road, Anchorage, Alaska 99503, on or before July 26, 1982.

Keith M. Schreiner,

Regional Director.

[FR Doc. 82-17276 Filed 6-24-82; 8:45 am]
BILLING CODE 4310-55-M

Announcement of Availability of the U.S. Lists of Endangered and Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces availability of the lists of Endangered and Threatened Wildlife and Plants, 50 CFR 17.11 and 17.12. This publication was reprinted from the October 1, 1981, Title 50 of the Code of Federal Regulations, Part 17, and updated through January 1, 1982.

ADDRESS: Copies of this publication are available from the Office of Public Affairs—Publications, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Washington, D.C. 20240 (703/235–1975).

SUPPLEMENTARY INFORMATION: The lists incorporate species officially listed as Endangered or Threatened under the Endangered Species Act of 1973, as amended, and 50 CFR Part 424. The previous republication was May 20, 1980 (45 FR 33768–33781). Due to budgetary restraints, the lists have not been republished in the **Federal Register.** The Office of Endangered Species has found an alternative means of making the list available by reprinting §§ 17.11 and 17.12 of Title 50 of the Code of Federal Regulations, revised October 1, 1981, as a separate Fish and Wildlife Service publication.

Dated: June 18, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-17246 Filed 6-24-82; 8:45 am]
BILLING CODE 4310-55-M

Bureau of Land Management

[F-14940-A through F-14940-J]

Alaska Native Claims Selection

On November 11, 1974, Dinyea Corporation filed selection applications F–14940–A through F–14940–J, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), as amended, for the surface estate of certain lands in the vicinity of Stevens Village.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act, as as amended, and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12a of ANCSA, as amended, aggregating approximately 73,913 acres, is considered proper for acquisition by Dinyea Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA.

Fairbanks Meridian, Alaska (Unsurveyed)

T. 14 N., R. 5 W.
- Sec. 5, excluding Native allotment F–17787 Parcel C;
- Secs. 6, 7, and 18.

Containing approximately 2,207 acres.

T. 15 N., R. 5 W.
- Secs. 1, 2, and 3;
- Sec. 4, excluding Native allotment F–15496 Parcel B;
- Secs. 9 and 10;
- Sec. 11, excluding Native allotment F–13356;
- Sec. 12;
- Sec. 14, excluding Native allotment F–13356;
- Secs. 15 to 23, inclusive;
- Secs. 28 to 32, inclusive.

Containing approximately 10,014 acres.

T. 16 N., R. 5 W.
- Secs. 13, 14, 22, and 23;
- Sec. 24, excluding Native allotment F–026097;
- Sec. 25;
- Secs. 26 and 27, excluding Native allotment F–13350 Parcel A;
- Sec. 33, excluding Native allotment F–15496 Parcel B;
- Secs. 34, 35, and 36.

Containing approximately 5,645 acres.

T. 14 N., R. 6 W.
- Secs. 1 and 2;
- Sec. 3, excluding Native allotment F–15506 Parcel A;
- Secs. 4 to 12, inclusive;
- Sec. 13, excluding Native allotments F–15563 Parcel B and F–17787 Parcel B;
- Secs. 14, 15, and 16;
- Secs. 17 and 18, excluding Native allotment F–17787 Parcel A;
- Secs. 22, 23, and 24.

Containing approximately 8,522 acres.

T. 15 N., R. 6 W.
- Secs. 13, 23, 24, and 25;
- Sec. 26, excluding Native allotment F–15505 Parcel B;
- Secs. 32, 33, and 34;
- Sec. 35, excluding Native allotment F–15505 Parcel B;
- Sec. 36.

Containing approximately 4,315 acres.

T. 14 N., R. 7 W.
- Secs. 1 to 9, inclusive;
- Sec. 10, excluding Native allotment F–15063 Parcel B;
- Secs. 11 to 18, inclusive;
- Sec. 19, excluding Tract D of U.S. Survey No. 4393;
- Secs. 20 to 28, inclusive;
- Sec. 29, excluding Tracts A, B, C, and E of U.S. Survey No. 4393;
- Sec. 30, excluding Tracts A, C, D, and E of U.S. Survey No. 4393 and U.S. Survey No. 4035;
- Sec. 31, excluding Tract A of U.S. Survey No. 4393 and Native allotment F–13843 Parcel A;
- Sec. 32, excluding Tracts A and B of U.S. Survey No. 4393;
- Sec. 33, excluding Native allotments F–026052, F–13832 Parcel A, F–13346 Parcel B, and F–13350 Parcel B;
- Sec. 34, excluding Native allotments F–13350 Parcel B and F–026051;
- Sec. 35;
- Sec. 36, excluding Native allotment F–15540.

Containing approximately 17,159 acres.

T. 12 N., R. 8 W.
- Sec. 4, excluding Native allotments F–026050 Parcel A and F–17767;
- Secs 5 and 8;
- Sec. 9, excluding Native allotments F–16269;
- Sec. 16;
- Sec. 17, excluding Native allotment F–13811 Parcel B;
- Sec. 18, excluding Native allotment F–14799.

Containing approximately 2,956 acres.

T. 13 N., R. 8 W.
- Secs. 1 and 2;
- Secs. 3 and 4, excluding Native allotment F–13350 Parcel C;
- Secs. 5 to 12, inclusive;
- Secs. 14, 15, and 16;
- Sec. 17, excluding U.S. Survey No. 5129;
- Secs. 18 and 19;
- Sec. 20, excluding U.S. Survey No. 5129;
- Secs. 21 and 22;
- Sec. 27, excluding Native allotment F–15063 Parcel C;
- Sec. 28, excluding Native allotment F–14047;
- Secs. 33 and 34.

Containing approximately 12,071 acres.

T. 14 N., R. 8 W.
- Sec. 21, excluding U.S. Survey No. 6426, and Native allotments F–026046 and F–15506 Parcel B;
- Sec. 22, excluding U.S. Survey No. 6426 and Native allotment F–026046;
- Secs. 23 to 27, inclusive;
- Sec. 28, excluding U.S. Survey No. 1345 and Native allotment F–13617;
- Sec. 31;
- Secs. 32 and 33, excluding Native allotment F–13817;
- Secs. 34, 35, and 36.

Containing approximately 6,302 acres.

T. 12 N., R. 9 W.
- Secs. 5 to 8, inclusive;
- Sec. 9, excluding Native allotment F–14132 Parcel B;
- Secs. 10 and 11;

Sec. 13, excluding Native allotment F–14799, F–14132 Parcel A, and F–13355;
Sec. 14, excluding Native allotment F–13355, F–028055, and F–028049 Parcael A;
Sec. 15, excluding Native allotment F–028055 and F–14132 Parcel C;
Sec. 16, excluding Native allotment F–14132 Parcel B.

Containing approximately 4,722 acres.

Aggregating approximately 73,913 acres.

Excluded from the above-described lands herein conveyed are the submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the Bureau of Land Management to be navigable because they have been or could be used in connection with travel, trade and commerce. Those water bodies are identified on the attached navigability maps, the original of which will be found in easement case file F–14940–EE.

All other water bodies not depicted as navigable on the attached maps within the lands to be conveyed were reviewed. Based on existing evidence, they were determined to be nonnavigable.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one of the following reasons: Lands are no longer under Federal jurisdiction or lands are under applications pending further adjudication. Lands within U.S. Surveys which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971, (43 U.S.C. 1601, 1613(f)), as amended; and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), as amended, the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14940–EE, are reserved to the United States. All easements are subject to applicable Federal, State or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's snowmobiles, cars, trucks), temporary camping, and loading, or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 39 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 13, T. 14 N., R. 6 W., Fairbanks Meridian, on the left bank of the Yukon River. The uses allowed are those listed for a one (1) acre site easement.

b. (EIN 39a C5) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 39 C5 in Sec. 13, T. 14 N., R. 6 W., Fairbanks Meridian, southeasterly to public land and resources. The uses allowed are those listed for a twenty-five (25) wide trial easement.

c. (EIN 55 C4) A one (1) acre site easement upland of the ordinary high water mark in the NE¼, Sec. 13, T. 12 N., R. 9 W., Fairbanks Meridian, on the right bank of the Yukon River. The uses allowed are those listed for a one (1) acre site easement.

d. (EIN 55a C4) An easement twenty-five (25) feet in width for a proposed access trail from site EIN 55 C4 in the NE¼, Sec. 13, T. 12 N., R. 9 W., Fairbanks Meridian, northerly to public land and resources. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), as amended, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), as amended, that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Dinyea Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 73,913 acres. The remaining entitlement of approximately 18,247 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Dinyea Corporation and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the FAIRBANKS DAILY NEWS-MINER.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board before June 30, 1982, or to the Interior Board of Land Appeals after June 30, 1982; provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken *before June 30, 1982*, the notice of appeal must be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

If an appeal is taken *after June 30, 1982*, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), address given above. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the

appeal must be served upon the Regional Solicitor, address given above.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until July 26, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board or the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

The notice of appeal are:

Dinyea Corporation (of Stevens Village), 127½ Minnie Street, Fairbanks, Alaska 99701

Doyon, Limited, Land Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701

State of Alaska, Department of Natural Resources, Division of Technical Services, Pouch 7–005, Anchorage, Alaska 99510

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17286 Filed 6–24–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14949–A]

Alaska Native Claims Selection

The purpose of this decision is to correct the Decision to Issue Conveyance of lands to Tulkisarmute Incorporated, dated March 3, 1982, and published in the **Federal Register**, Vol. 47, No. 43, on page 9287, March 4, 1982.

The navigability maps attached to the Decision did not accurately portray the water bodies administratively determined to be navigable and have been corrected to show additional water areas as navigable in accordance with the determinations made.

Corrections to the maps, the original of which is in easement casefile F–14949–EE, are listed below.

Navigability map	Area—Seward Meridian, Alaska (unsurveyed)
Russian Mission A–6	T. 12 N., R. 66 W., Secs. 4, 5, and 8, Part of lake.
Russian Mission B–5	T. 14 N., R. 64 W., Secs. 23 and 24, Interconnecting Slough-Kuskokwim River.
Russian Mission B–5	T. 14 N., R. 64 W., Secs. 34 and 35, Slough-Kuskokwim River.

Corrections to the maps do not affect the conveyance acreage of 79,388 acres to Tulkisarmute Incorporated.

The decision of March 3, 1982, as corrected herein, constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Except as corrected by this decision, the Decision of March 3, 1982, stands as written.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–17287 Filed 6–24–82; 8:45 am]

BILLING CODE 4310–84–M

Battle Mountain District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of grazing advisory board meeting; correction.

SUMMARY: This document corrects the Notice of a Meeting of the Battle Mountain District Grazing Advisory Board published June 17, 1982, on page 26245. The address was incorrect and should have read Convention Center, 301 Brougher, Tonopah, Nevada, on July 23, 1982, to begin at 9:00 a.m.

Dated: June 18, 1982.

Michael C. Mitchel,

Acting District Manager, Battle Mountain District.

[FR Doc. 82–17277 Filed 6–24–82; 8:45 am]

BILLING CODE 4310–84–M

Fairbanks District Office Seeks Advisory Council Nominees

The Fairbanks District Office of the Bureau of Land Management is accepting nominations from the public for membership on the District's Advisory Council. The nomination period will be July 1 through July 30. Final selection will be made by the Secretary of the Interior.

The 10-member Council will provide representative citizen counsel and advice to the BLM Fairbanks District Manager regarding programs and policies for the public land resources within the District.

The multiple-use council is authorized under provisions of the Federal Advisory Committee Act and by the Federal Land Policy and Management Act of 1976. Membership will be balanced in terms of points of view to be represented and functions to be performed.

To achieve this balance, the BLM is asking for nomination of individuals qualified to act as advisors to the Fairbanks District Manager in the following categories of expertise:

Elected General Purpose Government
Renewable Resources
Non-Renewable Resources
Recreation
Transportation/Rights-of-Way
Wildlife
Environmental Protection
Public-at-Large

Terms of office will vary from one to three years. Advisory Council members will be unpaid, but will be reimbursed for travel and per diem expenses incurred during their term of office.

Persons wishing to nominate members may receive nomination forms and information from the Office of Public Affairs, at the BLM office on Fort Wainwright at Gaffney and Marks Road, by mail to P.O. Box 1150, Fairbanks, Alaska 99707, or by phone, (907) 356–2345.

Donald E. Runberg,

Acting, District Manager.

[FR Doc. 82–17276 Filed 6–24–82; 8:45 am]

BILLING CODE 4310–84–M

[N–5960, N–13105]

Nevada; Classifications Vacated

June 18, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, exchange classifications N–5960 and N–13105 are hereby vacated in their entireties. The land affected is described as follows:

Mount Diablo Meridian, Nevada

T. 14 N., R. 20 E.,
Sec. 5, Lots 5 thru 8, 13, 16;
Sec. 6, W½W½SW¼NE¼, SW¼NE¼SW¼NE¼, N½SE¼SW¼NE¼, NW¼SW¼SE¼NE¼, SW¼SE¼SW¼NE¼, S½NW¼SE¼, S½N½SE¼SE¼, N½SW¼SE¼SE¼, SE¼SE¼SE¼;
Sec. 7, E½NE¼NE¼, SW¼NE¼NE¼, S½NW¼NE¼NE¼;
Sec. 8, NW¼NW¼, W½W½NE¼NW¼.
T. 15 N., R. 20 E.,
Sec. 14, E½W½SE¼, SE¼SE¼.

The area described comprises 246.97 acres in Douglas as County, Nevada.

The segregative effect of the classification orders is removed upon

publication of this notice in the Federal Register.

Melvin R. Bunch,

Acting State Director, Nevada.

[FR Doc. 82-17273 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

[N-3849]

Nevada; Classification Vacated

June 18, 1982.

Pursuant to the authority designated by Bureau Order 701 and amendments thereto, exchange classification N-3849 is hereby vacated in its entirety. The land affected is described as follows:

Mount Diablo Meridian, Nevada

T. 21 N., R. 18 E.,
Sec. 16, N½NE¼, SW¼NE¼, N½NW¼, NE¼SE¼.
T. 20 N., R. 19 E.,
Sec. 10, NW¼,NE¼, N½NW¼.
T. 21 N., R. 19 E.,
Sec. 8, N½NE¼, SE¼NE¼, E½SE¼;
Sec. 16, N½, N½SE¼, SE¼SE¼, N½SE¼SE¼, SW¼SE¼SE¼;
Sec. 22, SW¼;
Sec. 28, N½SE¼, SE¼SE¼.
T. 17 N., R. 20 E.,
Sec. 6, SW¼SE¼.
T. 20 N., R. 21 E.,
Sec. 6, Lot 1, S½NE¼, N½SE¼, SE¼SE¼;
Sec. 8, W½;
Sec. 18, NE¼NE¼.
T. 10 N., R. 22 E.,
Sec. 7, Lot 4.

The area described comprises 1,973.54 acres (35.28 acres in Douglas County and 1,938.26 acres in Washoe County) in Nevada.

The segregative effect of the classification order is removed as of June 25, 1982.

Melvin R. Bunch,

Acting State Director, Nevada.

[FR Doc. 82-17274 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

[Nev-061128]

Nevada; Proposed Continuation of Withdrawal; Correct

June 17, 1982.

In FR Document 81-34190, published on page 58187-88, on Monday, November 30, 1981, add or change the following:

On page 58188, first column;
Under Nev-061128, add:

"T. 17 N., R. 45 E.,
Sec. 13, SE¼;
Sec. 24, NE¼.
T. 17 N., R. 45½ E.,
Sec. 11, All;
Sec. 12, W½."

Line 18, change 2,432.04 acres to read "3,253.04 acres."

Line 21, change 120 in Lander County to read "941 in Lander County."

Charles E. Hancock,

Acting Chief, Division of Operations.

[FR Doc. 82-17275 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Intent To Prepare an Environmental Impact Statement and Hold Public Scoping Meetings

June 18, 1982.

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Prepare an environmental impact statement (EIS) and conduct formal and informal public scoping on the development of a phosphate fertilizer plant complex and associated ancillary facilities involving Sweetwater County, Wyoming; Moffat County, Colorado; and Dagget and Uintah Counties, Utah; hereafter called the Chevron Phosphate Plant Complex project.

SUMMARY: This notice describes the action to be analyzed in the EIS; the geographic area that would be affected; the preliminary list of issues and concerns; the scoping process to be used, including the public scoping meetings times and places, the locations of offices which have information available for public review both during and at the completion of the process, and the BLM contact for further information.

The action to be analyzed in the EIS consists of a phosphate fertilizer plant proposed by Chevron Chemical Company to be built 4.5 miles southeast of Rock Springs, Wyoming. The proposed fertilizer complex would use sulfur recovered from Chevron USA's natural gas plant at Carter Creek, Wyoming; phosphate from Chevron Resources Company's mine at Vernal, Utah; and water from Fontenelle Reservoir in Wyoming.

The BLM and the State of Wyoming Industrial Siting Administration will jointly prepare the EIS on the Chevron Phosphate Fertilizer Complex project. An agreement between these agencies (Memorandum of Understanding) for preparation of the EIS has been negotiated. BLM will serve as the Federal lead agency for the EIS. The State of Wyoming will serve as joint lead.

Geographic Area

The geographic area to be analyzed for effects is generally in southwestern Wyoming and northeastern Utah. A phosphate slurry pipeline would extend 84 miles from an existing phosphate mine north of Vernal, Utah, to the proposed Rock Springs plant site; other components would include two water supply pipelines and intake structures and a 6.4-mile long railroad spur. The proposed and alternative slurry lines would be located in Sweetwater County, Wyoming; Moffat County, Colorado; and Dagget and Uintah Counties, Utah. Regional and cumulative impacts may extend beyond these geographic areas. Refer to map for location of the plant, associated facilities, and proposed alternatives.

Issues and Concerns

Important issues and concerns which have been identified to date, include:

1. Instream impacts and salinity changes to the Green River (and the Colorado River system).
2. Potential impacts from slurry spills.
3. Potential impacts on wildlife and habitat.
4. Potential socioeconomic impacts from construction and operation work forces.
5. Potential impacts on air quality during construction and operation.
6. Impacts to recreation, including possible impact on potential wild and scenic rivers.
7. Potential impacts to visual resources and land use.

The public is encouraged to present their ideas on these and other issues and concerns for consideration in the EIS at the public scoping meetings and throughout the EIS process. All issues and concerns will be considered in the preparation of the EIS.

Public scoping meetings will be held on the following dates and locations for the purpose of identifying issues and concerns in the EIS:

1. Date: July 28, 1982; Place: Conference Hall at South Boulevard, Dutch John, Utah; Time: 7:00 p.m.
2. Date: July 29, 1982; Place: Uintah County Court House, 147 East Main, Vernal, Utah; Time: 7:00 p.m.

No formal scoping meetings will be held in Wyoming since the Wyoming State Siting Administration has already held several which elicited response from local officials and the public. Information regarding these meetings and the Chevron Phosphate Fertilizer Complex EIS can be obtained by writing or visiting the following offices.

—Bureau of Land Management, Division of EIS Services, 555 Zang Street, Third Floor East, Denver, Colorado 80228
—Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming 82001
—Bureau of Land Management, Rock Springs District Office, North

Highway 187, Rock Springs, Wyoming 82901
—Bureau of Land Management, Utah State Office, University Club Building, 136 South Temple, Salt Lake City, Utah 84111
—Bureau of Land Management, Vernal District Office, 170 South 500 East, Vernal, Utah 84078
—Office of Industrial Siting Administration, Suite 500, Boyd Building, Cheyenne, Wyoming 82002

Any persons wishing to submit any issues for consideration in the scoping process are encouraged to do so. Such written scoping input should be sent to the office listed below and received no later than July 30, 1982 in order to be considered in determining the scope of the EIS.

FOR FURTHER INFORMATION CONTACT:

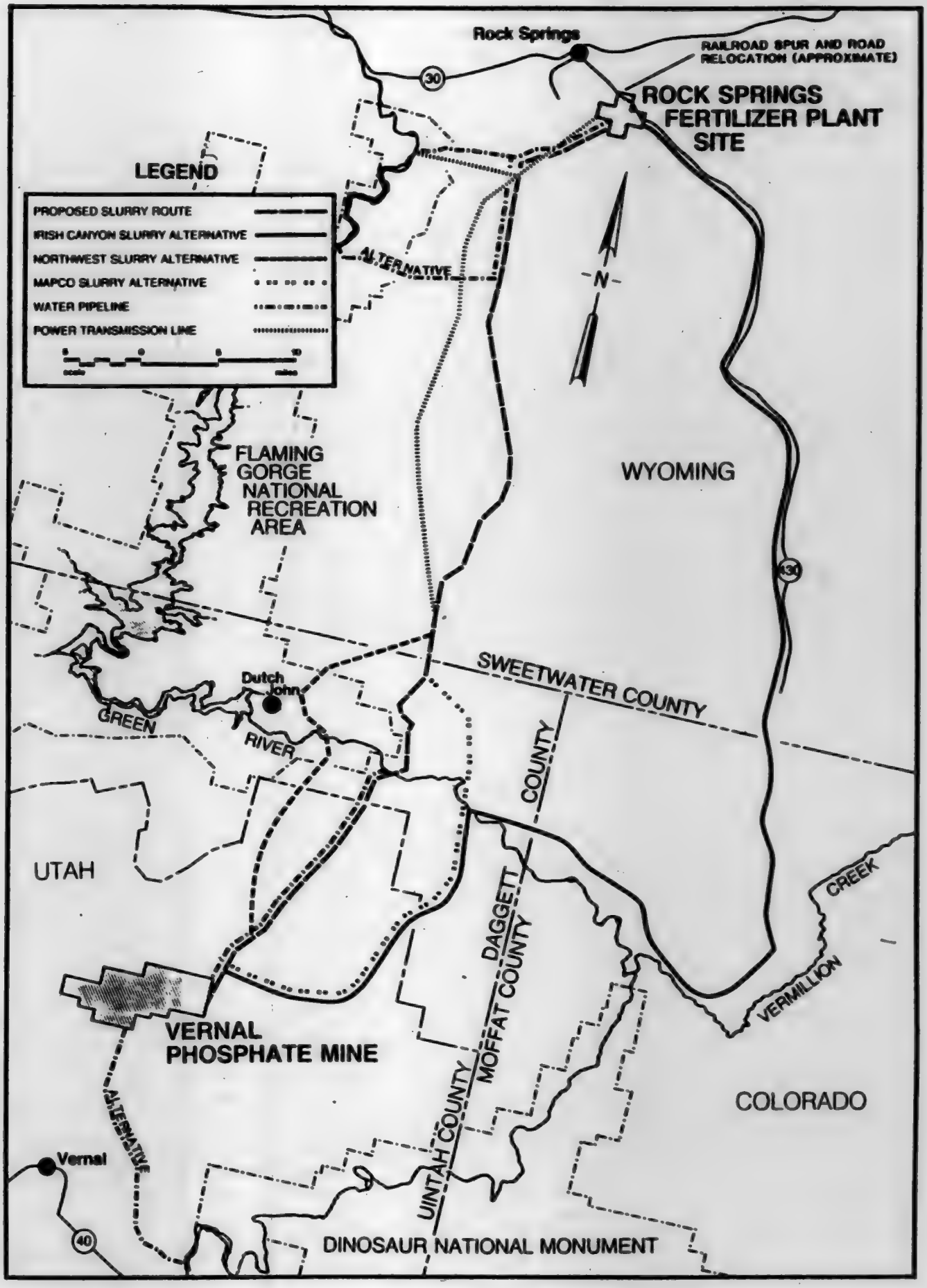
Richard E. Traylor or Byron L. Shark, Division of EIS Services, Bureau of Land Management, 555 Zang Street, Third Floor East, Denver, Colorado 80228, (303) 234–6737.

All attendees of the public scoping meetings will be given an opportunity to participate and raise issues for consideration in the EIS.

If at any time during the EIS process any person wishes to raise issues for consideration in the EIS, he/she should feel free to do so by contacting the following office: Bureau of Land Management, Division of EIS Services, 555 Zang Street, Third Floor East, Denver, Colorado 80228.

Gerald L. Jessen,
Acting State Director.

BILLING CODE 4310-84-M



[FR Doc. 82-17272 Filed 6-24-82; 8:45 am]
BILLING CODE 4310-84-C

[IN FEIS 82-24]

San Gorgonio Pass Energy Project, California State Office, California; Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a final environmental impact statement concerning a proposed wind energy project in the San Gorgonio Pass area, Riverside County, California. This statement analyzes the environmental consequences of seven proposals to construct and operate large-scale wind turbine fields on approximately 12,780 acres of public land. The proposed wind farms would include turbine installations, several transmission lines to collect power and interconnect into the local power network, the installation of new substations, and construction of access roads to support system requirements. Alternatives to the proposed project include: Development on public lands except where significant surface conflicts exist and no action. Major environmental issues are related to aesthetics, threatened and endangered animal and plant species, bird migration, changes in land use, socioeconomics, noise and communications interference.

Comments on the final environmental impact statement are being solicited from public agencies, interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by July 25, 1982, to the State Director, California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825; telephone (916) 484–4541.

A limited number of copies of the final environmental impact statement are available upon request at the California State Office.

Copies of this EIS are also available for public reading and review at:

Deputy Director for Lands and Renewable Resources, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240

California Desert District, Bureau of Land Management, 1695 Spruce Street, Riverside, CA 92507

Dated: June 17, 1982.

Ed Hastey,

California State Director.

[FR Doc. 82-17189 Filed 6-24-82; 8:15 am]

BILLING CODE 4310-84-M

Idaho; Coeur d'Alene District Office; Environmental Impact Statement Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and Section 603 of the Federal Land Policy and Management Act of 1976, the Department of the Interior, Bureau of Land Management has prepared a draft planning amendment and environmental impact statement (EIS) on 38,468 acres of public land in northern Idaho. The area under study is made up of five wilderness study areas (WSAs).

For each WSA, alternatives including the proposed action are presented for consideration and are analyzed in terms of their projected environmental effects. The alternatives analyzed for each WSA include, where appropriate: all wilderness, no action, no wilderness, and partial wilderness. Under the no wilderness alternatives, subalternatives ranging from commodity emphasis to non-commodity emphasis have been analyzed.

The proposed action alternative is comprised of the preferred alternatives for each WSA. These preferred alternatives are:

WSA	Preferred alternative
Selkirk Crest (61–1)	All wilderness.
Crystal Lake (61–10)	Outstanding natural area designation, no wilderness.
Grandmother Mountain (61–15).	Outstanding and research natural area designations, timber emphasis on portion, no wilderness.
Snowhole Rapids (62–1)	Recreation emphasis, no wilderness.
Marshall Mountain (62–10).	Recreation emphasis, no wilderness.

DATES: The public review period will end on August 30, 1982. Informational public meetings will be as follows:

July 20, 1982—Grangeville, Idaho, Idaho Bank and Trust

July 22, 1982—St. Maries, Idaho, Federal Building

July 27, 1982—Moscow, Idaho, Cavanaugh's Motor Inn

All meetings will start at 7:30 pm. Oral and written comments will be accepted at these meetings.

Pursuant to the Wilderness Act of 1964 a public hearing will be held in Coeur d'Alene, Idaho at 7:30 pm on July 29 at the North Shore Convention Center. The purpose of the hearing will be to accept comments regarding the suitability or non-suitability of the WSAs wilderness designation.

FOR FURTHER INFORMATION CONTACT: Ted Graf, Team Leader, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho 83814. Telephone (Commercial) 208–765–7356; (FTS) 442–7356.

A limited number of copies of the amendment and EIS are available upon request from this address. Copies have been sent to all agencies, organizations, and individuals who participated in the scoping process and to all others who have already requested copies. Public reading copies will be available for review at the following locations:

Bureau of Land Management, Washington Office of Public Affairs, 18th and C Street NW, Washington, D.C. 20240;

Bureau of Land Management, Idaho State Office, Box 042, Federal Building, 550 W. Fort Street, Boise, Idaho 83724;

Bureau of Land Management, Cottonwood Area Office, Route 3, Cottonwood, Idaho 83522.

Dated: June 10, 1982.

Clair M. Whitlock,

Idaho State Director.

[FR Doc. 82-17221 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

Idaho; Realty Action—Sale of Public Lands in Owyhee County; Correction

In the **Federal Register** for Wednesday, February 10, 1982, Vol. 47, No. 28, page 6099, make the following correction:

On page 6099 at the bottom of the first column add the following line after the names Robert E. and Carol J. Leonard (Lot 90):

Robert E. and Carolyn J. Leonard	96	0.36	$560.00

The purpose of this correction is to add an additional lot to the list of those identified suitable for sale.

Dated: June 15, 1982.

Martin J. Zimmer,

District Manager.

[FR Doc. 82-17190 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

Procedures for Administering Certain Alien Ownership Provisions of the Mineral Lands Leasing Act of 1920

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Change in Procedures for Administering Ownership Provisions of the Mineral Lands Leasing Act of 1920.

SUMMARY: The Department of the Interior gives notice of having implemented new procedures for administering certain alien ownership limitations specified in the Mineral Lands Leasing Act of 1920 (Act). The Act provides, in pertinent part,

That citizens of another country, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding or stock control, own any interest in any lease acquired under the provisions of this Act.

The new procedures have been established in response to concerns regarding the previous ones used in administering the alien ownership limitations. The procedures that have been established and are described below will enable the Department to determine expeditiously whether foreign nations deny United States citizens and corporations privileges that are similar to or like those accorded aliens under the Act. The procedures will also ensure that the public has every possible opportunity to inform the Department of the Interior of foreign laws, customs or regulations which affect the privileges accorded United States citizens and corporations.

DATE: The new procedures became effective on May 7, 1982..

ADDRESS: Suggestions and inquiries should be addressed to: Director (503), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mark A. Alexander, (202) 343–3352.

SUPPLEMENTARY INFORMATION: The procedures described below were established and became effective on May 7, 1982. A copy of the detailed Secretarial Decision Paper that is the basis of the procedures may be obtained by writing the office listed above.

1. A list of nations that have been found to accord United States citizens and corporations privileges similar to or like those accorded by the United States will no longer be maintained. Instead, a list of nations that deny similar or like privileges will be maintained in each State Bureau of Land Management office for review by lease applicants.

2. The question of whether particular nations deny United States citizens and corporations similar or like privileges will be reviewed by the Department of the Interior when individuals, corporations, or foreign governments submit information that the Department of the Interior does not have concerning the pertinent laws, customs or regulations of the nation in question. When such requests are received concerning nations that have already been reviewed by the Department of the Interior, no additional review will be undertaken unless the information submitted would lead the Department of the Interior to believe that the nation in question denies similar or like privileges.

3. When the Department of the Interior detemines that a review of a particular nation's laws, customs or regulations is appropriate, such a review may be conducted either internally, using information received through the State Department or other sources, or externally through a request for public comments published in the **Federal Register**, or both. Public comments will be requested when the Department of the Interior does not believe that it has sufficient information on which to make an informed judgment as to whether the nation in question denies similar or like privileges.

4. The Bureau of Land Management will conduct the review of particular nations' laws, customs or regulations when it is determined that such a review is appropriate. The Bureau of Land Management will solicit assistance from the Department of State, Department of Commerce, and other concerned Federal agencies as well as the Department of the Interior's Office of the Solicitor, in conducting these reviews. Determinations as to whether particular nations deny similar or like privileges will be made by the Assistant Secretary—Land and Water Resources with the concurrence of the Solicitor.

Dated: June 21, 1982.

Frank A. DuBois,

Deputy Assistant Secretary of the Interior.

[FR Doc. 82-17220 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-10-M

[W-0304203]

Wyoming; Partial Termination of Classification

June 15, 1982.

This notice will terminate the remainder of the land in Wyoming-034203, Recreation and Public Purpose Classification, that classified the land for lease or sale for qualified State and local governments, and non-profit organizations, pursuant to the Recreation and Public Purpose Act of June 14, 1926 as amended.

1. Classification Order W-0304203 dated March 24, 1964 is hereby terminated insofar as it affects the following described land:

Sixth Principal Meridian, Wyoming

T. 40 N., R. 117 W.,
Sec. 14, NE¼SW¼.

The area described contains 40 acres in Teton County, Wyoming.

2. The classification segregated the above land from all forms of appropriations under the public land laws, including locations under the mining laws, except as to applications under the mineral leasing laws and application under the Recreation and Public Purpose Act.

3. In accordance with 43 CFR 2741.4(h) the above land has not had an application filed within 18 months after issuance of the Classification Notice; therefore, pursuant to the authority contained in 43 CFR 2400.04, 2450.6(a) and 2450.6(6) the classification is hereby terminated.

4. At 10 a.m. on July 10, 1982 the land shall be open to the operation of the public land laws generally and to location under the United States Mining Laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. The land has been and will continue to be open to applications and offers under the mineral leasing laws. All valid applications received at or prior to 10 a.m. on July 10, 1982 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82001.

Maxwell T. Lieurance,

State Director.

[FR Doc. 82-17189 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Frontier Pipeline Company of Chicago, Illinois filed an application for a right-of-way to construct a 20 inch pipeline for transporting crude oil across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 13 N., R. 121 W.,
Sec. 24.
T. 14 N., R. 119 W.,
Secs. 4, 6 and 8.
T. 14 N., R. 120 W.,
Secs. 24 and 26.
T. 15 N., R. 116 W.,
Sec. 5.
T. 15 N., R. 117 W.,
Secs. 8, 12 and 18.
T. 15 N., R. 118 W.,
Secs. 14 and 20.
T. 15 N., R. 119 W.,
Secs. 24, 26 and 32.
T. 16 N., R. 115 W.,
Secs. 10, 11, 12, 15, 16, 17, 19 and 20.

T. 16 N., R. 110 W.,
Secs. 25, 26, 27, 32, 33 and 34.
T. 17 N., R. 113 W.,
Secs. 4, 6 and 8.
T. 17 N., R. 114 W.,
Secs. 12, 14, 22 and 28.
T. 18 N., R. 111 W.,
Sec. 6.
T. 18 N., R. 112 W.,
Secs. 10, 12 and 20.
T. 18 N., R. 113 W.,
Secs. 26 and 34.
T. 19 N., R. 109 W.,
Secs. 4 and 6.
T. 19 N., R. 110 W.,
Secs. 12, 20 and 30.
T. 19 N., R. 111 W.,
Secs. 28 and 34.
T. 20 N., R. 105 W.,
Sec. 6.
T. 20 N., R. 106 W.,
Secs. 2, 4 and 6.
T. 20 N., R. 107 W.,
Secs. 2, 4 and 8.
T. 20 N., R. 108 W.,
Secs. 12, 14, 16, 20 and 30.
T. 20 N., R. 109 W.,
Secs. 26 and 34.
T. 21 N., R. 103 W.,
Sec. 6.
T. 21 N., R. 104 W.,
Secs. 12, 14, 22, 28 and 30.
T. 21 N., R. 105 W.,
Secs. 34 and 36.
T. 22 N., R. 102W.,
Secs. 2, 10, 16, 20 and 30.
T. 22 N., R. 103 W.,
Secs. 26, 28, 32 and 34.
T. 23 N., R. 99 W.,
Sec. 6.
T. 23 N., R. 100 W.,
Secs. 1, 2, 3, 7, 8, 9, 10, 11 and 18.
T. 23 N., R. 101 W.,
Secs. 13, 14, 20, 22 and 30.
T. 23 N., R. 102 W.,
Secs. 26 and 34.
T. 24 N., R. 98 W.,
Secs. 2, 3, 8, 9, 17 and 18.
T. 24 N., R. 99 W.,
Sec. 6.
T. 25 N., R. 96 W.,
Secs. 1, 2, 3, 8, 9, 10, 17 and 18.
T. 25 N., R. 97 W.,
Secs. 13, 22, 23, 24, 26, 27, 31, 32, and 33.
T. 26 N., R. 93 W.,
Sec. 6.
T. 26 N., R. 94 W.,
Secs. 1, 2, 9, 10, 11, 17 and 18.
T. 26 N., R. 95 W.,
Secs. 13, 22, 23, 24, 27, 28, 29 and 31.
T. 27 N., R. 92 W.,
Secs. 3, 4, 7, 8 and 9.
T. 27 N., R. 93 W.,
Secs. 12, 13, 14, 21, 22, 28, 29, 31, 32.
T. 28 N., R. 91 W.,
Secs. 2, 4, 7, 8 and 9.
T. 29 N., R. 89 W.,
Secs. 2, 10, 15, 21, 22 and 30.
T. 29 N., R. 90 W.,
Secs. 25, 26, 27, 31, 32, 33 and 34.
T. 30 N., R. 86 W.,
Secs. 1, 2, 9, 10 and 11.
T. 30 N., R. 87 W.,
Secs. 19 and 20.
T. 30 N., R. 88 W.,
Secs. 22, 23, 24, 29 and 30.
T. 31 N., R. 83 W.,
Secs. 4, 5, 7, 8, 9 and 10.
T. 31 N., R. 84 W.,
Secs. 15, 17, 19, 20 and 21.
T. 31 N., R. 85 W.,
Secs. 25, 26, 27, 28, 31, 32 and 33.
T. 32 N., R. 82 W.,
Secs. 10 and 11.
T. 32 N., R. 83 W.,
Secs. 3 and 5.

This pipeline would transport crude oil from the Anschutz Field in southwestern Wyoming to Casper, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to: District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyoming 82301.

Elbert W. Spencer,

Acting District Manager, Rawlins District

[FR Doc. 82-17191 Filed 6-24-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-362N)]

Rail Carriers; Conrail Abandonment Between Carlisle Junction and Meekers, OH; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 154.0 near Meekers and milepost 198.8 in the Counties of Darke, Preble, Montgomery and Warren, PA, a total distance of 44.8 miles effective on March 12, 1982.

The net liquidation value of this line is $2,576,610. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc 82-17218 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-392N)]

Rail Carriers; Conrail Abandonment Between Tyrone and Milesburg, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Tyrone and Milesburg in the Counties of Blair and Centre, PA, a total distance of 24.5 miles effective on March 11, 1982.

The net liquidation value of this line is $1,170,306. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17213 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-443N)]

Rail Carriers; Conrail Abandonment Between Bradford and Lewis Run, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its call line between Bradford (milepost 13.3) and Lewis Run (milepost 17.6) in the Counties of Bradford and McKean, PA, a total distance of 4.3 miles effective on March 11, 1982.

The net liquidation value of this line is $159,699. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary,

[FR Doc. 82-1724 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-156)]

Rail Carriers; the Denver & Rio Grande Western Railroad Co. Exemption for Contract Tariffs ICC-DRGW-C-0022, ICC-DRGW-C-0024, ICC-DRGW-C-0025, ICC-DRGW-C-0026, ICC-DRGW-C-0027, and ICC-DRGW-C-0028

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariffs may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The Denver and Rio Grande Western Railroad Company filed a petition on June 11, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contracts ICC-DRGW-C-0022, ICC-DRGW-C-0024, ICC-DRGW-C-0025, ICC-DRGW-C-0026, ICC-DRGW-C-0027, and ICC-DRGW-C-0028, to become effective on one day's notice. All the contracts involve the movement of canned goods.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. By reducing the shipper's transportation costs, short notice effectiveness of the contract will give the shipper an opportunity to increase its position in the marketplace as well as keep down consumer's cost of canned goods. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

The contracts may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

Although the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101(a) and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Dated: June 18, 1982.

By the Commission, Division 2, Commissioners Gresham, Taylor, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17216 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-129]

Motor Carriers, Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating right authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the **Federal Register**.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this **Federal Register** notice.

By the Commission.

Agatha L. Mergenovich,

Secretary.

MC 70762 (Sub-2) (republication), filed October 2, 1981, published in the **Federal Register** issue of October 22, 1981, and republished this issue. Applicant: TAYLOR-EDWARDS WAREHOUSE & TRANSFER COMPANY, INC., 1928 6th Ave. South, Terminal Box 24767, Seattle, WA 98134. Representative: Frederick C. Taylor (same address as applicant). A Decision of the Commission, *Division 2*, acting as an Appellate Division, Commissioners Gresham, Gilliam, and Taylor, decided May 6, 1982 and served May 14, 1982, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except classes A and B explosives and radioactive materials), between points in King County, WA, on the one hand, and, on the other, Portland, OR, and points in Snohomish, King, Kitsap, Pierce, Thurston, Lewis, and Grays Harbor counties, WA; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. Petitions for leave to intervene may be filed only with respect to the grant of authority to provide service radially between points in King and Grays Harbor Counties, WA.

MC 152362 (Sub-2) (republication), filed September 14, 1981, published in the **Federal Register** issue of October 9, 1981, and republished this issue. Applicant: SOUTHWEST EXPRESS CO., INC., 1007 Cooper Sq. No. 276, Arlington, TX 76010. Representative: Timothy C. Hope (same address as applicant). A Decision of the Commission, *Division 2*, acting as an Appellate Division, Commissioners Gresham, Gilliam, and Taylor, decided March 31, 1982 and served April 16, 1982, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *paper and related products, plastic products, metal products, and food and related products*, between Dallas, TX, and points in Tarrant County, TX, on the one hand, and, on the other, points in New Mexico, Colorado, Oklahoma, Louisiana, Arkansas, Mississippi, Alabama, and Tennessee, (2) *drilling equipment*, between points in Midland County, TX, on the one hand, and, on the other, points in Louisiana, Oklahoma, Wyoming, Colorado, and New Mexico, (3) *metal articles* between Houston, TX, on the one hand, and, on the other, points in Lousisiana and Oklahoma, (4) *shipments weighing 100 pounds or less if transported in a vehicle in which no one package exceeds 100 pounds between points in the United States, and (5) for or on behalf of the United States Government, general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the United States; that applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to

indicate the broadening scope of authority as granted.

[FR Doc. 82-17209 Filed 6-24-82; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-142 (Sub-1)]

Motor Carriers; Removal of Restrictions From Authorities of Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Appointment of employee board member and board chairman.

SUMMARY: On December 18, 1981, the Commission voted to reappoint Howell I. Sporn, Jane Ewing, and Mark S. Shaffer to serve as members of the Restriction Removal Board for terms of 12 months each (46 FR 63132, December 30, 1981). This Board has been delegated the functions set forth in 49 CFR 1011.6(l) and decides applications seeking to remove operating restriction or to broaden unduly narrow authority in outstanding certificates or permits filed under 49 CFR Part 1137. On June 15, 1982, the Commission voted to appoint Robin Williams to serve as a Board Member for the remaining period of Mr. Sporn's term. The Commission also voted to appoint Mark S. Shaffer as Chairman of the Restriction Removal Board for the remainder of his 12-month term.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, (202) 275-7440; Howell I. Sporn, (202) 275-7691.

This action is taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: June 15, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17211 Filed 6-24-82; 8:45 am]
BILLING CODE 7035-01-M

[Decision No. 38303]

National Industrial Traffic League—Regulations for Railroad Tariff Routing Guides

AGENCY: Interstate Commerce Commission.

ACTION: Denial of Petition for rulemaking.

SUMMARY: This decision denies a petition to begin a rulemaking proceeding relating to the establishment of rules involving the updating of railroad routing guides.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7277 or 7278.

SUPPLEMENTARY INFORMATION: The National Industrial Traffic League (League) has petitioned for a rulemaking to adopt regulations requiring rail carriers to update their published tariff routing guides no later than 5 years after the publication of supplements or amendments to the guides. Fifty-two rail carriers from eastern, southern and western territories filed a joint reply in opposition to the petition. Our denying the petition at this time is without prejudice to refiling at a more appropriate time.

The petition addresses the allegedly outdated and chaotic state of routing guides. The League contends these guides contain numerous active supplements with references to carriers which have long since ceased to exist. The carriers themselves indicate the scope of existing guides on page 4 of their reply.

The western bureaus publish 7 routing guides, the eastern railroads 11, and the southern railroads 6. The western guides alone require 4,720 pages. In addition, individual railroads publish their own routing guides to accompany the tariffs they publish for their own account. One eastern railroad has outstanding 17 routing guides requiring 6,336 pages.

The League's position is that the proliferation of routing guides and supplements contravenes the statutory requirement that tariffs must contain a plain and definite statement of the rates. 49 U.S.C. § 10762(b)(1).

Although we agree that updating and simplification of tariff routing guides is a desirable goal, the carriers have submitted persuasive reasons why the updating should not be required at this time. The reasons include: pending mergers, rail bankruptcies, accelerated numbers of rail line abandonments made possible because of changes in the statutory requirements, changes in rate bureau procedures which will result in active rate items showing the routing without reference to the routing guides, and extensive cancellations of joint rates and through routes in recent months.

Each of these developments will have the tendency to reduce the content and the number of routing guides. For example, as joint rates are canceled or as restrictions in the participation of certain joint rates are approved and adopted, the impact of open routing provisions of tariffs will be significantly reduced, with a consequent reduction in the number of routing guides. See, e.g., No. 38676, *Changes In Routing Provisions—ConRail—July, 1981*, decision served March 22, 1982. With regard to rate bureau procedures, under 49 U.S.C. 10706(a)(3)(A)(iii), only carriers which form part of a particular single route (direct connectors) may vote on rate changes where there are two or more routes between the same end points. Accordingly, of legal necessity, these new rates will refer to specific routes. As more rates are changed in the this manner, active rate items moving traffic will show routing without reference to any specific routing guides.

Other problems in updating routing guides are: (1) the need for agreement among the participating lines on the restructuring of routes affect by abandonment, mergers, and sales of rail lines, and (2) the limited supply of skilled personnel to make such agreements. For example, the carriers point to the difficulties which would be experienced by the eastern carrier with 17 routing guides. Its guides are applicable to rates which move only a very small percentage of this railroad's traffic, and a change is under consideration which would consolidate the 17 guides into 4. This effort would be impaired, if not made impossible, by a regulation requiring the carrier to update the 17 routing guides (some of which are largely obsolete and irrelevant). The carrier's resources could better be deployed in the more important project which would moot the necessity for updating present guides.

We conclude, then, that the petition should not be granted at this time. The extent to which routing guides will be affected in the future by changes in rate bureau structures and procedures, rail abandonments, mergers, bankruptcies, and joint rate cancellations, cannot be discerned at this time. Consequently, the petition for such a rulemaking is denied because it would be counterproductive to require a substantial investment at this time, in view of the number and extent of transitions the rail industry is currently experiencing. The issues will be better defined after current rulemakings, litigation, and tariff initiatives have reached fruition. Finally, we note that the railroads have recognized the need to reissue routing guides and reduce the number of outstanding supplements. *See* Reply of the Railroads at 3-4. Thus, we are reluctant to interfere in an area that can and should be resolved by management. We will further consider this matter in the future if a new petition is filed and circumstances demonstrate that routing

guides with multiple supplements constitute a significant problem.

It is ordered:

The petition is denied.

Decided: June 18, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17232 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Alusuisse of America, Inc., 499 Park Avenue, New York, NY 10022.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Consolidated Aluminum Corporation, New York
(ii) Conalco Contract Carrier Inc., Tennessee
(iii) Alusuisse Metals, Inc., New Jersey
(iv) Maremont Corporation, Illinois
(v) Bio-Lab, Inc., Georgia
(vi) Lonza, Inc., New Jersey
(vii) Quad Chemical Corporation, California

1. Parent Corporation: Celanese Corporation, 1211 Avenue of the Americas, New York, New York 10036

2. Wholly-Owned Subsidiaries:

a. Celanese Chemical Company, Inc., Box 47320, 1250 W. Mockingbird Lane, Dallas, Texas 75247
b. Pama Manufacturing, Inc., Box 1677, 2015 North Chester Street, Gastonia, North Carolina 28052
c. Narmco Materials, Inc., 600 Victoria Street, Costa Mesa, Ca. 92627
d. Virginia Chemicals, Inc., 3340 W. Norfolk Road, Portsmouth, Virginia 23703
e. Hytrex, Inc., 4300 Cemetary Rd., Hilliard, Ohio 43026

3. Division of Parent Corporation:

a. Celanese Fibers Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232
b. Celanese Fibers Marketing Company, P.O. Box 32414, Barclay Downs Drive, Charlotte, North Carolina 28232
c. Celanese Plastics & Specialties Company, 26 Main Street, Chatham, New Jersey 07928
d. Celanese International Company, 1211 Avenue of the Americas, New York, New York 10036

1. Parent corporation and address of principal office: NCH Corporation, 2727 Chemsearch Blvd., Irving, Texas 75062

2. Wholly-owned subsidiaries which will participate in the operations, and state of incorporation:

(1) American Allsafe Company (subsidiary)
(2) American Display Products, Inc. (subsidiary)
(3) AquaTerra Biochemical Corporation of America (subsidiary)
(4) DM Resources, Inc. (subsidiary)
Enerprobe (division of DM Resources, Inc.)
(5) The HEAT Company (subsidiary)
(6) Impact Advertising Agency, Inc. (subsidiary)
(7) LSP Specialty Products Company (subsidiary)
(8) MCN Enterprises, Inc. (subsidiary)
(9) Membership Services, Inc. (subsidiary)
Publishers Network (division of Membership Services, Inc.)
(10) MSI Press, Inc. (subsidiary)
Covenant House (division of MSI Press, Inc.)
New Cresendo (division of MSI Press, Inc.)
Myriad Music (division of MSI Press, Inc.)
Music in Review (division of MSI Press, Inc.)
(11) NCH Corporation
Certified Laboratories (division of NCH Corporation)
Friendly Systems (division of NCH Corporation)
Kernite (division of NCH Corporation)
Laboratories for Research (division of NCH Corporation)
Mantek (division of NCH Corporation)
Mohawk Laboratories (division of NCH Corporation)
Mohawk Labs of California (division of NCH Corporation)
Mohawk Labs of Indiana (division of NCH Corporation)
National Chemsearch (division of NCH Corporation)
Power Systems (division of NCH Corporation)
Rockfort Industries (division of NCH Corporation)
The Bramton Company (division of NCH Corporation)
Lubra Systems (division of NCH Corporation)
(12) NCH Corporation Puerto Rico (subsidiary)
National Chemsearch (division of NCH Corporation Puerto Rico)
Certified Laboratories (division of NCH Corporation Puerto Rico)
Creed (division of NCH Corporation Puerto Rico)
Kernite (division of NCH Corporation Puerto Rico)
Mantek (division of NCH Corporation Puerto Rico)
X-Ergon (division of NCH Corporation Puerto Rico)
(13) Partsmaster, Inc. (subsidiary)
Amatron (division of Partsmaster, Inc.)
Dyna Systems (division of Partsmaster, Inc.)
X-Ergon (division of Partsmaster, Inc.)
(14) Performance Media, Inc. (subsidiary)
All-Church Press (division of Performance Media, Inc.)
(15) Plumbmaster, Inc. (subsidiary)
Creed Company (division of Plumbmaster, Inc.)
Danco (division of Plumbmaster, Inc.)
P & M Manufacturing (division of Plumbmaster, Inc.)
(16) P S Leasing Corporation (subsidiary)
(17) Spot Selling Aids, Inc. (subsidiary)
(18) Texas Westmont Products, Inc. (subsidiary)
(19) University Place Management Systems, Inc. (subsidiary)
(20) U.S. Contract Trucking, Inc. (subsidiary)
(21) WC Manufacturing, Inc. (subsidiary)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17215 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-105]

Motor Carriers; Permanent Authority Decision; Decision-Notice

Decided: June 18, 1982.

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of an application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to

conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying appicant shall stand denied.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

MC–F–14869, filed May 28, 1982. ALLEGHANY CORPORATION (ALLEGHANY) (Park Avenue Plaza, New York, NY 10055)—CONTINUANCE IN CONTROL—MULTITRANS, INC. (MULTITRANS) (Suite 180, 18 Great Valley Parkway, Malvern, PA 19355). Representative: Robert C. Bamford, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209 (703) 522–0900. Alleghany, a non-carrier seeks authority to continue in control of MultiTrans upon the institution by MultiTrans of operations, in interstate or foreign commerce, as a *common carrier.* Alleghany is a publicly held corporation that controls Jones Motor Co., Inc. (MC–4963). F. M. Kirby and Allan P. Kirby, Jr., the two persons in control of applicant seek authority to acquire control of said rights and property through the transaction. Conditions: Alleghany, a non-carrier holding company, shall be considered a carrier within the meaning of 49 U.S.C. 11348 and is subjected to the requirements of 49 U.S.C. 11302 for those issuances of securities and assumptions of obligations which may relate to or affect the activities of its carrier subsidiaries. Regarding the reporting requirements of 49 U.S.C. 11145, Alleghany need only file such special reports as the Commission may from time to time require. Alleghany is not made subject to the accounting requirements of 49 U.S.C. 11142.

Note.—MultiTrans, Inc., has filed a directly related application its initial common carrier application, docketed MC–160611, published in this same **Federal Register** issue.

[FR Doc. 82-17207 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1–104]

Motor Carrier; Permanent Authority Decision; Decision-Notice

Decided: June 18, 1982.

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

MC 160611, filed May 28, 1982. Applicant: MULTITRANS, INC., Suite 180, 18 Great Valley Parkway, Malvern, PA 19355. Representative: Robert C. Bamford, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209, (703) 522–0900. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

Note.—This application is directly related to MC–F–14869, published in this same **Federal Register** issue.

[FR Doc. 82-17206 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

[Volume No. 271]

Decided: June 18, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC-157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirments for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,
Secretary.

MC 117036 (Sub-25)X, filed June 7, 1982. Applicant: H. M. KELLY, INC., R.D. 1, New Oxford, PA 17350. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Lead and Subs 9, 10, 11, 13, 14, 15, 16, 18, 22, and 23 certificates, (A) broaden to: (1) "building materials" from (a) brick and clay products (except refractory brick and refractory products) and pallets used in the transportation of brick and clay products, in lead and Subs 15 and 16, (b) brick and tile made of clay (except sewer tile, refractory brick and refractory products), and concrete building blocks, in lead, (c) concrete brick, in Sub 9, (d) brick (except refractory brick), in Subs 14 and 23, (e) brick and building blocks, in Sub 18, (f) asphalt paving blocks and slabs, and concrete products, in Sub 22; (2) "ores and minerals" from crushed fluorspar in bulk, (not in containers) and processed fluorspar, on pallets, and empty pallets used in transporting processed fluorspar, lead and Sub 13; (3) "clay, concrete, glass or stone products, chemicals and building materials" from firebrick, masonry cleaning compounds, and building materials (except clay brick), in Subs 9, 10, and 11; (4) "clay, concrete, glass or stone products" from (a) clay products (except refractory brick and refractory products), in Subs 10 and 11, and (b) concrete and clay products, and materials and supplies used in the installation of such commodities and returned shipments of the named commodities, in Sub 22; (B) change one-way to radial authority in each of the above authorities. (C) remove facilities restriction and expand cities to county-wide authority: (1) lead, Adams County, PA (Oxford Township, Adams County, PA), Lancaster County, PA (East Hempfield and Manheim Townships, PA), New Castle County, DE, Delaware and Chester Counties, PA (Wilmington, DE), Adams County, PA (Aspers, PA); (2) Subs 9 and 10, Adams County, PA (Oxford Township, Adams County, PA); (3) Sub 11, Dauphin, York, Cumberland and Lancaster Counties, PA (Harrisburg, Royalton, and Ephrata, PA); (4) Sub 13, York County, PA (York, PA and points in Springettsbury and Spring Garden Townships, York County, PA); (5) Sub 14, Washington County, MD (Williamsport, MD); (6) Sub 16, Prince Georges County, MD (Muirkirk, MD); (7) Sub 18, Prince Georges County, MD (Fairmont Heights, MD) and to Mercer County, NJ (Ewing, NJ); (8) Sub 23, Frederick County, MD (Rocky Ridge). (D) remove: (1) in dump vehicles exception, Sub 13; (2) exception to vehicles equipped with unloading devices, Sub 16; and (3) Vehicle restriction, Subs 9, 10, and 11.

MC 117557 (Sub-27)X, filed February 22, 1982, noticed in the **Federal Register** April 14, 1982, republished to notice the following errors and omissions: Applicant: MATSON, INC., P.O. Box 43, Cedar Rapids, IA 52406. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Lead and Subs 3, 5, 10, 14, 16, 23, 24F, and 26F certificates: broaden to (1) "experimental and show display machinery and transportation equipment" from (a) Sub 10, experimental and show display road construction machinery and equipment and incidental paraphernalia; and, (b) Sub 16, experimental and show display machinery and equipment as are generally used in construction, road building, mining, logging, farming, industrial and commercial activities, and incidental paraphernalia; (2) "machinery and transportation equipment" from (a) Sub 3, road building and earth moving machines; (b) Subs 5 and 14, road construction machinery and equipment; (c) Subs 16, 23 and 26, such machinery and equipment as are generally used in construction, road building, mining, logging, farming, industrial and commercial activities, and parts, attachments, and accessories and/or materials, equipment and supplies used in the manufacture, sale and distribution of above commodities; (d) Sub 19, agricultural machinery and equipment, industrial and contractor's machinery and equipment, truck bodies, truck beds and conveyor bodies mounted on vehicle or wheel assemblies; and (e) Sub 24, such machinery and equipment as are used in construction, road building and mining activities; and parts, attachments and accessories and materials, equipment and supplies; (3) countywide authority (a) lead, Henry, Mercer, Rock Island, and Whiteside Counties, IL, and Muscatine and Scott Counties, IA, from Rock Island, IL, (b) Sub 23, Plymouth and Woodbury Counties, IA, and Dakota County, NE, from Sioux City, IA, (c) Sub 23, Lucas, Ottawa, and Wood Counties, OH, and Monroe and Lenawee Counties, MI, from Toledo, OH; lead, eliminate service restrictions; Sub 26F, eliminate "originating at or destined to" restriction and provide for radio operations "between the facilities of or used by Harnischfeger Corp. at points in the United States, on the one hand, and on the other, points in the United States."

MC 123887 (Sub-15)X, filed: June 11, 1982. Applicant: L. J. NAVY TRUCKING CO., a corporation, 2300 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. MC–145141 Sub 1F permit, broaden to between points in US, except AK and HI, under continuing contract(s) with named shipper.

MC 139973 (Sub-102)X, filed June 3, 1982. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309. Subs 11, 12, 13, 23, 28, 29, 30, 36, 37, 38, 40, 41, 44, 45, 46, 51, 52, 54, 55, 56, 59, 63, 64, 65, 69, 72, 76, 79, 81, 82, 83, and 84 certificates, (1) eliminate (a) all size and weight restrictions in Subs 11, 28, 30, 40, 41, 51, and 79, (b) commodities in bulk restrictions in Subs 44, 45, 46, 56, 63, 64, 76, 79, 82, and 84, (c) originating at and/or destined to, and facilities restrictions in Subs 11, 12, 28, 29, 30, 36, 38, 40, 41, 45, 46, 51, 52, 59, 64, 72, 76, 79, 82, and 84, (d) commodities in bulk, in tank vehicles restrictions in Sub 59; (2) change one way to radial authority in Subs 11, 12, 13, 23, 37, 38, 40, 41, 45, 51, 52, 54, 55, 56, 59, 65, 72, and 76; (3) broaden from iron and steel articles to "metal products" in Subs 11, 40, 51, and 52; from vacuum cleaners to "machinery, equipment, and supplies" in Sub 13; from electrical appliances, equipment, and parts, and poleline hardware to "machinery, equipment, and supplies" in Subs 28, 29, 30, 36, 38, 41, 44, 45, 46, 54, 55, 63, 64, 69, 76, and 81; from vacuum cleaners, vacuum cleaner bags, floor polishers, and parts for vacuum cleaners and floor polishers to "machinery, equipment, and suppliers" in Subs 37 and 65; from rug cleaning machines and parts for rug cleaning machines and cleaning and scouring compounds to "(1) machinery, equipment, and supplies and (2) commodities used in the operation of the commodities named in (1)" in Sub 56; from (a) electrical appliances, equipment, electrical parts, poleline hardware, crane and derrick parts and accessories, and (b) materials and supplies used in the manufacture and distribution of the commodities in (a) above to "machinery, materials, equipment, and supplies and metal products" in Sub 79; from construction machinery, equipment, and parts, agricultural machinery, implements, and equipment and parts, valves and fittings, electrical appliances, equipment, and parts, automotive equipment, accessories and parts, chains, pumps, compressors, iron and steel articles, and equipment, materials, and supplies used in the manufacture or distribution thereof to "machinery, materials, equipment, and supplies, metal products, and transportation equipment" in Subs 82 and 84; from steel wire rope and fittings to "metal products" in Sub 83; from magazines, periodicals, and printed matter to "printed matter" in Sub 12; from pool, billiard and game tables, amusement devices and games, and accessories, parts and equipment to "miscellaneous products of manufacturing" in Sub 23; and from petroleum, petroleum products, vehicle body sealer, and sound deadener compounds and filters and materials, equipment, and supplies to "chemicals and related products and petroleum and coal products" in Sub 59F; and (4) replace cities with countywide authority Peoria, Woodford, and Tazewell Counties, IL, (Peoria, IL) in Sub 11; Fairfield County, CT, (Old Greenwich, CT), Polk, Dallas, and Warren Counties, IA, (Des Moines, IA), Platte, Jackson, Clay, Lafayette, Cass, Ray, and Clinton Counties, MO, and Wyandotte, Leavenworth, and Johnson Counties, KS, (Kansas City, MO), Lake County, IN and Cook County, IL, (Hammond, IN), Shelby, Fayette, and Tipton Counties, TN, Tunica and De Soto Counties, MS, and Crittenden County, AR, (Memphis, TN), Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, Ellis, and Johnson Counties, TX, (Dallas, TX), Salt Lake and Davis Counties, UT, (Salt Lake City, UT) in Sub 13; McDonough County, IL, (McComb, IL), Boone, Callaway, Moniteau, and Cooper Counties, MO, (Columbia, MO), Warren County, MS and Madison County, LA, (Vicksburg, MS), and Nacogdoches County, TX, (Nacogdoches, TX) in Subs 28 and 29; Cattaraugus County, NY, (Olean, NY), Monroe County, PA, (East Stroudsburg, PA), Washington County, PA, (Canonsburg, PA), and Muskingum County, OH, (Zanesville, OH) in Sub 30; Tulare County, CA, (Visalia, CA) in Sub 36; Polk, Dallas, and Warren Counties, IA, (Des Moines, IA), Lake County, IN and Cook County, IL, (Hammond, IN), Shelby, Fayette, and Tipton Counties, TN, Tunica and De Soto Counties, MS, and Crittenden County, AR, (Memphis, TN), Pulaski, Saline, Lonoke, and Faulkner Counties, AR, (Little Rock, AR), Lucas, Wood, Ottawa, Sandusky, and Fulton Counties, OH, and Monroe and Lenawee Counties, MI, (Toledo, OH), Salt Lake and Davis Counties, UT, (Salt Lake City, UT), Jefferson, Oldham, and Bullitt Counties, KY and Clark, Floyd, and Harrison Counties, IN, (Louisville, KY), and Fairfield County, CT, (Old Greenwich, CT) in Sub 37; Essex, Passaic, Bergen, and Hudson Counties, NJ, (Bloomfield and Carlstadt, NJ), in Sub 38; Peoria, Woodford, and Tazewell Counties, IL, (Peoria, IL), and Washington County, MS, and Chicot County, AR, (Greenville, MS), in Sub 40; Callaway County, MO, (Fulton, MO), in Sub 41; Boone, Cooper, Callaway, and Moniteau Counties, MO, (Columbia, MO), Macon County, MO, (Macon, MO), Cole and Osage Counties, MO, (Jefferson City, MO), Randolph County, MO, (Moberly, MO), Cooper County, MO, (Boonevile, MO), Adair County, MO, (Kirksville, MO), and Appanoose County, IA, (Centerville, IA), in Sub 44; Fairfield and New Haven Counties, CT, (Bridgeport, CT), Providence County, RI, and Bristol County, MA, (Pawtucket, RI), Providence, Kent, Bristol, and Newport Counties, RI, and Bristol County, MA, (Providence, RI), and Jefferson, St. Louis, and St. Charles Counties, MO, St. Louis, MO and Jersey, Madison, Saint Clair, and Monroe Counties, IL, (St. Louis, MO) in Sub 45; Green Lake, Fond du Lac, and Winnebago Counties, WI, (Ripon, WI), Jefferson, St. Louis, and St. Charles Counties, MO, St. Louis, MO and Jersey, Madison, Saint Clair, and Monroe Counties, IL, (St. Louis, MO), and White County, AR, (Searcy, AR) in Sub 46; Washington County, MS, (Greenville, MS), and Santa Clara and Alameda Counties, CA, (Santa Clara, CA) in Sub 51; Whiteside and Lee Counties, IL, (Sterling and Rock Falls, IL), in Sub 52; Franklin and St. Charles Counties, MO, (Washington, MO) in Sub 54; Boone and Audrain Counties, MO, (Centralia, MO) in Sub 55; Fresno and Madera Counties, CA, (Fresno, CA), and St. Louis and Jefferson Counties, MO, (Fenton, MO) in Sub 56; Franklin and St. Charles Counties, MO, (Washington, MO) in Sub 63; Marion, Sequatchie, and Hamilton Counties, TN, and Dade and Catoosa Counties, GA, (Chattanooga, TN), Hopkins County, KY, (Madisonville, KY), and Calhoun and Jackson Counties, MI, (Albion, MI) in Sub 64; Fairfield County, CT, (Old Greenwich, CT), and Washoe and Storey Counties, NV, (Reno, NV) in Sub 65; Marion, Sequatchie, and Hamilton Counties, TN, and Dade and Catoosa Counties, GA, (Chattanooga, TN), Hopkins County, KY, (Madisonville, KY), White County, AR, (Searcy, AR), Green Lake, Fond du Lac, and Winnebageo Counties, WI, (Ripon, WI), and Calhoun and Jackson Counties, MI, (Albion, MI), in Sub 69; Boone and Audrain Counties, MO, (Centralia, MO), in Sub 76; Middlesex, Somerset, and Union Counties, NJ, (South Plainfield, NJ), Wood County, WV, and Washington County, OH, (Parkersburg, WV), Waller, Galveston, Brazoria, Fort Bend, Harris, Montgomery, Liberty, and Chambers Counties, TX, (Houston, TX), Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, Ellis, and Johnson Counties, TX, (Dallas, TX), Dallas, Rockwall, and Kaufman Counties, TX, (Mesquite, TX), Jefferson, St. Clair, and Shelby Counties, AL, (Birmingham, AL), Santa Clara, Santa Cruz, and Alameda Counties, CA, (San Jose, CA), and Kane

and DuPage Counties, IL, (West Chicago, IL) in Sub 79; Pitt County, NC, (Greenville, NC) and Lamar and Pearl River Counties, MS, (Lumberton, MS) in Sub 81; Marshall, DeKalb, and Etowah Counties, AL, (Boaz, AL), Boone and Kenton Counties, KY, (Florence, KY), Jefferson, St. Louis, and St. Charles Counties, MO, St. Louis, MO and Jersey, Madison, Saint Clair, and Monroe Counties, IL, (St. Louis, MO), Norfolk and Suffolk Counties, MA, (Norwood, MA), Berks and Montgomery Counties, PA (Boyertown, PA), Hampshire and Hampden Counties, MA, (Holyoke, MA), York County, PA, (York, PA), Norfolk County, MA, (Canton, MA), Queens County, NY, (Maspeth, NY), Forsyth County, NC, (Clemmons, NC), Bristol, Plymouth, and Norfolk Counties, MA, (Avon, MA), Hennepin, Anoka, Ramsey, Dakota, and Scott Counties, MN, (Minneapolis, MN), Limestone, Madison, Morgan, and Marshall Counties, AL, (Huntsville, AL), Frederick and Carroll Counties, MD, (Taneytown, MD), Pottawatomie County, OK, (Shawnee, OK), Union, Somerset, and Morris Counties, NJ, (Mountainside, NJ), Erie and Niagara Counties, NY, (Buffalo, NY), Hudson, Bergen, and Essex Counties, NJ, (Harrison, NJ), Allegany County, NY, (Wellsville, NY), Union, Essex, Passaic, Bergen, and Hudson Counties, NJ, (East Orange, NJ), and Cortland, Tompkins, and Cayuga Counties, NY, (Cortland, NY) in Subs 82 and 84; Pettis County, MO, (Sedalia, MO) in Sub 83; and Howard, Tipton, Cass, and Miami Counties, IN, (Kokomo, IN), Shelby, Fayette, and Tipton Counties, TN, Tunica and De Soto Counties, MS, and Crittenden County, AR, (Memphis, TN), Ventura, Los Angeles and Orange Counties, CA, (Los Angeles, CA), Adams, Arapahoe, Douglas, and Jefferson Counties, CO, (Denver, CO), Platte, Jackson, Clay, Cass, and Clinton Counties, MO and Wyandotte, Leavenworth, and Johnson Counties, KS, (Kansas City, MO), Oklahoma, Canadian, Cleveland, Logan, and Pottawatomie Counties, OK, (Oklahoma City, OK), Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, Ellis and Johnson Counties, TX, (Dallas, TX) Douglas, Sarpy, and Washington Counties, NE and Mills and Pottawattamie Counties, IA, (Omaha, NE), and Polk, Warren, and Dallas Counties, IA, (Des Moines, IA) in Sub 12; Moniteau County, MO, (Tipton and California, MO), and Boone, Callaway, Moniteau, and Cooper Counties, MO, (Columbia, MO) in Sub 23.

[FR Doc 82-17205 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements to Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudman's Office, (202) 275-7326.

Volume No. OP1-103

Decided: June 15, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150371 (Sub-2), filed June 10, 1982. Applicant: RICHARD DYKES, d.b.a. RICHARD DYKES TRUCKING, R.R. 2, Mechanicsville, IA 52306. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237-4223. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 158170 (Sub-2), filed June 8, 1982. Applicant: RIEDEL INTERNATIONAL, INC., 4555 N. Channel Ave., Portland, OR 97206. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226-3755.Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162391, filed June 8, 1982. Applicant: SWIFT TRANSPORTATION SERVICES, INC., P.O. Box 616, Edison, NJ 08817. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017, (212) 532-5100. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP2-125

Decided: June 17, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162383, filed June 8, 1982. Applicant: MERVIN LEWIS CONNER, d.b.a. AIRPORT DELIVERY SERVICE, 1st National Bank Tower, Suite 303, Las Cruces, NM 88001. Representative: Mervin Lewis Conner (same address as applicant), 505–524–8430. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP3–002

Decided: June 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 125505 (Sub-2), filed June 8, 1982. Applicant: MATTSON TRANSPORTATION COMPANY, INC., P.O. Box 6399, Charleston, SC 29405. Representative: Demal I. Mattson, Jr., 940 Highway 17 North Bypass, Mt. Pleasant, SC 29464, (803) 881–2334. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 147045 (Sub-6), filed June 7, 1982. Applicant: JUPITER, 1226 Furukawa Way, Santa Maria, CA 93454. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 152914 (Sub-3), filed June 1, 1982. Applicant: STATEWAY TRUCKING, INC., 2025 So. Morgan St., Chicago, IL 60608. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, D.C. 20036, (202) 223–5900. Transporting *general commodities* (except household goods and classes A and B explosives), between Buckley and Enumclaw, WA, Big Sandy, Lacy, Series, Hornsby, Deanberg, Parkburg, and Silverton, TN, DeWalt and Herbert, TX, Ragan, Huntley, and Irvington, NE, Hunter, Salt Fork, LaMont, Eddy Peckham, Middleton, and Simpson, OK, West Grove, Bloomfield, and Carbon, IA, Ehrhardt and Lodge, SC, Oakdale, MN, Davidson and Fordsville, KY, Waverly, FL, Kentmeer, DE, Ludlow, Randolph, and Newton Highlands, MA, Avondale, Elsinor, Eden Park, and Whitehall, OH, Centerville, Colon, Fairfax, Union City, Homer, Concord, Tekonsha, and Spring Arbor, MI, Rochester, Berry, Edinberg, Sharpsburg, Lakewood, Millersville, Beecher City, Iola, Louis, Windsor, Gays, Ashmore, Kansas, and Dudley, IL, Thorne, Cumberland, Gem, Greenfield, Charlottesville, Alysworth, Kouts, Hebron, Palmer, Leroy, Wallen, Huntertown, La Otto, Rupel, San Pierre, and Tefft, IN, Hepburnville, Earnst, Ironsides, Port Indiana, and Betzwood, PA, Williamsville, Pittsford, Lima, Honeoye Falls, Woodbine, Aqueduct, E. Walden, Modena, Clintondale, Chauncey, Elsmford, and Eastview, NY, Finderne, E. Long Beach, Pompton West and Pompton Lakes, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to subsitute motor carrier for abandoned rail carrier service.

MC 162344, filed June 4, 1982. Applicant: BRENT IRISH, Route 2, Box 19A, Krakow, WI 54137. Representative: James A. Spiegel, Olde Towne Office Park, 633 Odana Rd., Madison, WI 53719, (608) 273–1003. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioner* by the owner of the motor vehicle in such vehicle, and (2) for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162374, filed June 8, 1982. Applicant: LUNDELL TRUCKING CO., 7910 224th St. E., Graham, WA 98338. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383–3998. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions, between points in the U.S. (except AK and HI).

MC 162394, filed June 8, 1982. Applicant: MOVING CONSULTANTS OF NEBRASKA, INC., 7201 Main St., Ralston, NE 68127. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW, Suite 1200, Washington, D.C. 20036, (202) 785–0024. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162454, filed June 11, 1982. Applicant: CARL ASHBY, d.b.a., C & C TRUCKING, 702 Cook Ferry Rd., Castle Rock, WA 98611. Representative: (same as above), (206) 274–4037. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162464, filed June 14, 1982. Applicant: JOHN A. KNOWLES & SONS, INC., 4320 N.W. 72nd Ave., Miami, FL 33166. Representative: John A. Knowles, Sr. (same as address as applicant), (305) 592–6321. As a *broker of general commodities* (except household goods), between points in the U.S.

Volume No. OP4–223

Decided: June 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams

MC 153677 (Sub-3), filed June 10, 1982. Applicant: BILLY HARRIS TRUCKING CO., Route 4, Box 139A, Henderson, NC 27536. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162117, filed May 20, 1982. Applicant: SURE TRANSPORTATION & SERVICES, INC., 1617 Marguerite, Park Ridge, IL 60068. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, (312) 782–6937. As a broker of *general commodities* (except household goods), between points in the U.S. (except HI).

MC 162287, filed June 1, 1982. Applicant: LOMBARDI'S EXPRESS, INCORPORATED, 34 Goodwin Park Rd., Wethersfield, CT 06109. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728–0700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Volume No. OP4–225

Decided: June 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 141136 (Sub-7), filed June 3, 1982. Applicant: TRIANGLE TRANSPORTATION & WAREHOUSING SYSTEMS, INC., 1930 6th Ave., South #404, Seattle, WA 98134. Representative: Henry C. Winters, 12600 S.E. 38th, Suite 200, Bellevue, WA 98006, (206) 644–2100. As a broker of *general*

commodities (except household goods), between points in the U.S.

MC 151556 (Sub-6), filed June 8, 1982. Applicant: ALLSTATE TRANSPORTATION COMPANY, 2000 West 98th St., Bloomington, MN 55431. Representative: Marvin M. Mueller (same address as applicant), (612) 881–3378. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157596 (Sub-1), filed May 24, 1982, previously noticed in the **Federal Register** of June 8, 1982, and republished this issue. Applicant: VANGUARD CONTRACT CARRIER, INC., 25 N. Via Monte, P.O. Box 9285, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant), (415) 944–7374. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI). CONDITION: The person or persons who appear to be engaged in common contol of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team Four, Room 2410.

Note.—The purpose of this republication is to reflect the proper protest standards.

Volume No. OP5–135

Decided: June 16, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161589 (Sub-1), filed May 25, 1982. Applicant: DE VOS TRUCKING, R.R. 1, Box 74, Taunton, MN 56291. Representative: Arnold De Vos (same address as applicant), (507) 296–4612. Transporting *food and other edible products and byproducts intended for consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162358, filed June 7, 1982. Applicant: SHIDELER & ASSOCIATES, INC., 13101 Northwest Freeway, Suite 315, Houston, TX 77040. Representative: John V. Shideler (same address as applicant), (713) 460–9440. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162298 filed June 2, 1982. Applicant: HAROLD E. CURL, d.b.a. S & P TRUCK LINES, 6006 Rose Avenue, Long Beach, CA 90805. Representative: Harold E. Curl (same address as applicant), (213) 423–1742. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17208 Filed 6-24-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Publication of Office of Juvenile Justice and Delinquency Prevention Funding Policy for Fiscal Year 1982

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Publication of Office of Juvenile Justice and Delinquency Prevention Funding Policy for the Special Emphasis Program for Fiscal Year 1982.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), in planning for implementation of the Administration's proposed phaseout of programs funded under Title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, in Fiscal Year 1983, will to utilize Fiscal Year 1982 "Special Emphasis" grant funds primarily to fulfill grant continuation commitments to projects previously funded under a project period system of funding OJJDP Special Emphasis programs. The Office will fund no new Special Emphasis programs or projects unless: (1) They relate to training activities for juvenile justice programs who deal with serious or violent juvenile offenders; (2) they are determined by the Administrator to be priority activities consistent with the Administration's current or future plans; or (3) they constitute an exceptional or emergency circumstance. The Catalog of Federal Domestic Assistance reference for Special Emphasis programs is 16.541. This announcement indirectly affects research, standards, statistics and training programs funded by the National Institute for Juvenile Justice and Delinquency Prevention, catalog reference number 16.542, and OJJDP Technical Assistance efforts, catalog reference number 16.541.

This announcement does not require a Regulatory Impact Analysis under Section 3d of Executive Order 12291, or a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. Section 601 *et seq.*

EFFECTIVE DATE: June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, Acting Administrator, Office of Juvenile Justice and Delinquency Prevention; Telephone: 202/724–7751.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention is established by Title II of the Juvenile Justice and Delinquency Prevention Act of 1974. The Title II grant program consists of formula grants awarded to the States and research, training, standards, information, statistics and Special Emphasis categorical grants made directly to eligible recipients.

The Office published a proposed regulation in the **Federal Register** for public comment on March 8, 1982. (47 FR 9933).

Thirty-nine advocacy groups or individuals familiar with advocacy activities suggested additional allocations to fulfill the final year of youth advocacy activities. The Office response allocates an additional $200,000 to these activities and preliminary negotiations and reviews indicate this amount coupled with other decisions made during review, will enable the program to be completed. An additional allocation of $500,000 was made to ongoing delinquency prevention efforts which are also in need in final year funds in 1982.

Eleven cities or police and sheriffs departments suggested a potential serious and violent offenders program modeled after the Integrated Criminal Apprehension Program. Consistent with the policy, the Office does not have funds available to start substantial new demonstration programs. The General Accounting Office recently completed a review of the development process for Office demonstration programs and it is clear that in the light of this report and the needed lead time to develop and coordinate research, evaluation, technical assistance with funded demonstration activities, the process could not be completed in the balance of this fiscal year. The proposals have been referred to the National Institute for Juvenile and Delinquency Prevention for inclusion in the planning process as potential future demonstration efforts should the Office receive future funding.

Miscellaneous comments were received related to individual projects to policies such as non-funding of litigation; on new project proposals on legal positions; and offering suggestions to not cut funding. For reasons stated in the proposed policies, the comments were not accepted.

The Administration's budget proposal for Fiscal Year 1983 provides no additional funds for new or continuation grants or other Title II program activities currently administered by the Office of Juvenile Justice and Delinquency Prevention. Therefore, the Office does not anticipate that there will be continuation of categorical grant programs and projects, which would otherwise be eligible for continuation consideration in Fiscal Year 1983 or 1984, from direct Federal fund sources.

It is the intention of the Office to fulfill the public interest and to act in a manner consistent with the Administration's proposed budget with Title II Special Emphasis funds available for Fiscal Year 1982. To achieve this goal, the primary concern to the Office is to assure responsible financial accountability and administration of Fiscal Years 1980–1982 funds which will continue to be available for obligation and expenditure in Fiscal Years 1982–84. Even without a Fiscal Year 1983 appropriation for categorical programs the Office will avoid premature grant termination actions (except for cause) and will attempt to make the maximum use of available funds. It is not in the best interest of the government to begin or continue projects which cannot be completed. Therefore, the general funding plan will be to forego funding of new activities which require long range multi-year funding or which do not offer prospects of becoming self-sufficient or assumed by State, local or private fund sources. It is in the public interest to complete or bring to a useable stage as many ongoing activities as possible. In Fiscal Year 1982, most of the Special Emphasis projects will have reached this stage. This general funding plan will be carried out as specified in this policy except to the extent that formal rescissions or deferrals of current spending authority are approved by Congress.

Policy

Continuation Grant Policy—The fund allocations are based largely on OJJDP's interest in completing and evaluating the final budget period of three major competitive programs started in Fiscal Year 1980. All projects under each of these programs cannot be completed as sufficient funds are not available.

The categorical grant programs of the Office generally provide for a fixed term of activity under the "project period" system of award. Under this system, grant activities are approved for a fixed "project period" constituting the entire activity of the grant and are funded by separate awards under shorter "budget periods." The major Special Emphasis programs stated for refunding of an additional budget period within an existing project period in Fiscal Year 1982 are the "New Pride", "Alternative Education" and "Youth Advocacy" Programs. Much smaller amounts may need to be allocated to finish activities relating to the "Restitution" Program, which received a final major fund allocation in Fiscal Year 1981 or the Violent Offender Program, which is ongoing but does not require major funding from Fiscal Year 1982 sources. The final budget period for the three major programs will be funded to the maximum extent funds are allocated and available for these commitments. Because of reduced funding and the existence of more projects than are necessary to demonstrate and evaluate the program concepts in Alternative Education, New Pride and Youth Advocacy, all eligible project or project activities may not be eligible to receive continuation funds.

Miscellaneous Special Emphasis grant projects awarded outside of or prior to the adoption of the project period system will generally not be considered for continuation funding. This restriction is necessary because competitive project period continuations have a higher funding priority and adequate Fiscal Year 1982 continuation funds are not available for refunding all projects that were competitively awarded under the project period system.

Fiscal Year 1982 Grant Policy

The Administration has proposed in its Fiscal Year 1983 budget that no funds be made available for programs of the Juvenile Justice and Delinquency Prevention Act. The current status of the Special Emphasis program is such that three major program efforts were to be largely completed with 1982 funds. These were not slated to receive Fiscal Year 1983 funding. These three programs, along with programs completed in prior years, have covered most of the Special Emphasis program categories authorized by Section 224(a) of the Act.

The 1980 Amendments to the Act provide an impetus to programs impacting youth who commit serious and violent crimes. The Attorney General's Violent Crime Task Force has provided policy recommendations which suggest at most, an appropriate Federal funding role that would only include justice programs for applied research, training, or national data gathering (for example, see Violent Crime Task Force recommendations numbers 44, 46, 53, and 61).

The priorities for new categorical juvenile justice grant activities will be consistent with the above factors. The Office will provide no support for new large scale competitive categorical demonstration programs from 1982 funds.

In the applied research area, the National Institute for Juvenile Justice and Delinquency Prevention intends to complete existing research and structure and fund at least three new research efforts relating to serious and violent juveniles in those areas where practitioners have identified greatest need and potential for assistance in fulfilling their constitutional duties. These projects will be structured in phases so that one year of funding can produce responsible and useable results.

In the training field, the Office intends to allocate funds so that existing professional training organizations can modify their base curriculum or add speciality courses to provide training to juvenile judges, prosecuters, police officers, correction officers, youth service workers, and program managers focus on system handling of serious or violent offenders, juvenile gangs, juvenile narcotics problems, and strategies for the use of alternatives. These efforts will be established in such a way that the training structure and curriculum will remain available to State and local government professional personnel after 1982 without a need for substantial Federal funding of ongoing operating costs.

Program Allocations Levels

The allocation of Special Emphasis funds is based on six major factors. The appropriation has been reduced from last year's funding level by 33%. This reduction does not take into consideration any inflation factor or the past funding policies of the agency. For the past five years the Special Emphasis program has had an appropriation of $21 million annually. During the past two years the Special Emphasis appropriation has been utilized to start activities at a greater rate than the actual $21 million appropriation. Each year the Office has had "no year" funds and has awarded and started programs on the basis of stable or greater expected future appropriation levels. Consequently, future plans were based on more recent legislative changes or

administration policies and provided for new activities and continuation of ongoing activities in a manner which crossed fiscal year boundaries.

Three major program efforts are due for continuation funding in Fiscal Year 1982. The past awards under these grants were governed by a reference to policies set out in OJARS Manual 7100.1B, Paragraph 95 which included, among other things, a reference to termination "where anticipated continuation funds become unavailable." Funds are not available to meet all identified priorities and fund every expected application.

The Administration's priorities and the 1980 Amendments to the Act emphasize that the Office should give primary attention to the most pressing violent crime problems from both a national and local perspective. Control of violent juvenile crime is a responsibility of State and local officials..The Administration has consistently stated that funding of large numbers of federally selected categorical grants slated to deliver assistance in a functional area in which the Federal government has little or no operational responsibility is not an appropriate Federal function. However, individual states and local governments cannot always develop specialized training programs in the most economical manner. Federal funds can develop programs so that they are available to the State and local criminal justice personnel from all States. In a like manner, research and demonstration efforts conducted by one governmental level are more economical and consistent with a National government function. Development of juvenile justice training capacities of existing facilities is consistent with this role and with Sections 224(a)(1) and 244.

The demonstration aspects of Youth Advocacy and Alternative Eductaion programs can be continued with fewer project to demonstrate and evaluate the concepts involved. Ordinarily, six or eight projects are sufficient to complete the Federal research and demonstration interest. The Administrtion's policies reflect the non-involvement or Federal interference with State and local elected officials' performance of their constitutional functions. To the extent that Federal grants interfere with State and local activities and use Federal funds to accomplish their objectives, these activities should be reduced.

The Youth Advocacy program will be continued at the minimum level which will permit the orderly completion of the demonstration and evaluation aspects of the program concept.

New Pride projects which deal with serious offenders, scheduled for refunding early this year, have already been reduced by the elimination of three of the ten active demonstration efforts by mutual agreement and by additional economies consistent with this policy.

Initial Alternative Education grants were supported with $3,000,000 of DOL funds, as well as Juvenile Justice funds. DOL will be unable to allocate any funds for completion of these programs. Rather than cut this program proportionately, we have allocated funds to this area consistent with this overall policy.

Public safety emergencies and legal contingencies related to prior competitive programs (including approximately $200,000 for completing existing Violent Offender, Restitution or other programs in Fiscal Year 1982) have been allocated minimum funds necessary to provide for these areas.

New Pride Criteria

New Pride programs were eligible for refunding early this Fiscal Year. A complete review of each project was conducted in November, 1981. Three of the existing projects were terminated on the basis of clientele related data reflecting program's inadequacies. The remaining projects were subject to negotiated reductions. Consequently, no additional criteria are needed.

Criteria for Selection of Advocacy Projects for Third Year Funding

Projects are rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for this Program, at not less than a 33% reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last revised workplan. (100 points)
2. The level and quality of cooperation and nonconfrontational impact the project has had upon the policies, practices, statutes and procedures of the system(s) identified by the project as outlined in b(4) of the Program Guideline, and in the grant application. (100 points)
3. The extent to which the project(s) activities and related objectices have impacted significant numbers of youth. (100 points)
4. The level and quality of youth involvement in the project. (100 points)
5. The extent to which the project has demonstrated community support, and is viewed as making a beneficial contribution to the welfare of youth. (100 points)
6. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (50 points)
7. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, resolution of special conditions. (100 points)
8. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects will also be rated on the quality and potential impact of their third year program design which will determine the ranking for third-year funding. *Only those projects rated sufficiently high on past performance will be rated on their third year program design.*

1. The extent to which the workplan and milestones projected for the third year have potential of achieving the stated objectives. (Potential will be assessed within the context of effectiveness of methodology used in the first two project years. (100 points)
2. The extent to which work now in process has potential for impacting significant numbers of youth. (100 points)
3. The extent to which the project demonstrates continued community support through anticipated participation and resources from varioius community sectors (e.g., governmental, business, industry, civic and neighborhood groups and organizations). (100 points)
4. The level and quality of youth involvement planned for the third year. (100 points)
5. The extent to which the project is cost effective. (100 points)

Criteria for Submission of Requests for Third Year Funding for the Prevention of Delinquency Through Alternative Education Projects

Projects are rated on their performance during the previous grant period using the following criteria. Projects receiving the highest ratings will be funded up to the available funds allocated for the Program, at not less than a 33% reduction.

1. The extent to which the project has met the stated milestones during the previous project period, as outlined in the last approved workplan. (100 points)
2. The extent to which the project has met client flow as outlined in the grant application. (100 points)
3. The extent to which the project has contributed to the adoption and modification of school policies,

procedures and practices consistent with project goals. (100 points)

4. The quality of overall project management during the previous grant period, i.e., fiscal and programmatic. (75 points)

5. The extent to which the project has met stated grant terms and conditions, i.e., timely submission of fiscal and progress reports, response to audit and management inquiries, and resolution of special conditions. (75 points)

6. The level and quality of the involvement of youth in the implementation of the project. (100 points)

7. The extent to which policy changes have or will affect significant numbers of youth, i.e., classroom, single school, cluster of schools, schools, school districts and school systems. (100 points)

8. The extent to which the project design is evaluable. (100 points)

9. The extent to which the project has provided timely and quality response in order to fulfill the evaluation requirements. (100 points)

Projects are also rated on the quality and potential impact of their third year program design which will determine the ranking for third-year funding. *Only those projects rated sufficiently high on past performance will be rated on their third year program design.*

1. The extent to which work in process has potential for impacting significant numbers of youth. (100 points)

2. The extent to which the project model demonstrates continued support through anticipated participation and resources from the school system. (100 points)

3. The extent to which activities projected for the third year have potential of achieving stated objectives and bringing the project to successful conclusion at the end of the third year. Potential will be assessed within the context of effectiveness of methodology used in first two years. (100 points)

4. The level and quality of youth involvement planned for the third year. (100 points)

5. The extent to which the project is cost effective. (100 points)

6. The extent to which the evaluation design is being implemented and evaluation requirements are being met. (100 points)

Technical Assistance Functions

OJJDP Technical Assistance activities for Fiscal Year 1982 consists of five of eight projects begun in past years at a reduced level of funding of $2.028 million (from 3.0 million). Major activities consist of the technical assistance effort for the "Serious and Violent Offender Initiative," including treatment and prevention, two national efforts in the area of system improvement and jail removal, and one national technical assistance effort dealing with Alternative Responses to and for the system regarding serious delinquent behavior. Technical assistance activities will give priority to serious and violent offender initiatives of State and local government and the existing statutory priorities of deinstitutionalization, separation and jail removal.

"No Cost" Extensions

No categorical grantee has a right to a "no cost" extension beyond the initial scheduled termination date of a grant. With the expected reduction of Office staff and available support activities, it is the policy of the Office that "no cost" extensions will not normally be granted. However, for good cause, the Office will consider "no cost" extensions on a case-by-case basis. Good cause will include the reduction of continuation awards, the potential for cost assumption by other fund sources, or the completion of activities so that cost assumption can be given consideration by State budget offices, State legislatures, or other potential continuation fund sources.

Establishment of Competitive Policy for Existing Projects

New Pride, Alternative Education and Youth Advocacy were initially funded as competitive programs. Each has evaluation potential and each has a design which was structured to yield results for potential future consideration by other State, local or private activities.

To fulfill Congressional expectations of Section 224(a) and to complete and yield as much knowledge of possible from past investments in these programs, the Office will competitively select the best projects, fund them to the extent that funds are available, and evaluate the results.

Competitive criteria related to performance and evaluation are established so that OJJDP can determine if further funding is warranted. Existing projects will receive written notice of application submission dates and criteria the Office will utilize to select the best projects. Some projects not selected for funding due to fund limitations may be contacted so that specific project activities may be completed or partial funding, as required to meet overall evaluation needs, can be negotiated. Projects not selected for continuation will be eligible for no-cost extensions to provide for a more orderly termination or transfer to other fund sources.

Special Emphasis Fund Allocations

Assuming that final appropriation action is consistent with the Continuing Resolution, the Special Emphasis appropriation for Fiscal Year 1982 will be $14,365,000. Of this figure, allocations reflecting 1982 priorities are set as follows:

Section 224(e) statutory Territories Allocation in accord with criteria published at 47 FR 4628 (February 1, 1982)	$718,250
Special Emphasis program evaluations for New Pride, Restitution, Alternative Education, Youth Advocacy, Violent Offender Part I and Part II	1,545,000
Prevention R&D Program (Continuation)	1,300,000
New Pride Completion	2,500,000
Alternative Education Completion	2,845,000
Youth Advocacy Completion	3,126,000
Serious and Violent Offender Training Programs	2,000,000
Public Safety emergency or legal commitments	330,750
Total	14,365,000

Research and Related Activities of the National Institute for Juvenile Justice and Delinquency Prevention

Research and program development activities for Fiscal Year 1982 an appropriation of $7.4 million and will consist of continuations of fifteen projects begun in past years at a reduced level of funding ranging to 33%. Twenty projects have or will be ending and will not receive 1982 funds. Evaluations of four major Special Emphasis programs are expected to be continued primarily from Special Emphasis funds in order to complete the analysis of the impact of these approaches for preventing and controlling delinquency. These include Restitution, Replication of Project New Pride, Alternative Education and Youth Advocacy. The Law Related Education Program will be continued from Institute fund sources. Seven research and research and development projects are expected to be continued, including studies of the development of delinquent careers, research on alternative programs for juvenile offenders, and projects focused on prevention of juvenile delinquency. In addition, three national data collection projects are scheduled for continuation. These include national juvenile court statistics, national data on children in custody, and the development of automated juvenile justice information systems. Activities designed to assist State or local government in consideration of juvenile justice standards will be continued and

modified to include State and local based projects.

Primary emphasis will be placed on expanding the program of research and development on serious and violent juvenile crime. Projects begun in previous years which focus on monitoring the extent of juvenile involvement in serious and violent crime, prevention of serious and violent juvenile crime, and the development of alternative programs for serious and violent juvenile offenders will be continued. In addition, several new projects are planned to expand efforts in four areas: (1) chronic juvenile offender, (2) improvement of violence prediction capabilities, (3) juvenile justice system response, and (4) programs designed to ensure swift and certain prosecution and punishment of serious and violent juvenile offenders. These will include studies designed to identify characteristics of the chronic juvenile offender and factors related to the initiation and continuation of serious delinquent and criminal careers; research on the effects of juvenile criminal court processing of serious and violent juvenile offenders, and the development and testing of programs to improve the efficiency and effectiveness of juvenile justice system prosecution and treatment of these offenders.

Specific Fund Use Limitations

All existing OJJDP categorical grants were reviewed during the past budget period in an attempt to identify areas for potential savings. Funding for direct program activities or services to juveniles were discussed. Through negotiations with grantees, the Office attempted to focus expense reductions on travel, newsletters, outside training, conference attendance and cluster meetings. As potential areas for further cost savings in Fiscal Year 1982, the Office will reveiw all budgets to minimize these types of expenditures. Project activities which have not met goals will not be refunded. No more than one cluster meeting will be approved. Neither professional development conference attendance no outside general purpose training will be approved unless they are clearly related to the performance of grant functions.

Finally, the Office will not approve budgeted costs for any new litigation expenses on behalf of private parties or for suits against State and local governmental units. Litigation funded from appropriated Federal funds raises a strong potential for intergovernmental conflict. Federal Juvenile Justice grant funds will not be used to pursue law suits or other confrontation activities against Federal, State or local governments. In any event, litigation which would start in Fiscal Year 1982 could not be completed before the termination of any existing grants.

New Training Activities

The findings and delcaration of purpose clause of the Juvenile Justice Act was amended in 1980 to reflect congressional and public concern with the small but troublesome subset of the youth population who commit a disproportionate share of serious and violent crimes. Research results over the past few years have confirmed this fact and partially identified characteristic of this group. Other amendments to the Act directed the Office to give more attention to these juvenile offenders.

The Attorney General's Task Force on Violent Crime recommendations concerning the Federal Government's role in dealing with violent offenders focused on the potential for the Federal Government to address the training needs of State and local governments' criminal justice officials. The Office has explored possibilities with existing training facilities and organizations and identified the need for training of State and local officials related to both basic and specialized juvenile justice functions.

In the past, resources allocated to training efforts have been limited to the areas of law-related education, judicial training, and alternative programs. These efforts will be continued and additional funding allocated to objectives related to the juvenile justice system's ability to handle serious, violent and chronic juvenile offenders more efficiently and fairly; to increase the system's ability to more effectively prevent, treat, and control violent juvenile behavior; and to provide the knowledge of effective alternatives or the possibilities available to the juvenile justice system so that scarce resources may be more effectively allocated in the most appropriate way to each type of juvenile offender.

In addition to basic judical training already provided, specialty courses will be added to the existing curriculum of the National Council on Juvenile and Family Court Judges. These modifications in additional courses may include training in such areas as sentencing and decisionmaking, classification, detention criteria, record confidentiality, restitution or victim compensation, use of probation, understanding gangs and the violent offender, use of information systems, and basic understanding of the results of research and national data gathering efforts relating to serious, violent and chronic juvenile offenders.

Community-based or youth service training programs will be developed related to alternatives for the serious, violent and chronic juvenile offender. The National Youth Work Alliance and other organizations, as necessary, will be asked to participate in cooperative efforts to establish and design such curricula.

For State and local law enforcement officials, the Office plans to enter into interagency agreements with the Treasury Department to provide for courses and curricula at the Glenco Training Center for specialized training relating to serious, violent and chronic juvenile offenders. These components would include, but not be limited to, the police decisionmaking process, interagency relationships, police executive training, juvenile gang and group activities, and investigations of school crimes, including drug enforcement and weapons control.

The Office will explore possibilities for the development of prosecutor training programs with the National College of District Attorneys in conjunction with the National District Attorneys Association to provide training for State and local prosecutors functioning primarily in juvenile courts. The training would include such areas as priority prosecution, the role of the prosecutor and defense attorneys, prosecution of group or gang members, evidence presentation, confidentiality of records, and transfer of jurisdiction.

The Office will explore possible cooperative agreements with the American Correctional Association and interagency agreements with the National Institute of Corrections and their National Corrections Academy for the purpose of conducting management training for Juvenile corrections administrators in both formal and alternative systems. In addition to general management training, rehabilitation models for hardcore juvenile offenders will be developed. The training might include techniques and methods of conducting additional vocational and on-the-job training programs and emphasize the reintegration of serious, violent and chronic juvenile offenders.

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 82-17271 Filed 6-24-82; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 5, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 5, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of, Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 21st day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Armco, Inc., Stainless Steel Div., Baltimore Works (USWA).	Baltimore, MD	6/14/82	6/9/82	TA-W-13,552	Steel, stainless, specialty shapes, rounds hexagons, etc.
Big Mountain Coal, Inc. (UMWA)	Prenter, W. VA	6/15/82	6/11/82	TA-W-13,553	Coal—mining.
Bluestone Coal Corp., Keystone Strip Mine (UMWA)	McDowell County, W. VA	6/14/82	6/8/82	TA-W-13,554	Coal—metallurgical, mining.
Canton Malleable Iron Co. (USWA)	Canton, OH	6/14/82	6/9/82	TA-W-13,555	Castings—malleable.
Carpenter Technology Corp. (company)	Reading, PA	6/11/82	6/8/82	TA-W-13,556	Steel specialty.
Carpenter Technology Corp. (company)	Bridgeport, CT	6/11/82	6/8/82	TA-W-13,557	Steel specialty.
Carpenter Technology Corp. (company)	Hapeville, GA	6/11/82	6/8/82	TA-W-13,558	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Manfield, MA	6/11/82	6/8/82	TA-W-13,559	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Charlotte, N.C.	6/11/82	6/8/82	TA-W-13,560	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Melrose Park, IL	6/11/82	6/8/82	TA-W-13,561	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Cincinnati, Ohio	6/11/82	6/8/82	TA-W-13,562	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Cleveland, Ohio	6/11/82	6/8/82	TA-W-13,563	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Dallas, TX	6/11/82	6/8/82	TA-W-13,564	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Troy, Michigan	6/11/82	6/8/82	TA-W-13,565	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Hartford, CT	6/11/82	6/8/82	TA-W-13,566	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Houston, TX	6/11/82	6/8/82	TA-W-13,567	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Indianapolis, IN	6/11/82	6/8/82	TA-W-13,568	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Los Angeles, CA	6/11/82	6/8/82	TA-W-13,569	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Memphis, TN	6/11/82	6/8/82	TA-W-13,570	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Milwaukee, WI	6/11/82	6/8/82	TA-W-13,571	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Minneapolis, Minn	6/11/82	6/8/82	TA-W-13,572	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	W. Caldwell, NJ	6/11/82	6/8/82	TA-W-13,573	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Fort Washington, Pa	6/11/82	6/8/82	TA-W-13,574	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Rochester, NY	6/11/82	6/8/82	TA-W-13,575	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	St. Louis, MO	6/11/82	6/8/82	TA-W-13,576	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	Belmont, CA	6/11/82	6/8/82	TA-W-13,577	Warehouse and ship steel, specialty.
Carpenter Technology Corp. (company)	So. Bend, IN	6/11/82	6/8/82	TA-W-13,578	Warehouse and ship steel, specialty.
Clark Equipment Co. (AIW)	Jackson, MI	6/11/82	6/7/82	TA-W-13,579	Transmissions and components.
Hinedale Manufacturing Co., Inc. (ILGWU)	Brooklyn, NY	6/8/82	6/4/82	TA-W-13,580	Raincoats and jackets—ladies.
Hoh River Cedar Products, Inc. (wrks)	Beaver, Washington	6/14/82	6/7/82	TA-W-13,581	Shakes and shingles—cedar, red.
Holly Sugar Corp. (Sugar Workers Union)	Hamilton City, CA	4/7/82	3/25/82	TA-W-13,582	Sugar—beat.
Jersey Miniere Zinc Co. (workers)	Clarksville, TN	6/14/82	5/17/82	TA-W-13,583	Zinc-slab, acid-sulfuric.
National Mines Corp., National Pocahontas #51 Mine (UMWA).	Wyoming Co. W. VA	6/11/82	6/8/82	TA-W-13,584	Coal-metallurgical, mining.
Oster Div. of Sunbeam Corp. (workers)	Glendale, WI	6/8/82	5/18/82	TA-W-13,585	Massagers, back, vib. clippers, slicers, etc.
Pacific Machinery—Div. of Theo H. Davies & Co., Inc. (ILWU).	Hilo, HI	4/30/82	4/26/82	TA-W-13,586	Machinery—farm, sales, service and repairs.
Phelps Dodge Corp., Douglas Reduction Works (USWA).	Douglas, Artz	6/14/82	6/8/82	TA-W-13,587	Copper smelter.
Phelps Dodge Corp., New Cornelia Branch (USWA)	Ajo, Arizona	6/14/82	6/8/82	TA-W-13,588	Copper—mine, mill and smelter.
Quote Me, Inc. (ILGWU)	Clifton Forge, VA	6/11/82	6/8/82	TA-W-13,589	Sportswear—ladies.
U.S. Steel Corp. (USWA)	Canton, Ohio	6/14/82	6/9/82	TA-W-13,590	Iron rolls.
General Tire & Rubber Co. (URW)	Akron, Ohio	6/9/82	5/20/82	TA-W-13,591	Tires—truck, light, giant radials.
Republic Steel Corp., Union Drawn Div. Plt #1 (USWA).	Massillon, Ohio	6/14/82	6/9/82	TA-W-13,592	Bars—steel, carbon, alloy drawn, cold.
Republic Steel Corp., Union Drawn Div. Plt #2 (USWA).	Massillon, Ohio	6/14/82	6/9/82	TA-W-13,593	Bars—steel, drawn cold.
Republic Steel Corp. Basic Steel Plant (USWA)	Canton, Ohio	6/14/82	6/9/82	TA-W-13,594	Bars—steel, stainless, alloy, carbon, rolled, hot.
Republic Steel Corp., Canton South Plant (USWA)	Canton, Ohio	6/14/82	6/9/82	TA-W-13,595	Plate and sheet—steel, stainless metals—special.
Republic Steel Corp., Central Alloy Dist. (USWA)	Massillon, Ohio	6/14/82	6/9/82	TA-W-13,596	Bars—steel, stainless, alloy, carbon, rolled hot.
Republic Steel Corp., Enduro Div. (USWA)	Massillon, Ohio	6/14/82	6/9/82	TA-W-13,597	Steel, stainless, specialty.

[FR Doc. 82-17282 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-30-M

Office of International Affairs

Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 13, 1982, 9:30 a.m. N3437 A & B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Joseph S. Papovich Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6171.

Signed at Washington, D.C. this 19th day of May 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

June 17, 1982.

[FR Doc. 82–17258 Filed 6–24–82; 8:45 am]

BILLING CODE 4510–28–M

Mine Safety and Health Administration

[Docket No. M–82–25–M]

Aluminum Co. of America; Petition for Modification of Application of Mandatory Safety Standard

Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 55.4–27 (self-propelled mobile equipment; fire extinguishers) to its Bayer Alumina Plant (I.D. No. 41–00320) located in Calhoun County, Texas. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that whenever self-propelled mobile equipment is used, such equipment be provided with a suitable fire extinguisher readily accessible to the equipment operator.

2. Petitioner states that vehicles are provided with an extinguisher if the unit is used in, around or near operations which have more than a minimal potential to cause fire. However, petitioner states that in the event of a fire on the equipment, the use of an extinguisher would expose the equipment operator to hazardous conditions and potential serious injury from the fire.

3. As an alternative method, petitioner proposes that, in the event of an equipment fire, the employee will leave the machine immediately, call the fire brigade, and attempt to extinguish the fire only if this can be done in a safe manner. All employees are trained in the use of fire extinguishers annually.

4. The fire brigade has forty-two trained and qualified members and is equipped with a pumper fire truck with a 30-gallon capacity foam system, a smaller truck and a high expansion foam generator mounted on a trailer.

5. Petitioner states that the alternative method outlined above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1982. Copies of the petition are available for inspection at that address.

Date: June 18, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82–17256 Filed 6–24–82; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–82–57–C]

Buffalo Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Buffalo Mining Company, P.O. Box 429, Lyburn, West Virginia 25632 has filed a petition to modify the application of 30 CFR 75.1710 (cabs or canopies) to its NO. 5–A Mine (I.D. No. 46–01377) located in Logan County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges in height from 41 to 46 inches, with undulations in the top and bottom.

3. Petitioner states that the installation of cabs or canopies on the mine's electric face equipment would result in a diminution of safety for the miners affected because the canopies could strike and dislodge the roof support system. The canopies also restrict the equipment operator's visibility and the cramped compartment contributes to operator fatigue, increasing the chances for an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1982. Copies of the petition are available for inspection at that address.

Date: June 18, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82–17260 Filed 6–24–82; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–82–57–C]

Sandy Fork Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sandy Fork Mining Company, Inc., Route 4, Box 30, Beverly, Kentucky 40913 has filed a petition to modify the application of 30 CFR 77.1605(K) (berms or guards) to its No. 7 Mine (I.D. No. 15–12493) located in Leslie County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that installation of berms on the outer bank of the roadway would result in a diminution of safety for the miners affected because:

a. Berms would prevent proper maintenance of the roads, preventing the removal of snow and ice from the roadways, causing the road surface to deteriorate; and

b. Run-off water would channel down the roadway, washing gravel and dirt from the road into settling and silt ponds.

3. As an alternative method, petitioner proposes that:

a. All equipment operators will be trained in the use of haulage equipment and the safety of vehicles on haulage roads;

b. All haulage equipment will have original manufacturer's brakes, engine or Jacob brakes and an emergency (parking) braking system;

c. Roadway surfaces will be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects);

d. Warning and stop signs will be placed at appropriate points along the roadway, at intersections, and at designated passing points,

e. A traffic system will be instituted, requiring that loaded trucks have the right of way on the highway side of roads, regardless of their direction of travel; and

f. Adequate supplies of crushed stone or other suitable material will be stored at strategic locations along the haulage roads for use when road surfaces become slippery.

4. Petitioner states that the alternative method and safeguards proposed above will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1982. Copies of the petition are available for inspection at the address.

Date: June 16, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-17280 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-82-55-C]

Sahara Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Sahara Coal Company, Inc., Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Mine No. 7 (I.D. No. 11-02770), Mine No. 20 (I.D. No. 11-00786), Mine No. 21 (I.D. No. 11-00784) and Mine No. 22 (I.D. No. 11-02684), all located in Saline County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure screw caps in place on plugs of a battery-operated S & S scoop tractor.

2. Petitioner states that there is an element of danger in having plugs locked together in the event of a short circuit or a fire occurring in the scoop's electrical components.

3. As an alternate method, petitioner proposes that a threaded bolt device be used in lieu of a padlock. This device will prevent loosening of the threaded ring and will serve the same purpose as a padlock; it could not fall out of place and could be removed quickly in the event of an emergency.

4. Petitioner states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 26, 1982. Copies of the petition are available for inspection at that address.

Dated: June 16, 1982.

Patricia W. Silvey,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 82-17281 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3266]

Bonacker & Leigh, Inc., Proposed Exemption for Certain Transactions; Profit Sharing Plan Located in Miami, Florida

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed loan of $300,000 by the Bonacker & Leigh, Inc. Profit Sharing Plan (the Plan) to Bonacker & Leigh, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before August 4, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-3266. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a defined contribution profit sharing plan, with approximately 140 participants and total assets of approximately $1,798,675 as of December 31, 1981. The Plan Administrator is Mr. Harry Goyen and the Plan's Investment Manager is the Investment Counsel Company (Investment).

2. The Employer has operated a brokerage business in Miami, Florida since 1922. The Employer rents office space on a month-to-month basis. In February 1981, the Employer was informed by its landlord that the building housing the Employer's operations was to be sold. The new owner desired immediate occupancy of the building; however, a new lease was executed permitting the Employer to continue occupying the building until July 31, 1982. The new lease contains a $1,000 per day penalty if the building is not vacated by July 31, 1982.

3. As a result, the Employer purchased a parcel of land for $351,000 and engaged a contractor to construct a 21,000 square foot office building on the site at an estimated cost of $1,300,000. These capital investments, primarily the cash outlay to close the land purchase, would adversely affect the Employer's cash position and its ability to make a contribution to the Plan.

4. The Employer proposes to borrow $300,000 from the Plan. The proposed loan will be for a ten year term, with monthly payments of principal and interest of $4,406.10 based on a 15 year amortization schedule. The entire remaining balance of $185,593.29 plus one month's accrued interest will be due with the final payment. The loan will bear interest at the rate of 16% per annum. The loan represents less than 17% of the Plan's assets.

5. The loan will be secured by a one year irrevocable letter of credit (the Letter of Credit) issued by Commercial Bank & Trust Company (Commercial). The Letter of Credit will be in the amount of $305,000, which will cover the outstanding loan balance plus 40 days interest, the maximum principal and interest that would be due in the event of default. The Letter of Credit will be renewable annually unless Commercial gives Investment written notice thirty days prior to any renewal date that it will not be re-extended. In the event the Letter of Credit is not re-extended and the Employer cannot acquire an equally suitable letter of credit within 10 days of being notified of such non-renewal, or if the Employer fails to make full payment of principal and interest within such 10 day period, Investment shall draw on the Letter of Credit for the full balance due plus interest. In any event, Investment will be authorized to draw on the Letter of Credit if the Employer should fail to make any of the scheduled payments under the loan within 10 days of the payment due date.

6. The applicant represents that Investment is an independent fiduciary with respect to the Plan and has no relationship with the Employer other than as investment manager of the Plan. Investment has examined the terms of the proposed loan and has determined that such a loan is appropriate and suitable for the Plan. Investment represents that this loan is consistent with the Plan's investment objectives of conservation of principal plus reasonable return in keeping with prudent investment practices. Investment will monitor the transaction from its inception to its conclusion and will handle any follow-up actions necessary to protect the interests of the Plan's participants and beneficiaries in the event of default on the loan agreement. Investment will review and modify, if required, the terms of the transaction at the time of execution to assure that, in view of current market conditions, this transaction is in the best interest of Plan participants and beneficiaries.

7. In summary, the applicant represents that the proposed loan will satisfy the criteria of section 408(a) of the Act because:

(a) The loan terms and conditions will be monitored by Investment;

(b) The loan will be secured by a Letter of Credit from Commercial, which can be called if Commercial notifies Investment of its intent not to renew or if the Employer defaults on the loan payments; and

(c) Investment, as independent fiduciary to the Plan, has determined that the transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

Notice To Interested Persons

Within ten days after the notice of pendency is published in the **Federal Register** notice will be given to all Plan participants and beneficiaries by mail. Such notice shall include a copy of the notice of pendency of the exemption as proposed in the **Federal Register** and shall inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section

406(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loan of $300,000 by the Plan to the Employer, based on the terms and conditions set forth above, provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of the transaction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed At Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17253 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–101]

Exemption From the Prohibitions for Certain Transactions Involving Custom Machine, Inc. Profit Sharing Trust Located in Woburn Massachusetts (Exemption Application No. D–3166)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The proposed loans (the Loans) of money for a period of five years by the Custom Machine, Inc. Profit Sharing Trust (the Plan) to the OMSOC Equipment Trust (OMSOC), a party in interest with respect to the Plan; and (2) the guarantee of the Loans by Custom Machine, Inc. (the Employer), the sponsor of the Plan.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15452) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above described transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has satisfied the notification provisions as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply: (1) For a period of five years to the Loans by the Plan to OMSOC provided that the terms and conditions of such Loans are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party; and (2) to the guarantee of the Loans by the Employer.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17267 Filed 6-24-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-104]

Exemption From the Prohibitions for Certain Transactions Involving International Union of Electrical Radio and Machine Workers, AFL-CIO Pension Fund Located in Bloomfield, New Jersey (Exemption Application No. D-2970)

AGENCY: Pension and Welfare Benefit Programs Office.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit, effective January 1, 1981, the lease of office space (the Lease) by the International Union of Electrical Radio and Machine Workers, AFL-CIO Pension Fund (the Plan) to Fidelity and Deposit Company of Maryland (Fidelity), a party in interest with respect to the Plan.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15444) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provision of the notice of proposed exemption. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective January 1, 1981, to the Lease executed between the Plan and Fidelity, provided that the terms of the Lease were not less favorable and remain as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 22nd day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17270 Filed 6-24-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-102]

Exemption From the Prohibitions for Certain Transactions Involving Edwin J. Lojeski, D.D.S., P.C. Deferred Benefit Pension Trust Located in Manchester, CT (Exemption Applications No. D-2954)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the borrowing (the Loan) by the Edwin J. Lojeski, D.D.S., P.C. Deferred Benefit Pension Trust (the Plan) of the cash value of the Plan's life insurance policy on the life of Edwin J. Lojeski, D.D.S., a Plan participant and the Plan's trustee. National Life Insurance Company (Life) issued the policy and is the Plan administrator.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-6195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 5, 1982, notice was published in the **Federal Register** (47 FR 9608) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that a copy of the notice was distributed in accordance with requirements set forth in the proposed exemption. One public comment was received by the Department in which the commentator supported the granting of the proposed exemption, but requested information concerning two points. The commentator was referred to the Internal Revenue Service for the resolution of his first query which involved unrelated business income. The second question was whether the Department would consider granting similar exemptive relief for an insurance policy cash value loan involving a defined contribution plan (the Plan is a defined benefit plan). The Department will consider granting exemptive relief for either defined benefit or defined contribution plans for similar insurance policy loan transactions on a case by case basis based on the facts and representations contained therein. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the Loan, provided that the terms and conditions of the Loan are at least as favorable to the Plan as those it could obtain from an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82–17208 Filed 6–24–82; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 82–100]

Exemption From the Prohibitions for Certain Transactions Involving National Bank of Fairfax/First and Merchants National Bank Employee Benefits Trust Collective Investment Fund Located in Burke, Virginia (Exemption Application No. D–2571)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will permit the proposed cash sale of mortgage notes and participation interests in mortgage notes (the Mortgages) by the National Bank of Fairfax Employee Benefits Trust Collective Investment Fund (the Fund) to the First & Merchants National Bank (First & Merchants), the present Fund sponsor.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15456) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1) (A) through (E) of the Code, for the above-described transaction. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any

interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713), October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Fund and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Fund.

Accordingly the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of the Mortgages for their outstanding principal balances plus accrued interest by the Fund to First & Merchants, provided that this amount is not less than the fair market value of the Mortgages on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17288 Filed 6-24-82; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82–103]

Exemption From the Prohibitions for Certain Transactions Involving Ophthalmic Associates Employees Pension Plan and the Pearlstine-Salkin Associates Employees Pension Plan Located in Lansdale, PA (Exemption Application Nos. D–2452 and D–2453)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) The sale (the Sale) to the Ophthalmic Associates Employees Pension Plan (the Ophthalmic Plan) and the Pearlstine-Salkin Associates Employees Pension Plan (the Pearlstine Plan, collectively, the Plans) of an improved parcel of real property (the Property) by Ophthalmic Investors Associates (Ophthalmic Investors), a party in interest with respect to the Plans; (2) the lease (the lease) of the Property by the Plans to Pearlstine-Salkin Ophthalmic Associated Investors (PSO), a party in interest with respect to the Plans, (3) the satisfaction by the Plans of certain payment obligations of Ophthalmic Investors pursuant to certain indebtedness on the Property; and (4) an extension of credit by Ophthalmic Investors to the Plans.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On April 3, 1982, notice was published in the **Federal Register** (47 FR 15036) of the Pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions described in an application filed by Pearlstine-Salkin Associates, P.A. and Ophthalmic Associates, P.A., the sponsors of the Plans. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notice to interested persons as stated in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The Sale of the Property by Ophthalmic Investors to the Plans for $900,000, provided that this price in not greater than the fair market value of the Property at the time of Sale; (2) the Lease of the Property by the Plans to PSO, provided the terms and conditions of the Lease are at least as favorable to the Plans as the Plans could obtain in a similar transaction with an unrelated party; (3) the satisfaction by the Plans of the certain payment obligations of Ophthalmic Investors pursuant to certain indebtedness on the Property, provided the terms and conditions of the indebtedness are at least as favorable to the Plans as the Plans could obtain in a similar transaction with an unrelated party; and (4) the extension of credit by Ophthalmic Investors to the Plans, provided the terms and conditions of the extension of credit are at least as favorable to the Plans as the Plans could obtain in a similar transaction with an unrelated party.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17286 Filed 6-24-82; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-3167]

Proposed Exemption for Certain Transactions Involving the Thomasville Orthopedic Clinic, Inc. Pension Plan and Profit Sharing Plan Located in Thomasville, Georgia

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt: (1) Loans (the Loans), each in the amount of $40,000, by the Thomasville Orthopedic Clinic, Inc. Profit Sharing Plan (the Profit Sharing Plan) and the Thomasville Orthopedic Clinic Pension Plan (the Pension Plan) (collectively, the Plans) to Thomasville Orthopedic Clinic, Inc. (the Employer); and (2) the guarantee of repayment of the Loans by Dr. John Payne (Dr. Payne), the sole shareholder of the Employer. The proposed exemption, if granted, would affect the Plans, the participants and beneficiaries of the Plans, Dr. Payne, the Employer and other persons participating in the transactions.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before August 16, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D–3167. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file

with the Department for the complete representations of the applicant.

1. The Employer is a professional corporation, organized under the laws of the State of Georgia and engaged in the practice of orthopedic medicine. The Employer maintains its clinic facility at 106 Euclid Drive, Thomasville, Georgia.

2. The Plans are a Profit Sharing Plan and a Pension Plan, each having six participants as of June 30, 1981. Also, on that date, the Profit Sharing Plan had total assets of $164,512 and the Pension Plan had total assets of $195,890. The trustee of the Plans is Dr. Payne who has ultimate responsibility for making investment decisions.

3. The Employer proposes to purchase certain medical X-ray equipment (the Equipment) and furnishings (the Furnishings) which will be used in its clinic. The aggregate cost of the Equipment and Furnishings is $85,418 (or $31,500 and $53,918, respectively). To offset most of the total purchase price, the Employer is requesting an exemption in order to borrow $40,000 from each Plan. The proposed Loans, which will represent less than 25 percent of the assets of each Plan, will be evidenced by promissory notes providing for the repayment of the indebtedness in sixty (60) monthly installments of principal and interest. The rate of interest will be one (1) percent above the prime rate charged by Commercial Bank (Commercial) of Thomasville, Georgia. The interest rate will be adjusted annually by an independent fiduciary designated to oversee the Loans.

4. The Loans will be secured by first mortgages on the Equipment and Furnishings and all of the accounts receivable (the Receivables) of the Employer. In addition, the Loans will be personally guaranteed by Dr. Payne, who had a total net worth of approximately $600,000 on June 30, 1981. To document the Plans' security interests in the Equipment, Furnishings and Receivables (hereinafter, the Collateral), the Employer will execute Security Agreements and file Uniform Commercial Code Financing Statements in favor of the Plans. The Financing Statements will be recorded in the Office of the Clerk of the Superior Court of Thomas County, Georgia.

5. The Equipment and Furnishings have been appraised by independent appraisers. With respect to the Equipment, Mr. W.W. Whetstone, Jr. (Mr. Whetstone) of A&W X-Ray Company, Inc. of Tallahassee, Florida states in correspondence prepared in March and April 1982, that the value of the Equipment at the time of purchase ($31,500) will be identical to its value at the time of installation in the Employer's clinic. Mr. Whetstone represents that the Equipment, which has a life expectancy of approximately ten to twenty years, will depreciate at a rate of not more than 10 percent per year. Moreover, Mr. Whetstone says that although there is a market for used X-ray equipment, the potential for resale will decline at a rate no greater than the rate of depreciation.

With respect to the Furnishings, Ms. Judith E. Brett (Ms. Brett), President of Design 20, Inc., located in Tallahassee, Florida has expressed her opinions regarding the value of the Furnishings in letters dated March 9 and April 26, 1982. Ms. Brett sees no difference between the value of the Furnishings at the time of purchase ($53,918) and their value at the time of installation in the clinic. She believes the Furnishings will depreciate at an overall rate of not more than 10 percent per year. However, she notes that certain types of Furnishings (i.e., casegoods and accessories) will appreciate at a rate of approximately ½ percent per year while other items such as chairs will depreciate at a rate of approximately 25 percent per year. Ms. Brett believes the potential for resale of the Furnishings is excellent and that her firm continues to assist clients with the resale of their furnishings with excellent response and success.

6. Information regarding the Receivables has been provided by Mr. F. Rudolph Fletcher (Mr. Fletcher), a certified public accountant with the firm Davis, Crittenden, Richter and Fletcher (Davis) of Thomasville, Georgia. Davis provides accounting services to the Plans, the Employer and Dr. Payne. In a letter of May 3, 1982, Mr. Fletcher has summarized the Employer's activity with respect to the Receivables for the period July 1, 1981 through April 28, 1982. He states that on July 1, 1981, the balance of the Receivables was $174,960 and that during the ten month period under review, total charges amounted to $458,336 and total collections amounted to $399,126. Mr. Fletcher says that in this particular ten month period, approximately 87 percent of the Receivables have been collected. Historically, he notes, the Employer has collected in excess of 80 percent of its Receivables.

7. Commercial has agreed to act as the independent fiduciary for the Loans. Commercial states that Dr. Payne is not a director, officer or shareholder of the bank and that on March 5, 1982, the Employer maintained deposits of $14,695 (out of total bank deposits of $63,366,467) and Dr. Payne had an outstanding loan of $119,074 (out of total bank loans of $40,963,922). Commercial represents that none of the parties involved had any lines of credit which had not been fully advanced.

Commercial believes the proposed Loans are appropriate for the Plans and in the best interests of their participants and beneficiaries because the Loans would be secured by first mortgages in the Collateral and the personal guarantee of Dr. Payne. In addition, Commercial represents the interest rate charged on the Loans would give the Plans a fair rate of return. Moreover, due to the creditworthiness of the Employer and Dr. Payne, Commercial does not believe the Plans or their participants would incur a substantial risk of loss by reason of the proposed investment. In making these determinations, Commercial indicates it has examined the overall portfolios of the Plans, considered each Plan's cash flow needs, considered the assets that might have to be sold in order to meet the liquidity and diversification requirements of each Plan in light of the proposed Loans, and reviewed the proposed Loans in terms of how they fit within the Plans' investment funding policy.

As the independent fiduciary, Commercial represents it will undertake the following actions: (a) Monitor the Loans to ensure that payments under the promissory notes are made in accordance with their terms; (b) adjust the interest rate for the Loans annually; (c) inspect the Collateral periodically and have it appraised annually by an independent appraiser to ensure that its fair market value is never less than 150 percent of the outstanding balances of the Loan and demand additional collateral be pledged if necessary; (d) make certain the Collateral is always insured with Commercial being named as beneficiary of the insurance policy on behalf of the Plans; and (e) in the event of a defult on the Loans, take steps necessary to ensure the Collateral is repossessed, sold in conformity with Georgia law and that any deficiency is collected from either the Employer or Dr. Payne.

8. In summary, it is represented that the proposed Loans will satisfy the conditions of section 408(a) of the Act because: (a) The Loans will represent less than 25 percent of the total assets of the Plans; (b) the Loans will be secured by perfected first security interests in certain insured Collateral representing at all times at least 150 percent of the total amount borrowed; (c) Dr. Payne will personally guarantee the repayment obligations of the Employer in the event of a default; and (d) Commercial has

determined that the Loans are in the best interests of the Plans and will monitor the terms of the Loans and take all appropriate actions if necessary to enforce the rights of the Plans.

Notice to Interested Persons

Notice of the proposed exemption will be given to all present participants of the Plans and to former participants of the Plans with vested interests within fifteen (15) days after the publication of the notice of pendency in the **Federal Register**. The notice shall contain a copy of the notice of pendency as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing regarding the pending exemption. Notice will be provided to interested persons by personal delivery and by first class mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) Loans by each Plan of $40,000 to the Employer, provided the terms and conditions of the Loans are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated third party; and (2) the personal guarantee of repayment of the Loans by Dr. Payne.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17284 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 82-99]

Exemption From the Prohibitions for Certain Transactions Involving Plumbers & Steamfitters Local 60 Health and Welfare Trust Fund Located in New Orleans, Louisiana (Exemption Application No. D-2906)

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption will exempt the proposed sale of a parcel of real property (the Property) by Plumbers and Steamfitters Local 60 Health and Welfare Trust Fund (the Plan) to the Plumbers and Steamfitters Home Association, Inc. (the Corporation), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On April 9, 1982, notice was published in the **Federal Register** (47 FR 15442) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that a copy of the notice has been provided to interested persons in compliance with the provisions of the notice of proposed exemption. No public comments and no requests for a hearing were received by the Department.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 406(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the

exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act shall not apply to the proposed cash sale of the Property by the Plan to the Corporation for $535,000, provided that this amount is not less than the fair market value of the Property at the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17389 Filed 6-24-82; 8:45 am]

BILLING CODE 4510-29-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on May 28, 1982 (47 FR 23606). Individual authorities established or revoked under Schedules A, B, or C between May 1, 1982 and May 27, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

In the Department of Commerce, National Oceanic and Atmospheric Administration, positions requiring temporary employment of persons to perform duties which involve work associated with the inspection of fishery products. Appointment under this authority may be made for a period of 1 year (2,080 hours), with one extension not to exceed 2,080 hours. No person shall be employed under this authority in a supervisory position or in a position above grade GS–9, or equivalent. Positions filled under this authority may not exceed 20 percent of authorized fishery products inspection staff. Effective May 3, 1982.

In the Export-Import Bank of the United States, one Special Assistant to the Board of Directors (replacing previous exception which provided for a position of the same title performing overseas assignments). Effective May 13, 1982. The following exceptions are revoked:

In the National Endowment for the Humanities, one Director, Division of Fellowships; revoked effective May 3, 1982, because the position has been placed under Schedule B.

In the National Endowment for the Humanities, two Program Officers, Division of Fellowships; revoked May 3, 1982, because the positions have been placed under Schedule B.

In the National Endowment for the Humanities, one Program Officer, Media Program, Division of Public Programs; revoked effective May 3, 1982, because the position has been placed under Schedule B.

In the Federal Deposit Insurance Corporation, Liquidator-at-Large positions, filed under Schedule A authority 213.3133(a); revoked effective May 7, 1982, because competitive examination for these positions is now practicable.

In the Export-Import Bank of the United States, three Special Assistants to the Board of Directors performing overseas assignments; revoked effective May 13, 1982 because two of the positions no longer exist and the third has been replaced by a Special Assistant position not involving overseas assignments.

In the National Credit Union Administration, Liquidation Agents employed on a temporary or intermittent basis in the field; revoked effective May 7, 1982, because the authority is no longer needed.

In the Department of Justice, positions of temporary deputy marshals in lieu of bailiff in the U.S. Courts when employed on an intermittent basis; revoked effective May 11, 1982, because the authority is no longer needed.

Schedule B

The following exception is revoked:

In the Department of Justice, one Director, National Institute of Corrections; revoked effective May 11, 1982, because the authority is no longer needed.

Schedule C

The following exceptions are established:

In ACTION, one Assistant Director to the Director. Effective May 19, 1982.

In ACTION, one Staff Assistant to the Public Information Officer. Effective May 26, 1982.

In the Department of Agriculture, Office of the Secretary, one Confidential Assistant to the Executive Assistant Secretary. Effective May 7, 1982.

In the Department of Agriculture, one Confidential Assistant to the Assistant Secretary, Governmental and Public Affairs. Effective May 26, 1982.

In the Department of the Army, Office of the Secretary of the Army, one Associate Director to the Director of Presidential Personnel. Effective May 18, 1982.

In the Department of Commerce, one Confidential Assistant to the to the

Deputy Assistant Secretary for East Asia and the Pacific. Effective May 6, 1982.

In the Department of Commerce, one Confidential Assistant to the Director General to the Foreign Commercial Service. Effective May 7, 1982.

In the Department of Commerce, Office of the Secretary, one Confidential Assistant to the Deputy Secretary. Effective May 7, 1982.

In the Department of Commerce, one Confidential Assistant to the Assistant Secretary for Trade Development. Effective May 24, 1982.

In the Department of Commerce, one Confidential Assistant to the Assistant Secretary for Tourism Marketing. Effective May 25, 1982.

In the Department of Transportation, Urban Mass Transportation Administration, one Director of Executive Secretariat to the Administrator. Effective May 21, 1982.

In the Department of Education, one Special Assistant to the Deputy Director of the National Institute of Education. Effective May 21, 1982.

In the Environmental Protection Agency, one Special Assistant to the Associate Administrator for Policy and Resource Management. Effective May 7, 1982.

In the Environmental Protection Agency, one Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response. Effective May 24, 1982.

In the Department of Housing and Urban Development, one Executive Assistant to the Assistant Secretary for Housing. Effective May 19, 1982.

In the Department of the Interior, Office of the Secretary, one Special Assistant to the Assistant Director for State Liaison, Office of Water Policy. Effective May 7, 1982.

In the Department of the Interior, Office of the Secretary, one Special Assistant to the Assistant to the Secretary. Effective May 20, 1982.

In the Department of the Interior, Office of the Secretary, one Special Assistant to the Assistant Secretary for Indian Affairs. Effective May 20, 1982.

In the Department of Justice, Civil Rights Divsion, one Special Assistant to the Assistant Attorney General. Effective May 5, 1982.

In the Department of Justice, Offices, Boards and Divisions, one Secretary (Stenography) to the Attorney General. Effective May 19, 1982.

In the Department of Labor, Employment and Training Administration, One Confidential Staff Assistant to the Assistant Secretary. Effective May 20, 1982.

In the Department of Labor, Office of the Assistant Secretary for Mine Safety and Health, one Secretary (Stenography) to the Assistant Secretary. Effective May 24, 1982.

In the National Endowment for the Arts, one Associate Deputy Chairman for Programs to the Deputy Chairman. Effective May 7, 1982.

In the National Labor Relations Board, one Staff Assistant to the Executive Assistant to the Chairman. Effective May 27, 1982.

In the President's Commission on Executive Exchange, one Confidential Assistant to the Executive Director. Effective May 5, 1982.

In the Department of State, Bureau of Human Rights and Humanitarian Affairs, one Deputy Assistant Secretary. Effective May 28, 1982.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82-17194 Filed 6-24-82; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review

Forms under review by Office of Management and Budget. Agency Clearance Officer—George G. Kundahl—(202) 272–2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Service, Washington, D.C. 20549.

New

Rule 2a–7

No. 270–258

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance proposed Rule 2a–7 (17 CFR 270.2a–7) under the Investment Company Act of 1940 which would provide exemptions to certain registered open-end investment companies, commonly known as money market funds, to permit such companies either to value portfolio instruments by use of the amortized cost valuation method or to compute current price per share by rounding the net asset value per share to the nearest one cent on a share value of one dollar.

The potential respondents are all money market funds relying on the exemptive rule as a basis for use of either the amortized cost valuation method or the penny-rounding pricing method. The effect of the promulgation of this rule on these respondents is threefold: (1) It would obviate the need to file individual applications for exemptive relief to permit such valuation and pricing methods; (2) it would continue the recordkeeping currently required under the exemptive orders as to procedures adopted by the board of directors and the pricing of the fund shares; and (3) it would modify the reporting requirements to the Commission so that reports will be required only when certain actions are taken rather than quarterly.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395–4814.

Dated: June 21, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17193 Filed 6-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–18826; File No. SR–PHLX–82–5]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organizations

Relating to Access to Proposed Foreign Currency Options Market Comments requested on or before July 16, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1982, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange ("PHLX" or "the Exchange") is proposing to amend its rules and by-laws to specify the procedures and conditions under which members of the Exchange and non-members may be authorized to participate in PHLX's proposed foreign currency options market. The essential terms of PHLX's "Foreign Currency Options Participation Plan" are as follows:

1. Access to PHLX's proposed foreign currency options market will be available only to those who have purchased a "foreign currency options participation" ("FCO Participation"). In

addition, non-members must be admitted to the Exchange as "foreign currency options participants" by the Committee on Admissions by completing an application process similar to that utilized when Exchange membership is sought.

2. The number of FCO Participations authorized by the PHLX by-laws will be the greater of: (i) 200; or (ii) the total number of FCO Participations sold during the initial offering period, plus 10 percent of that number or 25, whichever is greater. The initial offering period began on January 25, 1982 and will extend through the last business day preceding the first day of foreign currency options trading on the Exchange.

3. During the remainder of the initial offering period, the holder of a PHLX equity-options membership will be allowed to purchase an FCO Participation for $5,000, the holder of an equity-only membership will be allowed to purchase such a Participation for $8,000 and a non-member will be allowed to purchase such a Participation for $10,000. During the first 60 days of the initial offering period, the cost of an FCO Participation for individuals in each of those three categories was one-half of the above amounts. During the first 180 days subsequent to the close of the initial offering period, the Exchange will be authorized to sell any authorized but unissued FCO Participations for not less than $15,000 each. Thereafter, the Exchange may sell such Participations at such time and prices as are consistent with the maintenance of a fair and orderly market.

4. Legal title to an FCO Participation must be held by an individual, just as legal title to a PHLX membership must be, but equitable title can be held by a corporation or partnership. Accordingly, procedures will be established pursuant to which a foreign currency option participant ("FCO Participant") will be able to confer foreign currency options trading privileges on an entity with which he or she is affiliated.

5. To help defray the costs of operating a foreign currency options market, PHLX's Board of Governors will be authorized to impose foreign currency options users' fees on each FCO Participant. However, the yearly dues paid by an FCO Participant who is also a member of the Exchange will be credited in their entirety against the users' fees assessed against that member during the same year.

6. The holder of an FCO Participation who meets all other applicable requirements will be entitled to enter into foreign currency options transactions on the Exchange as a floor broker, retail member, specialist or registered options trader (however, approval of the Allocation, Evaluation and Securities Committee will be required before the holder of an FCO Participation will be able to function in either of the latter two capacities). FCO Participants and the organizations upon which they confer foreign currency options trading privileges will be subject to all the provisions of the PHLX rules that are applicable to PHLX members and PHLX member organizations and to many provisions of PHLX's by-laws. Acquisition of foreign currency options participant status will not entitle an individual to trade securities other than options on foreign currencies, give that individual any equity interest in the property and assets of the Exchange or entitle him or her to vote at Exchange meetings or elections.

7. During the first 180 days following the commencement of foreign currency options trading on the Exchange, FCO Participations will not be transferable, except among persons associated with the same "foreign currency options participant organization." Thereafter, the holder of such a Participation will be allowed to transfer it, in accordance with the rules and by-laws of the Exchange. The privileges afforded by acquisition of FCO Participant status will normally continue indefinitely, but may be revoked under certain specified circumstances by the Exchange.

Item II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule and by-law changes are designed to facilitate the development of PHLX's proposed foreign currency options market by establishing the procedures, terms and conditions under which members of the Exchange and non-members may obtain access to this proposed market. PHLX believes that allowing non-members to participate will enhance the depth, liquidity and economic utility of this proposed market and facilitate arbitrage activity.

As an initial matter, definitions of the terms "foreign currency options participant," "foreign currency options participant firm," "foreign currency options participant corporation," "foreign currency options participant organization" and "foreign currency options participation" would be added to PHLX's by-laws and rules. These definitions would make clear that *all* of PHLX's rules and specified portions of PHLX's by-laws would be applicable to FCO Participants and their participant firms or corporations, unless otherwise provided therein or exempted therefrom by PHLX's Board of Governors. These proposed definitions would give PHLX the authority to bring all of its existing self-regulatory mechanisms and procedures to bear so far as the options activities of FCO Participants are concerned and would require those participants to comply with the same customer protection rules and business conduct standards as PHLX members.

The proposed changes also would add a new article to PHLX's by-laws, specifying the number of foreign currency options participations that may be issued by the Board of Governors, establishing the price and terms upon which such participations may be sold by the Exchange during the initial offering period and providing that such a participation is not transferable during the 180-day period subsequent to the initial offering period. This new article also would make clear that the Board has the authority to impose foreign currency options users' fees on FCO Participants and would detail the particular privileges and obligations attendant to foreign currency options participant status.

Other proposed by-law changes would specify the procedures and conditions applicable to the admission of a non-member as an FCO Participant and would make it possible for such a participant to register a corporation as a foreign currency options participant corporation. In addition, various technical rule changes would be made to insure that certain by-laws that are applicable to PHLX members also would be applicable to FCO Participants.

The proposed rule and by-law changes are consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act") because they would broaden access to PHLX's proposed foreign currency options market and would subject foreign currency options participants to rules and by-laws that are designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade and to protect investors and the public interest. The proposed procedures also provide a fair procedure for admitting non-members to the Exchange as foreign currency options participants and for an equitable allocation of fees and charges.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* PHLX believes that the proposed rule and by-law changes will not impose any burden on competition. Indeed, PHLX believes that its proposal to allow non-members of the Exchange to obtain access to its proposed foreign currency

options market will enhance competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received from Members, Participants, and Others.* Formal comments on the proposed rule and by-law changes have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice on July 30, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 16, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 21, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17282 Filed 6-24-82; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—George G. Kundahl—202-272-2700

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549

New.

Rule 17f-5.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance proposed rule 17f-5 (17 CFR 270.17f-5) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) which would permit registered domestic management investment companies to place and maintain the companies' foreign securities in the custody of foreign banks and foreign securities depositories under certain conditions. Adoption of this rule would obviate the necessity of such companies' filing applications for exemptive orders permitting such foreign custodial arrangements. The rule was proposed for public comment in Investment Company Act Release No. 12354 (April 5, 1982) [47 FR 16341].

The potential respondents are approximately 1775 registered domestic management investment companies.

Submit comment to OMB Desk Officer: Robert Veeder 202-395-4814.

George A. Fitzsimmons,

Secretary.

June 21, 1982.

[FR Doc. 82-17284 Filed 6-24-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18825; Amendments No. 1 and No. 2; File No. SR-PHLX-81-4]

Philadelphia Stock Exchange, Inc.; Proposed Rule Change

In the matter of a proposal to establish an exchange market in standardized options on foreign currencies. Comments requested on or before July 26, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that On March 2 and May 26, 1982, the Philadelphia Stock Exchange filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

Item I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") has proposed to amend File No. SR-PHLX-1981-4, which pertains to the establishment of an exchange market in standardized options on foreign currencies. The terms of substance of the proposed amendments are summarized below.

Rule 1000—Expiration Date. The expiration date for options on foreign currency would be 11:59 p.m. on the Saturday preceding the third Wednesday of the expiration month.

Rule 1001—Position Limits. Rule 1001 would be amended to place a limit of 10,000 on the aggregate number of option contracts on the same side of the market relating to the same foreign currency that a single person, acting alone or in concert with others, could acquire.

Rule 1002—Exercise Limits. Rule 1002 would be amended to impose a 10,000 contract limit on the number of foreign currency options covering the same option class that could be exercised by a single person, acting alone or in concert with others, during any five-day period.

Rule 1003—Reporting of Options Positions. This Rule would be amended to require PHLX members to file reports with respect to each account which has an aggregate position of 1,000 foreign currency option contracts or more on the same side of the market relating to the same foreign currency.

Rule 1014—Obligations and Restrictions Applicable to Specialists and Registered Options Traders. PHLX is proposing to increase somewhat the maximum bid-ask spreads that may be quoted for foreign currency options by Specialists and Registered Options Traders ("ROTS").

Rule 1022—Securities Accounts and Orders of Specialists and Registered Options Traders. This Rule would be altered to require Specialists and ROTS in options on foreign currencies to identify to the Exchange all accounts they own or control in which foreign currencies, foreign currency futures contracts or foreign currency options are traded. This Rule also would be altered to require such Specialists and ROTs to make available to the Exchange, upon request, all books and records pertaining to foreign currency-related transactions effected for their own accounts or the accounts of corporations or partnerships with which they are associated.

Rule 1024—Conduct of Accounts for Options Trading. Paragraph (a) of this Rule would be amended to provide that

no registered representative of a member organization may solicit or accept customer orders for foreign currency options unless that representative has passed an examination testing his knowledge of foreign currency options. In addition, paragraph (b) of this Rule would be amended to provide that a customer's account must be specially approved for foreign currency options transactions before a PHLX member can accept a foreign currency options order from that customer. The Commentary to this Rule would be amended to enumerate the information that must be obtained prior to the time an institutional customer is approved for foreign currency options trading.

Rule 1025—Supervision of Accounts. Rule 1025 would be amended to provide that every member organization handling public orders for foreign currency options must designate one or more Foreign Currency Options Principals who will be responsible for supervising customer accounts and communications to customers insofar as such accounts and communications relate to foreign currency options. In addition to passing a registered options principal examination or other equivalent examination, each designated Foreign Currency Options Principal would be required to pass an examination demonstrating adequate knowledge of foreign currency options.

Rule 1027—Discretionary Accounts. This Rule would be amended to provide that discretionary foreign currency options transactions could not be effected in a customer's account unless the customer has authorized such transactions and the account has been accepted by a designated Foreign Currency Options Principal. This Rule would be further amended to provide that a designated Foreign Currency Options Principal must approve each discretionary foreign currency options order.

Rule 1029—Delivery of Current Prospectus. This Rule would be amended to make clear that the prospectus describing foreign currency options may be self-contained or may be a supplement to the Options Clearing Corporation prospectus on stock options.

Rule 1033—Bids and Offers-Premium. This Rule would be amended to specify that the first two decimal places will be omitted from all bid and offer quotations for the British pound, the German mark, the Swiss franc and the Canadian dollar and that the first four decimal places will be omitted from all bid and offer quotations for the Japanese yen. Examples explaining this provision also would be added.

Rule 1049—Communications to Customers. Like Rule 1033, this Rule would be amended to make clear that the prospectus describing foreign currency options may be self-contained or may be a supplement to the Options Clearing Corporation prospectus on stock options.

Rule 701—Permission to Deal with Public. This Rule would be amended to specify that a PHLX member may carry on a public business in foreign currency options only after it has been approved to do so by the Exchange and to specify that such approval is contingent upon compliance with the provisions of Rules 1024 and 1025.

Rule 722—Margin Accounts. The proposed amendments to this Rule are designed to revise PHLX's minimum customer margin proposal for uncovered foreign currency option positions. Pursuant to this revision, PHLX is proposing that each writer of such an option be required to post margin equal to: (1) 130% of the current market value of the option; plus (2) $750, reduced by any out-of-the-money amount (but not below $250). However, such a writer would not be required to post margin in excess of the current market value of the option plus $2,500. In addition, PHLX is deleting its proposal that certain foreign currency option spread positions be fully margined during the last two business days prior to expiration.

Item II. (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed amendment regarding the expiration date is designed to insure that the exercise settlement dates for expiring foreign currency options will always correspond with the delivery dates for the foreign currency futures contracts traded on the International Monetary Market ("IMM") in Chicago. Those delivery dates generally fall on the third Wednesday of the delivery month. This type of correspondence is desirable because it will facilitate the pricing of foreign currency options and will eliminate the need for early liquidation of certain foreign currency option positions. This amendment does not represent a material change in File No. SR–PHLX–81–4. Rather, it is intended to address the fact that, under the language proposed in that filing, there might be instances in which the desired correspondence is not achieved.

The proposed amendment to PHLX's position limits rule, Rule 1001, is designed to place a ceiling on the size of the foreign currency options position that could be acquired by a single trader (whether acting alone or in concert with others). PHLX's proposed position limits for foreign currency options would be higher than those applicable in the stock options context because PHLX believes that several of the factors pertinent to the establishment of stock option position limits are not applicable in the case of foreign currency options. PHLX believes, for example, that foreign currency options transactions are unlikely to have any affect on the prices of the underlying foreign currencies, and, concomitantly, are unlikely to be entered into for the purpose of manipulating the foreign exchange markets. PHLX's proposed foreign currency options position limits also differ from those imposed in the stock options context because PHLX believes it is necessary to give large corporate and institutional customers a meaningful opportunity to hedge their foreign exchange rate risk via foreign currency options.

Because exercise limits and reporting requirements work in tandem with position limits, PHLX is proposing to gear the operation of those requirements, so far as foreign currency options are concerned, to its foreign currency options position limits proposal. Specifically, PHLX is proposing to set exercise limits for foreign currency options at the same level as its foreign currency options position limits; and, it is proposing that the reporting requirements contained in Rule 1003 be triggered when a foreign currency options position equal to ten percent of the maximum allowable position is reached.

The changes proposed in the maximum foreign currency options bid-ask differentials that may be quoted by specialists and ROT's are designed to make those differentials more comparable to those utilized for stock options. The foreign currency options bid-ask differentials originally proposed by PHLX are substantially narrower than those employed in the stock options markets; and, although PHLX believes that the bid-ask spreads quoted by its Specialists and ROTs will generally fall within the narrow ranges originally proposed, it is concerned that confining those traders to those narrow ranges might unduly restrict their flexibility.

The changes proposed in Rule 1022, which relates to the securities accounts and orders of Specialists and ROTs, are designed to assure that the Exchange has access to sufficient information regarding the foreign currency-related transactions of Specialists and ROTs to

enable it to fulfill its surveillance, examination and investigation responsibilities.

The changes proposed in Rules 1024, 1025, 1027 and 701 are designed to assure that a member organization's supervisory structures and procedures relating to foreign currency option transactions are adequate to protect its public customers. Those proposed changes would, for example, insure that sales personnel would be appropriately qualified to transact business involving foreign currency options. Similarly, those changes would insure that customers granting discretionary trading authority with respect to foreign currency options would be adequately protected. The proposed addition to the Commentary of Rule 1024 specifying the information that must be obtained from institutional customers seeking to trade options on foreign currencies is designed to reflect PHLX's belief that such customers will comprise a sizable percentage of its foreign currency options market.

The proposed alteration of Rule 1033 makes no substantive change in PHLX's original foreign currency options filing. That alteration is instead designed only to make bid and offer quotations for options on foreign currencies more similar to bid and offer quotations for stock options.

The proposed changes in PHLX's margin rule, Rule 722, and designated to make PHLX's minimum margin requirements for uncovered foreign currency options easier for customers to understand and for brokers to computerize, while still maintaining adequate protection against adverse price movements. PHLX's deletion of its proposed requirement that certain foreign currency option spread positions be fully margined during the last two business days prior to expiration is designed to reflect PHLX's belief that it is unnecessary to "codify" this precautionary measure.

The proposed rule changes are adopted pursuant to section 6(b)(5) of the Securities Exchange Act of 1934, as amended, in that the changes proposed are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest in connection with transactions in foreign currency options. These goals will be achieved by the imposition of position and exercise limits, by the requirement that accounts be specially approved for foreign currency options transactions, by the requirement that registered representatives handling foreign currency options transactions must pass a special foreign currency options examination and by the creation of a special supervisory structure for discretionary and nondiscretionary foreign currency options accounts.

In light of the numerous customers protection provisions contained in these proposed rule changes, PHLX does not anticipate that these proposed changes will have any adverse affect on investors. Moreover, because many of the rule changes proposed herein are designed to make foreign currency options trading more similar to stock options trading or are patterned after practices that will be applicable to options on other non-equity instruments (e.g., options on GNMAs), PHLX believes that brokers and dealers will not have any difficulty complying with these proposed changes. For similar reasons, PHLX does not anticipate that these proposed rule changes will have any adverse affect on brokers or dealers.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PHLX does not believe that the proposed rule changes will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Formal comments on the proposed rule changes have not been solicited or received.

Item III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of the notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Item IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 26, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 21, 1982

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17286 Filed 6-24-82; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest.

Therefore, notice is hereby given that, pursuant to section 105(b) (2) of the Renegotiation Act of 1951, as amended, (50 U.S.C. App. 1215(b)(2)) the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such Act, to the period beginning July 1, 1982 and ending on December 31, 1982, is 15⅛ per centum per annum.

Dated: June 21, 1982.

Paul Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-17247 Filed 6-24-82; 8:45 am]
BILLING CODE 4810-35-M

Public Information Collection Requirements Submitted to OMB for Review

During the period June 11 through June 17, 1982, the Department of Treasury

submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Division, Room 309, 1625 I St. N.W., Washington, D.C. 20220; and to the OMB reviewer listed at the end of each entry.

- *Date Submitted:* June 11, 1982
- *Submitting Bureau:* Alcohol, Tobacco & Firearms
- *OMB Number:* 1512-0192
- *Form Number:* ATF F 5110.11
- *Type of Submission:* Extension
- *Title:* Monthly Report of Storage Operations
- *Purpose:* Form used to determine whether a distilled spirits plant has complied with law and regulations regarding operations. Form identifies the distilled spirits plant, the amount of spirits received and disposed from the storage account and other information for statistical purposes. Used by ATF to audit a distilled spirits plant with storage operations.
- *OMB Reviewer:* Suzanne Evinger, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 11, 1982
- *Submitting Bureau:* Alcohol, Tobacco & Firearms
- *OMB Number:* 1512-0198
- *Form Number:* ATF F 5110.28
- *Type of Submission:* Extension
- *Title:* Monthly Report of Processing (Bottling) Operations
- *Purpose:* Form used to determine whether a distilled spirits plant has complied with law and regulations. Identifies distilled spirits plant, amount of spirits received and disposed of from the processing account and other information for statistics. Used by ATF to audit a distilled spirits plant conducting processing operations.
- *OMB Reviewer:* Suzanne Evinger (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 11, 1982
- *Submitting Bureau:* Internal Revenue Service
- *OMB Number:* N/A (new submission)
- *Form Number:* ATF 6423
- *Type of Submission:* New
- *Title:* ES & D Qualifications Questionnaire
- *Purpose:* This form is used by the Executive Resources Board (ERB) and Regional Screening Committees in screening applicants from outside the IRS who have applied for the Executive Selection and Development (ES & D) Program.
- *OMB Reviewer:* Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 11, 1982
- *Submitting Bureau:* Internal Revenue Service
- *OMB Number:* N/A (new submission)
- *Form Number:* 5459
- *Type of Submission:* New
- *Title:* Management and Executive Career Questionnaire
- *Purpose:* This for is used by the Executive Resources Board (ERB) and Regional Screening Committees in screening applicants who have applied for ERB covering positions or for the Service's Executive Selection and Development Program.
- *OMB Reviewer:* Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 14, 1982
- *Submitting Bureau:* Comptroller of the Currency
- *OMB Number:* 1557-0137
- *Form Number:* CC-7020-42
- *Type of Submission:* Extension
- *Title:* Application to Organize an Interim National Bank
- *Purpose:* Used to present data in support of request for interim bank..
- *OMB Reviewer:* Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 14, 1982
- *Submitting Bureau:* Comptroller of the Currency
- *OMB Number:* 1557-0014
- *Form Number:* CC-7020-02, CC-7020-04, CC-7720-20 & CC-7029-04
- *Type of Submission:* Extension
- *Title:* Application to Organize a National Bank
- *Purpose:* Contains data needed to evaluate an application to organize a national bank.
- *OMB Reviewer:* Michael Abrahams, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.
- *Date Submitted:* June 11, 1982
- *Submitting Bureau:* Office of the Secretary
- *OMB Number:* 1505-0025
- *Form Number:* RS-9B, RS-9C, RS-9D
- *Type of Submission:* Extension
- *Title:* Survey of Federal General Revenue Sharing
- *Purpose:* Forms are used to gather tax and intergovernmental transfer data, actual use of federal general revenue sharing funds and government finance information. Data are employed to determine revenue sharing allocations, to analyze revenue sharing expenditures for conformance with program requirements, and for use in statistical series in state and local government.
- *OMB Reviewer:* Arnold Strasser, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,
Departmental Reports Management Officer.
June 22, 1982.

[FR Doc. 82-17288 Filed 6-24-82; 8:45 am]
BILLING CODE 4810-25-M

Office of the Secretary

[T.D. 82-118; No. 165-24]

Regional Reorganization of the Customs Service

Date: June 18, 1982.

Pursuant to Reorganization Plan No. 1 of 1965 (30 FR 7035), Reorganization Plan No. 26 of 1950 (3 CFR, Ch. III), section 1 of the Act of August 1, 1914, as amended, 38 Stat. 623 (19 U.S.C. 2), and Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. II), Treasury Department Order 165-17, as amended, is hereby amended by reorganizing the regional management structure of the U.S. Customs Service from nine to seven regions, as follows:

1. Region III, headquartered in Baltimore, Maryland is merged with Region I, headquartered in Boston, Massachusetts. The new Region I, designated as the *Northeast Region*, will be headquartered in Boston.

2. Region VIII, headquartered in San Francisco, California is merged with Region VII, headquartered in Los Angeles, California. The new Region VI, designated as the *Pacific Region* will be headquartered in Los Angeles.

3. Region II, headquartered in New York, New York remains Region II and is designated the *New York Region.*

4. Region IV, headquartered in Miami, Florida is redesignated as Region III, the *Southeast Region.*

5. Region V, headquartered in New Orleans, Louisiana is redesignated as Region IV, the *South Central Region.*

6. Region VI, headquartered in Houston, Texas is redesignated as Region V, the *Southwest Region.*

7. Region IX, headquartered in Chicago, Illinois is redesignated as Region VII, the *North Central Region.*

It is further ordered that the regional headquarters offices presently located in Baltimore, Maryland and San Francisco, California, be abolished.

This Order is effective on September 30, 1982.

Donald T. Regan,

Secretary of the Treasury.

[FR Doc. 82-17333 Filed 6-24-82; 8:45 am]

BILLING CODE 4810-01-M

VETERANS ADMINISTRATION

Medical Care Reimbursement Rates for Fiscal Year 1983

In accordance with provisions of OMB Circular A-11, Section 13.5(a), revised reimbursement rates have been established by the Veterans Administration for inpatient and outpatient medical care furnished to beneficiaries of other Federal Agencies during Fiscal Year 1983. These rates will be charged for such medical care provided at health care facilities under the direct jurisdiction of the Administrator on and after October 1, 1982:

Hospital care per inpatient day:	
General medical and surgical	$260
Psychiatric	159
Nursing home care	98
Outpatient visit	54
Hemodialysis:	
Hospital component	176
Physician component	43
Prescription refills, per prescription	5.75

The hospital component for hemodialysis will be charged in addition to the inpatient per diem rate except when billing Medicare for maintenance dialysis, in which case the hospital component will be charged in addition to the outpatient visit rate.

Prescription refill charges in lieu of the outpatient visit rate will be charged when the patient receives no service other than the Pharmacy outpatient service. These charges apply if the patient receives the prescription refills in person or by mail.

When medical services for beneficiaries of other Federal Agencies are obtained by the Veterans Administration from private sources, the charges to the other Federal Agencies will be the actual amounts paid by the Veterans Administration for such medical services.

Dated: June 18, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-17223 Filed 6-24-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 123
Friday, June 25, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Home Loan Mortgage Corporation	1
Securities and Exchange Commission	2

1

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: 2 p.m., June 30, 1982.

PLACE: Fourth floor, Conference Room 4–G, 1776 G Street, NW., Washington, D.C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Scott R. Daugherty.

MATTERS TO BE CONSIDERED:

Minutes of April 26, 1982 Board of Directors' Meeting
President's Report
Quarterly Dividend
Appointment to Investment Committee of FHLMC Pension Plan
Complete March Financial Statements
Complete April Financial Statements
Partial May Financial Statements
Minute Entry
Minutes of April 26, 1982 Financing Strategy Meeting
Financial Strategy June 1982
Minute Entry
Hedging Contract Limit Resolution
Short-term Debt Resolution
Ongoing authorization to management for short-term debt and hedging transactions

June 23, 1982.

[S-639-82 Filed 6-23-82; 2:17 pm]

BILLING CODE 6720-02-M

2

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the Week of June 28, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, June 30, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, June 30, 1982, at 10:00 a.m., will be:

Formal orders of investigation.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Institution of injunctive action.
Litigation matter.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bob Zutz at (202) 272–2091.

June 22, 1982.

[S-638-82 Filed 6-23-82; 2:16 pm]

BILLING CODE 8010-01-M

federal register

Friday
June 25, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

New Jersey:	
NJ81–3053	Oct. 9, 1981.
NJ81–3063	Dec. 28, 1981.
New Mexico: NM80–4101	Dec. 19, 1980.
Oklahoma:	
OK81–4051	July 10, 1981.
OK81–4054	July 10, 1981.
OK81–4066	Aug. 21, 1981.
OK81–4069	Sept. 4, 1981.
OK81–4067	Aug. 21, 1981.
OK81–4070	Sept. 4, 1981.
OK81–4071	Sept. 4, 1981.
OK81–4072	Sept. 4, 1981.
Hawaii: HI82–5105	Mar. 12, 1982.
Utah: UT81–5156	Oct. 2, 1981.
Washington: WA81–5163	Dec. 4, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL81–1165(FL82–1032)	Feb. 13, 1981.
Oklahoma: OK81–4056(OK82–4035)	July 17, 1981.
Georgia: GA81–1222(GA82–2041)	May 1, 1981.
Florida: GA81–1222(GA82–2041)	May 1, 1981.
North Caroline: GA81–1222(GA82–2041)	May 1, 1981.
South Caroline: GA81–1222(GA82–2041)	May 1, 1981.
Virginia: GA81–1222(GA82–2041)	May 1, 1981.
Washington, D.C: GA81–1222(GA82–2041).	May 1, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coincide with the provisions of All Agency Memorandum No. 132 dated January 29, 1980 which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure is being phased in gradually.

Signed at Washington, D.C. this 18th day of June 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

MODIFICATION PAGE 1

DECISION NO. NJ81-3053 - MOD. #13 (46 FR 50243 - October 9, 1981)	Basic Hourly Rates	Fringe Benefits
~~BERGEN, ESSEX, HUDSON,~~ HUNTERDON, MIDDLESEX, MORRIS, PASSAIC, SOMERSET, SUSSEX, UNION AND WARREN COUNTIES, NEW JERSEY		
CHANGE:		
BRICKLAYERS, STONE MASON CEMENT MASONS & PLASTERERS:		
ZONE 8	15.19	2.51
ZONE 9	15.08	2.69
CARPENTERS, INSULATORS & MILLWRIGHTS:		
ZONE 3		
Carpenters, Insulators	15.38	15-5/10%
Millwrights	15.88	"
ZONE 4		
Carpenters, Insulators	15.38	"
Millwrights	15.88	"
ELECTRICIANS & CABLE SPLICERS:		
ZONE 12	16.00	10%+ 1.02
LABORERS, BUILDING CONSTRUCTION:		
ZONE 1	11.00	2.10
ZONE 2	10.55	2.55
ZONE 3		
Laborers	11.05	2.20
Mortor mixers, scaffold men, pneumatic hammer ops., bell men & carpentor tenders	11.30	2.20
ZONE 4	11.50	1.60
ZONE 5	11.00	2.10
ZONE 6	10.50	2.60
ZONE 7	10.55	2.60
ZONE 8		
Laborers	10.75	2.35
Vibrator handler, power hammer handler, tamper & fork lift op.	11.00	2.35
ZONE 9		
Laborers	11.30	1.80
Vibrator handler, power hammer, tamper handler & fork lift op.	11.55	1.80
ZONE 10	11.25	1.80
ZONE 11	11.55	1.55
ZONE 12	10.80	2.30
ZONE 13	11.00	2.10
ZONE 14	10.65	2.30
ZONE 15	10.70	2.40
ZONE 16	11.00	2.10
ZONE 17	11.35	1.55
LABORERS, HEAVY & HIGHWAY CONSTRUCTION:		
GROUP 1	12.70	2.35
LABORERS, ASPHALT CONSTRUCTION:		
ZONE 1		
Street:		
Head Raker	10.55	2.35
Rakers & Screen Men	10.40	2.35
Tamper, smoothers, Kettlemen, Painters, Top Shovelers & Roller Boys	10.15	2.35
Plant:		
Scale Mixer & Burner Men	10.40	2.35
Feeders & Dust Men	10.15	2.35
PAINTERS:		
ZONE 2		
Special Rate	14.00	3.32
Regular Rate	13.00	3.32
Premium, Spray & Paperhanging	15.25	3.32
PLUMBERS:		
ZONE 1	17.38	4.05
ZONE 2	16.435	4.95
SHEET METAL WORKERS:		
Middlesex County	15.56	44%+.09
Warren County	15.01	3%+2.58
OMIT:		
Under Power Equipment Operators (excluding steel erection tank erection & Oilostatic Materials & Transportation Pipe Layes):		
CLASS E		
Transit/Instrutmental Man		
Under PEO Steel Erection:		

MODIFICATION PAGE 2

DECISION NO. NJ81-3053 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
CLASS D		
Chief of Party		
ADD:		
LABORERS, BUILDING CONSTRUCTION:		
ZONE 18	11.25	1.85
LABORERS BUILDING CONSTRUCTION ZONES:		
ZONE 18		
MIDDLESEX (S. River, Say Reville, S. Amboy, Madison, E. Brunswick, Spotwood, Jamesburg, Helmetta, Cranbury & Monroe) County		

DECISION NO. NJ81-3063 - MOD. #8 (46 FR 62746 - Dec. 28, 1981)	Basic Hourly Rates	Fringe Benefits
ATLANTIC, BURLINGTON, CAMDEN, CAPE MAY, CUMBERLAND, ~~GLOUCESTER, MERCER,~~ MONMOUTH, OCEAN AND SALEM COUNTIES, NEW JERSEY		
CHANGE:		
CARPENTERS, INSULATORS AND MILLWRIGHTS:		
ZONE 5		
Carpenters & Insulators	15.38	15-5/10
Millwrights	15.63	"
ELECTRICIANS & CABLE SPLICERS:		
ZONE 4	16.16	10%+ 1.14
LABORERS, BUILDING CONSTRUCTION:		
ZONE 1		
Laborers, Masons' & Plasterers' Tenders, and Concrete Workers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 2		
Construction laborers	11.00	1.85
Brick tenders, mortar tenders, scaffold builders (brick), hod carriers (brick), & power tool operators	11.10	1.85
Motorized buggy operators burners, nozzlemen (gunnite work)	11.225	1.85
Jackhammer operators, barko tamper operators & concrete vibrator operators (over 27 lbs)	11.35	1.85
Plasterers' & lathers' tenders	11.50	1.85
ZONE 3		
Laborers	11.00	2.10
Hod carriers, mason tenders, operators of jackhammers, tampers and electric hammers	11.25	2.10

MODIFICATION PAGE 3

DECISION NO. NJ81-3063 - MOD. #8 (CONT'D)	Basic Hourly Rates	Fringe Benefits
ZONE 4		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 5		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 6		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 7		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 8		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 9		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 10		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 11		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 12		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 13		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 14		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 15		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 16		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 17		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 18		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95

MODIFICATION PAGE 4

DECISION NO. NJ81-3063 - MOD. #8 (CONT'D)	Basic Hourly Rates	Fringe Benefits
ZONE 19		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 20		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 21		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 22		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 23		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 24		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 25		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 26		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 27		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 28		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 29		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 30		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 31		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 32		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 33		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 34		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 35		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 36		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 37		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 38		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 39		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 40		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 41		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 42		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 43		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 44		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 45		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 46		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 47		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 48		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 49		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 50		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 51		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 52		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 53		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 54		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 55		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 56		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 57		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 58		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 59		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 60		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 61		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 62		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 63		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 64		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 65		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 66		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 67		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 68		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 69		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 70		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 71		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 72		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 73		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 74		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 75		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 76		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 77		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 78		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 79		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 80		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 81		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 82		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 83		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 84		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 85		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 86		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 87		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 88		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 89		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 90		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 91		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 92		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 93		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 94		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 95		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 96		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 97		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 98		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 99		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 100		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 101		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 102		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 103		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 104		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 105		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 106		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 107		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 108		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 109		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 110		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 111		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 112		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 113		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 114		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 115		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 116		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 117		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 118		
Laborers	10.95	1.95
Tool operators (except small hand tools) including operation of motorized buggies	11.05	1.95
Gunnite men and gun nozzle operators for gunnite and asbestos sandblasting	11.30	1.95
ZONE 119		
Laborers	10.95	1.95
Tool operators (except small hand

MODIFICATION PAGE 3

DECISION NO.NJ81-3063- (Cont'd)	Basic Hourly Rates	Fringe Benefits
ZONE 4	12.15	.95
ZONE 5		
Laborers	9.90	2.70
Jackhammers	10.15	2.70
ZONE 6		
Laborers	10.40	2.20
Hod carriers and plasterers tenders	10.50	2.20
LABORERS, HEAVY AND HIGHWAY CONSTRUCTION:		
ZONE 1		
GROUP 1	11.00	2.60
GROUP 2	11.20	2.60
GROUP 3	11.50	2.60
GROUP 4	11.70	2.60
GROUP 5	11.95	2.60
GROUP 6	12.50	2.60
ZONE 2		
GROUP 1	11.20	2.60
GROUP 2	11.40	2.60
GROUP 3	11.70	2.60
GROUP 4	11.90	2.60
GROUP 5	12.15	2.60
GROUP 6	12.70	2.60
FREE AIR TUNNEL JOBS:		
GROUP 1	12.65	2.60
GROUP 2	12.25	2.60
GROUP 3	12.05	2.60
GROUP 4	11.60	2.60
LABORERS, ASPHALT CONSTRUCTION:		
STREET:		
Head Rakers	11.65	2.60+d
Rakers & Screed Men Tampers, Smoothers, Kettlemen, Painters, Shovelers & roller Boys	10.50	"
	11.25	"
PLANT:		
Scale Mixer & Burner Men	11.50	"
Feeders & Dust Men	11.25	"
LINE CONSTRUCTION (EXCLUDING RAILROAD CONSTRUCTION):		
ZONE 4		
Linemen	16.16	103/4%+ 1.10
Line Diggers Truck Drivers	11.69	"
Groundman	12.84	"

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
ZONE 1		
New Construction & Major Alterations	13.30	2.38
ZONE 4		
Brush and roller, painting, paperhanging, vinyl and wall coverings and allied work including any cloase building (regardless of the amount of stories in height) that is within 10 feet from floor to ceiling	15.00	2.95
Work on all structural steel and iron, steeples, stacks, tanks, flagpoles, all swing work and window jack work above two stories; spray painting, sandblasting, and line striping by machinery, all power tools and application of extraordinary materials, creosote, epoxy, acid, pitchomastic, urethanes and equally difficult or unhealthful materials. Not included in this classification are seamless flooring and water soluble materials	16.00	2.95
PLUMBERS & PIPEFITTERS:		
ZONE 2	16.72	3.35
SHEET METAL WORKERS:		
ZONE 2	15.56	32%+.21
ZONE 4	18.28	2.94

MODIFICATION PAGE 4

DECISION NO. NJ81-3063 - (CONT'D)

ADD:

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Monmouth & Ocean Counties

ZONE 2 - Burlington (that portion north of a line following the west and south limits of Burlington Borough from the Delaware River in a southeasterly direction to the Burlington - Mt. Holly Road, south-southeast along this road to and including the town of Mt. Holly, east along the Pennsylvania Railroad to and including New Lisbon and continuing along the Pennsylvania Railroad to the Ocean County Line) & Mercer Counties

ZONE 3 - Burlington (Edgewater Park, Delanco, Delran, Cinnaminson, Moorestown, Mount Laurel, Willingsboro, Hainesport, Lumberton, Medford, Evesham Twps. in the county and that portion of Shamong, Tabernacle, Woodland Twps north of the Central Railroad of New Jersey Line and that portion of Burlington, Westhampton, Easthampton, South Hampton and Pemberton Twps. in the county south of a line starting at the Delaware River and following the southern boundary of Burlington Borough to the Burlington, Mount Holly Road, along this road to Mount Holly around but excluding Mount Holly to the Pennsylvania Railroad along the Pennsylvania Line ghtough, but excluding Pemberton, through but excluding New Lisbon to the Ocean County Line), Camden, Gloucester (Washington, Deptford, West Deptford, Greenwich, East Greenwich, Manuta, Harrison, South Harrison, Woolwich and Logan Twps. and Pitman Borough) and Salem (from Lower Penns Neck, Upper Penns Neck, Oldmans Twps. and that portion of Mannington and Pilesgrove Twps. North of a line following State Hwy. #45 northeast from Fenswick Creek to the Borough of Woodstown, around and including Woodstown to U.S. Hwy #40 and east on #40 to Upper Pittsgrove Twps. line) Counties

ZONE 4 - Atlantic (that portion south and west of a line following the White Horse Pike (U. S. Hwy. #30) in a southeasterly direction from Camden County to the Mays Landing-DaCosta Road, continuing south along that road to the Great Egg Harbour River near Weymouth along that river to the Harding Hwy. to the Mays Landing - Tuckahoe Road, south on that road to the north limits of Corbin City to the Tuckahoe River), Cumberland, Gloucester (remainder of county) and Salem (remainder of county) Counties

ZONE 5 - Atlantic (remainder of county), Burlington (remainder of county) and Cap May Counties

MODIFICATION PAGE 5

DECISION NO. NM80-4101
MOD. #4
(45 FR 83811 - Dec. 19, 1980)
STATEWIDE, NEW MEXICO

CHANGE LINE CONSTRUCTION WAGE RATES, AREA AND ZONE DEFINITIONS TO READ AS FOLLOWS:

COMMERCIAL LINE WORK

AREA A - Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandova, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I

Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles	Ruidoso - 12 miles
Santa Fe - 10 miles	Portales - 12 miles
Las Vegas - 8 miles	Clovis - 12 miles
Farmington - 6 miles	Gallup - 12 miles
Raton - 6 miles	
Tucumcari - 6 miles	
Aztec - 6 miles	
Roswell - 12 miles	

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond zone 1

ZONE III - Extending up to 30 miles beyond zone 1

ZONE IV - Anything beyond 30 miles from zone 1

Las Alamos County - Use ZONE III rates

AREA B - Applies to switching stations and su-stations adjacent to power plants in Zone 1 and Zone 2 in Luna, Dona Ana, Otero, and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I - That area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer established or maintains his place of business; the area within ten mile radius from the post office in Alamogordo, New Mexico.

ZONE II - All other areas of the jurisdiction except those specified in zone 1

AREA C - Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington,

ZONE I - 0 - 12 miles

ZONE II - 12 - 22 miles

ZONE III - 22 to 40 miles

ZONE IV - 40 miles and beyond

MODIFICATION PAGE 6

DECISION NO.NM80-4101

CHANGE:	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK		
AREA A		
LINEMEN-TECHNICIANS		
Zone I	15.35	P
Zone II	16.58	P
Zone III	17.50	P
Zone IV	19.19	P
CABLE SPLICERS		
Zone I	16.89	P
Zone II	18.12	P
Zone III	19.04	P
Zone IV	20.73	P
EQUIPMENT OPR. (includes helicopter op.)		
Zone I	14.58	P
Zone II	15.81	P
Zone III	16.73	P
Zone IV	18.42	P
EQUIPMENT MECHANIC (include helicopter mech.)		
Zone I	13.35	P
Zone II	14.58	P
Zone III	15.50	P
Zone IV	17.19	P
POWDERMAN		
Zone I	13.35	P
Zone II	14.58	P
Zone III	15.50	P
Zone IV	17.19	P
GROUNDMAN & JACKHAMMER OPRS.		
Zone I	10.90	P
Zone II	12.13	P
Zone III	13.05	P
Zone IV	14.74	P
P - 3½% + $1.30		
AREA B		
LINEMEN-TECHNICIANS		
Zone I	10.15	3½%+.60
Zone II	11.60	3½%+.60
CABLE SPLICERS		
Zone I	10.40	3½%+.60
Zone II	11.85	3½%+.60
EQUIPMENT OPR. (includes helicopter oprs.)		
Zone I	9.64	3½%+.60
Zone II	11.02	3½%+.60

CHANGE:	Basic Hourly Rates	Fringe Benefits
COMMERCIAL LINE WORK (contd)		
AREA B (cont'd)		
EQUIPMENT MECHANIC (includes helicopter mechanic) and POWDERMAN		
Zone I	8.93	3½%+.60
Zone II	10.21	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	7.21	3½%+.60
Zone II	8.24	3½%+.60
AREA C		
LINEMEN-TECHNICIANS		
Zone I	14.70	3½%+.60
Zone II	15.15	3½%+.60
Zone III	15.30	3½%+.60
Zone IV	15.55	3½%+.60
CABLE SPLICERS		
Zone I	15.05	3½%+.60
Zone II	15.50	3½%+.60
Zone III	15.65	3½%+.60
Zone IV	15.90	3½%+.60
EQUIPMENT OPR. (includes helicopter opr.)		
Zone I	13.28	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
EQUIPMENT MECHANIC (including helicopter mechanic)		
Zone I	13.68	3½%+.60
Zone II	13.68	3½%+.60
Zone III	13.83	3½%+.60
Zone IV	14.08	3½%+.60
POWDERMAN		
Zone I	13.23	3½%+.60
Zone II	13.23	3½%+.60
Zone III	13.38	3½%+.60
Zone IV	13.62	3½%+.60
GROUNDMAN-JACKHAMMER OPRS.		
Zone I	10.44	3½%+.60
Zone II	10.89	3½%+.60
Zone III	11.04	3½%+.60
Zone IV	11.29	3½%+.60

MODIFICATION PAGE 7

DECISION NO. OK81-4051

MODIFICATION PAGE 8

DECISION NO. OK81-4051 - MOD. #8 (46 FR 35886 - July 10, 1981) PITTSBURG COUNTY, OK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
GROUP I	9.25	1.00
GROUP II	9.55	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4054 - MOD. #8 (46 FR 35888 - July 10, 1981) MUSKOGEE, ADAIR, CHEROKEE AND OKMULGEE COUNTY, OK		
CHANGE:		
BOILERMAKERS	16.35	2.145
IRONWORKERS	14.60	2.73
CARPENTERS, MILLWRIGHTS & PILEDRIVERMEN:		
AREA I		
Carpenters	12.28	1.48
Millwrights & Piledriver	12.78	1.48
LABORERS		
AREA I		
GROUP I	9.65	1.00
GROUP II	9.95	1.00
AREA II		
GROUP I	10.65	1.00
GROUP II	10.95	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4066 - MOD. #9 (46 FR 42610 - August 21, 1981) GARFIELD CO., OKLAHOMA	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS		
GROUP I	8.95	1.00
GROUP II	9.20	
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4069 - MOD. #7 (46 FR 44646 - Sept. 4, 1981) WAGONER COUNTY, OK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
Construction Laborer	9.65	1.00
Mason tenders, mortar mixers, sewer drain, tile layers machine tool operator	9.95	1.00
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4069 - (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.75	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18

DECISION NO. OK81-4067 - MOD. #10 (46 FR 42613 - August 21, 1981) OKLAHOMA, CLEVELAND, CADDO, CANADIAN, KINGFISHER, GRADY, LINCOLN, LOGAN, McCLAIN, SEMINOLE AND POTTAWATOMIE COS., OKLAHOMA		
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
ZONE I		
GROUP I	10.65	1.00
GROUP II	10.95	1.00
ZONE II		
GROUP I	9.10	1.00
GROUP II	9.35	1.00
ZONE III		
GROUP I	9.25	1.00
GROUP II	9.55	1.00
ZONE IV		
GROUP I	8.95	1.00
GROUP II	9.20	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4070 - MOD. #8 (46 FR 44651 - Sept. 4, 1981) COMANCHE COUNTY, OK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
GROUP I	9.10	1.00
GROUP II	9.35	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. OK81-4071 - MOD. #7 (46 FR 45535 Sept. 4, 1981) McINTOSH COUNTY, OK		
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
GROUP I	9.65	1.00
GROUP II	9.95	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

MODIFICATION PAGE 9

DECISION NO. OK81-4072 - MOD. #8
(46 FR 44648 - Sept. 4, 1981)
LATIMER, LEFLORE, HASKELL, SEQUOYAH AND PUSHMATAHA COUNTIES, OKLAHOMA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	16.35	2.415
IRONWORKERS	14.60	2.37
LABORERS:		
Haskell, Leflore and Sequoyah Counties		
AREA I	9.65	1.00
AREA II	9.95	1.00
Latimer and Pushmataha Cos.		
AREA I	9.25	1.00
AREA II	9.55	1.00
POWER EQUIPMENT OPERATORS:		
GROUP I	15.75	2.18
GROUP II	15.25	2.18
GROUP III	14.75	2.18
GROUP IV	14.50	2.18
GROUP V	14.25	2.18
GROUP VI	14.00	2.18
GROUP VII	13.75	2.18
GROUP VIII	12.75	2.18
GROUP IX	13.35	2.18
ROOFERS	12.90	1.39
SPRINKLER FITTERS	16.17	2.83

DECISION NO. HI82-5105 - Mod. #4
(47 FR 10948-March 12, 1982)
Statewide, Hawaii

Change:		
Boilermakers	$14.50	$3.56
Carpenters:		
Carpenters; Hardwood Floorlayers; Patent Scaffold Erectors; Piledrivers; Pneumatic Nailer; Power Saw Operator (2 HP and over); Shinglers	14.50	5.25
Drywall	14.65	5.24
Lather	14.50	5.19
Millwright	14.75	5.25
Cement Masons:		
Cement Masons	13.43	4.70
Troweling Machine Operators	13.58	4.70
Glaziers	13.01	4.43
Ironworkers:		
Bridge; Ornamental; Reinforcing; Structural	13.00	5.67
Laborers:		
Group 1	10.66	3.98
Group 1A	10.71	3.98
Group 1B	11.06	3.98
Group 1C	11.26	3.98
Group 1D	11.11	3.98
Group 1E	11.36	3.98
Group 1F	11.41	3.98
Group 1G	11.61	3.98
Group 2	10.96	3.98
Group 3	11.16	3.98
Painters:		
Brush	14.05	4.94
Tapers	14.15	4.94
Spray; Sandblaster	14.55	4.94
Power Equipment Operators: (Except Piledriving and Steel Erection):		
Pilot of Helicopter	16.32	5.20
Copilot of Helicopter	16.15	5.20
Airborne Hoist Operator for Helicopter	16.01	5.20
Diver (aqua lung)	17.46	5.20
Roofers	13.95	4.48
Soft Floor Layers	13.90	4.20
Sprinkler Fitters	17.37	2.83
Truck Drivers:		
Group 1	$12.43	$5.20
Group 2	12.70	5.20
Group 3	13.01	5.20
Group 4	13.66	5.20
Group 5	13.98	5.20
Group 6	14.09	5.20

DECISION NO. UT81-5156 - Mod. #7
(46 FR 48870-10/2/81)
Statewide, Utah

Change:		
Sheet Metal Workers	$15.20	$2.67

MODIFICATION PAGE 10

DECISION NO. WA81-5163 - Mod #12
46 FR 59457 - December 4, 1981)
Statewide Washington

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS (Area 2)		
Carpenters, and Drywall Applicators	$17.06	$2.66
Carpenters on Creosoted Materials	17.16	2.66
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Floor Sander and other Stationary Power Wood-Working Tools; Shinglers	$17.19	$2.66
Millwrights & Machine Erector	17.56	2.66
Piledriver; Bridge, Dock, and Wharf Builders	17.26	2.66
Acoustical Workers	17.22	2.66
Boom Man	17.31	2.66
PLUMBERS (Area 3)	19.74	6.21

CEMENT MASONS (AREA 2):

GROUP	BASE RATE (Zone 1)	ZONE DIFFERENTIAL (Add to Base Rate)	
1	$15.50	Zone 2	$1.25
2	16.00	Zone 3	1.75
3	16.50	Zone 4	2.50
FRINGE BENEFITS	3.20	Zone 5	3.05

LABORERS (AREA 1):

GROUP	BASE RATE (Zone 1) (Building, Heavy, and Highway Projects)	ZONE DIFFERENTIAL (Add to Base Rate) (Heavy and Highway only, does not apply to Building projects)	
1	$13.72	Zone 2	$1.15
2	13.97	Zone 3	1.60
3	14.22	Zone 4	2.30
4	14.47	Zone 5	2.95
FRINGE BENEFITS	3.12		

POWER EQUIPMENT OPERATORS (AREA 1):

GROUP	BASE RATE (Zone 1)	ZONE DIFFERENTIAL (Add to Base Rate)	
1	$13.65	Zone 2	$1.25
2	13.95	Zone 3	1.75
3	14.50	Zone 4	2.50
4	14.65	Zone 5	3.06
5	14.80		
6	15.05		
7	15.30		
8	16.30		
Fringe Benefits	4.10		

TRUCK DRIVERS (AREA 1):

GROUP	BASE RATE (Zone 1)	ZONE DIFFERENTIAL (Add to Base Rate)	
1	$15.19	Zone 2	$1.25
2	15.23	Zone 3	1.75
3	15.29	Zone 4	2.50
4	15.38	Zone 5	3.05
5	15.59		
6	15.63	FRINGE BENEFITS	3.43
7	15.69		
8	15.73		
9	15.84		
10	15.88		
11	16.19		
12	16.33		
13	16.49		
14	16.63		

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

SUPERSEDEAS DECISION

STATE: FLORIDA
COUNTY: DADE
DECISION NUMBER: FL82-1032
DATE: DATE OF PUBLICATION
Supersedes Decision No.: FL81-1185 dated February 13, 1981 in 46 FR 12406.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (does not include single family homes or apartments of 4 stories or less).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$13.79	2.20
BOILERMAKERS	15.50	3.015
BRICKLAYERS:		
Bricklayers,Cement Masons, Marble Setters,Plasterers, Stonemasons, & Tile + Terrazzo Workers	13.55	1.77
CARPENTERS & SOFT FLOOR LAYERS	12.35	1.53
ELECTRICIANS	15.25	2.22
ELEVATOR CONSTRUCTORS:		
Mechanics	14.115	2.465+a
Helpers	9.88	2.465+a
IRONWORKERS	13.30	2.38
LABORERS:		
Permit Value $500,000 +:		
Air Tool Oper., Mason Tenders,Mortar Mixers, & Pipelayers	8.77	1.57
Plasterers Tenders	8.95	1.57
Unskilled	8.67	1.57
Permit Value up to $500,000:		
Air Tool Oper.,Mason Tenders,Mortar Mixers, & Pipelayers	7.07	1.57
Plasterers Tenders	7.25	1.57
Unskilled	6.97	1.57
LINEMEN:		
Linemen	13.37	1.199
Groundmen	7.75	.884
MILLWRIGHTS	12.67	1.50
PAINTERS:		
Brush	10.15	1.22
Tapers,Paperhangers	10.35	1.22
Spray,Sandblasters	10.65	1.22
PILEDRIVERS	12.15	1.50
PLUMBERS & PIPEFITTERS	15.56	2.57
POWER EQUIPMENT OPERATORS:		
Group A	13.95	1.10
Group B	13.03	1.10
Group C	11.91	1.10
Group D	10.99	1.10
Group E	9.76	1.10
REFRIGERATION & A/C MECHANICS:		
A/C Units 10 Tons +	$15.14	2.53
A/C Units over 7.5 Tons but under 10 Tons	11.52	2.53
ROOFERS:		
Slate,Tile,Composition, damp & Waterproofers	12.88	1.20
Kettlemen	9.68	1.20
SHEET METAL WORKERS	15.39	1.78
SPRINKLER FITTERS	14.15	2.18
WELDERS - Rate for Craft		

Unlisted classifications needed for work not included within the scope of these classifications may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

FOOTNOTES:

a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for Employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Credit for Employee who has worked in business less than 5 years.

PEO DEFINITIONS:

Group A: Field shop mechanic, Cranes, Derricks,Hoist,Field Batch Plant Opr.,Inside Elevator Oper.

Group B: Draglines,Backhoes,Finisher Grader,Fireman,Forklift,Pumps 3" or larger combination of 5 or less pumps,Air compressor, (over 125 CFM)or other equip.

Group C: Bulldozer,Distributor,Scraper, Motor grader,Trenching Mach., Front End Loader,Air Compressor (up to 125 CFM),Welding Mach., Winch Truck

Group D: Roller,Finishing Mach.,Tractor,Oiler & Drivers,Mixers

Group E: Oiler on Crawler Cranes, Drivers

SUPERSEDEAS DECISION

STATE: OKLAHOMA
COUNTIES: Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers
DECISION NO. OK82-4035
DATE: Date of Publication
SUPERSEDES DECISION NO. OK81-4056 dated July 17, 1981 in 46FR37209
DESCRIPTION OF WORK: BUILDING PROJECTS (excluding single family homes and apartments up to and including 4 stories) and EXCLUSION of Water and Sewer Treatment Plants in Tulsa County ONLY.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.19	1.78
BOILERMAKERS	16.35	2.415
BRICKLAYERS-STONEMASONS	14.84	2.04
CARPENTERS:		
Area I	12.78	1.62
Area II	11.42	1.11
MILLWRIGHTS-PILEDRIVERMEN:		
Area I	13.08	1.62
Area II	11.67	1.11
CEMENT MASONS:		
Cement masons	14.94	.76
Power tool operator	15.34	.76
ELECTRICIANS:		
Electricians	14.35	3%+1.34
Cable splicers	14.60	3%+1.34
ELEVATOR CONSTRUCTORS:		
Journeymen	13.94	2.465+A
Helpers	70%JR	2.465+A
Probationary helper	50%JR	
GLAZIERS:		
Area I	12.62	1.11
Area II	12.94	
IRONWORKERS	14.60	2.37
LABORERS:		
Group I	10.65	1.00
Group II	10.95	1.00
LATHERS	10.10	.01
PAINTERS (Craig, Ottawa and Delaware Counties):		
Brush, roller, tapers and paperhangers	11.77	.55
Spray, steamclean, sandblast & pot tenders	12.27	.55
PAINTERS (Tulsa, Creek, Rogers & Mayes Counties:		
Brush	13.35	.70
Highwork & stage	13.75	.70
Spray & sandblasting	14.35	.70
Hot or bituminous	14.65	.70
Sheetrock handtools	13.35	.70
Sheetrock power tools	14.35	.70
PIPEFITTERS	15.12	1.73
PLASTERERS	10.10	.01
PLUMBERS	15.12	1.73
ROOFERS	12.90	1.39
SHEET METAL WORKERS	15.88	1.47
SOFT FLOOR LAYERS	11.46	1.43+B
SPRINKLER FITTERS	16.17	3.18
TILE LAYERS & TERRAZZO WORKERS	14.03	1.80
TERRAZZO WORKERS AND TILE LAYERS FINISHERS	$11.63	.90
TERRAZZO WORKERS:		
Floor machine operator	11.80	.90
Base machine operator	12.10	.90
LINE CONSTRUCTION:		
Linemen	14.90	3%+.45
Cable splicers	16.09	3%+.45
Hole digger operator	13.24	3%+.45
Heavy equipment op.(pole or cat equivalent)	13.25	3%+.45
Jackhammerman	10.61	3%+.45
Line truck (winch op.)	11.68	3%+.45
Powderman	12.86	3%+.45
Groundman	9.54	3%+.45
Truck driver (flat bed to 1 and half and under	10.13	3%+.45
POWER EQUIPMENT OPERATORS:		
Group I	15.75	2.18
Group II	15.25	2.18
Group III	14.75	2.18
Group IV	14.50	2.18
Group V	14.25	2.18
Group VI	14.00	2.18
Group VII	13.75	2.18
Group VIII	12.75	2.18
Group IX	13.35	2.18
TRUCK DRIVERS:		
DELAWARE COUNTY		
Group I	7.55	
Group II	7.65	
Group III	7.75	
Group IV	7.70	
Group V	7.85	
TULSA, CREEK, CRAIG, MAYES AND ROGERS COS.		
Group I	10.48	
Group II	10.53	
Group III	10.63	
Group IV	10.63	
Group V	10.63	

CLASSIFICATION AREAS, GROUPS AND DEFINITIONS AS FOLLOWS:

CARPENTERS-MILLWRIGHTS & PILEDRIVERMEN:
AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties
AREA II - Delaware and Ottawa Counties

GLAZIERS
AREA I - Tulsa, Creek, Mayes and Rogers Counties
AREA II - Craig, Delaware, and Ottawa Counties

LABORERS
GROUP I - All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials & equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows;Wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II - All machines tool operators; all sewer & drain tile layers and handling at the ditch, excluding distribution; oprs. of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 ft. from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle & potmen, tank cleaning, all pipe doping treating & wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines including concrete, creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin of clothes; all newly developed mechanical equipment which replaces wheel barrows or plants; all laborers screening sand, running sand drier, and feeding oper. sand blasterer, except nozzle; and cutting torch oprs. in connection with laborers work; concrete grader

POWER EQUIPMENT OPERATORS:
GROUP I
All crane type equipment with 300' of boom or over (including jib)
GROUP II
All crane type equipment with 200-300' of boom (including jib)
GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV
Side boom (booms 30' and over); Guy Derrick
GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade); side boom (under 30')
GROUP VI
Fork lift (35' and over); dozer (engine hp 65 or over; Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator or hi-lift (engine hp 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump-boom type; roller & compactors with dozer blade

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 500 cu. ft. & under; air compressor, over 500 cu. ft. (1); pumps, ~~battery, 3 to 6; fork-lift, bobcat and similar equipment;~~ generator plant engineers, Diesel elec.; winch truck with A-frame; roller all types; outside elevator or building type of personnel hoist; concrete buster/or tamper; heaters under jurisdiction of Operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when and if required; operator fur rotary drilling machines when operated from console or machines
GROUP VIII
Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); welding machine (1 or 2); pump (1 or 2); fuelman; truck crane oiler driver or crane oiler; conveyor operator-single continuour belt bulk handling; asphalt lay machine back end man.
GROUP IX
Greaser and tilt top trailer operator

TRUCK DRIVERS CLASSIFICATION DEFINITION (DELAWARE COUNTY)

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses
GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards
GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers
GROUP IV - Ready-mix concrete trucks up to but not including 3 yds.
GROUP V - Ready-mix concrete trucks 3 yards and over

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS (TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES)

GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.
GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yds. or 6 yards
GROUP IV - Ready mix concrete truck
GROUP V - Tractor-trailer and similar equipment

SUPERSEDEAS DECISION

STATES: Georgia, North Carolina, South Carolina, Virginia and

27684 Federal Register / Vol. 47, No. 123 / Friday, June 25, 1982 / Notices

FOOTNOTES:
ELEVATOR CONSTRUCTORS (ONLY)
A - 1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate plus 6 Paid Holidays - A through E and G.
B - Seven Paid Holidays--A through F.

PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day.

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR, 5.5 Ca)(1)(ii).

[FR Doc. 82-16088 Filed 6-24-82; 8:45 am]
BILLING CODE 4510-30-C

SUPERSEDEAS DECISION

STATES: Georgia, North Carolina, South Carolina, Virginia and Washington, D. C. and in Florida, all counties on the Atlantic Coast and the Gulf Coast West to the Aucilla River and all Tributary Waterways.
DECISION NUMBER: GA82-2041 DATE: Date of Publication
Supersedes Decision No. GA81-1222 dtd May 1, 1981 in 46 FR 24813
DESCRIPTION OF WORK: DREDGING

	Basic Hourly Rates	Fringe Benefits
HYDRAULIC DREDGES 20" AND OVER:		
Leverman	$10.58	1.63+a
Engineer	10.47	"
Mate	9.50	"
Welder	9.79	"
Derrick Operator	10.12	"
Spill Barge Operator	9.92	"
Spider Barge Operator	9.92	"
Tug Master	9.43	"
Carpenter	10.06	"
Tug Mate	9.04	"
Electrician	10.28	"
Machinist	9.98	"
Steward	8.33	"
Oiler & Fireman	8.09	"
Deckhand & Tug Deckhand	7.62	"
Shoreman	7.49	"
Second Cook	7.62	"
Messman	7.49	"
HYDRAULIC DREDGES UNDER 20":		
Leverman	9.73	1.63+a
Engineer	9.29	"
Welder	9.43	"
Mate	8.48	"
Oiler & Fireman	8.01	"
Deckhand	7.62	"
Launchman	8.09	"
Shoreman	7.49	"
Spill Barge Operator	8.68	"
Spider Barge Operator	8.68	"
CLAMSHELL DREDGES:		
Operator	10.51	1.63+a
Engineer	9.95	"
Welder	9.67	"
Mate	9.33	"
Fireman & Oiler	8.09	"
Deckhand	7.62	"
Launchman	8.09	"
Scowman	7.73	"

	Basic Hourly Rates	Fringe Benefits
DIPPER DREDGES:		
Operator	$10.62	1.63+a
Craneman	10.16	"
Engineer	10.37	"
Welder	9.79	"
Mate	9.50	"
Fireman & Oiler	8.09	"
Deckhand	7.62	"
Tug Master	9.59	"
Tug Mate	9.12	"
Scowman	7.73	"
TUGS (TENDING DIPPER AND CLAMSHELL DREDGES):		
Tug Master	9.59	1.63+a
Tug Mate	9.12	"
Engineer	9.59	"
Assistant Engineer	8.95	"
Deckhand	7.52	"
Cook	7.73	"
STEWARD DEPARTMENT ON DIPPER & CLAMSHELL DREDGES & ON HYDRAULIC DREDGES 20" & UNDER:		
Cook	8.01	1.63+a
Mess Cook	7.56	"
Messmen & Janitor	7.46	"
DRILLBOATS:		
Driller	10.47	1.63+a
Blaster	10.47	"
Operator Engineer	10.47	"
Helper	8.09	"
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).		

FOOTNOTES:
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day

a. Six paid holidays, A through F, plus vacation contribution of 7% of straight time pay.

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federal register

Friday
June 25, 1982

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program Provisions

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 785, 816, 817, and 827

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program: Support Facilities, Other Transportation Facilities, Utility Installations, and Coal Processing Plants

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) proposes to modify regulations applicable to support facilities and utility installations, other transportation facilities, and coal processing plants. The revised rules are proposed in order to reduce the burden of existing regulations and minimize duplication of standards applicable to these facilities. This proposed rule would (1) establish a single set of regulations applicable to all coal processing plants; (2) combine rules applicable to support facilities, transportation facilities, and utility installations; (3) clarify the applicability of the permanent program regulations to support facilities.

DATES: Written comments: Accepted until further notice. See "Supplementary Information."

Public hearings: Held on request only, on August 5, 1982, at 9:00 a.m. (local)

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES: Written comments: *Hand-deliver* to the office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.33), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.33), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Arthur Anderson, Division of Technical Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5954.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Discussion of Proposed Rules.
III. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests the opportunity to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests the opportunity to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made a part of the Administrative Record.

II. Discussion of Proposed Rules

1. *Authority.* The authority for these sections is found in sections 102, 201, 501, 503, 504, 507, 508, 510, 515, 517, and 701 of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act).

2. *General.* On March 13, 1979, OSM promulgated the permanent program regulations as required by section 701 of the Act. In Subchapter K, §§ 816.180–181 and 817.180–181 of the permanent program regulations pertain to the following three areas: transportation facilities other than roads, support facilities, and utility installations. Part 827 of the regulations pertains to coal processing plants and support facilities not located at or near the minesite or not within the permit area for a mine.

3. *Proposed Change to Definition in § 70.5.* OSM proposes to revise the permanent regulatory program definition of surface coal mining operations to clarify the regulation of coal load-out facilities, crushing facilities, and coal processing plants located both "at or near the mine site" and "offsite." The proposed rule addresses a continuing controversy surrounding OSM's regulations and their applicability to certain facilities not located "at or near the mine site." The controversy revolves around the interpretation of the term "surface coal mining operations" contained in section 701(28) of the Act.

Some of the issues raised in this proposed rule were also addressed in a prior rulemaking; see 45 FR 42333–42335 (June 24, 1980). This rulemaking is intended to readdress these issues and to provide interested persons an opportunity to comment on them in the context of OSM's overall regulatory reform effort.

The proposed rule would also amend the definition of surface coal mining and reclamation operations, which refers to surface "coal mining operations."

Thus, surface coal mining and reclamation operations would address major issues with respect to the regulation of coal processing plants and coal loading facilities not located "at or near" the mine site.

Section 701(28) of the Act defines "surface coal mining operations" as follows:

(A) *activities* conducted on the surface of land *in connection with* a surface coal mine or subject to the requirements of section 516 surface operations and surface impacts indicent to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly effect interstate commerce. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting, and *in situ* distillation or retorting, leaching or other chemical or physical processing, *and the cleaning, concentrating, or other processing or preparation, loading of coal for interstate commerce at or near the mine site: Provided, however,* That such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ per centum of the tonnage of minerals removed for purposes of commercial use or sale or coal explorations subject to section 512 of this Act; and

(B) the *areas upon which such activities occur* or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, *processing areas,* shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. (Emphasis added.)

The definition thus encompasses two categories: (1) Activities conducted on the surface of land in connection with a surface coal mine or an underground mine with surface effects, and (2) those areas upon which such activities or the effects of such activities occur.

Through the use of examples, the statutory definition offers some guidance as to the scope of activities connected with a mine operation. It is unclear from the syntax alone, however, whether the phrase "at or near the mine site" at the end of the examples in paragraph (A), modifies only the phrase immediately preceding it, *i.e.*, "loading of coal for interstate commerce," or whether it also modifies "the cleaning, concentrating or other processing or preparation."

The definition of a "surface coal mining operation" in section 701(28) of the Act therefore is subject to two differing interpretations: (1) That cleaning, concentrating, other processing or preparation and loading of coal must be both in connection with a surface coal mine and "at or near the mine site" to be regulated; or (2) that such activities, other than the loading of coal, are regulated if they are "in connection with" a surface mine, without regard to proximity to the mine.

In the interpretation of the initial regulatory program, which adopted in § 700.5 the statutory definition of surface coal mining operation directly from the Act, the Interior Board of Surface Mining and Reclamation Appeals (the Board) generally applied the first test. See, *Western Engineering,* 1 IBSMA 202 (1979); *Thoroughfare Coal Co.,* 3 IBSMA 72 (1981); *The Hope Co.,* 3 IBSMA 7 (1981); *Falcon Coal Co.,* 2 IBSMA 406 (1980); *Wolverine Coal Corp.,* 2 IBSMA 325 (1980); *Roberts Bros. Coal Co.,* 2 IBSMA 284 (1980). See also, *Drummond Coal Co. v. Watt,* Civ. No. CV 80–M–0829–S (N.D. Ala., April 20, 1981).

In the development of the regulations for the permanent regulatory program, OSM attempted to clarify its interpretation of the general meaning of "at or near the minesite" as modifying only the "loading of coal for interstate commerce." (See 44 FR 14914–15 and 14928 (March 13, 1979).) However, since the OSM interpretation was only contained in the preamble to the permanent program regulations and not in the regulation itself, the ambiguity was not fully resolved and the Board continued to apply the "at or near" test to all the above listed activities. Judge Flannery, on the other hand, in *In re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79–1144 (D.D.C., May 16, 1980) (Slip op. at 51–53), on appeal Civ. No. 80–1810 *et seq.* (D.C. Cir), upheld the OSM interpretation and found that the "at or near" language only modified the loading of coal. Judge Flannery also recognized that Section 701(28) B provided a second, and independent basis for OSM's jurisdiction over processing areas that were not "at or near the minesite" (*id.* at 52–53).

In July 1980, OSM proposed to undertake a contract study on coal handling facilities to attempt to clarify some of these interrelated issues. This study was designed to determine the number and location of the various types of processing plants, loading facilities, etc. used in connection with the coal mining industry. Briefly summarized, the study reports the following total number of facilities:

Preparation plants	870
Tipples	596
Railroad loading areas	747
Barge/ship transfer sites	392
Industrial/manufacturer users	485
Total	3,090

The entire study, which evaluates additional characteristics for such facilities in seven specific geographic areas will be included in the administrative record for this rulemaking. (Skelly and Loy Engineers and Consultants, "Nationwide Assessment of Off-Site Coal Handling Facilities," Contract No. J5101077.)

The proposed rule would revise the definition of surface coal mining operation in order to clearly distinguish the loading of coal for interstate commerce from other regulated activities. The proposed rule follows the interpretation provided in the preamble to the March 13, 1979, publication of the permanent regulatory program. To be regulated, loading of coal must be "at or near the minesite." Cleaning, concentrating, or other processing or preparation would not be so limited.

The proposed rule would regulate those operations that are most likely to have the potential for environmental impacts, including coal processing plants and associated coal waste disposal areas whether or not such facilities were located "at or near the mine site," so long as they are used "in connection with a coal mining activity." This interpretation would also be consistent with the March 13, 1979, promulgation of the permanent program rules in not regulating coal processing plants situated at the point of ultimate coal use, since such activities would be directly associated with the ultimate use of the coal and would not be considered to be "in connection" with a coal mine. (See 44 FR 14928 (March 13, 1979).)

In addition to the clarification of the phrase "at or near the mine site," the proposed rule would also revise the punctuation of the definition to further clarify its meaning and the activities regulated. The proposed rule would recognize the following distinct types of activities included within the meaning of the term "surface coal mining operations":

Contour mining;
Strip mining;
Auger mining;
Mountaintop mining;
Box cut mining;
Open pit mining;
Area mining;
Use of explosives and blasting in relation to coal mining;
In-situ distillation, retorting, leaching, or other chemical or physical processing;
Cleaning, concentrating or, other processing or preparation of coal;
Loading of coal for interstate commerce at or near the mine site; and
Extraction of coal from coal refuse piles.

OSM has also found that there has been some confusion by some members of the public and the coal industry caused by the reference to "surface coal mining operations" as those operations

regulated under the Act, since many underground mining operations are also regulated. To help reduce the confusion resulting from the terminology and to clearly indicate that both surface and underground mining are covered by the definition, the proposed rule would revise the term "surface coal mining operations" to simply "coal mining operations." Appropriate technical amendments to other rules currently using the term "surface coal mining and reclamation operations" will be implemented if this change is adopted. No substantive change is intended as a result of the change in this terminology.

4. *Amendments to § 701.5.*

Coal processing

The proposed rule would add a new definition for coal processing to complement the revised definition for coal mining operations and those activities regulated under the Act as defined in that term. Thus, coal processing would be defined to mean the cleaning, concentrating, or other processing or preparation of run-of-the-mine coal to separate coal from its impurities. Under this definition, coal processing would not include coal loading, coal crushing, and other such activities that do not result in the production of a coal processing waste product. By clarifying that coal processing includes only those activities where coal is separated from its impurities, the definition would closely follow the common usage of the term in industry and would provide for the regulation of those coal processing activities most likely to be associated with the potential for adverse environmental impacts on the land surface.

Coal processing plant

The definition of coal processing plant would be revised to parallel the proposed definition of coal processing. Under the proposed rule, coal processing plant would be defined to mean a collection of facilities where run-of-the-mine coal is subject to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities. The proposed rule would provide a listing of the types of facilities that might be expected to be included within the overall scope of a coal processing plant. Individually, many of the described facilities would not constitute a coal processing plant, and some of these facilities might be found at other types of plants. Loading facilities, which are not proposed to be part of the coal processing plant under the definition above, would be considered part of a coal processing plant when conducted in conjunction with processing operations. These examples are not intended to be definitive, nor is this list intended to be exhaustive.

Support facilities

OSM proposes to adopt a new definition for the term "support facilities." The new definition would clarify the types of facilities regulated under proposed §§ 816.180 and 817.180 which contain performance standards applicable to transportation and support facilities and utility installations. Under the proposed definition, support facilities would be defined as those facilities, and the areas upon which such facilities are located, required for, or used incidentally to coal mining operations. Those facilities currently treated as "utility installatons" and other transportation systems would also be included. The definition is intended to have a broad application and would include, but need not be limited to, the following facilities: mine buildings; bath houses; coal loading facilities; coal crushing and sizing facilities; coal storage facilities; equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; water treatment and water storage facilities; utility installations; railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities.

Generally, support facilities would be regulated along with activities that are covered under the proposed definition of coal mining operations. However, individual facilities may also be subject to regulation independently if they constitute a separate coal mining operation subject to the Act's application. Thus, certain coal loading facilities could be regulated as support facilities if they were required for, or used incidentally to another coal mining operation. Coal loading facilities would also, however, be regulated as an independent coal mining operation up to the point the coal is loaded for interstate commerce at or near the mine site. Under the proposed rule, OSM would interpret all coal loading facilities to be regulated as either support facilities or a coal mining operation up to the point of the first loading of run-of-the-mine coal for interstate commerce. Coal loading facilities, coal crushing, and coal sizing operations where the coal is not separated from its impurities would not be regulated if they are not located "at or near" the minesite of if they are not required for, or used incidentally to, coal mining operations.

5. *Proposed changes to § 785.21.* Existing § 785.21 sets permitting requirements pertaining to coal processing plants and related support facilities not located at or near the minesite or not within the permit area for a specific mine. The proposed revisions to § 785.21 are intended to complement the proposed clarification of the definition of surface coal mining operations and coal processing plant, discussed above. Under the proposed rule, coal processing plants not within the permit area for a specified mine, other than those directly associated with the ultimate user of coal, would be subject to the requirements for such plants as a special category of mining. Section 785.21 contains the permit requirements for regulation of such facilities. The proposed rule would parallel the requirements of existing § 785.21, but would be revised to clarify the type of facilities regulated through Part 827.

6. *Proposed changes to §§ 816.180–181 and 817.180–181.* (a) Existing §§ 816.180 and 817.180 contain environmental performance standards applicable to transporation facilities other than roads for surface mining operations and underground mining operations, respectively. Existing §§ 816.181 and 817.181 apply to support facilities and utility installations for surface mining operations and underground mining operations, respectively. Because the proposed amendments to rules governing utility installations and support and transportation facilities for surface and underground operations are parallel, they will be treated together in this discussion. The primary objective of each of these sections is to provide general environmental protection performance standards for such facilities, to assure an adequate level of environmental protection for fish and wildlife and related environmental resources, and to assure that the potential for water pollution is minimized. There is no apparent reason to distinguish between different types of support facilities: Under the proposed rule, the separate standards for transportation facilities and those standards related to support facilities and utility installations would be combined into a single rule establishing standards for all such support facilities. This would help streamline the regulations and make them more easily understood and implemented. The proposed rule would not cover coal processing plants. Those plants would be regulated under Part 827, as discussed below.

Because of the diversity of types of facilities that would be covered by the new rule, the proposed rule continues to

apply general standards at the national level. Case-by-case application and the development of more detailed regulations could continue to be the responsibility of the regulatory authority, on the basis of the needs in individual States and at individual sites.

The proposed rule would modify the title from existing §§ 816.180 and 817.180, "Other Transporation Facilities," and §§ 816.181 and 817.180, "Support Facilities and Utility Installations." Under the proposal, §§ 816.180 and 817.180 of the performance standards would be entitled simply "Support Facilities."

The listings of regulated facilities in the introductory language to §§ 816.180 and 817.180 have been deleted. These examples are proposed to be incorporated in the definition of support facilities discussed above.

Proposed §§ 816.180 (a) and (b) and 817.180 (a) and (b) cover the performance standards of the previous §§ 816.181 and 817.181 which relate to the control of erosion and siltation, water pollution, and damage to public or private property. The phrase "at or near the mining site" has been eliminated because that phrase only modifies facilities for the loading of coal for interstate commerce. Those facilities excluded by that phrase would not be within OSM's jurisdiction under the proposed definition of coal mining operations.

Existing §§ 816.181 and 817.181 govern the design, construction, location, maintenance, and use of support facilities and utility installations. OSM proposes to continue to regulate the location, maintenance, and use of support facilities, but will no longer regulate the construction and design of these facilities. So long as the facilities can be operated and maintained in conformance with the performance standards, the design and construction need not be regulated.

The proposed consolidated performance standards would control and minimize the effects on the environment through the general standards applicable to these various types of facilities. In addition, damage to fish and wildlife and additional contributions of suspended solids to the streamflow must be limited to the extent possible using the best technology currently available, and be in compliance with State and Federal law, as is currently required in the existing §§816.180, 816.181, 817.180, and 817.181.

The proposed language would substitute the requirement that operations minimize damage to the extent possible using the best technology currently available for the existing requirement that damage be prevented to the extent possible using that standard. This language change reflects the fact that "prevention of damage" is an absolute standard which cannot be limited by technology. Minimization of damage is logically consistent with the concept of using the best technology available. Prevention of damage would still be required when the available technology allows complete damage avoidance. Thus, no change in the required level of technology or damage avoidance would result from this terminology change.

OSM proposes to delete the requirement in existing §§ 816.180 and 817.180 that transportation facilities be designed, constructed, reconstructed, or maintained to control and minimize air pollution. This requirement was suspended in August 4, 1980 (45 FR 51547), as a result of Judge Flannery's opinion in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, May 16, 1980, Slip op. at 27.29), which held that OSM was without authority to regulate air pollution from coal mines. Other Federal laws will continue to limit permissible air pollution.

Proposed §§ 816.180(c), and 817.180(c) are identical to existing §§ 816.181(b) and 817.181(b) and require all surface mining activities to be conducted to minimize damage, destruction, or disruption of services provided by oil and gas pipelines, railroads, and utility lines that pass over, under, or through the permit area.

Under the existing rules "other transportation facilities" are not regulated as to their potential impacts on oil, gas, and water wells; oil, gas, and coal slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area. Because OSM proposes to define these facilities as support facilities, the requirements of regulatory authority and owner approval prior to disruption of these facilities would be applied to other transportation facilities.

7. *Proposed changes to Part 827.* OSM proposes to change the title of Part 827 from "Coal Processing Plants and Support Facilities Not Located at or Near the Mine Site or Not Within the Permit Area for a Mine" to "Coal Processing Plants Not Located Within the Permit Area of a Mine" in order to reflect the applicability of the proposed rule. Support facilities would be covered by proposed §§ 816.180 and 817.180.

Proposed § 827.1, "Scope," would be modified for simplicity to cover the intent of the rule as revised and to reflect the proposed revisions to definitions and the fact that support facilities would not be covered by this part.

Proposed § 827.11, "Applicability," would be modified and amended as follows. Each operator who conducts coal processing not directly associated with the ultimate user of coal and not within the permit area of any specific mine would be required to obtain a permit. The language would be modified to reflect the elimination of support facilities which are covered by proposed 30 CFR 827.12(h) and 816.180. The limitation of the applicability of the part to those not associated with the ultimate user is intended to eliminate those facilities that are operated primarily in conjunction with the ultimate user of the coal and are not used "in connection" with coal mining operations. As discussed above, OSM does not have jurisdiction over facilities not in connection with coal mining operations. The proposed applicability section would also reference Subchapter J to make it clear that the bonding requirements of the Act and the regulations apply to such operations.

Proposed § 827.12 contains the required performance standards for such coal processing plants.

The requirements of Part 816 are referenced in order to minimize unnecessary verbiage and simplify the regulatory requirements. Proposed § 827.12(a) is identical to the existing § 827.12(a) governing the use of signs and markers.

Existing § 827.12(b) on roads is proposed as § 827.12(i) and the new reference is to the applicable standards in § 816.150. (See proposed roads rule, 47 FR 16592 (April 16, 1982).) Existing § 827.12(c) governing stream alinement is proposed to be renumbered § 827.12(b). There is no change in the wording or intent.

Existing § 827.12(d) governing discharge structures and drainage from disturbed areas is proposed to be renumbered § 827.12(c). It has been modified to include the requirement of existing § 827.12(h) as well as § 827.12(d). The proposed rule would indicate that drainage from any disturbed area must meet the requirements of §§ 816.45–816.47 of this chapter and that discharges from those areas must comply with §§ 816.41–816.42 of this chapter and other applicable State or Federal law.

Existing § 827.12(e) on permanent impoundments is proposed as § 827.12(d). There are no changes in the wording or intent.

Existing § 827.12(f) on the use of water wells is proposed to be removed

because no significant use of water wells would be expected to be associated with coal processing plants.

Existing § 827.12(g) governing disposal of coal processing waste is proposed as § 827.12(e). No change in wording or intent is proposed.

Existing § 827.12(h) on discharge structures is proposed to be removed because of the duplication with proposed § 827.12(c) which now includes discharge structures for diversions and sediment control structures.

Existing § 827.12(j) governing fish, wildlife, and related environmental values is proposed to be renumbered as proposed § 827.12(f). It will be retained with no change in wording or intent.

Existing § 827.12(k) on slide areas is proposed to be eliminated from this section because it is not directly applicable to coal processing plants and their functions.

Existing § 827.12(m) governing reclamation and topsoil handling is proposed to be renumbered as § 827.12(g). It is being modified in conjunction with proposed § 827.12(j) to clarify the applicable regulations and references. Under this proposed rule, reference to §§ 816.100–816.106 would be deleted because contemporaneous reclamation and backfilling and grading requirements are not generally applicable to coal processing plants.

Existing § 827.12(n) governing support facilities is proposed to be renumbered as § 827.12(h). No significant modifications are intended. The reference in this section has been revised to reference newly proposed § 816.180 which covers the support and transportation facilities and utility installations in connection with or related to the coal processing plant.

Existing § 827.12(o) governing coal processing plants on prime farmland is proposed for deletion. Under Judge Flannery's ruling, in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, May 16, 1980, Slip op. at 3), facilities such as surface areas of underground mines and coal processing plants that will be in place for many years should be exempt from the prime farmland provisions.

Proposed § 827.12(k) would include the requirements for protection of air resources contained in existing § 827.12(i), with minor editorial revisions.

Proposed § 827.12(l) would include the requirements of existing § 827.12(l) for the protection of underground mines.

III. Procedural Matters

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record office at the address listed in the "Addresses" section of this preamble. OSM is also preparing a supplemental environmental impact statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

Executive Order 12291

The Department of the Interior (DOI) has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

Regulatory Flexibility Act

The DOI has also determined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rules do not have significant economic impact on a substantial number of small entities. The proposed rule is expected to ease the regulatory burden on small coal operators by giving the State regulatory authorities the discretion of reducing the amount of information that will have to accompany each permit application.

Paperwork Reduction Act

The information collection requirements in existing 30 CFR 785.21 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned a new clearance number on April 1, 1981. This approval was identified in a note at the introduction to Part 785. The new number is 1029–0040. OSM is proposing to remove the "Note" paragraph and to codify the OMB approval for the existing requirements under new § 785.10. The information required by § 785.21 will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed operation during the permanent regulatory program. The obligation to respond is mandatory.

The proposed revisions to these requirements will be submitted to OMB for approval.

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Coal mining, Surface mining, Underground mining, Reporting requirements.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 785

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

30 CFR Part 827

Coal mining, Environmental protection, Surface mining, Underground mining.

Accordingly, for the reasons set forth above, Parts 700, 701, 785, 816, 817, and 827 are proposed to be amended as follows.

Dated: June 9, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

PART 700—GENERAL

1. In § 700.5, the definition of "surface coal mining operations" is redesignated as "coal mining operation," placed in alphabetical order, and revised to read as follows:

§ 700.5 Definitions.

* * * * *

Coal mining operations "means"—

(a) Activities conducted on the surface of lands in connection with a surface coal mine or, subject to the requirements of Section 516 of the Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining; the uses of explosives and blasting; in-situ distillation, retorting, leaching, or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine site.

Provided, These activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not exceed 16⅔ per centum of the tonnage of minerals

removed for purposes of commercial use or sale, or coal exploration subject to section 512 of the Act; and *Provided further,* That excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and

(b) Areas upon which the activities described in paragraph (a) of this section occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, porcessing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

* * * * *

PART 701—PERMANENT REGULATORY PROGRAM

2. Section 701.5 is amended by revising the definition of "coal processing plant" and by adding in alphabetical order definitions for "coal processing" and "support facilities."

§ 701.5 Definitions.

* * * * *

Coal processing means the cleaning, concentrating, or other processing or preparation of run-of-the-mine coal in order to separate coal from its impurities.

Coal processing plant means a collection of facilities where run-of-the-mine coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities. The processing plant may consist of, but need not be limited to, the following facilities: loading facilities; storage and stockpile facilities; sheds, shops, and other buildings; water-treatment and water-storage facilities; settling basins and impoundments; coal processing and other waste disposal areas; roads, railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities.

* * * * *

Support facilities means those facilities required for, or used incidental to, coal mining operations and the areas upon which such facilities are located. Support facilities may consist of, but need not be limited to, the following facilities: mine buildings; bath houses; coal loading facilities; coal crushing and sizing facilities; coal storage facilities; equipment and storage facilities; fan buildings; hoist buildings; sheds, shops, and other buildings; water-treatment and water-shortage facilities; utility installations; railroads, surface conveyor systems, chutes, aerial tramways, or other transportation facilities.

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

3. Section 785.21 is revised to read as follows.

§ 785.21 Coal processing plants not located within the permit area of a mine.

(a) This section applies to any person who operates or intends to operate coal processing plants outside the permit area of any specific mine other than such plants when they are directly associated with the ultimate user. Any person who operates such a processing plant shall have obtained a permit from the regulatory authority under the regulatory program in accordance with the requirements of this section.

(b) Any application for a permit for operations covered by this section shall contain in the mining and reclamation plan, specific plans, including descriptions, maps and cross-sections of the construction, operation, maintenance, and removal of the processing plants and associated support facilities. The plan shall demonstrate that those operations will be conducted in compliance with 30 CFR Part 827.

(c) No permit shall be issued for any operation covered by this section, unless the regulatory authority finds in writing, that, in addition to meeting all other applicable requirements of this subchapter, the operations will be conducted in compliance with the requirements of 30 CFR Part 827.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

4. Section 816.180 is revised to read as follows:

§ 816.180 Support facilities.

Support facilities shall be located, maintained, and used—

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

6. Section 817.180 is revised to read as follows:

§ 817.180 Support facilities.

Support facilities shall be located, maintained, and used—

(a) In a manner which prevents or controls erosion and siltation, water pollution, and damage to public or private property;

(b) To the extent possible using the best technology currently available, in a manner that—

(1) Minimizes damage to fish, wildlife, and related environmental values; and

(2) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law; and

(c) In a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the regulatory authority. (Pub. L. 95–87, 30 U.S.C. 1201 *eq seq.*)

§ 817.181 [Removed]

7. Section 817.181 is removed.

8. Part 827 is revised to read as follows:

PART 827—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL PROCESSING PLANTS NOT LOCATED WITHIN THE PERMIT AREA OF MINE

Sec.

827.1 Scope.
827.11 Applicability.
827.12 Coal processing plants: Performance standards.

Authority: Pub. L. 95–87, 91 Stat. 447 (30 U.S.C. 1201 *et seq.*).

§ 827.1 Scope.

This part sets forth requirements for coal processing plants not within the permit area for a specific mine, to ensure the protection of public property and the environment, in accordance with the Act.

§ 827.11 Applicability.

Each person who operates a coal processing plant not within the permit area for a specific mine other than those plants directly associated with the ultimate user shall obtain a permit in accordance with § 785.21 of this chapter, obtain a bond in accordance with

Subchapter J of this chapter, and conduct those operations in accordance with the requirements of this part.

§ 827.12 Coal processing plants: Performance standards.

Construction, operation, maintenance, modification, reclamation, and removal activities at coal processing plants shall comply with the following:

(a) Signs and markers for the coal processing plant, coal processing waste disposal area, and water-treatment facilities shall comply with § 816.11 of this chapter.

(b) Any stream or channel realinement shall comply with § 816.44 of this chapter.

(c) Drainage from any disturbed area related to the coal processing plant shall comply with §§ 816.45–816.47 of this chapter, and all discharges from these areas shall meet the requirements of §§ 816.41–816.42 of this chapter and any other applicable State or Federal law.

(d) Permanent impoundments associated with coal processing plants shall meet the requirements of §§ 816.49 and 816.56 of this chapter. Dams constructed of or impounding coal processing waste shall comply with §§ 816.91–816.93 of this chapter.

(e) Disposal of coal processing waste, solid waste, and any excavated materials shall comply with §§ 816.81–816.88, 816.89, and 816.71–816.74, of this chapter, respectively.

(f) Fish, wildlife, and related environmental values shall be protected in accordance with § 816.97 of this chapter.

(g) All disturbed areas shall be revegetated in accordance with §§ 816.111–816.117 of this chapter.

(h) Support facilities related to the coal processing plant shall comply with § 816.180 of this chapter.

(i) Roads shall comply with § 816.150 of this chapter.

(j) Cessation of operations shall be in accordance with §§ 816.56 and 816.131–816.132 of this chapter.

(k) Air pollution shall be controlled in accordance with § 816.95 of this chapter.

(l) Adverse effects upon or resulting from nearby underground coal mining activities shall be minimized by appropriate measures including, but not limited to compliance with §§ 816.55 and 816.79 of this chapter.

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BILLING CODE 4310-05-M

30 CFR Parts 701, 770, 771, 773, 775, 778, 782, 786, 787, and 788

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Permitting—Processing, General Content, and Legal, Financial, Compliance, and Related Information Requirements of Applications

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is proposing to revise its permanent program rules pertaining to (1) the processing of permits, (2) the general contents of permit applications, and (3) the legal, financial, compliance, and related information requirements of these applications. This proposal will involve the addition of two new parts to Subchapter G of 30 CFR Chapter VII, the revision of one part, and the removal of six parts. The purpose of these changes is to bring together and organize all these existing parts into only three parts. Such changes are needed to clarify permit requirements and procedures for the applicant.

DATES:

Written comments: Accepted until further notice.

Public hearings: Held on request only, on August 4, 1982, at 9 a.m. (local).

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.02), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.02), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Mary Josie Smith, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5954.

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SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft supplemental environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person

listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), provides various requirements for permits, including processing and application requirements. These include section 506, which contains the general requirements for permits and renewals, including permit and renewal terms; Section 507, which contains permit application requirements, specifies the requirements for confidential information, and provides for public inspection of applications; and section 508, which describes the information to be included in the reclamation plan and which also specifies confidential information. In addition, section 510 provides standards for permit appproval or denial which include requirements for permit findings and conditions and notification of violations;

Section 511 provides for revisions of permits and transfer, assignment, or sale of permit rights; Section 513 provides for public notice and public hearings including comments on permit applications and informal conferences; and Section 514 provides for decisions of the regulatory authority and appeals from such decisions. The Act also provides various requirements for legal, financial, compliance, and related information. Other sections of the Act relating to requirements for permits under the permanent regulatory program include sections 101, 102, 201(c), 503, 504, 509, 515, 516, 519, 527, 528, and 529 of the Act.

The permanent regulatory permitting requirements of the Act were implemented through Subchapter G (Parts 770–788) of Title 30, Chapter VII of the Code of Federal Regulations (44 FR 14902 *et seq.*, March 13, 1979). These rules deal with the process of obtaining a permit, the contents of permit applications, and the administrative review of decisions of permits. Existing Part 770 contains general requirements and definitions for permit issuing systems under the permanent regulatory program. Existing Part 771 contains general provisions concerning the initiation of a permitting system and the filing of permit applications. Existing Part 778 sets forth the minimum legal, financial, compliance, and related information requirements for permit applications for surface mines, while existing Part 782 sets forth the same requirements for underground mines. Existing Part 786 covers public participation and review and approval of permit applications. Existing Part 787 governs administrative and judicial review of permit decisions. Existing Part 788 regulates permit revisions and renewals; transfer, assignment, or sale of permit rights; and periodic review of existing permits.

OSM is proposing in this rulemaking to reorganize and simplify part of Subchapter G to provide a more logical sequence to permit processing and content requirements. Certain definitions, which relate to permitting and which are currently located in Part 701 of Subchapter A, General, are being included with this proposal. Under the proposal, most rules which deal with the process of obtaining a permit would be consolidated in a new Part 773. This new part would incorporate most of the requirements of Parts 770, 771, 786, 787, and 788 of the existing rules. All rules dealing with the general content requirements for permit applications, including portions of Part 771, would be proposed in new Part 775. All rules dealing with the legal, financial, compliance, and related information required in permit applications, including information currently contained in Part 782, would be proposed in revised Part 778.

Other purposes of these revisions to Subchapter G are (1) to recognize the role of the States as primarily responsible for developing, approving or disapproving, and enforcing permit rules for surface coal mining and reclamation operations; and (2) to eliminate overly burdensome, counterproductive, and duplicative rules.

Note that throughout the discussion of the proposed rules in this preamble are cross-references to both existing and proposed rules of 30 CFR Chapter VII, whereas within the proposed rules are cross-references only to the existing rules. In the final rules cross-references will be changed as needed.

III. Discussion of Proposed Rules

A. Part 701: Definitions

Section 701.5 Definitions

Several of the definitions proposed for this section are the same as those in the existing rules. However, they have been grouped together and proposed for the consolidated definition section of the rules—§ 701.5 of this chapter. By making this change the OSM is recognizing that these definitions are applicable to the entire regulatory program and not just Subchapter G. The definitions which are proposed in § 701.5, which are the same as the existing definitions, include: "principal shareholder," located in existing § 770.5; "property to be mined," located in existing § 770.5; "successor in interest" and "transfer, assignment, or sale of rights," located in existing § 788.5; and "violation notice," located in existing § 770.5. The definition of "willful violation," located in existing § 786.5, would be revised to parallel the definition of proposed § 843.5 (cited as § 842.5 in 46 FR 58472, Dec. 1, 1981). No substantive change is intended.

The term "applicant" as defined in existing § 701.5 is proposed to be revised for clarity and to include those who apply for coal exploration permits. The definition of "applicant" included in existing § 770.5 would be removed, since it is redundant.

The term "application" as defined in existing § 770.5 is proposed to be moved to § 701.5. The use of the phrase "exploration approval or a permit" would be changed to "permits for coal exploration or surface coal mining and reclamation operations" to agree with the terminology used in the proposed coal exploration rule, Part 772 (47 FR 21442; May 18, 1982). If coal exploration operations would substantially disturb the natural land surface, proposed Part 772 would require filing of a notice of intent to explore for exploration removing less than 250 tons of coal and a permit for exploration removing more than 250 tons of coal.

Two new definitions are proposed in place of the definition of "complete application," which is located in existing § 770.5. These are: and "administratively complete permit application" and a "complete and accurate permit application."

An administratively complete permit application would contain all information necessary to begin the processing of a permit application and to provide for public review. Thus, a review to determine that the application is administratively complete would require, at a minimum, a survey of the application to determine whether there is sufficient data or material in response to each regulatory requirement to allow the administrative and public review process to proceed. This review would not be cursory, but would be a review to determine if additional material would be needed prior to public review and technical analysis. It is necessary that the public have sufficient information in the application to know what are the potential concerns associated with the mine. For example, a permit application cannot simply say there would be no

hydrologic impact but must provide, as required by the Act and the regulations, the appropriate supporting hydrologic information. This definition would recognize the inherent complexities involved in the permitting of a coal mine under the permanent regulatory program. OSM's experience in States with primacy had demonstrated that, as a practical matter, it is virtually impossible for an applicant to submit an application that does not require some clarification or supplementation prior to approval. In fact, such supplemental information is often necessary to ensure adequate consideration and disposition of public comments. The proposed definition of an "administratively complete permit application" would recognize these practical realities, while ensuring that each requirements is addressed in sufficient detail initially to provide for meaningful regulatory authority and public review of the application.

A "complete and accurate permit application" would contain all the information needed to issue a permit. Thus, a review to determine that the application is "complete and accurate" would require a detailed examination and evaluation of all data and material in the application to determine whether all the regulatory requirements are satisfied and that all the program requirements are met. A "complete and accurate permit application" would include information resulting from an informal conference or hearing or other information determined as a result of the public participation process which would become part of the record concerning the permit application.

Another term which is proposed to be changed from the existing definition in § 786.5 is "irreparable damage to the environment." The phrase "or has not been" (corrected by the applicant) would be eliminated and irreparable damage to the environment would be limited to damage that cannot be corrected. This phrase was suspended by OSM on November 27, 1979, at 44 FR 67943. The phrase "or has not been" (corrected by the applicant) in the previous definition could include a wide variety of violations that should not be classified as "irreparable damage to the environment" since they could be reasonably corrected. Also, such language is unnecessary, since any violation which has not been corrected would be covered by §§ 773.15(e)(2) and 773.19(e). Those sections cover the need for the applicant to abate the violation or to pursue a direct administrative or judicial appeal prior to the findings of the regulatory authority and, therefore, need not be duplicated here. The proposed definition of "irreparable damage" would also be modified to provide that such damage must be in violation of applicable laws, rules, or regulations. This modification is deemed necessary because some environmental damage from coal mining operations can often be anticipated. However, it is only that damage which is unlawful that the regulations prohibit. For example, the regulatory program does not prohibit all damage to the offsite hydrologic balance, but only that which would be "material." (See section 510(b)(3) of the Act.) The revised definition would recognize such acceptable levels of impact.

B. Part 773: Permitting process

§ 773.1 Scope and purpose

Proposed § 773.1 would consolidate and replace the existing scope provisions in §§ 770.1, 771.1, 786.1, 787.1, and 788.1 and the existing objective provisions in §§ 771.2, 786.2, 787.2, and 788.2. Proposed § 773.1 would simply provide a general description of subject areas covered by Part 773, including requirements for obtaining permits; permit approval or denial; public participation; permit review; approval of transfers, assignments, or sales of permit rights; and the findings and conditions required for approval of permits and permit renewals.

Existing § 770.2, which sets out the general objectives for the entire subchapter, would be deleted. This information is unnecessary and need not be stated under the proposed rules.

Existing §§ 770.4, 770.12, 771.19, 786.4, and 788.3 outline responsibilities under the regulatory program. These sections would be deleted as unnecessary. Responsibilities under the permitting requirements are not complex and need not be stated separately for clarity of understanding. The legal requirements for State programs are adequately covered by Subchapter C in Part 731 and the requirements and responsibilities to obtain permits are covered elsewhere in Subchapter G (see § 773.11).

Section 773.11 Requirements to obtain permits

General requirements for obtaining permits would be consolidated in proposed § 773.11.

The requirements of existing § 771.11 would be included in proposed § 773.11(a). It would require a permanent program application on and after 8 months from the effective date of a permanent regulatory program within a State. The proposed rule, by relying upon the effective date of the permanent program, would clear up an ambiguity in the existing rule. The proposed rule would recognize that some State programs have not become effective immediately upon Secretarial signature. It is the OSM's belief that Congress intended in Section 506(a) to refer to the date an approval, and thus the applicable program, actually became effective, rather than any alternate date. The proposed change would also allow the rule to have a broader application, since the effective date would include Federal programs developed for a State, as well as approved State programs.

The requirements of existing §§ 771.21(b)(1) and 771.21(a)(2) would be deleted under the proposed rules as unnecessary and redundant of the requirements of proposed § 773.11(a).

Proposed §773.11(b) would deal with the continuation of initial program operations under the permanent regulatory program. Under the proposed rule, two circumstances would be recognized under which an existing operation authorized under the initial regulatory program could continue to operate under the permanent program. The first is contained in proposed § 773.11(b)(1), which contains the requirements of the existing § 771.13(a), with minor editorial changes. Under this section, when a State program receives final disapproval, including judicial review of the disapproval, the existing surface coal mining and reclamation operations could continue in accordance with the interim program requirements until promulgation of a complete Federal program. During this period, a State may not issue any new coal mining permits, but permits that lapse may continue in full force and effect within the specified permit area until promulgation of a Federal program for the State.

Proposed § 773.11(b)(2) establishes requirements for continued operation under initial program permits after the implementation of the permanent regulatory program. This section includes requirements of existing §§ 771.13(b) and 771.21(a)(1). The proposed rule would provide that any person authorized to conduct surface coal mining and reclamation operations under the initial regulatory program or under a permit issued or amended by the regulatory authority in accordance with the requirements of the initial regulatory program may conduct those operations beyond the 8-month period following permanent regulatory program approval, if certain conditions are met. The proposed rule would represent a change from the existing rule by providing for the continuation of operations that were authorized to

conduct mining under the initial regulatory program, but which may not have been required to have a permit under the initial program. This proposed change would recognize that some existing operations required to have permits under the permanent regulatory program may not have been required to have permits under the preexisting State initial regulatory program.

Proposed § 773.11(b)(2) would establish four requirements for the continuation of initial program operations under the permanent program. These include (1) the filing of permanent regulatory program permit application within 2 months from the effective date of the permanent regulatory program, currently provided for in existing § 771.21(a)(1); (2) filing of a timely and administratively complete permit application in accordance with the requirements of the regulatory program, currently provided for in existing § 771.13(b)(1); that the regulatory authority has not yet rendered an initial administrative decision approving or disapproving the permit, currently included in existing § 771.13(b)(2); and, (4) the mining operations are conducted in compliance with the initial authorization or permit and the requirements of the initial regulatory program, currently included in existing § 771.13(b)(3). Each of these requirements would include minor editorial changes to include changes already discussed and to reflect the reorganization of the permit processing requirements. The primary substantive change from the existing rule is contained in paragraph (b)(2)(ii) which provides that a timely and "administratively complete permit application" for a permanent program permit must be made to the regulatory authority in accordance with the provisions of the regulatory program. The existing rule requires that a "complete application" be made in accordance with the requirements of the Act, Subchapter G, and the regulatory program. This change would recognize the impossibility of submitting "complete" permit applications on a timely basis for repermitting initial program operations in some States such as Kentucky which has approximately 5,000 initial program permits to reprocess under the permanent program.

Proposed § 773.11(b)(3) is a new section which would clarify when initial program permits can be issued during the permanent program. The proposal would require any permit application which was filed after the effective date of the permanent program to be reviewed and approved or disapproved as a permanent program permit. The proposed rule would also allow the regulatory authority to issue initial program permits after the implementation of the permanent program, provided that the application was filed prior to the effective date of that program. The proposed rule would clarify requirements for issuing permits during the gap between the time of permanent program approval and the 8-month period after which operations are required to have permanent program permits. The proposed rule would recognize that an operator who has in good faith submitted an application for a permit under the initial program should not be penalized by rejection of that application solely due to the approval of the State's permanent regulatory program. An operator who receives an initial program permit during the 8-month period could be treated as an operator with an initial program permit for purposes of Section 506(a) of the Act. This would allow an operator with an initial program permit to conduct operations beyond the 8-month period if he has filed a timely application for a permanent program permit and has met the other requirements of proposed § 773.11(b)(2).

Proposed § 773.11(c) would deal with continued operations under Federal program permits after approval of a superseding State program. This section is similar to existing § 771.15, with some editorial and organizational changes. Existing § 771.15(b) and (c) would be revised in proposed § 773.11(c)(3). As rewritten, proposed § 773.11.c)(3) would no longer require the State regulatory authority to issue an order requiring compliance with additional requirements. Rather, the proposed rule would simply provide written notice to the permittee of any additional requirements, opportunity for a hearing, opportunity to resubmit the application in whole or in part, and a reasonable time to conform ongoing operations to the additional requirements.

Proposed § 773.11(d) would deal with continued operations under State program permits under a superseding Federal program. The proposed rule parallels existing § 771.17, with minor editorial changes.

Section 773.13 Public participation in permit processing

Proposed § 773.13 would provide requirements for processing of permits and for public participation in the review of permit applications. Proposed § 773.13(a)(1) would include the requirements of existing § 786.11(a). The proposal would add language to make it clear that public notice of applications for significant revisions of permits is required. The proposed rule would also indicate that a copy of the advertisement must be submitted to the regulatory authority. The proposed rule would also revise the required description or map of the permit area to streamline the regulatory language and emphasize that the description must be sufficient to enable local residents to readily identify the permit area. The regulatory authority could determine what would provide the most useful information. This would not exclude a legal description, if considered necessary or appropriate by the regulatory authority.

Another change is that the requirements of existing § 786.11(a)(2)(iii) to state the name of the U.S. Geological Survey map containing the proposed mine would be deleted. Since the map or description must be sufficient to ensure that local residents could readily locate the proposed permit area, OSM believes that the U.S. Geological Survey map identification is unnecessary. The regulatory authority would have the discretion to continue to require this information if appropriate for the locale.

Proposed § 773.15(a)(1)(v) includes requirements of existing § 786.11(a)(5). The proposed rule would, however, no longer require additional public notice regarding mining within 100 feet of the outside right-of-way of a public road or relocating a road, if public notice has already been given and a hearing has already occurred. The existing rule, at § 786.11(a)(5), requires such information to be in the newspaper advertisement regardless of whether a hearing has been held. The proposed rule would eliminate the duplicative notice and hearing requirement where necessary notice and hearing have already been provided in accordance with the program requirements.

Proposed § 773.13(a)(2) corresponds to existing § 786.11(d)(1) and (2) and follows section 507(e) of the Act. Instead of specifying that another equivalent public office can only be chosen for accessibility, the proposed rule would allow the regulatory authority to determine the location. This would be more in accordance with section 507(e) of the Act which places no limit on the regulatory authority's discretion to approve an alternative filing location. Also, the timing of the filing of revisions constituting significant revisions to a permit in the public office under § 786.11(d)(2) would be made consistent with that of the timing for filing permit applications. This would eliminate the need for existing § 786.12(b)(2), which

references the filing requirements for permit applications when a revision constitutes a significant alteration.

Proposed § 773.13(a)(3) would be similar to existing § 786.11(b), with one small change. Since some States do not require permit application numbers, another identifier could be used.

Proposed § 773.13(a)(3)(i) and (ii) would provide a listing of agencies which must be provided the required notification. This proposed listing would replace existing § 786.11(c)(1)–(3), but with some changes to more closely follow the language of section 513(a) of the Act. Section 513(a) only requires written notification of local governmental agencies, not Federal and State agencies. This change is also in line with the requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) to reduce the paperwork burden on State governments.

OSM decided to eliminate the phrase "or an interest in" from the list of agencies to be notified in existing § 786.11(c)(1), based on comments received from States. The States expressed a desire to provide a reasonable limitation on the number of agencies they had to notify. Under the proposed rule, notification would be provided to agencies with jurisdiction over some aspect of the proposed permit area. Additional local, State, and Federal government agencies which request to be notified of such activities may be included at the regulatory authorities' discretion.

Proposed § 773.13(a)(3)(ii) is similar to the existing § 786.11(c)(4), but limits the notification to those Federal and State agencies which are part of the permit coordinating process. This change would be in accordance with proposed § 773.4(d) which would require regulatory authorities to coordinate with other permit issuing agencies. Because the local Soil Conservation Service office of the U.S. Department of Agriculture has responsibility for verifying prime farmland aspects of any permit under the Act and because the office of the Corps of Engineers district engineer has responsibility for protection of wetlands and issuance of 404 permits (33 CFR Parts 320–330; 45 FR 184, September 19, 1980), the required notification has also been required to include the local offices of these agencies.

Proposed § 773.13(b) would deal with the opportunity for written comment and objections on permit applications and would consolidate the requirements of existing §§ 786.12 and 786.13. Proposed § 773.13(b)(1) would contain the requirements of existing § 786.12 (a) and (b). Proposed § 773.13(b)(2) would provide for written comments from heads of Federal, State, or local agencies and persons having interests which are or may be adversely affected by the proposed mine. These provisions are currently found in § 786.13(a). Proposed § 773.13(b)(3) would combine existing §§ 786.12(c) and 786.13(b) with minor editorial changes. No substantive change is intended by the consolidation.

Proposed § 773.13(c) would replace existing § 786.14 which deals with informal conferences. Existing § 786.14(a) would become § 773.13(c)(1) under this proposal. Proposed § 773.13(c)(2) would be the existing § 786.14(b). However, the term "mine plan area," which is being deleted from the regulations, would be changed to "permit area." The proposal would also add the requirement that the applicant and other parties to the conference be notified of the meeting by the regulatory authority. This would ensure appropriate notification to parties to the conference. Proposed § 773.13(c)(3) would include provisions of existing § 786.14(c) with minor editorial changes. Proposed § 773.13(c)(4) would include the provisions of existing § 786.14(d).

Proposed § 773.13(d) would deal with public availability of permit applications. Proposed § 773.13(d)(1) would include the requirements of the existing § 786.15(a), except that the requirement for a written request for public inspection would be dropped as superfluous. The term "open" would be changed to "available" and "public inspection" to "public review." Proposed § 773.13(d)(2) would follow existing § 786.15(a)(1) and provide that certain information pertaining to the coal seam and other physical data shall be available only to persons whose interests may be affected. Proposed § 773.13(d)(3) would include the requirements of existing § 786.15 (a)(2), (a)(3), and (b). No substantive change from the existing rule is intended. A new § 773.13(d)(3)(iii) would be added to incorporate new requirements under the Archeological Resources Protection Act of 1979 for keeping information on the nature and location of archeological resources on public and Indian lands confidential.

Section 773.15 Review of permit applications

Proposed § 773.15 would deal with the review of permit applications by the regulatory authority. Proposed § 773.15(a) would include the provisions of existing §§ 786.17(a)(1) and 786.23. Provisions in the existing rule dealing with the periods for review of initial program permits after approval of the permanent regulatory program would be deleted. OSM is working with each State regulatory authority to establish requirements for review of initial program permits after primacy. OSM feels it has adequate authority under the Act and sections 502(d) and 506 to impose such time limits. Deletion of the provisions in the regulations would reduce excess verbiage and reduce confusion in interpreting the regulations in the long term. Further, the listing in existing § 786.23(b)(2)(ii) of considerations for establishing a time period for review of permits would be deleted. The regulatory authority would have the discretion to establish a reasonable time for processing permits based upon the entire State program. The listed items are in the manner of suggestions and are not necessarily the only items that should be considered by the regulatory authority.

Proposed § 773.15(a)(2) would state the requirement of section 510(c) of the Act that the applicant has the burden of establishing that his application is in compliance with all the requirements of the regulatory program.

Proposed § 773.15(a)(3) would state the requirement of section 514(c) that, if the application is approved, the permit shall be issued and, if the application is disapproved, specific reasons for disapproval must be set forth in the notification.

Proposed § 773.15(a)(4) would include the reporting requirements of existing § 786.23 (e) and (f). The notice provisions, however, would be revised to reduce the required paperwork burden on the regulatory authority. Notification requirements to the applicant and to the local governmental officials in the local political subdivision would be retained, since these are required under section 510(a) of the Act. The proposed rule would also continue to require notification of persons filing objections to the permit, since such objectors should have adequate notice to request administrative or judicial review of the decision. The requirement to notify the OSM, if the regulatory authority is a State, would be retained, since this information will be necessary for the OSM to conduct oversight of the State program. Other notification requirements of existing § 786.23(e) would be deleted.

Proposed § 773.15(b)(1) would include the requirements of existing § 786.17(c), with a few editorial changes. The word "final" would be used in proposed § 773.15(b)(1) to identify which decision of the hearing authority would require cessation of operations. This would clarify the regulation and ensure that the operator was not denied due process.

Proposed § 773.15(b)(2) would require the regulatory authority to determine if the applicant or operator has a demonstrated pattern of willful violations as required under section 510(c) of the Act. The requirement in existing § 786.17(d) that the applicant or operator be afforded the opportunity for an adjudicatory hearing on the determination would be incorporated in the proposal.

Proposed § 773.15(c) would contain the requirements for written findings for permit approval. These requirements correspond to those under existing § 786.19 regarding the criteria for approval or denial of a permit. The language of the existing rule would be substantially revised to delete the requirements for written findings not required by section 510 of the Act. In all cases, proposed § 773.15(c)(1) would require a written finding that the application is accurate and complete and has complied with all the requirements of the Act and the regulatory program. However, in addition to this general requirement, Congress required that certain additional specific findings be made. The proposed rule includes requirements for written findings that are not specified in the Act and appear to be unnecessary as redundant of the findings required under § 773.15(c)(1) and section 510(b)(1) of the Act. For this reason, the proposed rule would not include provisions for written findings currenly required under § 786.19(e), (j), (k), (m), (n), and (o) and § 786.21. Existing § 786.19(g) and (i) would be deleted as redundant of the provisions included in proposed § 773.15(b). Additional written findings required under sections 515(b)(16) and 515(b)(20) of the Act are provided in proposed § 773.15(c)(8) and (9).

Proposed § 773.15(c)(1) would follow section 510(b) of the Act and existing § 786.19(a).

Proposed § 773.15(c)(2) would follow existing § 786.19(b), but would be revised to more closely follow the requirements of section 510(b)(2) of the Act.

Proposed § 773.15(c)(3) would consolidate and simplify the regulatory language for the requirements of existing § 786.19(d) concerning areas designated as, or under study for designation as, unsuitable for surface coal mining. The proposed rule in § 773.15(c)(3)(i) would also clarify an ambiguity in the existing rules with respect to areas under study for designation by indicating that such areas must actually be covered by a petition submitted to the regulatory authority. Study of an area prior to petition would not under the proposed rule be sufficient to preclude issuance of the permit.

Proposed § 773.19(c)(4) would be the same as existing § 786.19(f), with changes made according to the numbering system of the proposed rule.

Proposed § 773.15(c)(5) would include the requirements of existing § 786.19(c). However, the term "general area" of existing § 770.5 would be replaced by the term "cumulative impact area," as discussed in hydrology rules to be proposed soon. The term "mine plan area" would be deleted, in accordance with *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, (D.D.C., February 26, 1980), on page 35 and clarified on May 6, 1980, on page 57, and replaced with the term "permit area" which is consistent with the needed information requirements. This change would be in accordance with the proposal to delete the term "mine plan area" as announced at 47 FR 42–47 and 55–57, January 4, 1982. Other minor editorial changes would also be made. In addition, the term "material" would be added to the phrase "prevent damage to the hydrologic balance" because section 510(b)(3) of the Act uses the term as a qualifier.

Proposed § 773.15(c)(6) would include the requirements of existing § 786.19(1).

Proposed § 773.15(c)(7) would include the requirements of existing § 786.19(h).

Newly proposed Paragraph (c)(8) and (9) of § 773.15 reflect written findings required by the regulatory authority under Sections 515(b)(16) of the Act, for variances in contemporaneous reclamation requirements for combined surface and underground operations, and 515(b)(20) of the Act, for long-term, intensive agricultural post-mining land uses.

Proposed§ 773.15(d) would include the requirements of existing § 786.17(b) for submittal of bonding information prior to the actual issuance of a permit.

Section 773.17 Permit conditions

Proposed § 773.17 would list the permit conditions which apply to each permit approved under the regulatory program and issued by the regulatory authority. Proposed § 773.17(a), which would limit operations to approved and bonded areas shown on a map, would be the same as existing § 786.27(c), with appropriate changes in citations. Proposed § 773.17(b), which would require operations to be conducted according to permit, would be identical to existing § 786.27(a), with minor editorial changes. Proposed § 773.17(c) would implement the basic requirement of section 515(a) of the Act that all operations meet all applicable performance standards.

Section 785.19(e)(1)(iii) is proposed to be deleted since proposed § 773.17(c) requires the permittee to comply with all applicable performance standards of Subchapter K, which would include applicable requirements in existing § 785.19(e)(1)(iii). Similar provisions would be unnecessary in existing § 785.11(b)(1), which requires that Part 820 be a condition of anthracite mining; § 785.14(c), which requires Part 824 of this chapter to be a condition for a permit for mountaintop removal mining; § 785.16(d)(1), which requires § 826.15 of this chapter to be a specific condition for permits incorporating variances from approximate original contour restoration for steep slope mining; § 785.17(d)(2), which provides requirements for mining on prime farmlands; § 785.22(c), which provides requirements for in-situ processing activities; and § 786.18(d)(9), which provides requirements for combined surface and underground mining operations.

Proposed § 773.17(d) would include the provisions of existing § 786.27(b) with some changes. Existing § 786.27(b)(2) provides that private persons may accompany a State of Federal inspector when the inspection is in response to an alleged violation reported by that person. Proposed § 773.17(d) would delete the requirements that such private persons be allowed to accompany State inspectors. This would correspond to the proposed change in the State inspection and enforcement rules, that would make the decision of whether to allow private persons to accompany inspectors discretionary with the State regulatory authority. If such a change is not made in the inspection rules, the existing permit condition allowing a private person to accompany an inspector would be retained. The citation to Part 842 of this chapter would be clarified in the proposed rules to identify that § 842.12 is the exact section which applies.

Existing § 786.21 which provides criteria and conditions with respect to existing structures would be deleted. The requirements of this section are adequately covered in § 701.11(c) and additional specific criteria and conditions are not deemed necessary to meet the requirements of the Act.

Proposed § 773.17(e) would include the conditions of existing § 786.29(a).

Section 773.19 Permit term and right of renewal

Proposed § 773.19 would contain provisions establishing rights of renewal under an approved permit, allowable permit terms, and requirements for

initiation of operations under a permit, and would include requirements of existing § 786.25 (a) and (b) and § 788.13(a). The proposed rule would attempt to clarify an ambiguity which exists in the interpretation of the provisions for permit renewal in existing §§ 788.13–788.18 and in the requirements of the regulations for permit term in existing § 786.25. Specifically, most States and, in the past, the OSM have interpreted these provisions to require a complete permit review at the end of each permit term and to limit permit approval to the initial permit term. However, upon reevaluation, the OSM believes that this interpretation is inconsistent with the right of permit renewal and that Congress intended each permit approval to be valid for all operations and areas for which the permit was accurate and complete, regardless of the time required for mining through the entire life of the mine. The permit term and permit renewal provisions are, under this interpretation, complementary with the requirements for permit renewal, primarily providing the regulatory authority and the public an opportunity to review the permittee's history of compliance and to ensure that necessary bonding and insurance requirements are updated and valid for the succeeding term. Thus, the renewal application and required review for permit renewal are necessarily limited. The existing regulations are not necessarily inconsistent with this interpretation. However, the ambiguity has resulted from the application of the provisions of §§ 786.25(a)(2) and 778.17(b) which require the applicant who proposes to conduct mining in excess of 5 years to include a showing that a specified longer term is needed to obtain financing. Under the proposed rule, such information on financing would not be required to receive approval for mining activities that may be in excess of 5 years. Rather, such information would only be necessary if, in order to obtain necessary financing, the proposed source for the financing required a longer term. These changes are reflected in proposed §§ 773.19 (a) and (b) and 778.17.

Proposed § 773.19(c) would include the requirements for initiation of operations of existing § 786.25(b).

Section 773.21 Administrative and judicial review of decisions

Proposed § 773.21(a) would deal with the administrative review of permit decisions and is the existing § 787.11(a), with minor editorial changes such as deletion of the words "final" before "decision." If a permittee seeks an appeal of the regulatory authority's initial decision, that appeal is brought before the regulatory authority and its decision is therefore not "final" until after issuance of the appeal decision. Proposed § 773.21(a)(1)(i), which would deal with the time period for requesting an administrative hearing, is the same as existing § 787.11(b)(1), with minor editorial changes. Proposed § 773.21(a)(1)(ii), which would deal with conditions for temporary relief, is the same as existing § 787.11(b)(2). Proposed § 773.21(a)(1)(iii) which would deal with the responsibilities of the hearing authority, the record of the hearing, and ex parte contacts, is the same as existing § 787.11(b)(3), with minor editorial changes. Proposed § 773.21(a)(1)(iv), which would deal with the responsibilities of the hearing authority, is the same as existing § 787.11(b)(4). Proposed § 773.21(a)(1)(v), which would assign the burden of proof, is the same as existing § 787.11(b)(5). Proposed § 773.21(a)(2), which would state the applicable sections for hearings on Federal programs and Federal lands programs, is the same as existing § 787.11(c), with minor editorial changes.

Proposed § 773.21(b) would cover judicial review and would basically be the same as existing § 787.12. Proposed § 773.21(b)(1), which would set out the requirements for standing to seek judicial review of a permit decision, would be the same as existing § 787.12(a), with minor editorial changes. Proposed § 773.21(b)(2) would be the same as existing § 787.21(b)(1), with editorial and citation changes. Proposed § 773.21(b)(3) would be the same as existing § 787.12(b)(2), with citation changes.

Section 773.23 Regulatory authority review and modification of permits

Proposed § 773.23 would deal with the review of outstanding permits by the regulatory authority. Proposed § 773.23(a), which deals with midterm permit review, would be the same as existing § 788.11(a)(1), except that the citations to the variances for land use, mountaintop removal, approximate original contour, and delay in contemporaneous reclamation requirements in combined surface and underground mining operations would be referenced to proposed § 773.23(a)(2). Proposed § 773.23(a)(1) would be identical to existing § 788.11(a)(2). Proposed § 773.23(a)(2) would combine and simplify the requirements of existing §§ 785.14(d), 785.16(e), and 785.18(e). For example, requiring permit review within 3 years from the date of issuance is simpler than the requirement of § 785.16(e)(1) for review within the 6 months preceding the third year from the date of permit issuance. Proposed § 773.23(a)(3) would require experimental practices to be reviewed each year. This change would reflect a change proposed in the experimental practices rulemaking published on March 19, 1982 (47 FR 12082–12085). Proposed § 773.23(b) would deal with the authority of the regulatory authority to require revision or modification of a permit. The proposed rule would include the provisions of existing § 788.11(b), with editorial revisions. Proposed § 773.23(c) would consolidate existing §§ 788.11(c) and 788.11(d) and require an order for revision or modification to be based on written findings and be subject to administrative and judicial review, and that a copy of the order be sent to the permittee.

Proposed § 733.23(d) would indicate that a permit may be suspended or revoked in accordance with the enforcement provisions of Subchapter L.

Section 773.25 Permit revisions

Proposed § 773.25 would contain requirements for permit revisions. This section would include material from existing § 788.12.

Proposed § 773.25(a) would state the basic rule that a permittee may apply for a revision to a permit at any time during the term of the permit. The proposed rule would allow the permittee to apply for both significant and insignificant permit revisions, but also would require the regulatory authority to establish guidelines establishing the scale or extent of "significant revisions." Significant revisions would be required to meet all of the permit application requirements and processing procedures, including notice and hearing, for initial permit issuance.

The proposed rule would change the concept of the existing rule which required permit revisions only for "significant departures" from the original permit. It was not the intent of the existing regulation to allow the operator to violate the terms of the original permit, so long as the departure was not "significant." At least one interpretation would have allowed such departures. Under the proposed rule, the permittee would be expected to operate in accordance with his permit, including any revisions, either significant or insignificant, which have been approved by the regulatory authority. Insignificant revisions, however, would be subject only to the review procedures established under the State program.

Existing § 788.12(a)(2) would be deleted, since permit revision under

order of the regulatory authority is adequately covered in proposed § 773.23(c)(4). Existing § 788.12(a)(3) would be deleted as an unnecessary requirement, since any changes in the bonding and insurance requirements could often be handled by replacing the bonding or insurance in kind and would not necessarily require revision of a permit. Existing § 788.12(a)(4) would also be deleted as unnecessary under the proposed rule.

Proposed § 773.25(b) requires the regulatory authority to establish a time period for review and approval or disapproval of permit revisions. This period would put the permittee on notice of when he may be able to implement the revisions to his permit, assuming regulatory authority approval. It is anticipated that the required time period could vary depending on whether the revision was significant or insignificant. The proposed rule would follow more closely the requirements of section 511 of the Act and provide the greatest flexibility to the regulatory authority to establish time periods and guidelines suitable to operation of the individual State program. Proposed § 773.25(b) would revise and replace the requirements of existing § 788.12(b) and (c).

Proposed § 773.25(c) would be a new section establishing minimum criteria for approval of permit revisions. The existing rules include criteria for permit approval or denial in §§ 786.19, 786.21, and 786.23. These requirements are ambiguous when applied to permit revisions since they apply all the required findings for new permits to each permit revision. Section 511(a)(2) of the Act does not indicate that Congress intended to require all of the findings for issuance of a new permit for each permit revision, unless the revision would include a more than incidental boundary revision. Rather, the required findings and criteria of approval could be tailored to the scope of the proposed revision, provided that all requirements of the Act and the regulatory program were met. The proposed rule would reflect this, and provide the regulatory authority the flexibility to make only those findings necessitated by the application for revision.

Existing § 788.12(d), which states that any extensions to new areas, other than incidental boundary revisions, must be covered by an application for a new permit, would be transferred to proposed § 773.25(d).

Section 773.27 Permit renewals

Proposed § 773.27 would provide requirements for permit renewals and replace existing §§ 788.13, 788.14, 788.15, and 788.16. Proposed § 773.27 contains requirements for filing, processing, and approving or denying applications for permit renewal. The requirements of this section are intended to complement the rules for initial decisions on permits of proposed § 773.15, permit term provisions of proposed § 773.19, and the provisions for permit revision of proposed § 773.25.

Proposed § 773.27(a) would provide the general right of permit renewal contained in existing § 788.13 (a) and (b). The regulatory language would, however, be revised and streamlined to reduce unnecessary verbiage. Proposed § 773.27(b) would provide requirements for permit renewal applications and processing, and generally parallel the provisions of existing § 788.14. Proposed § 773.27(b)(1) would replace existing § 771.21(b)(2), with minor editorial changes. Proposed § 773.27(b)(2) would cover the form and content of an application for a permit renewal and would replace existing § 788.14(a) (1) and (3). The proposed rule would recognize that some States do not require permit numbers and allow the use of other identifiers in place of a permit number. The proposed rule would include two additional requirements for applications for renewals, not explicitly stated, but required under the existing rule. The first is contained in proposed § 773.27(b)(2)(iii), and would require evidence of bond coverage. This requirement is currently included in existing § 788.16(a)(4) and section 506(d)(1)(D) of the Act. The second is contained in proposed § 773.27(b)(2)(v), and would require such additional revised or updated information required by the regulatory authority. This requirement is currently included in existing § 788.16(9)(5) and Section 506(d)(1)(E) of the Act.

Proposed § 773.27(b)(3) would replace existing § 788.14(b)(1) and indicate that permit renewals will be subject to the full public notification and participation requirements of the regulations for permit approval. Proposed § 773.27(b)(4) would replace and revise existing § 788.14(b)(2) and indicate that any permit revisions that may be included with the application for renewal, would be subject to the requirements for approval of permit revisions contained in proposed § 773.25.

Proposed § 773.27 (c), (d), (e), and (f) would include, with some editorial revision, the requirements of existing §§ 788.16 (a) and (b), and 788.14(b)(3); 788.15; 788.16(c); and 788.16(d); respectively. Existing § 788.14(b)(4) would be deleted under the proposed rule, since the requirement to ensure adequate bond is fully covered in proposed § 773.27(c)(v).

Several States have requested some guidance on the basis of proposed § 773.27(c)(iii). The provision responds to Congressional concern that a permit renewal not jeopardize the operator's continuing responsibility to satisfy any remaining reclamation responsibility (H Rept. 1445, 94th Cong., 2d sess., pp. 44–45; H. Rept. 45, 94th Cong., 1st sess., p. 89; H. Rept. 93–1072, 93d Cong., 2d sess., p. 82). It appears that the emphasis of Congress in inserting such language into section 506(d)(1) of the Act was not to require the regulatory authority to analyze the solvency of the company or its ability to continue mining but rather its ability to meet its reclamation responsibility. OSM also believes that Congress did not intend the criteria for renewal to be more stringent than the criteria to issue a permit initially, since Section 506(d)(1) of the Act requires the burden of proof to be on the opponents of renewal. Thus, a State, according to this rule, would need to find that the requested renewal would not jeopardize the operator's ability to conduct reclamation within his current permit area.

Section 773.29 Transfer, assignment, or sale of permit rights

Proposed §773.29 includes proposed revisions of existing §§ 788.17, 788.18, and 788.19. Proposed § 773.29(a) and (b) are a consolidation of existing §§ 788.17 and 788.18(a)(1) and (a)(3) with some editorial revisions. The proposed regulations would delete the provisions relating to the options available for obtaining the necessary bond coverage. The applicant would have the responsibility of obtaining a bond under Subchapter J. As long as a sufficient amount of bond is provided and the bond meets the requirements of section 509 of the Act and Subchapter J of the regulations, it does not matter how the bond is obtained, whether by transfer, written agreement, new bond, or other method. Therefore, the detailed descriptions of methods of obtaining a performance bond set out in existing § 788.18(a)(1)(i)–(iv) would be deleted as unnecessary. Proposed § 773.29(b)(2) would include the provisions of existing § 788.18(a)(2). Proposed § 773.29(b)(2)(i) would include the requirements of existing § 788.18(a)(2)(i). Proposed § 773.29(b)(ii) would be new and would require a brief description of the proposed action requiring approval. Proposed § 773.29(b)(2)(iii) would consolidate the requirements for submittal of financial, legal, and compliance information contained in

existing §788.18 (a)(2)(iii) and (iv). The term "applicant" would be used to refer to the person proposing to succeed to the permit rights by transfer, assignment, or sale. This is in keeping with the fact that such successor would be applying approval of rights in the permit. Proposed § 773.29(b)(3) would include the advertisement requirements of existing § 788.18(b)(1), except that another identifier could be used in place of the permit number. Proposed § 773.29(c) would provide for public participation in the approval as provided for in existing § 788.18(b)(2). Proposed § 773.29(d) would establish criteria for approval of transfers, assignments, or sales. In accordance with section 511(b) of the Act, which provides that no transfer, assignment, or sale may be made without the written approval of the regulatory authority, but does not mandate such approval, the language of the proposed rule would indicate that the regulatory authority "may," rather than "shall," grant such approval.

Existing § 788.18(c)(1) is proposed to be deleted as unnecessary since such terms are implicit in the existing permit and terms of approval. The findings in existing § 788.18(c)(2) are included in the criteria of proposed § 773.29(d)(2). As rewritten, paragraph (d)(2) would include the provision of existing § 788.19(a) allowing the successor to obtain the bond of the original permittee.

Proposed § 773.29(d)(1) would be a new section stipulating that the successor in interest meet the requirements for past violations of proposed § 773.15(b) and section 510(c) of the Act. This would ensure that the operators not transfer, assign, or sell permit rights to avoid correcting violations. Proposed § 773.29(d)(3) would be new and would recognize that the regulatory authority may impose additional requirements for approval of transfers, assignments, or sales.

Finally, the requirements of existing § 788.18(c)(3) would be incorporated in proposed § 773.29(e) as a condition for continued operation under the existing permit. The term "original permit" in § 788.18(c)(3) is proposed to be changed to "existing permit," to avoid confusion since the original permit could have been revised by the prior permittee. Existing § 788.19(b) would be deleted, since the requirements of this section are included in the reference to § 773.25 in proposed § 773.29(e). Existing § 771.21(b)(4) would also be deleted as unnecessary.

C. Part 775: General content requirements for permit applications

Sections 775.1 and 775.2 would be combined under the heading "Scope," proposed § 775.1, for simplicity and to eliminate excess verbiage. Proposed § 775.11 would cover the format and contents of permit applications. The requirements of existing § 771.23(b) would be reworded and reorganized into separate subsections in proposed § 775.11(a). Proposed § 775.11(a)(1) would incorporate the existing requirement in § 771.23(b) that the permit application contain current information but would also clarify that such information must be submitted for the permit area, adjacent area, and potentially impacted offsite area in keeping with the more specific permit information requirements of Parts 779, 780, 783, 784, and 785. Proposed § 775.11(a)(2) would incorporate the existing requirement in § 771.23(b) that permit applications be clear and concise. The provision in existing § 771.23(a) that applications must be filed in the format required by the regulatory authority would be transferred to proposed §775.11(a)(3).

Proposed § 775.11(b) would be a new section which would give the applicant instructions on how to present reference material in the application. References would either have to be available to the regulatory authority or be provided by the applicant. If provided by the applicant, they could be abstracted or the relevant portions photocopied. This rule would ensure that the regulatory authority has access to all the technical information relied upon by the applicant.

Existing § 771.27, requiring applications to be verified by an official of the applicant would be transferred to proposed § 775.11(c).

Proposed § 775.13 would cover the reporting of technical data. Existing § 771.23(c), which requires that data be identified by date and methodology as well as requiring the name of the person who collected or analyzed the data, would be transferred to proposed § 773.13(a). Proposed § 773.13(b) would be new and would implement the requirement of section 507(b)(14) of the Act that cross-section maps or plans of the affected land be prepared by or under the direction of and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture.

Proposed § 775.15 would require all applications to be complete and would, with some reorganization, transfer the second sentence of existing § 771.23(a) to the new section. Existing § 771.25 requiring applications to be accompanied by a permit fee would be transferred, with minor editorial changes, to proposed § 775.17.

D. Part 778: Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information

The information requirements of proposed Part 778 are virtually unchanged from the existing Parts 778 and 782. Proposed Part 778 would set forth the minimum requirements for legal, financial, compliance, and general nontechnical information to be contained in applications for suface coal mining and reclamation permits. Information submitted in permit applications under Part 778 would be used primarily to enable the regulatory authority and the public to ascertain the nature of the entity which plans to mine coal and those entities which have other financial interests and public record ownership interests in both the mining entity and the property which is to be mined. In addition, certain other nontechnical information needed for processing and approval/disapproval of the application would be required.

Part 778 would incorporate existing Part 782 on underground mining permit applications—minimum requirements for legal, financial, compliance, and related information. Since these provisions are duplicative for both surface and underground mining activities, they can be efficiently covered in one section rather than duplicating the requirements at Part 782. The requirements of the two existing parts were virtually identical in content. The basis and purpose statement for existing Part 778 was set forth at 43 FR 41691–41693 and for existing Part 782 at 43 FR 41705–41706 with further clarification being found at 44 FR 15021–15026 and 15062–15064, respectively. Several minor editorial changes would be made throughout this part and some deletions of requirements are proposed. Following is a discussion of the proposed rules and changes from the existing rules. Reference to sections of existing Part 778 are intended to include the corresponding sections of existing Part 782.

Section 778.1 Scope and Purpose

Proposed § 778.1 would combine existing §§ 778.1, 778.2, 778.4, and 778.11 into one section to avoid repetition. Only minor editorial changes would be made.

Section 778.13 Identification of Interests

Existing § 778.13 would be somewhat condensed and reorganized by this proposed rule in order to group and clarify similar requirements and to obtain a more logical organization of material. Proposed § 778.13(a) would require a statement concerning the type of business entity and would be the same as the first sentence of existing § 778.13(b). Proposed § 778.13(b), which would require the names, addresses, and telephone numbers of the applicant, operator, and resident agent of the applicant, would be a combination of existing § 778.13(a) (1), (5), and (6). Proposed § 778.13(c), which would require businesses other than single proprietorships to submit the names and addresses of their officers, partners, principals, and directors, would be the remaining part of the existing § 778.13 (b) and (c).

Existing § 778.13(c) would be deleted because OSM believes that information required by proposed § 778.13 (a), (b), (c), and (e) is adequate to provide the information required by Section 507(b)(1)(F) of the Act.

Proposed § 778.13(d) would change the requirements from listing all coal mining permits held since 1970, as required by existing § 778.13(d), to those held in the previous 5 years. This change should result in less cumbersome recordkeeping and would also be in accordance with similar information which would be required by proposed § 778.14(a)(1). The change to 5 years should be as effective as a listing of all violations since 1970, because it would show an opertor's current violations and a reasonable part of his/her past history. It would also correspond to the requirement of existing § 778.13(b)(3) (proposed § 778.13(c)(3)) which requires the names of the applicant, partner, or principal shareholder for the preceding 5 years. In line with changes proposed in § 778.15(a)(2)(ii), proposed § 778.13(d) would allow for an identifier other than a permit or application number if the regulatory authority prefers.

Proposed § 778.13(e), which would require the names and addresses of legal or equitable owners, holders of leasehold interest, and real estate purchasers or record, would contain the same requirements as existing § 778.13(a) (2), (3), and (4).

Proposed § 778.13(f) would contain the requirements of existing § 778.13(e) to provide names and addreses of owners of property contiguous to the proposed permit area. Proposed § 778.13(g) would require information similar to that required by existing § 778.13(f) but would be more technically correct and in accordance with Mine Safety and Health Administration (MSHA) rules by identifying MSHA numbers that are required for specific mine-associated structures rather than numbers for the mine and all sections, as the existing rules state. Proposed § 778.13(h) would contain the requirements of existing § 778.13(g). The language of section 508(b) of the Act protecting the confidentially of information concerning interests in land not already on public file would be added to proposed § 778.13(h).

Section 778.14 Violation information

The title of this section would be changed to more appropriately reflect its contents. Proposed § 778.14(a) is almost identical to existing § 778.14 (a) and (b). Proposed § 778.14(a) would deal with reporting of prior suspensions, revocations, and forfeitures. The phrase "within the 5 years before the date of submission of the application" would be added to proposed § 778.14(a)(2) to clarify the time frame for submitting this information and to track the language of Section 504(b)(5) of the Act. Proposed § 778.14(b) would contain existing § 778.14(c). Minor editorial changes would also be made throughout the proposed section.

Section 778.15 Right-of-entry information

The proposed § 778.15 would essentially contain the same requirements as the existing §§ 778.15 and 782.15. The term "surface coal mining and reclamation operations" would encompass both surface mining and underground mining activities and thus would negate the need to have two separate sections for the same information requirements.

Section 778.16 Status of unsuitability claims

The proposed § 778.16 would contain the same requirements as existing § 778.16, "Relationship to Areas Designated Unsuitable for Mining," with minor modifications. The title of the section would be shortened. A reference to Part 769 would be added to the proposed section to clarify that information on Federal designations should be included in the permit when a State is the regulatory authority on Federal lands pursuant to a cooperative agreement. Proposed § 778.16(c) would be expanded to include mining within 100 feet of a public road and relocation of a public road. This information is required by existing § 761.12(d) and would provide the regulatory authority with information needed for an adequate review for designating areas as unsuitable for surface coal mining operations.

Section 778.17 Permit term

Proposed § 778.17 would contain the requirements of existing § 778.17(a), dealing with information on mining phases. The wording of the proposed rule would be revised to reflect other revisions contained in proposed § 773.19. In § 778.17(b), OSM proposes to incorporate the requirements of existing § 786.25(a) and to eliminate the cross-reference.

Section 778.18 Insurance

This proposed section would be the same as existing § 778.18 on personal injury and property damage insurance information, except that the title would be shortened and editorial changes would be made.

Section 778.19 Identification of other licenses and permits

Existing § 778.19 would be deleted from the proposed Part 778. OSM has determined that this information is not specifically required by the Act and is not needed for an adequate permit review process; also such information on other required licenses that is particularly relevant to surface coal mining and reclamation operations is readily available to the regulatory authority.

Section 778.20 Identification of location of public office for filing of application

Existing § 778.20 would be deleted from proposed Part 778, since this information would be contained in the newspaper advertisement required by proposed § 778.21 and § 773.15(a)(4).

Section 778.21 Proof of publication

The proposed section would contain the same requirements as existing § 778.21, on newspaper advertisement and proof of publication, except that the title would be shortened.

Section 778.22 Facilities used in common

OSM is proposing this new section to clarify that facilities or structures may be shared by two separate operations if agreement is reached and documented as to the responsibility for the shared facilities.

IV. Procedural Matters

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR 771.15(c), 771.21(a)(1), 771.21(b) (2) and

(3), 771.23, 778.13, 778.14, 778.15, 778.16, 778.17, 778.18, 778.19, 778.20, 778.21, 782.13, 782.14, 782.15, 782.16, 782.17, 782.18, 782.19, 782.20, 782.21, 786.11 (a), (b), (c), and (d), 786.14(b), 786.15, 786.17(c), 786.19, 786.21, 786.23, 786.25(b)(2) and (4), 788.11, 788.12, 788.14, 788.16, 788.18, and 788.19 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1029–0030, 0031, 0032, 0033, and 0034 for Parts 771, 778, 782, 786, and 788, respectively. These approvals were identified in "notes" at the introduction of each part. OSM will delete those "notes" and codify the OMB approvals under new §§ 773.10, 775.10, and 778.10. OSM is requesting reapproval from OMB for the information collection requirements in the following proposed sections: 30 CFR 773.13(a)(2), 773.13(b)(3)(ii), 773.13(c), 773.13(d), 773.15(a)(5), 773.23(a)(2), 773.23(c), 773.27(b), 773.29(b), 775.11 (b) and (c), 778.13, 778.14, 778.15, 778.16, 778.17, 778.21, and 778.22.

The information required by 30 CFR Parts 773, 775, and 778 will be used by the regulatory authority in evaluating permit applications for surface and underground mining activities to ensure that they will be conducted in a manner which preserves the values of the Act.

OSM invites comments on the necessity of these information collection requirements.

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. OSM is also preparing a supplemental environmental impact statement that will consider this proposed rule. (See 47 FR 18920–18922, May 3, 1982.)

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 770

Coal mining, Surface mining, Underground mining.

30 CFR Parts 771, 775, 786, and 788

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 773

Administrative practice and procedure, Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 778

Coal mining, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 782

Coal mining, Reporting requirements, Underground mining.

30 CFR Part 787

Administrative practice and procedure, Coal mining, Surface mining, Underground mining.

Accordingly, 30 CFR Parts 701, 770, 771, 773, 775, 778, 782, 786, 787, and 788 are proposed to be amended, as set forth herein.

Dated: June 9, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by revising the definition of the term "applicant" and adding the following definitions in alphabetical order:

§ 701.5 Definitions.

* * * * *

Administratively complete permit application means an application for exploration or permit approval which contains information addressing each application requirement of the regulatory program and contains all information necessary to initiate processing and to provide for public review.

* * * * *

Applicant means any person seeking a permit from a regulatory authority to conduct coal exploration or surface coal mining and reclamation operations.

Application means the documents and other information filed with the regulatory authority under this chapter for the issuance of permits for coal exploration or surface coal mining and reclamation operations.

* * * * *

Complete and accurate permit application means an application for exploration or permit approval, which contains all information required under the Act, this subchapter, and the regulatory program that is necessary to issue a permit.

* * * * *

Irreparable damage to the environment means any damage to the environment, in violation of applicable laws, rules, or regulations, that cannot be corrected by actions of the applicant.

* * * * *

Principal shareholder means any person who is the record or beneficial owner of 10 percent or more of any class of voting stock.

Property to be mined means both the surface and mineral estates on and underneath lands which are within the permit area.

* * * * *

Successor in interest means any person who succeeds rights granted under a permit, by transfer, assignment, or sale of those rights.

* * * * *

Transfer, assignment, or sale of permit rights means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit issued by the regulatory authority.

* * * * *

Violation notice means any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

* * * * *

Willful violation means in an act or omission which violates the Act, this chapter, the applicable program, or any permit condition required by the Act, this chapter, or the applicable program, committed by a person who intends the result which actually occurs.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

PARTS 770 AND 771 [REMOVED]

2. Parts 770 and 771 are removed.

3. Part 773 is added to read as follows:

PART 773—PERMITTING PROCESS

Sec.

773.1 Scope and purpose.
773.10 Information collection.
773.11 Requirements to obtain permits.
773.13 Public participation in permit processing.
773.15 Review of permit applications.
773.17 Permit conditions.
773.19 Permit term and right of renewal.
773.21 Administrative and judicial review of decisions.
773.23 Regulatory authority review and modification of permits.
773.25 Permit revisions.
773.27 Permit renewals.
773.29 Transfer, assignment, or sale of permit rights.

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 773.1 Scope and purpose.

This part provides the requirements for the permitting process for surface coal mining and reclamation operations under a State or Federal program. This part covers requirements for obtaining, revising, and reviewing permits; for public participation; for permit approval and denial; and for transfer, assignment, or sale of permit rights; it also covers the findings and conditions required for permits and permit renewals and the administrative and judicial review of permit decisions.

§ 773.10 Information collection.

The information collection requirements contained in §§ 773.13(a)(2), 773.13(b)(3)(ii), 773.13(c), 773.13(d), 773.15(a)(5), 773.23(a)(2), 773.23(c), 773.27(b), and 773.29(b) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0031, 1029–0040, and 1029–0041. The information is being collected and the recordkeeping is required to meet the provisions of sections 506, 507, 508, 510, 511, 513, and 514 of the Act which provide for submission of all relevant information needed for evaluating the permit applications. The obligation to respond to § 773.13(d) is voluntary and to the others listed above is mandatory.

§ 773.11 Requirements to obtain permits.

(a) *All operations.* On and after 8 months from the effective date of a permanent regulatory program within a State, no person shall engage in or carry out any surface coal mining and reclamation operations, unless such person has first obtained a permit issued by the regulatory authority, except as provided for in paragraph (b) of this section.

(b) *Continuation of initial program operations.* (1) If a State program receives final disapproval under Part 732 of this chapter, including judicial review of the disapproval, existing surface coal mining and reclamation operations may continue pursuant to the provisions of Subchapter B of this chapter and Section 502 of the Act until promulgation of a complete Federal program for the State. During this period, no new permits for surface coal mining and reclamation operations shall be issued by the State. Permits that lapse during this period may continue in full force and effect within the specified permit area until promulgation of a Federal program for the State.

(2) A person authorized to conduct surface coal mining and reclamation operations, under the initial regulatory program or under a permit issued or amended by the regulatory authority in accordance with the requirements of section 502 of the Act, may conduct such operations beyond the period prescribed in paragraph (a) of this section, if—

(i) Not later than 2 months following the effective date of a permanent regulatory program, regardless of litigation contesting that program, an application for a permanent regulatory program permit is filed for any operations to be conducted after the expiration of 8 months from such effective date;

(ii) Timely and administratively complete permit application for a permanent regulatory program permit has been made to the regulatory authority in accordance with the provisions of the regulatory program;

(iii) The regulatory authority has not yet rendered an initial administrative decision approving or disapproving the permit; and

(iv) The surface coal mining and reclamation operations are conducted in compliance with the requirements of the Act, Subchapter B of this chapter, the State statutes and regulations, and all terms and conditions of the initial program authorization or permit.

(3) No new initial program permits may be issued after the effective date of a State regulatory program unless the application was received prior to such date.

(c) *Continued operations under Federal program permits.* (1) A permit issued by the Director pursuant to a Federal program for a State shall be valid under any superseding State program approved by the Secretary.

(2) The Federal permittee shall have the right to apply to the State regulatory authority for a State permit to supersede the Federal permit.

(3) The State regulatory authority may review a permit issued pursuant to the superseded Federal program to determine that the requirements of the Act and the approved State program are not violated by the Federal permit, and to the extent that the approved State program contains additional requirements not contained in the Federal program for the State, the State regulatory authority shall—

(i) Inform the permittee in writing;

(ii) Provide the permittee an opportunity for a hearing;

(iii) Provide the permittee a reasonable opportunity to resubmit the permit application in whole or in part, as appropriate; and

(iv) Provide the permittee a reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the State program.

(d) *Continued operations under State program permits.* (1) A permit issued pursuant to a previously approved State program shall be valid under a superseding Federal program.

(2) Immediately following promulgation of a Federal program, the Director may review the permits issued under Paragraph (d)(1) of this section to determine that the requirements of the Act, this chapter, and the Federal program are not violated. If the Director determines that a permit was granted contrary to the requirements of this Act the Director shall—

(i) Inform the permittee in writing;

(ii) Provide the permittee an opportunity for a hearing;

(iii) Provide the permittee a reasonable opportunity to resubmit the permit application in whole or in part, as appropriate; and

(iv) Provide the permittee a reasonable time to conform ongoing surface coal mining and reclamation operations to the requirements of the Federal program, as prescribed in the Federal program for the State.

§ 773.13 Public participation in permit processing.

(a) *Filing and public notice.* (1) Upon submission of an administratively complete permit application, an applicant for a permit, or significant revision of a permit, shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least once a week for four consecutive weeks. A copy of the advertisement shall be submitted to the regulatory authority.

The advertisement shall contain, at a minimum, the following:

(i) The name and business address of the applicant.

(ii) A map or description which clearly shows or describes the exact location and boundaries of the proposed permit area. Such map (indicating the north direction) or description shall be sufficient to enable local residents to readily identify the permit area and may include towns, bodies of water, local landmarks, and any other information.

(iii) The location where a copy of the application is available for public review.

(iv) The name and address of the regulatory authority where written comments or requests for informal conferences on the application may be submitteed under paragraphs (b) and (c) of this section.

(v) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate a public road, except where public notice and hearing have previously been provided in accordance with § 761.12(d) of this chapter, a concise statement describing the public road, the particular part to be relocated, when the relocation is to occur, and the duration of the relocation.

(vi) If the application includes a request for an experimental practice under § 785.13, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.

(2) The applicant shall make an application for a permit or significant revision available for the public to inspect and copy by filing a full copy of the application with the recorder at the courthouse of the county where the mining is proposed to occur, or an appropriate public office approved by the regulatory authority. This copy of the application need not include confidential information exempt from disclosure under paragraph (d) of this section. The application required by this paragraph shall be filed by the first date of newspaper advertisement of the application. The applicant shall file any subsequent revision of the application with the public office at the same time the revision is submitted to the regulatory authority.

(3) Upon receipt of an administratively complete permit application for a permit, or a significant revison to a permit, the regulatory authority shall issue written notification indicating the applicant's intention to mine the described tract of land, the application number or other identifier, the location where a copy of the application may be reviewed, and the location where comments on the application may be submitted. The notification shall be sent to—

(i) Local governmental agencies with jurisdiction over the area of the proposed surface coal mining and reclamation operations, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and

(ii) All Federal or State governmental agencies with authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operations and which are part of the permit coordinating process developed in accordance with section 503(a)(6) of the Act, including the local U.S. Department of Agriculture Soil Conservation Service district offices and the local U.S. Army Corps of Engineers district engineer.

(b) *Comments and objections on permit applications.* (1) Within a reasonable time established by the regulatory authority, written comments on a permit application may be submitted to the regulatory authority by public entities notified under paragraph (a)(3) of this section with respect to the effects of the proposed mining operations on the environment within their areas of responsibility.

(2) Written objections to a permit application may be submitted to the regulatory authority by any person having an interest which is or may be adversely affected by the issuance of the permit, or by an officer or head of any Federal, State, or local government agency or authority, within 30 days after the last publication of the newspaper notice required by paragraph (a) of this section.

(3) The regulatory authority shall upon receipt of such written comments or objections—

(i) Transmit a copy of the comments to the applicant; and

(ii) File a copy for public review at the same public office where the permit application is filed.

(c) *Informal conferences.* (1) Any person having an interest which is or may be adversely affected by the issuance of the permit, or an officer or a head of a Federal, State, or local government agency, may request in writing that the regulatory authority hold an informal conference on the permit application. The request shall—

(i) Briefly summarize the issues to be raised by the requestor at the conference;

(ii) State whether the requestor desires to have the conference conducted in the locality of the proposed operation; and

(iii) Be filed with the regulatory authority no later than 30 days after the last publication of the newspaper advertisement required under paragraph (a) of the section.

(2) Except as provided in paragraph (c)(3) of this section, if an informal conference is requested in accordance with paragraph (c)(1) of this section, the regulatory authority shall hold an informal conference within a reasonable time following the receipt of the request. The informal conference shall be conducted as follows:

(i) If requested under paragraph (c)(1)(ii) of this section, it shall be held in the locality of the proposed surface coal mining and reclamation operation.

(ii) The date, time, and location of the informal conference shall be sent to the applicant and other parties to the conference and advertised by the regulatory authority in a newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation, at least 2 weeks before the scheduled conference.

(iii) If requested in writing by a conference requestor at a reasonable time before the conference, the regulatory authority may arrange with the applicant to grant parties to the conference access to the permit area prior to the established date of the conference for the purpose of gathering information relevant to the conference.

(iv) The requirements of Section 5 of the Administrative Procedure Act, as amended (5 U.S.C. 554), shall not apply to the conduct of the informal conference. The conference shall be conducted by a representative of the regulatory authority, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other eqivalent guarantee pursuant to Subchapter J.

(3) If all parties requesting the informal conference withdraw their request before the conference is held, the informal conference may be canceled.

(4) Informal conferences held in accordance with this section may be used by the regulatory authority as the public hearing required under § 761.12(d) of this chapter on proposed uses or relocation of public roads.

(d) *Public availability of permit applications.* (1) *General availability.* Permit applications on file with the

regulatory authority shall be available, at reasonable times, for public review and copying.

(2) *Restricted availability.* Information pertaining to coal seams, test borings, core samplings, or soil samples in the permit application shall be made available for review and copying to any person with an interest which is or may be adversely affected.

(3) *Confidentiality.* The regulatory authority shall provide procedures to ensure confidentiality of qualified confidential information, which shall be clearly identified by the applicant, submitted separately from the remainder of the application, and limited to—

(i) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment;

(ii) Information required under section 508 of the Act that is not on public file pursuant to State law and that the applicant has requested in writing to be held confidential; and

(iii) Information on the nature and location of archeological resources on public land and Indian land as required under the Archeological Resources Protection Act of 1979 (Pub. L. 96–95 93 Stat. 721, 16 U.S.C. 470, Section 9.).

§ 773.15 Review of permit applications.

(a) *Decisions on permits.* (1) The regulatory authority shall review the permit application, written comments and objections submitted, and records of any informal conference held on the permit application and issue a written decision, within a reasonable time set by the regulatory authority, either granting, requiring modification of, or denying the application for permit. If an informal conference is held under 30 CFR 773.13(c), the decision shall be made within 60 days of the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under paragraph (b)(2) of this section.

(2) The applicant shall have the burden of establishing that his application is in compliance with all the requirements of the regulatory program.

(3) If the application is approved, the permit shall be issued. If the application is disapproved, specific reasons therefor shall be set forth in the notification.

(4) The regulatory authority shall notify the applicant, and each person who files objections to the permit application, in writing, of its decision, and within 10 days after the granting of a permit, notify the local governmental officials in the local political subdivision in which the land to be affected is located that a permit has been issued, including a description of the location of the land.

(5) If the regulatory authority is a State agency, the regulatory authority shall notify the local OSM office in writing of its decision.

(b) *Review of violations.* (1) If the regulatory authority determines that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of the Act, any Federal law, rule, or regulation, or any State law, rule, or regulation enacted pursuant to Federal law, rule, or regulation pertaining to air or water environmental protection, the regulatory authority shall require the applicant, before the issuance of the permit, to either—

(i) Submit to the regulatory authority proof satisfactory to the agency that has jurisdiction over the violation that the violation has been or is in the process of being corrected; or

(ii) Establish for the regulatory authority that the applicant has filed and is presently pursuing, in good faith, a direct administrative or judicial appear to contest the validity of the violation. If the final administrative or judicial review authority either denies a stay applied for in the appeal or affirms the violation, then the applicant shall promptly either submit the proof required under paragraph (b)(1)(i) of this section or terminate any surface coal mining and reclamation operations being conducted under a permit issued pending such review.

(2) If the regulatory authority determines that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of the Act of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the Act, the application shall not be granted. Before such determination becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in § 773.21(a).

(c) *Written findings for permit approval.* No permit application or significant revision of an application shall be approved unless the application affirmatively demonstrates and the regulatory authority finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

(1) The permit application is accurate and complete and has complied with all requirements of the Act and the regulatory program.

(2) The applicant has demonstrated that reclamation as required by the Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.

(3) The proposed permit area is—

(i) Not within an area subject to study or administrative proceedings under a petition, pursuant to Subchapter F of this chapter, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal and financial commitments in relation to the operation covered by the permit application; or

(ii) Not within an area designated unsuitable for mining or subject to the prohibitions or limitations of §§ 761.11 and 761.12 of this chapter.

(4) For operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the regulatory authority the documentation required under § 778.15(b) of this chapter.

(5) The regulatory authority has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

(6) The applicant has, with respect to both prime farmland and alluvial valley floors, obtained either a negative determination or satisfied the requirements of 30 CFR 785.17 and 785.19.

(7) The applicant has submitted proof that all reclamation fees required by Subchapter R of this chapter have been paid.

(8) The applicant has, with respect to variances for delay in contemporaneous reclamation requirements for combined surface and underground mining operations, satisfied the requirements of 30 CFR 785.18.

(9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural postmining land use as part of the mining and reclamation plan in accordance with the requirements of 30 CFR 816.133 or 817.133.

(d) *Performance bond submittal.* If the regulatory authority decides to approve the application, it shall require that the applicant file the performance bond or provide other equivalent guarantee before the permit is issued, in

accordance with the provisions of Subchapter J of this chapter.

§ 773.17 Permit conditions.

Each permit issued by the regulatory authority shall have the following conditions, unless specified in the permit application:

(a) The permittee shall conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area on the maps submitted with the permit application and authorized for the term of the permit and that are subject to the performance bond or other equivalent guarantee in effect pursuant to Subchapter J of this chapter.

(b) The permittee shall conduct all surface coal mining and reclamation operations only as described in the approved permit application, except to the extent that the regulatory authority otherwise directs in the permit.

(c) The permittee shall comply with all applicable performance standards of the regulatory program.

(d) Without advance notice, delay, or a search warrant, upon presentation of appropriate credentials, the permittee shall allow the authorized representatives—

(i) Of the Secretary and the State regulatory authority to have the right to entry provided for in §§842.13 and 840.12 of this chapter; and

(ii) Of the Secretary to be accompanied by private persons for the purpose of conducting an inspection in accordance with § 842.12 of this chapter and of the State regulatory authority under analogous State provisions, if any.

(e) The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to—

(1) Any accelerated or additional monitoring necessary to determine the nature and extent of noncompliance and the results of the noncompliance;

(2) Immediate implementation of measures necessary to comply; and

(3) Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

§ 773.19 Permit term and right of renewal.

(a) *Permit approval and right of renewal.* Permit approval shall apply to those lands that are specifically designated as the permit area on the maps submitted with the permit application and for which the application is accurate and complete. The approved permit shall carry with it the right of successive renewal, within the approved boundaries, upon expiration of the term of the permit, in accordance with 30 CFR 773.27.

(b) *Permit term.* A permit shall be issued for a fixed term of 5 years or less, unless the requirements of 30 CFR 778.17 of this chapter are met.

(c) *Initiation of operations.* (1) A permit shall terminate if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within 3 years of the issuance of the permit.

(2) The regulatory authority may grant a reasonable extension of time for commencement of these operations, upon receipt of a written statement showing that such an extension of time is necessary, if—

(i) Litigation precludes the commencement or threatens substantial economic loss to the permittee; or

(ii) There are conditions beyond the control and without the fault or negligence of the permittee.

(3) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at the time that the construction of the synthetic fuel or generating facility is initiated.

(4) Extensions of time granted by the regulatory authority under this paragraph shall be specifically set forth in the permit, and notice of the extension shall be made public by the regulatory authority.

§ 773.21 Administrative and judicial review of decisions.

(a) *Administrative review.* Within 30 days after an applicant or permittee is notified of the decision of the regulatory authority concerning an application for a permit for exploration or surface coal mining and reclamation operations, permit revision, permit renewal, or a transfer, assignment, or sale of permit rights, the applicant, permittee, or any person with an interest which may be adversely affected may request a hearing on the reasons for the decision, in accordance with this section.

(1) *Administrative hearing under State programs.* (i) The regulatory authority shall start the administrative hearing within 30 days of such request. The hearing shall be on the record and adjudicatory in nature. No person who presided at an informal conference under § 773.15(c) shall either preside at the hearing or participate in the decision following the hearing or administrative appeal.

(ii) The regulatory authority may, under such conditions as it prescribes, grant such temporary relief as it deems appropriate, pending final determination of the proceedings if—

(A) All parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(B) The person requesting that relief shows substantial likelihood that he or she will prevail on the merits of the final determination of the proceeding;

(C) The relief will not adversely affect the public health or safety or cause significant, imminent environmental harm to land, air, or water resources; and

(D) The relief sought is not the issuance of a permit where a permit has been denied, in whole or in part, by the regulatory authority.

(iii) The hearing shall be conducted under the following conditions:

(A) The hearing authority may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining and reclamation operations carried on by the applicant in the general vicinity of the proposed operations.

(B) A verbatim record of each public hearing required by this section shall be made, and a transcript made available on the motion of any party or by order of the hearing authority.

(C) Ex parte contacts between representatives of the parties appearing before the hearing authority and the hearing authority shall be prohibited.

(iv) Within 30 days after the close of the record, the hearing authority shall issue and furnish the applicant and each person who participated in the hearing with the written findings of fact, conclusions of law, and order of the hearing authority with respect to appeal of the decision.

(v) The burden of proof at such hearings shall be on the party seeking to reverse the decision of the regulatory authority.

(2) *Administrative hearings under Federal programs and Federal lands programs.* All hearings on an application for a permit for exploration or surface coal mining and reclamation operations, permit revision, permit renewal, or a transfer, assignment, or sale of permit rights shall be of record and governed by 5 U.S.C. 554 and 43 CFR Part 4.

(b) *Judicial review.* (1) *General.* Any applicant or any person with an interest

which is or may be adversely affected and who has participated in the administrative hearings as an objector may appeal as provided in paragraph (b)(2) of this section, if—

(i) The applicant or person is aggrieved by the decision of the hearing authority in the administrative hearing conducted pursuant to paragraph (a) of this section; or

(ii) Either the regulatory authority or the hearing authority for administrative hearings under paragraph (a) of this section fails to act within time limits specified in the Act, this chapter, and the regulatory program.

(2) *Judicial review under State programs.* The hearing authority action identified in paragraph (b)(1) of this section shall be subject to judicial review by a court of competent jurisdiction, as provided for in the State program, but the availability of such review shall not be construed to limit the operation or the rights established in section 520 of the Act.

(3) *Judicial review under Federal programs and Federal lands programs.* The action of the hearing authority identified in paragraph (b)(1) of this section is subject to judicial review by the U.S. District Court for the district where the coal exploration or surface coal mining and reclamation operation is or would be located, in the time and manner provided for in section 528(a)(2) and (b) of the Act. The availability of the review shall not be considered to limit the operations of rights established in Section 520 of the Act.

§ 773.23 Regulatory authority review and modification of permits.

(a) The regulatory authority shall review each permit issued and outstanding under an approved regulatory program during the term of the permit. This review shall occur not later than the middle of the permit terms and as follows:

(1) Permits with a term longer than 5 years shall be reviewed no less frequently than the permit midterm or every 5 years, whichever is more frequent.

(2) Permits with variances granted in accordance with § 780.23 (postmining land use), § 785.14 (mountaintop removal), § 785.16 (approximate original contour), and § 785.18 (variance for delay in contemporaneous reclamation requirement in combined surface and underground mining operations) of this chapter shall be reviewed no less than 3 years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the permit.

(3) Experimental practices issued in accordance with 30 CFR 785.13 shall be reviewed no less than every year from the date of issuance.

(b) The regulatory authority may, by order, require reasonable revision or modification of a permit to ensure compliance with the Act and the regulatory program.

(c) Any order of the regulatory authority requiring revision or modification of a permit shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of paragraphs (a) and (b) of this section. Copies of the order shall be sent to the permittee.

(d) Permits may be suspended or revoked in accordance with Subchapter L of this chapter.

§ 773.25 Permit revisions.

(a) *General.* During the term of a permit, the permittee may submit to the regulatory authority an application for a revision of the permit.

(b) *Application requirements and procedures.* The regulatory authority shall establish—

(i) A time period within which the regulatory authority will approve or disapprove an application for permit revision; and

(ii) Guidelines establishing the scale or extent of revisions for which all of the permit application information requirements and procedures of this subchapter, including notice, hearing, and public participation requirements of § 773.19, shall apply. Such requirements and procedures shall apply at a minimum to all significant permit revisions.

(c) *Criteria for approval.* No application for permit revision shall be approved unless the application demonstrates and the regulatory authority finds that reclamation as required by the Act and the regulatory program can be accomplished and the revision complies with all requirements of the Act and the regulatory program.

(d) *Permit boundary revisions.* Any extensions to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit.

§ 773.27 Permit renewals.

(a) *General.* A valid permit, issued pursuant to an approved regulatory program, shall carry with it the right of successive renewal, within the approved boundaries, upon expiration of the term of the permit.

(b) *Application requirements and procedures.* (1) An application for renewal of a permit shall be filed with the regulatory authority at least 120 days before expiration of the existing permit term.

(2) An application for renewal of a permit shall be in the form required by the regulatory authority and shall include at a minimum—

(i) The name and address of the permittee, the term of the renewal requested, and the permit number or other identifier;

(ii) Evidence that a liability insurance policy or adequate self-insurance under § 806.14 will be provided by the applicant for the proposed period of renewal;

(iii) Evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the regulatory authority pursuant to Subchapter J of this chapter;

(iv) A copy of the newspaper notice and proof of publication of same under 30 CFR 773.13(a); and

(v) Additional revised or updated information required by the regulatory authority.

(3) Applications for renewal shall be subject to the requirements of public notification and participation contained in 30 CFR 773.13.

(4) If an application for renewal includes any proposed revisions to the permit, such revisions shall be subject to the requirements of 30 CFR 773.25.

(c) *Criteria for approval.* (1) The regulatory authority shall approve an application for permit renewal, unless it finds, in writing, that—

(i) The terms and conditions of the existing permit are not being satisfactorily met;

(ii) The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards of the Act and the regulatory program;

(iii) The requested renewal substantially jeopardizes the operator's continuing ability to comply with the Act and the regulatory program on existing permit areas;

(iv) The operator has not provided evidence of having liability insurance, as required in § 806.14;

(v) The operator has not provided evidence that any performance bond required to be in effect for the operation will continue in full force and effect for the proposed period of renewal, as well as any additional bond the regulatory authority might require pursuant to Subchapter J of this chapter; or

(vi) Additional revised or updated information required by the regulatory

authority has not been provided by the applicant.

(2) In the determination of whether to approve or deny a renewal of a permit, the burden shall be on the opponents of renewal.

(3) *Alluvial valley floor variance.* If the surface coal mining and reclamation operation authorized by the original permit was not subject to the standards contained in Sections 510(b)(5) (A) and (B) of the Act and § 785.19 of this chapter, because the permittee complied with the exceptions to Section 510(b)(5) of the Act, the portion of the application for renewal of the permit that addresses new land areas previously identified in the permit application for the original permit shall not be subject to the standards contained in Sections 510(b)(5) (A) and (B) of the Act and § 785.19 of this chapter.

(d) *Renewal term.* Any permit renewal shall be for a term not to exceed the period of the original permit established under 30 CFR 773.19.

(e) *Notice of decision.* The regulatory authority shall send copies of its decision to the applicant, to each person who filed comments on the renewal, and to each party to any informal conference held on the permit renewal.

(f) *Administrative and judicial review.* Any person having an interest which is or may be adversely affected by the decision of the regulatory authority shall have the right to administrative and judicial review set forth in 30 CFR 773.21.

§ 773.29 Transfer, assignment, or sale of permit rights.

(a) *General.* No transfer, assignment, or sale of rights granted by a permit shall be made without the prior written approval of the regulatory authority.

(b) *Application requirements.* An applicant for approval of the transfer, assignment, or sale of a permit shall—

(1) Obtain appropriate performance bond coverage in an amount sufficient to cover the proposed operations;

(2) Provide the regulatory authority with an application for approval of the proposed transfer, assignment, or sale including—

(i) The name and address of the existing permittee and permit number or other identifier;

(ii) A brief description of the proposed action requiring approval; and

(iii) The legal, financial, compliance, and related information required by Part 778 of this chapter for the applicant.

(3) Advertise the filing of the application in a newspaper of general circulation in the locality of the operations involved, indicating the name and address of the applicant, the permittee, the permit number or other identifier, the geographic location of the permit, and the address to which written comments may be sent.

(c) *Public participation.* Any person having an interest which is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any Federal, State, or local government agency, may submit written comments on the application to the regulatory authority within a time specified by the regulatory authority.

(d) *Criteria for approval.* The regulatory authority may allow a permittee to transfer, assign, or sell permit rights to a successor, if the successor—

(1) Meets the requirements of § 773.15(b);

(2) Has submitted a performance bond or other guarantee, or obtained the bond coverage of the original permittee, as required by Subchapter J; and

(3) Meets other requirements of the regulatory authority.

(e) *Continued operation under existing permit.* The successor in interest shall assume the liability and reclamation responsibilities of the existing permit and shall conduct the surface coal mining and reclamation operations in full compliance with the Act, the regulatory program, and the terms and conditions of the existing permit, unless the applicant has obtained a new or revised permit as provided in § 773.25.

4. Part 775 is added to read as follows:

PART 775—GENERAL CONTENT REQUIREMENTS FOR PERMIT APPLICATIONS

Sec.

775.1 Scope.
775.10 Information collection.
775.11 Format and contents.
775.13 Reporting of technical data.
775.15 Completeness.
775.17 Permit fees.

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 775.1 Scope.

This part provides minimum requirements concerning the general content for permit applications under a State or Federal program.

§ 775.10 Information collection.

The information collection requirements contained § 775.11(b) and (c) have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0031. The information is being collected to meet the requirements of sections 507, 508, and 510(b) of the Act. It provides general requirements for permit application format and contents. The obligation to respond is mandatory.

§ 775.11 Format and contents.

(a) A permit application shall—

(1) Contain current information about the permit area, adjacent area, and potentially impacted offsite areas;

(2) Be clear and concise; and

(3) Be filed in the format required by the regulatory authority.

(b) Referenced materials shall either be provided to the regulatory authority by the applicant or be readily available to the regulatory authority. Relevant portions of referenced published materials shall be presented briefly and concisely in the application by photocopying or abstracting and with explicit citations.

(c) Applications for permits shall be verified under oath, by a responsible official of the applicant, that the information contained in the application is true and correct to the best of the official's information and belief.

§ 775.13 Reporting of technical data.

(a) All technical data submitted in the application shall be accompanied by the names of persons or organizations that collected and analyzed the data, dates of the collection and analysis of the data, and description of the methodology used to collect and analyze the data.

(b) Technical investigation shall be planned by or under the direction of and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture.

§ 775.15 Completeness.

An application for a permit to conduct surface coal mining and reclamation operations shall be complete and shall include at a minimum—

(a) For surface coal mining activities, the information required under Parts 778, 779, and 780, and as applicable to the operation, Part 785 of this chapter; and

(b) For underground mining activities, the information required under Parts 782, 783, and 784, and as applicable to the operation, Part 785 of this chapter.

§ 775.17 Permit fees.

An application for a surface coal mining and reclamation permit shall be accompanied by a fee determined by the regulatory authority. The fee may be less than, but shall not exceed, the actual or anticipated cost of reviewing, administering, and enforcing the permit. The regulatory authority may develop

procedures to allow the fee to be paid over the term of the permit.

5. Part 778 is revised to read as follows:

PART 778—PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

Sec.

778.1 Scope and purpose.
778.10 Information collection.
778.13 Identification of interests.
778.14 Violation information.
778.15 Right-of-entry information.
778.16 Status of unsuitability claims.
778.17 Permit term.
778.18 Insurance.
778.21 Proof of publication.
778.22 Facilities used in common.

Authority: Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 778.1 Scope and purpose.

This part establishes the minimum requirements for the permit applications for surface coal mining and reclamation operations under a State or Federal program, and for the approval by the Secretary of permitting requirements of State programs. This part covers minimum legal, financial, and compliance requirements and general information that must be contained in permit applications. This part applies to any person who submits an application to a regulatory authority for a permit to conduct surface coal mining and reclamation operations.

§ 778.10 Information collection.

The information collection requirements contained in §§ 778.13, 778.14, 778.15, 778.16, 778.17, 778.21, and 778.22 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0034. The information is being collected to meet the requirements of section 507(b) of the Act, which requires that persons conducting surface mining activities submit to the regulatory authority all relevant information regarding ownership and control of the property to be affected by the activities, compliance status, and history. This information will be used by the regulatory authority to insure all legal, financial, and compliance requirements are satisfied prior to issuance or denial of a permit during the permanent regulatory program. The obligation to respond is mandatory.

§ 778.13 Identification of interests.

An application shall contain the following:

(a) A statement as to whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity.

(b) Names, addresses, and telephone numbers of the permit applicant, the operator (if different from the applicant), and the applicant's resident agent who will accept service of process.

(c) For businesses other than single proprietorships, where applicable—

(1) Names and address of each officer, partner, principal, and director or other person performing a function similar to a director;

(2) Name and address of each person who is a principal shareholder of the applicant's business; and

(3) All names under which the applicant, partner, or principal shareholder previously operated a surface coal mining and reclamation operation in the United States within the 5 years preceding the date of application.

(d) A statement of all current or previous coal mining permits in the United States held by the applicant during the 5 years preceding the date of application and by any person identified in Paragraph (c)(3) of this section, and of any pending permit application to conduct surface coal mining and reclamation operation in the United States. The information shall list the permit or application number or other identifier and the regulatory authority for each of the operations.

(e) The names and addresses of each legal or equitable owner of record of the surface and mineral property to be mined, the holders of record of any leasehold interest in the property to be mined, and any purchaser of record under a real estate contract for the property to be mined.

(f) The names and addresses of the owners of record of all property (surface and subsurface) contiguous to any part of the proposed permit area.

(g) The Mine Safety and Health Administration (MSHA) numbers for all mine-associated structures that require MSHA approval.

(h) A statement of all lands, interest in lands, options, or pending bids on interests held or made by the applicant for lands contiguous to the area described in the permit application. If requested by the applicant, any information required by this paragraph which is not on public file pursuant to State law shall be held in confidence by the regulatory authority.

§ 788.14 Violation information.

An application shall contain the following:

(a) A statement of whether the applicant or any subsidiary, affiliate, or persons controlled by or under common control with the applicant has—

(1) Had a Federal or State coal mining permit suspended or revoked in the 5 years preceding the date of submission of the application; or

(2) Forfeited a performance bond or similar security deposited in lieu of bond within the 5 years before the date of submission of the application.

(b) A brief explanation of the facts involved if any such suspension, revocation, or forfeiture referred to in Paragraphs (a) (1) and (2) of this section has occurred, including—

(1) Identification number and date of issuance of the permit, and the date and amount of bond or similar security;

(2) Identification of the authority that suspended or revoked the permit or forfeited the bond and the stated reasons for that action;

(3) The current status of the permit, bond, or similar security involved;

(4) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(5) The current status of the proceedings.

(c) A listing of all violation notices, if any, received by the applicant in connection with any surface coal mining and reclamation operation during the 3-year period preceding the application date, for violations of any law, rule, or regulation of the United States, or of any State law, rule, or regulation enacted pursuant to a Federal law, rule, or regulation, pertaining to air or water environmental protection or of any provision of the Act. The application shall also contain a statement regarding each violation notice, including—

(1) The date of issuance and identity of the issuing regulatory authority, department, or agency;

(2) A brief description of the violation alleged in the notice;

(3) The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the violations;

(4) The current status of the proceedings and of the violation notice; and

(5) The actions, if any, taken by the applicant to abate the violation.

§ 778.15 Right-of-entry information.

(a) An application shall describe the documents supporting the applicant's legal right to enter and begin surface coal mining and reclamation operations in the permit area and state whether

that right is the subject of pending litigation. The description shall identify the documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant and whether the rights are subject to litigation.

(b) Where the private mineral estate to be mined has been severed from the private surface estate, an applicant shall also submit—

(1) A copy of the written consent of the surface owner for the extraction of coal by surface mining methods;

(2) A copy of the conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or

(3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under applicable State law, the applicant has the legal authority to extract the coal by those methods.

(c) Nothing in this section shall be construed to provide the regulatory authority with the authority to adjudicate property title disputes.

§ 778.16 Status of unsuitability claims.

(a) Each application shall contain available information as to whether the proposed permit area is within an area designated as unsuitable for surface coal mining and reclamation operations under Parts 764 and 765 of this chapter and under Part 769 if the State is the regulatory authority on Federal lands pursuant to a cooperative agreement in accordance with Part 745 fo this chapter, or the proposed permit area is under study for designation in an administrative proceeding under those parts.

(b) An application in which the applicant claims the exemption described in §762.13(c) of this chapter shall contain information supporting the assertion that the applicant made substantial legal and financing commitments before January 4, 1977, concerning the proposed surface coal mining and reclamation operations.

(c) An application in which the applicant proposes to conduct surface coal mining activities within 300 feet of an occupied dwelling, within 100 feet of a public road, or proposes to relocate a public road shall contain the necessary information and meet the requirements of § 761.12 of this chapter.

§ 778.17 Permit term.

If the applicant requires an initial permit term in excess of 5 years in order to obtain necessary financing of equipment and the opening of the operation, the application shall—

(a) Be full and complete for the specified long term; and

(b) Show that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing of equipment and the opening of the operation, and the need is confirmed, in writing, by the applicant's proposed source for financing.

§ 778.18 Insurance.

A permit application shall contain either a certificate of liability insurance or evidence that the self-insurance requirements of § 806.14 of this chapter have been satisfied.

§ 778.21 Proof of publication.

A copy of the newspaper advertisement of the application or proof of publication of the advertisement shall be filed with the regulatory authority and made a part of the complete application, not later than 4 weeks after the last date of publication required under § 773.13(a)(1) of this chapter.

§ 778.22 Facilities used in common.

The plans of a facility or structure that is to be shared by two or more separately permitted mining operations may be included in one permit application and referenced in the other applications and shall include a copy of an agreement between or among the parties as to the responsibility for the facility.

PARTS 772, 786, 787, AND 788 [REMOVED]

6. Parts 782, 786, 787, and 788 are removed.

[FR Doc. 82-17012 Filed 6-24-82; 8:45 am]
BILLING CODE 4310-05-M

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30 CFR Parts 701, 779, 780, 783, 784, 816, and 817

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program: Hydrology Permitting and Performance Standards; Geology Permitting

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rules.

SUMMARY: The Office of Surface Mining (OSM) proposes a major revision and reorganization of the existing hydrology and geology permitting and hydrology environmental performance standards rules to clarify the major hydrology and geology concepts stipulated in the Surface Mining Control and Reclamation Act of 1977 (the Act). The proposed rules emphasize collection of premining hyrologic and geologic data, water quality monitoring where necessary, planning to ensure protection of hydrologic resources, and reclamation to preserve premining hydrologic characteristics.

DATES:

Written comments: Accepted until further notice.

Public hearings: Held on request only, on August 4, 1982, at 9 a.m. (local).

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.10), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.10), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.: Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Tower, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W.Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: John Mosesso, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202–343–5261.

Public meetings: Jose del Rio, 202–343–4022.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Proposed Permitting Rules.
III. Proposed Performance Standards Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record

for the final rulemaking. The comment period will remain open until the close of the comment period on the draft supplemental environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices lised in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Proposed Permitting Rules

A. Background

This preamble has been written to explain proposed amendments to the hydrologic and geologic permitting requirement for both surface and underground mining. The proposed rules for surface and underground mining activities are nearly identical; variations have been noted herein. OSM believes that most of the existing hydrologic and geologic data requirements for permitting are technically sound, but that the ambiguity and lack of guidance in the current rules relating to the important hydrologic concepts of the Surface Mining Control and Reclamation Act of 1977 (Act), 30 U.S.C. 1201 *et seq.*, and the wide dispersion of the hydrologic requirements in the current rules make it difficult to implement the requirements. OSM is proposing a major revision and reorganization of 30 CFR 779.13, 779.14, 779.15, 779.16, 779.17, 780.21, 780.29, 783.13, 783.14, 783.15, 783.16, 783.17, 784.14, 784.22, 816.41, 816.52, 817.41 and 817.52, the hydrology and geology requirements for permitting and for information acquired by the operator following permit issuance. The proposed rules would more clearly state the Act's requirements for data collection and submission both before and after permit approval. OSM believes that the proposed rules would provide adequate protection of the environment while encouraging the application of innovative hydrologic and engineering practices and promote cost effective permitting for both industry and government.

Sections 507(b) (11), (14), and (15); 508(a) (5) and (13); 510(b)(3); 515(b)(10); 516(b) (4), (9), and (12); 517(b)(2); and 717 of the Act are the primary hydrologic and geologic requirements for permitting, mining, reclaiming, and closing a surface coal mining operation. These provisions require assessment of premining conditions, prediction of the hydrologic impacts of mining, planning of mining and reclamation operations to minimize disturbances to the hydrologic balance and monitoring of hydrologic conditions. The proposed rules would follow these provisions by focusing on (1) ground-water baseline information, (2) surface-water baseline information, (3) determination of the probable hydrologic consequences of mining, (4) assessment of the probable cumulative impacts of mining, (5) planning of mining and reclamation operations, and (6) operational monitoring. Each category is logically and sequentially related to the next.

OSM believes that this new emphasis and organization of data will lead to the development of a cost-effective program of evaluation and planning in accordance with the requirements of the Act.

The proposed amendments complement the hydrologic and geologic information needs for all permits including those submitted under the Small Operators Assistance Program. These proposed amendments provide no differences between the permitting requirements for small operators and those for large operators. The Small Operator Assistance Program (SOAP) may however, pay for certain information requirements for small operators. The SOAP regulations of Part 795 are being revised in a separate rulemaking.

The requirements of the revised sections listed above have been incorporated into four new major sections: § 780.21 for surface mining activities and § 784.14 for underground mining activities, both entitled "Hydrologic Information and Analyses," and § 780.22 for surface mining activities and § 784.22 for underground mining activities, both entitled "Geologic Information and Analysis."

B. Terminology

The current hydrology permitting rules require hydrologic information to be submitted for the "permit area," "general area," or "adjacent area," depending upon the type of information. OSM has previously proposed to amend the definitions relating to areal descriptions (47 FR 41; Jan. 4, 1982) to clear up the considerable confusion that has arisen over the interpretation of these terms and to implement the order of the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, slip op. at 35–36 (Feb. 26, 1980) and slip op. at 57–58 (May 16, 1980) suspending use of the term "mine plan area." In that rulemaking, OSM has proposed to utilize the "permit area and potentially impacted offsite areas" as the areas for which most hydrologic information would be submitted. (*See* discussion at 47 FR 42–43; Jan. 4, 1982.) That proposal is reflected in this rulemaking.

Two new definitions are to be added, one for the term "cumulative impact area" and another for "gravity discharge." These are discussed below.

Cumulative Impact Area

In the existing rules, the size of the area for which the probable cumulative impact (PCI) assessment must be made is keyed to the definition of "general area." However, OSM has found that "general area" as presently defined is ambiguous and has not been very useful in defining the necessary extent of the area for which the PCI assessment must be made. Therefore, this definition is proposed to be deleted in another OSM rulemaking (proposed Parts 773, 775, and 778 on permitting). The major provisions defining the scope of the required PCI assessment are contained in sections 507(b)(11) and 510(b)(3) of the Act. These sections require data for the "mine site and surrounding areas" so

that the regulatory authority can make the PCI assessment (section 507(b)(11)); specify that this assessment not be required until the necessary information on the "general area" is available, but that the permit not be approved unless such information is available (section 507(b)(11)); and require the assessment of the cumulative impacts of "all anticipated mining in the area" (section 510(b)(3)). To clarify the extent of the area for which PCI assessment must be made as required by the Act and to reduce some of the confusion resulting from the application of the term "general area" in the existing regulations, OSM is proposing to define a new term: the "cumulative impact area." This term would encompass the scope and intent of the Act with respect to the PCI assessment as provided for in sections 507(b)(11) and 510(b)(3). Under the proposed rule, the cumulative impact area would be defined to mean, with respect to the assessment of the probable cumulative hydrologic impacts of mining, the surface- and ground-water basin(s), including the permit area, within which there is anticipated mining which may have a cumulative hydrologic impact with the proposed operation. For purposes of this definition, anticipated mining would be defined to include all existing operations, the proposed operation over its entire life, and any operations which the regulatory authority reasonably expects to be permitted during the projected life of the proposed operation.

The precise areal extent of the cumulative impact area would be defined, on a permit-by-permit basis, by the hydrologic characteristics and the anticipated hydrologic consequences of individual mining operations which may have a cumulative impact with the proposed operation. OSM has considered whether the hydrologic data collection efforts of the U.S. Geological Survey's (USGS) coal hydrology program might provide a guide as to size criteria for the cumulative impact area. However, depending upon topography and other factors, the areas of data availability for surface-water units of the USGS program may be 20 square miles or less in the East, whereas in the West they may be several hundred square miles. For this reason, OSM feels it is unwise to preselect a numerical limit for the size of the cumulative impact area based on the USGS data base, even though it represents the primary data base of hydrology information in the Nation.

In addition to the above considerations, the OSM has also found that some temporal limit is necessary to define more clearly what mining activities the regulatory authority must include in its analysis of "all anticipated mining." For purposes of the proposal, the OSM has chosen to utilize the period of the entire projected life of the proposed operation. Thus, the PCI assessment would include not only the analysis of the permit area, as defined in the application under consideration, but also would be required to include analysis of subsequent permit areas for which it is expected that the operator will be requesting new or renewed permits over the life of the mine.

In addition to the proposed operation over its entire life, all existing operations and any operations which the regulatory authority reasonably expects to be permitted during the projected life of the proposed operation would be required to be included in the analysis. Under the proposal, preexisting mines, i.e., those that had ceased operation prior to the analysis, and impacts from those mines could be considered within the baseline data required and no separate analysis of abandoned operations would be required.

By defining a limit on the extent of mining requiring analysis, the proposal would not require consideration of those operations that are speculative, but not actually anticipated. Such operations, if they were to come on line would be subject to their own PCI assessment and thus any cumulative risk to the environment would be identified and could be mitigated.

OSM is aware of the difficulties in projecting impacts for mining operations for which there is no plan for mining and reclamation. Under such circumstances, it is expected that the PCI assessment could be based on the assumption that the new operations would utilize state-of-the-art techniques to mitigate impacts and would comply with all the requirements of the regulatory program.

As alternatives to the proposal, which could include some operations for which there is no plan for the mine and for which the projected impacts must necessarily be highly spectulative, the following were considered:

- Limiting the scope of anticipated mining requiring consideration to that operation covered by the permit and other operations only if they were existing.
- Including only those operations for which a permit has been issued or for which a permit has been officially applied.
- Including the entire life of the proposed mine and other existing operations.
- In the West, including any leased Federal coal along with any of the above.

Comments are specifically required on any of these alternatives, as well as the proposal, or any other alternatives the commenter feels should be considered.

Gravity discharge

The definition of gravity discharge is intended to clarify requirements of section 516(b)(12) of the Act and proposed performance standards for suface mining activities involving acid-producing or iron-producing coal seams. OSM believes the definition adequately support the environmental protection aspects of section 516(b)(12) without precluding mining of coal seams which have acid or toxic potentials. The definition is primarily aimed at prevention of gravity discharges from updip mines when water flows freely downgradient and air flow freely back into the mine.

C. Discussion of Specific Changes

Analytical and Sampling Techniques [§§780.21(a) and 784.14(a)

Proposed §§ 780.21(a) and 784.14(a) require permit applications to contain baseline hydrologic information respresentative of the proposed permit area and potentially impacted offsite areas. Proposed §§ 780.21(b) and (c) and 784.14(b) and (c) describe the baseline information requirements in detail.

OSM has learned during the last 4 years that equitable enforcement of effluent standards can be servely hampered when, due to improper sampling techniques and substandard laboratory techniques and testing methodology, hydrologic data are not representative of the field situation. OSM has participated in a quality-assurance program for water-quality analysis and found that some private laboratories in the coal fields and serious deficiencies, particularly with regard to analytical determinations. To improve the accuracy and reliability of hydrologic data for surface mining activities, OSM proposed in § 780.21(a) that, for data collected to meet the permitting requirements of proposed §§ 780.21(b), 780.21(c), and 780.21(f), and the minotoring requirements of proposed §§ 780.21(i), 780.21(j),the methodology set forth in the most current editions of the following references be used:

U.S. Environmental Protection Agency, 1979, Methods for chemical analysis of water and wastes: EPA–600/4–79–020, various pagings.

American Public Health Association, American Water Works Association,

and Water Pollution Control Federation, 1975, Standard methods for the examination of water and wastewater, 14th ed.: New York, 1, 193 pp.

Similarly, proposed § 784.14(a), which pertains to underground mining activities, would be revised to provide for use of the same methodology for the permitting and monitoring requirements of proposed §§ 784.14(b), (c), (f), (h), and (i).

Generally, the methodologies described in the two manuals are similar and a testing laboratory would need to reference only one of the manuals. OSM recognizes that water quality sampling on a typical minesite can be difficult, particularly when drainage is diffuse and polutant concentrations are high. For this reason the proposed rule would require that sampling techniques adhere to these manuals only "when feasible."

Another publication addressing sampling and analytical techniques is the "National Handbook of Recommended Methods for Water Data Acquisition," which is published and periodically updated by the U.S. Geological Survey. The handbook is similar to the manuals cited above with respect to analytical techniques for water-quality analyses. In addition, it provides extensive information on other aspects of the hydrologic cycles, such as surface water; ground water; fluvial sediment; biological, bacteriological, and physical quality of water; soil moisture; drainage basin characteristics; evaporation and transpiration; and snow and ice. Although use of the handbook is not required in the proposed rules. OSM feels that the handbook can be extremely useful to industry and the regulatory authorities and has used it as a reference in the development of these rules.

Baseline Information—§§ 780.21(b) and (c) and 784.14(b) and (c)

The hydrology description requirements of existing §§ 779.13(a) and 783.13(a) would be separated from the geology description requirements, which would be incorporated in proposed §§ 780.22 and 784.22. The basic hydrology information requirements of these sections—that permit applications describe the hydrology of the area being mined and its vicinity—would be incorporated into proposed §§ 780.21(b) and (c) and 784.14(b) and (c). The terms "mine plan area," "adjacent area," and "general area" would be replaced, however, with the term "permit area and potentially impacted offsite areas," as discussed above under "Terminolgy."

Existing §§ 779.15 and 783.15, which concern ground-water information, would be replaced by proposed §§ 780.21(b) and 784.14(b). Sections 779.16 and 783.16, which concern surface-water information, would be replaced by proposed §§ 780.21(c) and 784.14(c). The proposed sections would continue the baseline information requirements of the existing sections, but would be more comprehensive and provide clearer direction to the applicant. Proposed §§ 780.21(b)(1), 780.21(c)(1), 784.14(b)(1) and 784.14(c)(1) would, as described below, require certain information of all applicants, while proposed §§ 780.21(b)(2), 780.21(c)(2), 784.14(b)(2), and 784.14(c)(2) would require more detailed information where the determination of the probable hydrologic consequences (PHC) of the proposed operation indicates that a currently used or significant water resource is likely to be adversely impacted. The PHC determination is required to be made by section 507(b)(11) of the Act, and would be implemented in proposed §§ 780.21(g) and 784.14(g).

To minimize confusion regarding hydrologic information needs for permitting, the term "premining information" has generally been replaced by the term "baseline information," when referring to information gathered before the proposed operation. Information collected under this section will enable the applicant and the regulatory authority to make the required assessments of the probable hydrologic consequences and cumulative impacts of mining. Proposed §§ 780.21 (b) and (c) and 784.14 (b) and (c), describe the first and second major categories of data requirements mentioned previously. These requirements pertain to baseline information for ground water and surface water for the proposed permit area and potentially impacted offsite areas. This information must be gathered and evaluated by the applicant to a degree that will reasonably assure the protection of the onsite and offsite environment and the water rights of others in areas where adverse impacts may occur.

Experience gained by OSM during the last 4 years has shown that a thorough documentation of baseline conditions is essential to planning a mining operation that will meet the minimum requirements of the Act and to fulfill the requirements of sections 507(b)(11) and 508(a)(13) of the Act. While the recognition of the need for adequate baseline information is not new, the proposed rules would emphasize the importance of the information and ensure its proper use by linking all subsequent planning and permitting steps to the baseline conditions.

Proposed §§ 780.21(b)(1) and 784.14(b)(1) would require a ground-water inventory that consists of a documentation of the location and ownership of wells and springs, and includes information on water levels, gross water quality, usage, approximate rate of usage, and other information needed to describe baseline ground-water conditions. The inventory would help protect the applicant from false or erroneous damage claims by owners and users of water where adverse impacts do not occur, and would aid the regulatory authority in protecting the water rights of offsite users where adverse impacts do occur.

The detail necessary for the ground-water inventory would be left to the permit applicant and the regulatory authority to determine, based on the level of information necessary for the PHC and PCI. OSM does not propose that all wells and springs within a given radius of a proposed mining operation must be inventoried or that operators be required to inventory water wells whose owner denies access to the operator. OSM does expect that a sufficient number of wells and springs would be inventoried to allow the applicant to make a reasonable approximation of the baseline ground-water conditions on and off the minesite, particularly those offsite areas that would potentially be impacted by mining operations and which are the site of productive wells or springs. Obviously, it would be in the best interest of an applicant to correlate the inventory effort to the usefulness or the productivity of the various water resources in question. In some areas, usable quantities of ground water are in short supply, and there may be few, if any, withdrawal sites that can be inventoried. In such areas a greater percentage of the existing sites must be inventoried than in areas with many wells and springs. When existing wells are not sufficient in number or location to provide an accurate description of baseline conditions, §§ 780.21(b)(2) and 784.14(b)(2) would allow the regulatory authority to require drilling of new or additional monitoring wells and to require that necessary additional information be provided.

Experience has shown that no one approach to evaluation of ground-water systems is applicable on a nationwide basis. Proposed §§ 780.21(b) and 784.14(b) would not, therefore, specify an exhaustive listing of ground-water quality and quantity parameters that must routinely be evaluated. However, a minimum level of ground-water quality

and quantity parameters has been specified to ensure that sufficient information is provided in the application in every case to alert the applicant and the regulatory authority to any significant problems that may be encountered and which may require more extensive analysis. For this reason the proposed rule would require, in §§ 780.21(b)(1) and 784.14(b)(1), baseline information on total dissolved solids or specific conductance, pH, total iron, total manganese, and other water quality information required by the regulatory authority. The proposed rule would also require that the ground-water quantity baseline description include the discharge rates and depth to water in each significant water-bearing strata above, immediately below, and including the coal seam.

Sections 780.21(b)(2) and 784.14(b)(2) would also require the applicant to provide information, in addition to the ground-water inventory required under §§ 780.21(b)(1) and 784.14(b)(1), to the extent the information is necessary to fully evaluate the probable hydrologic consequences of mining or to plan mining and reclamation activities so as to minimize disturbances to the hydrologic balance. OSM believes that Congress intended the applicant to have a sufficient understanding of the hydrologic system so that he could reasonably estimate hydrologic impacts and reasonably assure protection of the hydrologic balance on the permit area and potentially impacted offsite areas.

Under proposed §§ 780.21(b)(2) and 784.14(b)(2), the regulatory authority may include requirements for sophisticated analyses such as transmissivity, storage potential, recharge and discharge characteristics, etc. when the PHC determination required by proposed §§ 780.21(g) and 784.14(g) indicates that such information is appropriate and the operation will adversely impact a significant or currently used ground-water resource or if required by the regulatory authority as being necessary to fully evaluate such probable hydrologic consequences or for planning remedial or reclamation activities to minimize adverse impacts.

Under the proposed rule, existing §§ 779.15 and 783.15 would be removed. Requirements of proposed §§ 780.21(b) and 784.14(b) generally include the baseline information requirements of the existing sections.

Proposed §§ 780.21(c) and 784.14(c) would specify the surface-water baseline information required for the permit area and potentially impacted offsite areas.

OSM proposes in §§ 780.21(c)(1) and 784.14(c)(1) that the requirement for baseline acidity information for surface water, which is currently provided in existing §§ 779.16(b)(2)(iii) and 783.16(b)(2)(iii), be based on the potential for acid drainage and the discretion of the regulatory authority. OSM is aware that pH and acidity are not identical and that acidity and alkalinity may occur simultaneously in water. OSM believes that the current across-the-board requirement for acidity is excessive and, absent a potential for acid drainage, provides little environmental enhancement. OSM would continue to require pH as a reliable indicator of potential acidity problems. OSM believes that, when baseline pH values are low and neutralization appears to be necessary, a knowledge of acidity and alkalinity concentrations will be necessary to design the treatment process. Under such conditions, acidity and alkalinity baseline values would be required. Under other circumstances, the regulatory authority would have the option of requiring acidity data. Similar provisions are proposed for monitoring of specific conductance in lieu of dissolved solids. Specific conductance measurements provide an accurate indication of the degree of mineralization of a sample and can illustrate variation in dissolved mineral concentrations. Used as an indicator of mining impacts, fluctuations of specific conductance values may indicate the need for analysis of dissolved solids.

The proposed rules would also eliminate the across the board requirement for analysis of dissolved iron. While dissolved iron information can be valuable in some circumstances, the general goal of the nationally uniform requirements (i.e., to identify potential problem areas to ensure that an adequate evaluation of those problems is made) is adequately satisfied through the analysis for only total iron. The regulatory authority would have the flexibility to require analysis for dissolved iron if necessary at a particular site or region.

Baseline information would be required to cover a long enough period to demonstrate seasonal trends and extremes. In the humid East, these extremes generally occur during a period of about 6 months, with low flows in October and with progressively higher flows in March or April. In the West, however, individual storm events frequently are more significant than seasonal trends. A large percentage of the yearly surface pollutant discharge in Western States occurs during relatively short periods of high runoff due to locally severe storms. Additionally, snowpack melting and rainfall during the spring may control the hydrologic functions of a watershed or ground-water unit and, therefore, may be important in describing baseline conditions.

For some mining areas, there are data files that can significantly aid the operator in describing baseline conditions, particularly with regard to streamflow, chemical quality, and ground-water levels. The proposed regulations would provide the flexibility to take advantage of hydrologic extrapolation and interpolation techniques and of existing data. After full use has been made of existing data, the applicant would be required to collect additional data to the extent necessary to describe seasonal variations.

The proposed baseline hydrologic information requirements of these paragraphs include all parameters otherwise required in existing §§ 779.16 and 783.16.

Proposed §§ 780.21(c)(2) and 784.14(c)(2) would require flood-flow information, which is currently required under existing §§ 779.16(b)(1) and 783.16(b)(1), only when the determination of probably hydrologic consequences indicates that the operation is likely to have an adverse impact on a currently used or significant surface-water resource. OSM believes that this requirement can be fulfilled through analysis of flow data and flood-flow prediction using statistical technique for varying storm events. Preparation of flood-flow information should be based on site-specific conditions and the discretion of the regulatory authority as to whether the information would be needed by the operator or the regulatory authority to evaluate the probable hydrologic consequences of mining or for planning remedial measures or reclamation activities.

Miscellaneous Information—§§ 780.21(d) Through (f) and 784.14(d) Through (f)

Existing surface mining §§ 779.13 (b) and (c) would be redesignated as §§ 780.21 (d) and (e). Existing § 779.13(b) would be revised in the following ways: the reference to "water quality and quantity" information in § 779.13(b)(1) would be removed because the type of hydrologic data required in the permit application would be detailed in proposed § 780.21 (b) and (c); and the phrase "made available in the application" in existing § 779.13(b)(3) would be removed to allow submittal of the required information at any time prior to permit approval. Corresponding underground mining § 783.13 (a) (1), (2),

and (3) and (b) would be redesignated as § 784.14 (d) and (e) in the manner and for the reasons mentioned above.

Proposed §§ 780.21(d) and 784.14(d) would require hydrologic information for the area outside the potentially impacted offsite area but within the cumulative impact area. Paragraph (1) would provide that the applicant may collect the necessary hydrologic data if it were not available from the regulatory authority. As in the existing rules (§§ 779.13(b) and 783.13(d) (1), (2), and (3)), the proposed sections would not list specific parameters to be included in the hydrologic description of the cumulatiuve impact area. This would be left to the discretion of the regulatory authority based upon the PHC for the proposed operation and a site-specific determination of the type and amount of data necessary to determine the probable cumulative impact of all anticipated mining.

Proposed §§ 780.21(e) and 784.14(e) would allow the use of modeling techniques in the permit application but would state that use of such techniques does not automatically exclude the requirement for surface- and ground-water information required when models are not used. The requirements of the proposed sections parallel those of existing §§ 779.13(c) and 783.13(b).

Proposed §§ 780.21(f) and 784.14(f) would require information on alternative water-supply sources as currently required in existing §§ 779.17 and 783.17. However, the existing requirement for identification of impacts of the proposed mining activities on surface- and/or ground-water sources would be incorporated in proposed §§ 780.21(g) and 784.14(g) as part of the determination of probably hydrologic consequences.

Determination of Probable Hydrologic Consequences (PHC)—§§ 780.21(g) and 784.14(g)

The third major hydrologic requirement for permitting is the determination by the applicant of the probably hydrologic consequences (PHC) of the proposed surface coal mining operation as required by section 507(b)(11) of the Act. Proposed §§ 780.21(g) and 784.14(g) detail this requirement. The PHC determination is a predictive estimate of the hydrologic impacts of the proposed mining operation. The major uses of the prediction are (1) to alert the operator and the regulatory authority of potential environmental problems in order that adequate remedial measures can be incorporated in the mining and reclamation plan, (2) to aid in the assessment of the probably cumulative impact of all anticipated mining, and (3) to determine whether the proposed operation has been designed to prevent offsite material damage to the hydrologic balance.

Experience has shown that enhanced environmental protection does not depend upon the degree of detail or extent of the PHC study effort. OSM does believe, however, that the Act requires a PHC determination adequate to reasonably ensure environmental protection. To meet this requirement, the proposed rule, in §§ 780.21(g) and 784.14(g), would require that the PHC determination include, at a minimum, analyses of parameters historically associated with mining-related problems, i.e., sedimentation, acidity, salinity, streamflow alterations, ground-water availability, and other changes likely to cause significant adverse local impact.

The proposed approach to the PHC determination is idential in intent and similar in content to that of existing §§ 780.21(c) and 784.14(c). However, the proposed approach is more comprehensive in that it would be focused on problems likely to be encountered, would require information on impacts of local importance, and would allow statistically representative data to be used. OSM believes that the proposed approach satisfies the requirements of section 507(b)(11) of the Act and that it would provide more meaningful protection of potentially impacted water resources than the brief list of parameters in the existing rules. The proposed parameters should be addressed to the extent necessary to allow the operator to plan remedial measures and to satisfy the regulatory authority that the proposed operation has been properly planned to protect the hydrologic balance. For example, if sedimentation ponds or other sediment-control techniques are properly planned to minimize the contribution of suspended solids to streams outside the permit area, a statement to that effect plus a description of the planned sediment-control techniques, and a description of anticipated effluent discharges in relation to the baseline conditions of the receiving stream, may be an adequate description of the probable effect of the operation on sediment loads. The PHC analysis must be based on data collected at or near the site of the proposed operation, or data statistically representative of the site, or both. The regulatory authority may require the PHC prediction to extend beyond the limits of the parameters listed if determined necessary based on the baseline information collected under §§ 780.21(b), 780.21(c), 784.14(b), and 784.14(c).

Cumulative hydrologic impact statement—§§ 780.21(h) and 784.14(h).

Under the proposed rule a new section would be included on the cumulative hydrologic impact of mining. The requirement would parallel the requirements of existing § 786.19(c), that the regulatory authority must complete an assessment of the probable cumulative impacts of all anticipated mining on the hydrologic balance.

The purpose of the cumulative hydrologic impact assessment is to assure that the regulatory authority, prior to issuing a permit, has an understanding of the impacts of all mining in the vicinity on hydrology. Congress recognized that while individual minesites might meet all performance standards, hydrologic impacts from several operations could have significant adverse cumulative impacts.

The OSM has found that to expedite the premitting process and to ensure that proposed operations are designed to prevent material damage to the hydrologic balance, the mine operator may wish to collect necessary baseline data for the cumulative hydrologic impact assessment and conduct a preliminary evaluation of the probable cumulative impacts of that operation. Such an evaluation can be useful in ensuring the greatest level of environmental protection, since mitigative measures could then be included early in the mining and reclamation planning process. The proposed rule would provide some guidance on the necessary scope of the required cumulative hydrologic impact statement (CHIS) and provide the operator the option of including a draft CHIS with his permit application. Such an inclusion would have the additional benefit of giving the public an opportunity to comment on the draft statement prior to adoption by the regulatory authority.

The OSM has not proposed to establish a detailed list of analyses or methodologies to be used in conducting a cumulative impact assessment. Each cumulative impact assessment must, by necessity, be tailored to the local conditions and the probable hydrologic impacts from individual mines. As a result, OSM expects to provide latitude to the individual State regulatory authorities in selecting methodologies to be used in performing the required cumulative impact assessment.

Reclamation planning—§§ 780.21(i) and 784.14(i).

Existing §§ 780.21 (a) and (b) and 784.14 (a), (b), and (d), which described the requirements for the hydrologic balance portion of the reclamation plan, would be replaced by proposed §§ 780.21 (h) and 784.14(h). Although structured differently from the existing rule, all current requirements are contained in the proposed wording and relate the reclamation plan requirements directly to the proposed performance standards. OSM feels that the new wording would allow the operator greater flexibility and encourages innovative reclamation methodologies. The proposed sections emphasize preparation of an environmentally sound reclamation plan consistent with local hydrologic conditions and responsive to hydrologic problems detailed in the PHC determination.

The rules would require that the applicant furnish specific information on measures for controlling acid and toxic drainage, suspended solids, surface drainage, and for maintaining and removing water-treatment facilities. OSM intends that the reclamation plan be closely keyed to the potential problems identified during the preparation of the PHC determination. If, for example, the analysis of baseline information or the PHC determination indicates that acid drainage may be a problem, then the reclamation plan should address that issue.

Proposed §§ 780.21(i) and 784.14(i) embody the intent, i.e., protection of onsite and offsite water resources, of existing §§ 780.21 (a) and (b) and 784.14 (a), (b), and (d). The proposed sections differ from the existing rules in that they do not specify data requirements or plans as part of the reclamation plan. OSM believes that the need for such information is not specifically mandated by section 508(a)(13) of the Act and that the need for such information would be evident, and therefore required, through baseline or PHC data analyses, as a result of site-specific conditions or as a requirement of the regulatory authority. Rather than repeat hydrologic information requirements, as was previously done, OSM has chosen to propose a more general direction to the applicant.

Hydrologic monitoring—§§ 780.21 (j) and (k) and 784.14 (j) and (k).

Proposed §§ 780.21 (j) and (k) and 784.14 (j) and (k) are a combination of the monitoring requirements of existing §§ 816.52 and 817.52 and new requirements proposed herein. In general, hydrologic monitoring plans should be developed and implemented in such a fashion that adverse impacts due to mining would be distinguishable from those due to other causes. OSM recognizes that there are many masking conditions in natural surface- and ground-water systems that make it difficult to isolate causal factors. For this reason, the monitoring program would be closely keyed to the analysis of the baseline information and preexisting conditions.

Ground-water monitoring.

Proposed §§ 780.21(j) and 784.14(j) would require that a ground-water monitoring plan be submitted with the permit application only if required by the regulatory authority or if the PHC determination indicated that adverse impacts may occur to a significant ground-water resource. Although this provision deviates from the requirements of existing §§ 780.21(b)(4) and 784.14(b)(3), OSM believes that the two conditions placed on the monitoring exemption provide the required protection of the ground-water resource while allowing the operator to forego monitoring when ground-water supplies are of marginal use or when no appreciable adverse impacts are anticipated.

The need for ground-water monitoring would be derived in each case from the baseline information and the PHC determination, because of the many complex factors relating to potential or actual use, location, alternative supplies, and pumping or delivery costs. If the analysis of baseline information indicates that damage may occur to a significant ground-water resource of if required by the regulatory authority, a ground-water monitoring plan including sampling frequency and parameters must be submitted with the application. A determination that ground-water monitoring is not needed because there would be no adverse impacts on significant water resources would have to be adequately documented with appropriate geologic and hydrologic data submitted with the application. (See proposed §§ 780.21(j)(2) and 784.14(j)(2).) The purpose of this requirement is to assure that the applicant has a sufficient understanding of the ground-water system and adequate data to make such a determination. In addition, the justification will allow the regulatory authority to be aware of specific-site conditions to assure that conclusions reached by the applicant are technically sound. OSM believes that a determination that monitoring is unnecessary may be justified in some cases, such as areas with small, semiperched ground-water zones but other plentiful water resources. All such determinations shall be carefully evaluated by the regulatory authority in view of the required protection of water rights, replacement of water supplies, and maintaining of the hydrologic balance.

OSM is not proposing that a lengthy or comprehensive list of water-quality parmeters be monitored. The proposed rule would list only those parameters considered appropriate to provide an indication of the general water quality as it relates to coal mining activities. The regulatory authority would have the flexibility to require additional monitoring as appropriate.

Proposed §§ 780.21(j) and 784.14(j) specify that for ground water, at a minimum, total dissolved solids and/or specific conductance, pH, total iron, total manganese, and water levels should be monitored during and after mining and reclamation at least every 3 months at each approved monitoring location. The pH and specific conductance can be relied on as indicator parameters that could lead to more detailed analysis of acidity, alkalinity, and/or dissolved solids if the potential for adverse impacts is indicated by the initial analysis. If, as a result of the PHC analysis, there is reason for the applicant to suspect water-quantity or water-quality degradation, appropriate additional monitoring should be proposed in the permit application. For example, if previous surface mining has caused a locally significant increase in water hardness and has impaired the usability of water in springs or wells, or if the PHC determination indicates that this as a likely result, the applicant should include water-hardness testing in the proposed monitoring plan.

Included among the requirements of proposed §§ 780.21(j)(1) and 784.14(j)(1) is a description of how PHC and baseline data may be used to demonstrate what hydrologic impacts, if any, may occur as a result of the mining operation. This requirement is necessary to ensure that the monitoring plan has been properly designed and implemented to meet the need for which it is intended.

The proposed rule would not require that a data comparison be made but would instead require a description of what comparisons can subsequently be made to show the presence or absence of impacts. The rule would also allow the regulatory authority to specify additional parameters to be included in any ground-water monitoring plan. OSM believes that this provision will accomodate local and regional needs with regard to previously observed ground-water impacts.

Surface-water monitoring.

Proposed §§ 780.21(k) and 784.14(k) would require that a surface-water monitoring plan be submitted with all permit applications. This requirement is consistent with the surface-water monitoring requirements of existing §§ 780.21(b)(4) and 784.14(b)(3).

The proposed surface-water monitoring requirements are more comprehensive and explanatory than those of existing §§ 780.21(b)(4) and 784.14(b)(3), but would incorporate aspects of §§ 816.52(b) and 817.52(b). OSM believes that monitoring is most appropriately addressed as a permitting requirement, than as a performance standard. The proposed requirements include minimum parameters as sampling periods other than those required for NPDES (National Pollutant Discharge Elimination System) compliance and provide for additional monitoring as specified by the regulatory authority.

The impact of coal mining operations upon surface-water hydrology, particularly at points of discharge from underground mines, is often rapid and dynamic and may be difficult to avoid. For that reason, proposed §§ 780.21(k) and 784.14(k) would require a surface-water monitoring plan for all permit applications. Surface-water monitoring would serve two purposes: (1) to assure that hydrologic impacts are minimized and to provide information relating to remedial measures, and (2) to demonstrate that point-source discharges are in compliance with standards set by EPA. The proposed rule would distinguish between effluent monitoring to show compliance with EPA standards and monitoring to measure impacts upon the hydrologic balance and upon water rights.

As with ground-water monitoring, the proposed surface-water monitoring rule would require a narrative statement describing how monitoring data may be used to determine hydrologic impacts and judge the effectiveness of remedial and reclamation techniques. The rule would require that the surface-water monitoring plan be consistent with the baseline information submitted under §§ 780.21(c) and 784.14(c) and the PHC determination prepared under §§ 780.21(g) and 784.14(g). Depending on site conditions, parameters in addition to those required to ensure compliance with the EPA effluent standards, may be required by the regulatory authority to provide an evaluation of impacts.

OSM proposes at a minimum, that the EPA effluent parameters plus total dissolved solids or specific conductance and flow be monitored at least every 3 months at nonpoint source baseline sites. Thus, under present EPA rules and the proposed rule, total suspended solids, pH, total iron, total manganese, dissolved solids or specific conductance, and flow would have to be monitored.

EPA's revised effluent limitations, proposed at 46 FR 3136–3159 (Jan. 13, 1981), and amended at 46 FR 28873–28881 (May 29, 1981), would introduce a new parameter, settleable solids. OSM believes that these parameters and this sampling frequency would provide the information necessary for evaluating general impacts on a seasonal basis and for aiding the operator in determining when water-treatment facilities may no longer be needed. The rule would allow the regulatory authority to require, on either a statewide or a site-by-site basis, the monitoring of additional water-quality or water-quantity parameters.

Geologic information and analyses—§§ 780.22 and 784.22.

Section 780.22

OSM proposes that existing § 779.14 regarding geologic descriptions for surface mining permit applications be removed. Requirements of § 779.14 have been reorganized and included in proposed § 780.22.

The terms "permit area" and "permit area and potentially impacted offsite areas" in the proposed rule are consistent with the definitions as discussed in the **Federal Register** on January 4, 1982 (47 FR 42–43).

Section 780.22(a) is proposed as a new paragraph to clarify the purposes for which the required site-specific information is to be utilized. The proposed rule does not establish new requirements for data; rather it specifies the applicant's responsibility for providing sufficient geologic information to determine (1) the probable hydrologic consequences of the operation and (2) the existence of any harmful substances in the coal seam and associated strata that could result in degradation of the environment.

Proposed § 780.22(b) requirements for the geologic information and analyses are derived from existing § 779.14. Applicants would continue to be responsible for providing geologic information for the "proposed permit areas, or for areas outside the proposed permit area" to allow a determination of the probable hydrologic consequences as required by existing § 779.14(b)(2). (See proposed § 780.22(c).) OSM agrees with the U.S. Soil Conservation Service that a geologic map is essential in ground-water investigation (U.S. Soil Conservation Service, 1978, p. 3–1 (see complete citation at the end of discussion of proposed §§ 780.22 and 784.22), and has added the requirement in proposed § 780.22(b)(2) that the narrative geologic description be based on the cross sections, maps, and plans required by existing § 779.25 of this chapter and include a discussion of any aquifers that may be adversely impacted. OSM also believes, as stated in the preamble for § 779.14(b) of the existing rules (44 FR 15031 and 15032; March 13, 1979), that much geologic information on the coal fields is presently available to applicants from public and private sources and these reference materials can be used in preparing the narrative description.

Proposed § 780.22(b)(2) would essentially replace existing § 779.14(a), which requires a general statement of the geology "* * * within the proposed permit area down to and including the first aquifer to be affected below the lowest coal seam to be mined." OSM believes "the first aquifer to be affected * * *" has been subjected to differing interpretations and for that reason OSM is proposing a modified rule to eliminate the confusion. The proposed rule clarifies OSM's intention that the geologic description submitted by the applicant does not have to extend down to the first aquifer beneath the coal seam regardless of the vertical distance between the coal seam and the aquifer and whether it could be adversely impacted or not (44 FR 15031; March 13, 1979). This type of information is not necessary in all cases, and the decision on whether it is required would be left to the regulatory authority on a site-specific basis.

However, sections 507(b) (11) and (14) and 508(a)(13) of the Act clearly indicate that those aquifers both on and off the mine site which may be impacted by mining activities will be considered and protected. Also section 517(b)(2)(B) of the Act requires the regulatory authority to specify sites for monitoring a potentially impacted aquifer directly below the lowermost coal seam to be mined. Proposed § 780.22(b)(2) requires that where an aquifer below the lowest coal seam to be mined may be adversely impacted, that aquifer and all its overlying strata shall be included in the narrative. Commonly, the stratum immediately below a coal seam consists of very fine grained, sedimentary rock which has a low transmissivity or does not have the hydrologic properties necessary to transmit or yield ground water. This stratum may range in thickness from less than two to several feet and has been variously referred to locally as "underclay" or "fire clay." Although this "underclay" or "fire clay" stratum is generally not considered an aquifer, the next lower (i.e. underlying) stratum commonly has improved

hydraulic capabilities and may be an aquifer. Depending upon site geology and operating procedures, such an aquifer may have the potential of being adversely impacted by surface coal mining activities such as blasting, which may fracture any stratum between this aquifer and the coal seam (44 FR 15031). Therefore, the applicant has the responsibilities of determining the presence or absence of an aquifer directly below the coal seam "underclay" and of assessing its potential for being adversely impacted by the mining activity. Also, if the geologic narrative description indicates the existence of an aquifer beneath the coal seam "underclay," the regulatory authority may require test borings or core samplings to greater depths.

Proposed § 780.22(b)(3) would replace existing § 779.14(b)(1). OSM proposes minor reorganization and several changes in the requirements for the data obtained from the collection and analyses of the test borings or core samples. The existing requirement to describe the location of subsurface water, if encountered, would be modified in the proposed rule to provide the "location and quality of ground water where occurring." Determining the location of ground water is a requirement of the Act, and proper methods of drilling, for instance, are required to determine its occurrence. If a drill hole is advanced rapidly and immediately backfilled, the ground water in certain types of strata may not be visually noticeable or "encountered" by some persons even though ground water was present in the strata penetrated by the drill. The word "quality" is proposed to be added to implement specific requirements of section 507(b)(14) of the Act.

OSM proposes the deletion of the requirement in existing § 779.14(b)(1)(iii) for testing all strata within the overburden to determine their properties for both compaction and erodibility because testing geotechnical engineering properties will be useful only in the design of certain engineered structures. It is the responsibility of the professional who designs and certifies these structures to determine if testing is necessary and, if so, the kind of tests to be performed and on which material. The deletion of these mandatory tests for all strata, regardless of the planned disposition of the material, would reduce costs as geotechnical tests would be conducted only where necessary for engineering design purposes.

In order to help clarify the rules, the statement requiring chemical analyses of the coal seam in proposed § 780.22(b)(3)(iii) is made more specific by indicating that the required chemical analyses are for the purpose of determining acid- or toxic-forming substances. Such substances include the sulfide minerals pyrite and marcasite. OSM proposes the deletion of the requirement for determination of the percentage content of the minerals pyrite and marcasite. OSM believes that determination of sulfate sulfur, pyritic sulfur, and organic sulfur according to procedures such as those developed by the American Society for Testing Materials (1980) will provide a better indication of the acid-producing potential of the material than determination of total sulfur, pyrite, and marcasite contents. Marcasite, the less stable orthorhombic form of iron disulfide, generally changes to pyrite, the more stable isometric form, and their combined content can be more easily determined by chemical analysis than separately by mineral analysis involving X-ray and/or optical techniques. Therefore, where a preliminary determination of the total sulfur content is sufficiently high as to indicate that the material may be potentially acid-forming, the regulatory authority may require the determination of sulfate sulfur, pyritic sulfur, and organic sulfur.

Proposed § 780.22(d) would replace § 779.14(b)(3) and would contain two modifications. Section 507(b)(15) of the Act indicates that the requirements for a statement of the results of test borings or core samplings may be waived by the regulatory authority by a written determination that such a requirement is unnecessary. OSM now believes that requiring the regulatory authority to have equivalent information in order to waive the requirement is too restrictive. The term "equivalent" may be interpreted too closely to mean exactly equal. The regulatory authority may not have chemical analysis of all strata, yet may have other information such as past mining and reclamation experience with particular areas and strata so that parts or all of the statement may be unnecessary. Further, considering the variety of circumstances that will be encountered at the various types of operations throughout the country, the requirement that only "equivalent information" may be used as criteria for finding the § 780.22(b)(2) and (3) statement unnecessary may be interpreted too narrowly. Therefore, the proposed requirement would be modified so that the regulatory authority would have a greater opportunity to take regional and in varying site and operational circumstances into account waiving the requirement for the statement. The regulatory authority would, though, be required to provide its rational for a waiver of the statement so that it would be available for public review. Athough the right of the regulatory authoirty to grant a partial waiver of the statement is implicit in current rules, proposed § 780.22(d) would specifically acknowledge such a procedure.

Section 784.22

OSM proposes that existing § 783.14 regarding geologic descriptions for underground mining permit applications be removed. Requirements of § 783.14 have been reorganized and included in the proposed § 784.22. The discussion of the changes in proposed § 780.22 applies to the discussion of similar changes throughout proposed § 784.22.

The requirement for geologic information to determine all potentially acid- or toxic-forming substances only in the strata that may be affected has been proposed for undergound mining permit applications. More information would be required for areas where the strata would be removed down to the coal seam to be mined than for areas where such strata would not be removed. Such affected strata would be designated in the required geologic narrative description based on the cross sections, maps, and plans as required by existing § 783.25 of this chapter and the results of test borings or core samplings. On the basis of this information, according to proposed § 784.22(c), the regulatory authority could require more extensive collection and analysis of samples.

Also, the requirement to provide geologic information needed to determine conditions that may influence ground subsidence has been proposed to be added to this section. In relation to subsidence, OSM proposes to clarify the existing requirement of § 783.14(a)(2)(iii) that the operator provide the "* * * clay content of the stratum immediately below the coal seam to be mined * * *" by replacing it with the requirement to provide the engineering properties of clays or soft rock such as clay shale, if any, and the thickness of the underlying stratum in proposed § 784.22(b)(4). Engineering properties such as index properties, shear strength, and compressibility are required to assess the possible bearing capacity failure of the pillars and excessive deformation of the floor beneath the pillars. (See Cummins (1973).)

Reference Materials

Reference materials used to develop these proposed rules are as follows:

American Society for Testing Materials, 1981, Annual book of ASTM standards; Part 26, Gaseous fuels, coal and coke, atmospheric analysis: ASTM standard test method for forms of sulfur in coal, Designation D2492–80, pp. 319–323; ASTM standard test method for total sulfur in the analysis sample of coal and coke, Designation D3177–75, Eschka method, pp. 360–362, 385–386.

Cummins, A.B. (editor), 1973, SME mining engineering handbook: Society of Mining Engineers of the American Institute of Mining, Metallurgical, and Petroleum Engineers, Inc., New York City, vol. 1, Section 13, Roof and ground control—floor action, pp. 13–29 to 13–31.

U.S. Soil Conservation Service, 1978, Ground water, Section 18 of National engineering handbook: Chapter 3, p. 3–1.

III. Proposed Performance Standards Rules

Background

Mining operations, even when conducted according to the standards of the Act, will impact the prevailing hydrologic balance. The objective of the proposed performance standards is to assure that adverse onsite and offsite hydrologic impacts will be minimized both during and after mining as required by section 515(b)(10) of the Act. Through effective management and thorough planning during the permitting process, this goal can be achieved. The proposed performance standards rules are intended to complement the proposed permitting rules (§§ 780.21 and 784.14) by forcing a continuing comparison of hydrologic conditions during mining and reclamation to those documented during permitting.

OSM believes that the hydrologic environmental performance standards of the current permanent regulatory program are fundamentally sound and, for that reason, has used those requirements as the cornerstone upon which to build the proposed performance standards. The proposed rules do not, however, mirror the current rules. Rather, the revised performance standards are organized according to the five-part analysis established under the proposed permitting standards: ground-water baseline information, surface-water baseline information, determination of the probable hydrologic consequences of mining, planning to minimize adverse hydrologic impacts during mining and reclamation, and planning of monitoring. Many of the proposed revised performance standards therefore refer the reader to the revised permitting requirements.

OSM intends to establish minimum performance standards and provide States and industry greater flexibility in the selection and use of control technology. Key hydrologic sections of the Act used as authority for the proposed performance standards include sections 102 (a), (b), (d), (f), and (j), 507(b)(11), 508(a)(5) and (13), 510(b)(10), 516(b)(4), (9), and (12), 517(b)(2), and 717.

To encourage development of new and better mining and reclamation techniques with respect to hydrology, OSM proposes to delete many of the design criteria in the current rules and leave the application of appropriate technology to qualified professionals. At the same time, however, OSM proposes to define more clearly the environmental objectives of particular rules by stating in the rule and this preamble the minimum level of environmental protection to be achieved by that rule. OSM believes that the proposed rules would, as required by the Act, set a high standard for maintaining an environmentally acceptable hydrologic balance both onsite and offsite and for protecting the water rights of others.

Hydrologic-Balance Protection—§§ 816.41 and 817.41

Sections 816.43, 816.44, 816.48, 816.50, 816.51, 816.52, 816.53, 816.54, and 816.55 of the existing rules for surface mining would be revised and consolidated as § 816.41. Corresponding sections of the existing rules for underground mining (§§ 817.43, 817.44, 817.48, 817.50, 817.52, 817.53, 817.54, and 817.55) would similarly be consolidated as § 817.41. OSM believes that the revised organization of the proposed rule would be a logical continuation of that of the permitting rules and, further, that it would aid the States and operators in understanding the minimum requirements.

General Requirements—§§ 816.41(a) and 817.41(a)

Proposed §§ 816.41(a) and 817.41(a), which correspond to existing §§ 816.41 and 817.41, would require that mining and reclamation be conducted to minimize disturbance to the prevailing hydrologic balance, assure protection or replacement of water rights, and support postmining land uses in accordance with the terms and conditions of the approved permit. The proposed rules would, however, allow the regulatory authority to require additional preventive, remedial, or monitoring measures if it determines that they are necessary to assure protection of the hydrologic balance. (*See* section 515(b)(10(G) of the Act.) The rules would continue to stress the environmental protection requirements of existing §§ 816.41(a) and 817.41(a), but also would make clear that protection of water rights onsite and offsite, as required by sections 508(a)(13) and 717 of the Act, constitutes a major goal for the operator.

The proposed rules would no longer require minimization of changes in specific hydrologic parameters, as do existing §§ 816.41(b) and 817.41(b), but would continue to require that mining activities be consistent with the approved postmining land use, thereby ensuring compliance with the Act's hydrologic performance standards. Sections 816.41(c) and 817.41(c) would be deleted as unnecessary because OSM's current and proposed effluent limitation rules require compliance with all applicable Federal and State water quality rules. (*See* 30 CFR 816.42(a)(2) and 817.42(a)(2) and 40 FR 34704 (July 2, 1981.) The reclamation practices cited in existing §§ 816.41(d)(2) and 817.41(d)(2) would not be enumerated in the proposed rules. OSM believes that, depending upon the specific minesite, other appropriate practices might be equally or more effective in protecting the hydrologic balance. The proposed rules state that mining and reclamation practices that minimize water pollution and changes in drainage are preferable to water-treatment facilities, though present §§ 816.41(d)(1) and 817.41(d)(1) indicate only that changes in drainage are preferable to water-treatment facilities. Omission of the reference to minimizing water pollution was the result of a drafting error and is corrected by this proposed rule (*See* 44 FR 15149, March 13, 1979). The requirements of existing §§ 816.41(a) and (b), 816.50, and 817.41(a) and (b), that ground-water quality be maintained at a level capable of supporting approved postmining land uses, would be moved to proposed §§ 816.41(a) and 817.41(a), entitled "Hydrologic-Balance Protection." This modification is proposed in order to make the requirements applicable to both ground- and surface-water protection.

Ground-Water Protection—§§ 816.41(b) and 817.41(b)

Proposed § 816.41(b)(1) is a condensation of existing § 816.50 that eliminates unnecessary wording, but maintains ground-water quality protection consistent with the intent of the existing rules and the Act. Proposed § 817.41(b)(1), which is identical to proposed § 816.41(b)(1), has no counterpart in the current rules, but requires protection of ground-water quality consistent with the requirements of section 516(b)(9) of the Act.

Proposed § 816.41(b)(2) corresponds to and condenses the requirements of existing § 816.51. It has been developed and proposed to identify the operator's responsibility for protecting ground-water quantity and assuring that, after mining and reclamation, there will continue to be an adequate supply of ground water to support postmining land uses and maintain the hydrologic balance. Section 817.41(b)(2) has been proposed in identical form to ensure that undeground operations provide similar ground-water quantity protection.

The enumeration of monitoring parameters in existing §§ 816.52(a)(1) and 817.52(a)(1) (ground-water levels, infiltration rates, subsurface flow, and storage characteristics) has created confusion as to what is required for protection of ground-water quantity. Therefore, OSM proposes in §§ 816.41(b)(2) and 817.41(b)(2) that ground-water quantity be protected by proper handling of earth materials and runoff. Maintenance of ground-water systems and "water availability" is stressed rather than the monitoring parameters. Depending on location, parameters such as well and spring yields, water levels, specific capacities, storage and transmissivity coefficients, and drawdown data may be needed for documenting ground water availability. The use of any or all of these parameters, however, is most appropriately determined by the regulatory authority according to local conditions.

The proposed regulations would require protection of "water availability" rather than "recharge capacity," as do the current regulations. OSM believes Congress intended to assure that the balance of water in ground-water systems be maintained so that postmining ground-water availability will be similar to that documented by baseline information. The major concern, then, is not so much a numerical value for recharge capacity, but assuring that ground-water supplies will continue to be adequate for meeting postmining land use needs. OSM believes that using water availability as the criterion will meet the requirements of the Act and, at the same time, clarify the intent of Congress.

Ground-Water Monitoring—§§ 816.41(c) and 817.41(c)

Sections 816.41(c) and 817.41(c) are proposed to clarify the ground-water monitoring requirements of existing §§ 816.52(a) and 817.52(a). Paragraph (1) of each of these sections would require that ground-water monitoring be conducted according to the approved monitoring plan, but would also allow the regulatory authority to require additional monitoring.

Proposed §§ 816.41(c)(2) and 817.41(c)(2) would require that ground-water monitoring data be submitted on a quarterly basis to the regulatory authority or more frequently if required by the regulatory authority. The submittal frequency would be identical to that for surface-water monitoring (at least quarterly) in §§ 816.41(e)(2) and 817.41(e)(2), and hence would minimize records handling and mailing costs. OSM believes that this requirement is essential to protection ground-water resources.

OSM has received many complaints that the current rules do not provide adequate instructions as to when an operator may discontinue ground-water monitoring. OSM believes that this is a legitimate concern and has provided guidance in proposed §§ 816.41(c)(3) and 817.41(c)(3). The proposed rules would require that ground-water monitoring continue beyond mining and during reclamation until it has been demonstrated, by the evaluation of the monitoring data collected under proposed §§ 816.41(c)(1) and 817.41(c)(1), that water availability and quality are suitable for supporting approved postmining land uses and that the water rights of others have been protected or that monitoring is no longer necessary to achieve the purposes of the approved monitoring plan. Proposed §§ 816.41(a) and 817.41(a) would allow the regulatory authority to extend the duration of postmining monitoring to meet site-by-site requirements.

Proposed §§ 816.41(c)(4) and 817.41(c)(4) would require the operator to remove equipment or structures used for ground-water monitoring when no longer needed, as current §§ 816.52(b)(3) and 817.52(b)(3) do for surface water monitoring. This is current industry practice and should not create significant new costs. Moreover, OSM believes that landowners should not bear the costs of equipment removal after mining.

Surface-Water Protection—§§ 816.41(d) and 817.41(d)

Proposed §§ 816.41(d)(1) and 817.41(d)(1) require operators to protect surface-water quality by minimizing formation of acidic or toxic drainage and contributions of suspended solids to streamflo outside the permit area and by otherwise preventing water pollution. Unlike current §§ 816.41(d) and 817.41(d), the proposed rules do not specify the particular surface water quality control practices, but instead leave selection of the practices to the operator and the regulatory authority. The proposed rules make clear that where practices conducted in compliance with the proposed rules are not adequate to meet OSM's water quality standards, including the effluent limitations in §§ 816.42 and 817.42, water treatment and water quality control shall be maintained until the water quality standards are met.

Proposed §§ 816.41(d)(2) and 817.41(d)(2) would require that surface-water quantity be protected in order to maintain water availability, support approved postmining land uses, and minimize disturbance to the hydrologic balance.

Proposed §§ 816.41(d) and 817.41(d) are based on the Act's general requirement that surface-water quality and quantity be protected. OSM believes that the proposed rules would provide appropriate guidance to industry in protecting the surface-water aspect of the hydrologic balance.

Surface-Water Monitoring—§§ 816(e) and 817.41(e)

Proposed §§ 816.41(e) and 817.41(e) are similar in part to existing §§ 816.52(b) and 817.52(b), but would expand upon the current rules in order to clarify further surface-water monitoring requirements. Sections 816.41(e)(1) and 817.41(e)(1) would require that monitoring be done according to the approved monitoring plan developed in the permitting process. Further, the rules would give the regulatory authority the flexibility to require that other monitoring be done.

Proposed §§ 826.41(e)(2) and 817.41(e)(2) would correspond to current §§ 816.52(b)(1)(ii) and (iii) and 817.52(b)(1)(ii) and (iii) by requiring that monitoring data be submitted at least on a quarterly basis and that, in the case of a permit violation, sampling results indicating the violation shall be submitted promptly to the regulatory authority. The proposed rules do not specifically provide an option for operators with NPDES permits with equivalent reporting requirements to submit to the regulatory authority either copies of the NPDES reports or information stating with whom the NPDES reports are filed. (*See* existing §§ 816.52(b)(1)(iii)(A) and (B) and 817.52(b)(1)(iii)(A) and (B).) The proposed rules clearly require, however, that the operator meet all reporting requirements of the regulatory authority and the approved monitoring plan. OSM believes that the proposed rules would allow industry and State regulatory authorities to continue to coordinate NPDES reporting with the information reporting requirements of these rules

depending upon the informational needs of the monitoring plan.

Proposed §§ 816.41(e)(3) and 817.41(e)(3) would correspond to existing §§ 816.52(b)(2) and 817.52(b)(2) and clarify minimum requirements for maintaining and removing a surface water monitoring system. The requirements are not new, but because of confusion regarding NPDES requirements, and other surface-water monitoring requirements, OSM feels that the rule should be rewritten to require that, prior to removing a surface-water monitoring system, the operator must demonstrate that the operation has minimized disturbance to the hydrologic balance, that the water rights of other users have been protected, and that NPDES monitoring requirements have been met.

Proposed §§ 816.41(e)(4) and 817.41(e)(4) would correspond to existing §§ 816.52(b)(3) and 817.52(b)(3) and would provide for the proper installation, maintenance, and removal of equipment and structures used for surface-water monitoring.

Diversions—§§ 816.41(f) and 817.41(f)

Sections 816.43, 816.44, 817.43 and 817.44 of the current regulations would be significantly revised and combined in proposed §§ 816.41(f) and 817.41(f). Two points of confusion have ben clarified. Current §§ 816.43 and 817.43 allow diversions only of overland flow, shallow ground water, and ephemeral streams, whereas the proposed rules would permit "any flow from undisturbed areas or reclaimed areas after bond release" to be diverted with the approval of the regulatory authority. The proposed change would allay the doubts of operators as to whether a particular flow may be diverted. This paragraph would also make clear that a person proposing to mine coal would be able to divert preexisting poor water-quality flow resulting from mining operations that were abandoned before May 3, 1978—the date the Act's hydrology performance standards became applicable to existing operations (30 CFR 710.11(a)(3)(ii)).

Existing §§ 816.44(b)(2) and 817.44(b)(2) specify the storm design criteria for temporary and permanent diversions. OSM has received many comments that the design criteria are inappropriate for nationwide application. The current requirement that diversions be designed to carry the runoff resulting from specific precipitation events would necessitate, in many cases, that the diversion carry considerably more water than the stream channel in question. However, the increased channel storage in the diversion is usually insignificant in terms of preventing downstream flooding during periods of high runoff. For example, in flat to moderately rolling terrain, the quantity of water that could be accommodated in the diversion under flood conditions is small in comparison to that which will spread over the flood plain. In steep-slope country having narrow valleys, the flood plain, in essence, becomes the stream channel. In either case, any development within the flood plain is subject to flooding during major precipitation events whether or not there is a diversion present. OSM believes that it is impracticable to attempt to regulate flooding by routinely requiring that diversions be designed to pass a volume of water in excess of that to be carried by the natural stream channel. The proposed rules therefore would require that diversions need only equal the capacity of the unmodified stream channel immediately upstream and downstream of the diversion. (See, e.g., proposed § 816.41(f)(1)(ii).)

Sections 816.41(f)(1) and 817.41(f)(1)

OSM feels that regional topographic differences can best be accommodated by allowing the regulatory authority flexibility in establishing minimum design standards for diversions and, therefore, has proposed language to that effect in §§ 816.41(f) and 817.41(f). Paragraph (f)(1), "Diversion of perennial and intermittent streams," would continue to require that diversions be designed to be stable, to protect against flooding and erosion, to minimize sedimentation, and to comply with all applicable laws and regulations. However, the specific design standards of existing §§ 816.44(b)(1) and (2) and 817.44(b)(1) and (2) would not be included. OSM believes that by requiring all diversions to be "designed, constructed, and maintained . . . under the direction of a registered professional engineer" (*see*, e.g., proposed § 816.41(f)(1)(v)) the proposed rules would provide sufficient regulatory contol to assure both onsite and offsite protection of the hydrologic balance and to assure that all necessary safety design factors are incorporated into diversions and their appurtenant structures. For this reason requirements of existing §§ 816.43(d) and 817.43(d) are not specified.

Proposed §§ 816.41(f)(1)(i) and 817.41(f)(1)(i) would reorganize but maintain the essential requirements of existing §§ 816.44 (a) and (b)(1). OSM believes that these basic requirements will protect the environment and the interests of those potentially impacted by the diversion in compliance with the requirements of the Act.

As discussed above, proposed §§ 816.41(f)(1)(ii) and 817.41(f)(1)(ii), which correspond to existing §§ 816.44(b)(2) and 817.44(b)(2), would require that the minimum design capacities for temporary and permanent diversions be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion. OSM would thus delete the current requirement that diversions be able to pass safely the runoff from specified storm events.

The contents of paragraphs (f)(1)(iii) in proposed §§ 816.41 and 817.41 would provide the operator with flexibility in meeting the requirements of proposed §§ 816.41(f)(1)(B) and 817.41(f)(1)(B) to protect against flooding and resultant damage to life and property. If the operator chose to design temporary and permanent diversions to handle the 10-year, 24-hour and 100-year, 24-hour events, respectively, the diversion would be deemed in compliance with that flooding and safety protection requirement. Thereore, if the operator elected to design diversions to the minimum criteria of proposed subparagraph (iii), his or her obligation under subparagraphs (i) would be limited to subparagraphs (I) (A), (C), and (D).

Proposed §§ 816.41(f)(1)(iv) and 817.41(f)(1)(iv) would maintain the requirements of existing §§ 816.44(c) and 817.44(c) with respect to removal of temporary diversions. The strong environmental requirements of existing §§ 816.44(d)(3) and 817.44(d)(3) regarding enhancement of the aquatic habitat in and around permanent diversions would also be retained in proposed §§ 816.41(f)(1)(iv) and 817.41(f)(1)(iv). The specific requirements of existing §§ 816.44(d) and 817.44(d) would be replaced, however, by general language requiring design and construction of permanent diversions to approximate premining stream channel characteristics. Restoration of riparian vegetation, stream meanders and gradient, stream profile, cross-section, and habitats are important, but they are only exemplary of desirable stream channel characteristics to be achieved following removal of temporary diversions or construction of permanent diversions. OSM recognizes that permanent diversions cannot be built to duplicate premining stream channel conditions. However, permanent diversions can actually be superior to the original channel in terms of biological

productivity (Chisholm and Downs, 1978; see complete citation at the end of this preamble discussion of performance standard rules).

Proposed §§ 816.41(f)(1)(v) and 817.41(f)(1)(v), which allow the regulatory authority to specify diversion design criteria and require diversions to be designed, constructed, and maintained according to these criteria and under the direction of a registered professional engineer, have no counterparts in the existing rules. Experience over the last 4 years has indicated that operators frequently desire technical assistance of the nature proposed in this paragraph.

Sections 816.41(f)(2) and 817.41(f)(2)

Proposed §§ 816.41(f)(2) and 817.41(f)(2), "Diversion of miscellaneous flows," correspond generally with existing §§ 816.43 and 817.43. Proposed §§ 816.41(f)(2)(i) and 817.41(f)(2)(i) would make clear that all flow within the permit area from undisturbed areas can be diverted. This provision is proposed to aid in the protection of the hydrologic balance and to eliminate the need and cost for an operator to assume responsibility for preexisting natural or manmade poor quality water. The proposed requirements of §§ 816.41(f)(2)(i) and 817.41(f)(2)(i) are nearly identical to those of proposed §§ 816.41(f)(1) and 817.41(f)(1) and would be necessary to provide environmental protection and to assure safety to life and property.

Proposed §§ 816.41(f)(2)(ii) and 817.41(f)(2)(ii) would provide for minimum design capabilities based on the capacity of the unmodified stream channel immediately upstream and downstream from the diversion. Existing §§ 816.43 (a) and (b) and 817.43 (a) and (b) specify particular minimum capacities for diversions.

Proposed §§ 816.41(f)(2)(iii) and 817.41(2)(iii) would also provide the operator flexibility in meeting the flooding, life and property damage requirements of proposed §§ 816.41(f)(i)(B) and 817.41(f)(1)(i)(B). This flexibility is available under the condition that the operator voluntarily choose to design temporary and permanent diversions to handle the 2-year, 24-hour and 10-year, 24-hour events for temporary and permanent diversions, respectively. OSM anticipates that this will encourage sound engineering practice while reducing the cost of designing and constructing diversions by allowing local needs to govern their size.

The requirements of existing §§ 816.43(f) and 817.43(f), which specify criteria for diversion design, would not be included in the proposed rule. OSM believes that these specific design criteria deny the qualified professional the opportunity to use innovative technology. OSM believes that proposed §§ 816.41(f)(2) and 817.41(f)(2) are sufficient to assure public safety and environmental protection. The regulatory authority would be empowered by proposed §§ 816.41(f)(2)(v) and 817.41(f)(2)(v) to specify design criteria for diversions.

Proposed §§ 816.41(f)(2)(iv) and 817.41(f)(2)(iv) are similar in intent to existing §§ 816.43(e) and 817.43(e), but is more comprehensive. This paragraph expands upon the requirements of the existing rules by requiring proper handling of treatment facilities impacted by the removal of a temporary diversion. Further, the paragraph provides for recovery and enhancement of aquatic habitat following construction of a permanent diversion or stream channel restoration following removal of a temporary diversion.

Proposed §§ 816.41(f)(2)(v) and 817.41(f)(2)(v) are identical to proposed §§ 816.41(f)(1)(v) and 817.41(f)(1)(v). The preamble to those provisions supports these.

OSM proposes to remove §§ 816.45 and 817.45 of the current rules, on sediment control measures. Proposed §§ 816.42, 816.46, 817.42, and 817.46 (46 FR 34788, July 2, 1981) incorporate the requirements of these sections.

Drainage from acid- and toxic-forming spoil—§§ 816.41(g) and 817.41(g)

Existing §§ 816.48 and 817.48 on acid- and toxic-forming spoil would be revised significantly in proposed §§ 816.41(g) and 817.41(g) Experience has indicated that burial of acidic or toxic materials without treatment, or vice-versa, is often adequate to prevent dissolution and subsequent entry of contaminants into the hydrologic system. Proposed §§ 816.41(g)(1) and 817.41(g)(1) would therefore provide that both burial and treatment are not always required. Experience has shown that the 30-day storage limit for acid- and toxic-forming materials imposed by existing §§ 816.48(c) and 817.48(c) is neither practicable nor environmentally beneficial if proper precautions are not taken during the storage period. Therefore, OSM proposes in §§ 816.41(g)(1) and 817.41(g)(1) to limit storage to "the period until burial or treatment first becomes feasible so long as the storage will not result in . . . environmental damage." The rule would also continue the requirement of existing §§ 816.48(b) and 817.48(b) that material placement be done in a manner to prevent the pollution of ground and surface water.

Transfer of wells—§§ 816.41(h) and 817.41(h)

The wording of §§ 816.53 and 817.53 of the existing regulations regarding the transfer of wells would be changed in proposed §§ 816.41(h) and 817.41(h) to provide that where wells are transferred, the liability for the wells is governed by State and local law. Sections 816.53 and 817.53 currently provide that the transferee is primarily liable and the transferor is secondarily liable for the maintenance of the transferred well. The proposed rule would require only that safety and environmental considerations be taken into account by the operator, and that the considerations be addressed to the satisfaction of the regulatory authority before bond can be released.

Water rights and replacement—§ 816.41(i)

The wording of existing § 816.54 would remain essentially unchanged in proposed § 816.41(i). However, the proposed rule would require that replacement water be suitable in quality and quantity to meet the needs of the damaged party. The rule would further require that the baseline information developed during the permitting process under § 780.21 be used to determine the impact of mining on the water resource.

Section 817.54 of the existing regulations was remanded in *In re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (May 16, 1980), and suspended by OSM on August 4, 1980 (45 FR 51547). Therefore, OSM does not propose a counterpart to proposed § 816.41(i) for the underground mining rules.

Discharge of water into underground mines—§§ 816.41(j) and 817.41(i)

OSM has received many inquiries as to whether the requirement of existing §§ 816.55(b) and 817.55(b), that water "be discharged as a controlled flow," refers to a constant rate of discharge. Regardless of the quality of the waste water discharged underground, the water must meet all water quality standards upon later surface dicharge. Therefore, "controlled" as used in the context of this section means simply that the operator must know the quality and quantity of waste water that is being diverted into underground mine workings. This knowledge would become invaluable if water treatment procedures were to become necessary or adverse offsite impacts were reported. Obviously, that knowledge should

include specific information on water quality parameters for which there are EPA effluent standards, and quantity or flow rate in order to determine treatment requirements. Therefore, OSM proposed to delete the unclear language and replace it with "at a known rate and quality" in §§ 816.41(j) and 817.41(i). Further, "water" has been added to the list of allowable discharges into an underground mine. It is clear that Congress did not intend that water be excluded from the list of allowable discharges and its absence in the existing rules is the result of a drafting error.

Discharge of water from underground mines—§ 817.41(j)

The intent of proposed § 817.41(j) is identical to that of existing § 817.50 on underground mine entry and access discharges. The title was reworded to make it more clear as to the subject material of the section. Also, the section has been structured to eliminate unnecessary wording.

Reference (See preamble § 816.41(f)(1)(iv))

Chisholm, J. L., and Downs, S. C., 1978, Stress and recovery of aquatic organisms as related to highway construction along Turtle Creek, Boone County, West Virginia: U.S. Geological Survey, Water Supply Paper 2055, 40 pp.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers, and the public. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

Federal Paperwork Reduction Act

In accordance with the Federal Paperwork Reduction Act of 1980 (Pub. L. 96–511; 44 U.S.C. 3507), the information requirements in existing Parts 780, 784, 816, and 817 were approved by the Office of Management and Budget (OMB) and assigned clearance numbers 1029–0036, 1029–0039, 1029–0047, and 1029–0048, respectively. These approvals were identified in "notes" at the introduction of each part. OSM will delete these "notes" and codify the OMB approvals under new sections in each of those parts that contain information collection requirements. OSM is requesting reapproval from OMB for the information collection requirements in the following proposed sections: §§ 780.21 (a) through (j), 780.22 (a) through (d), 784.14 (a) through (j), 784.22 (a) through (d), 816.41(f), and 817.41(f). The information required in these sections will be used by the regulatory authority to assess the impact of the proposed mining operation on the hydrologic balance of the permit area and potentially impacted offsite areas.

Two proposed revisions to these requirements will be submitted to OMB for approval.

OSM invites comments on the necessity of these information collection requirements.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cumulative EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of this preamble. OSM is also preparing a supplemental environmental impact statement that will consider this proposed rule. (See 47 FR 18920–18922, May 3, 1982.)

List of Subjects

30 CFR Parts 779 and 816

Coal mining, Environmental protection, Reporting requirement, Surface mining.

30 CFR Part 780

Coal mining, Reporting requirements, Surface mining.

30 CFR Parts 783 and 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting requirements, Underground mining.

Accordingly, 30 CFR Parts 779, 780, 783, 784, 816, and 817 are proposed to be amended as set forth herein.

Dated: June 9, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. Section 701.5 is amended by adding the following definitions in alphabetical order:

§ 701.5 Definitions.

* * * * *

Cumulative impact area means, with respect to the assessment of the probable cumulative hydrologic impacts of mining, the surface- and ground-water basin(s) including the permit area within which there is anticipated mining which may have a cumulative hydrologic impact with the proposed operation. Anticipated mining shall include all existing operations, the proposed operation over its entire projected life, and any operations which the regulatory authority reasonably expects to be permitted during the projected life of the proposed operation.

* * * * *

Gravity discharge means, with respect to underground mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs solely as a result of hydrostatic pressure from a mine flooded to the level of the discharge is not gravity discharge.

§§ 779.13, 779.14, 779.15, 779.16, and 779.17 [Removed]

2. Sections 779.13, 779.14, 779.15, 779.16, and 779.17 are removed.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENT FOR RECLAMATION AND OPERATION PLAN

§ 780.29 [Removed]

3. In Part 780, § 780.29 is removed, § 780.21 is revised, and § 780.22 is added to read as follows:

§ 780.21 Hydrologic information and analyses.

(a) *Baseline information.* The application shall contain baseline hydrologic information representative of the proposed permit area and potentially impacted offsite areas. Water-quality sampling, when feasible, and all water-quality analyses performed to meet the requirements of this section shall be conducted according to the methodology in the most current editions of "Methods for

Chemical Analysis of Water and Wastes," or "Standard Methods for the Examination of Water and Wastewater," which are incorporated by reference. "Methods for Chemical Analysis of Water and Wastes" is a U.S. Environmental Protection Agency publication and is available from the U.S. Environmental Protection Agency, Environmental Monitoring and Supply Laboratory, 26 W. St. Clair Street, Cincinnati, OH 45268. "Standard Methods for the Examination of Water and Wastewater," is a joint publication of the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 Eighteenth Street, NW., Washington, D.C. 20036. Both documents are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C.; at the Office of the OSM Administrative Record, U.S. Department of the Interior, Room 5315, 1100 L Street, NW., Washington, D.C.; at the OSM Eastern Technical Service Center, U.S. Department of the Interior, Building 10, Parkway Center, Pittsburgh, Pa.; and at the OSM Western Technical Service Center, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colo.

Note.—This incorporation by reference was approved by the Director of the Federal Register on——. These publications are incorporated as they exist on the date of the approval, and a notice of any change in these publications will be published in the Federal Register.

(b) *Ground-water information.* The application shall include the following ground-water inventory information:

(1) The location and ownership of existing wells, springs, and other ground-water resources; seasonable quality and quantity of ground water; and usuage for the permit area and potentially impacted offsite areas. Water-quality descriptions shall include, at a minimum, baseline information on total dissolved solids or specific conductance, pH, total iron, total manganese, and other information required by the regulatory authority. Ground-water quantity descriptions shall include, at a minimum, discharge rates and depth to water in each significant water-bearing strata above, immediately below, and including the coal seam.

(2) If the determination of the probable hydrologic consequences (PHC) required by paragraph (g) of this section indicates that a currently used or significant water resource is likely to be adversely impacted, other information in addition to that provided under paragraph (b)(1) of this section shall be provided on the baseline properties of the ground-water system such as that obtained or developed from drilling, aquifer test data, hydrogeologic analysis of the water-bearing strata, analysis of additional water-quality characteristics, and other ground-water information which is required by the regulatory authority as necessary to fully evaluate such probable hydrologic consequences or to plan remedial or reclamation activities.

(c) *Surface-water information.* The application shall include the following surface-water information:

(1) The name, location, and description of streams, lakes, and impoundments potentially impacted or into which water will be discharged, including information on quality and quantity, sufficient to demonstrate seasonal variations and water usage for the permit area and potentially impacted offsite areas. Water-quality descriptions shall include, at a minimum, baseline information on total suspended solids, total dissolved solids or specific conductance, pH, total iron, total manganese, and other information required by the regulatory authority. Baseline acidity and alkalinity information shall be provided if there is a potential for acid drainage from the proposed mining operation or if required by the regulatory authority. Water-quantity descriptions shall include, at a minimum, baseline information on seasonal flow rates.

(2) If the determination of the probable hydrologic consequences (PHC) required by paragraph (g) of this section indicates that a currently used or significant water resource is likely to be adversely impacted, information in addition to that required under paragraph (c)(1) of this section shall be provided on flood flows, base flows, and other characteristics or information required by the regulatory authority as necessary to fully evaluate such probable hydrologic consequences or to plan remedial and reclamation activities.

(d) *Cumulative impact area information.* Information on hydrology outside the permit area and potentially impacted offsite areas but within the cumulative impact area, necessary to determine the probable cumulative impact of all anticipated mining, shall be provided by the regulatory authority to the extent that these data are available from an appropriate Federal or State agency.

(1) If the information is not available from those sources, the applicant may gather and submit this information to the regulatory authority as part of the permit application.

(2) The permit shall not be approved until the information is available to the regulatory authority.

(e) *Modeling.* The use of modeling techniques may be included as part of the permit application, but the same surface- and ground-water information may be required for each site as when models are not used.

(f) *Alternative water source information.* Information on water availability and an alternative water source shall be provided, including information on the suitability of the alternative water source for existing premining uses and approved postmining land uses if the PHC determination required by paragraph (g) of this section indicates that the proposed mining operation may approximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or potentially impacted offsite area.

(g) *Probable hydrologic consequences assessment.* The application shall include a determination of the probable hydrologic consequences (PHC) of the proposed mining and reclamation upon the quality and quantity of ground water and surface water under seasonal flow conditions in the proposed permit area and potentially impacted offsite areas. The PHC determination shall be based on baseline data collected at or near the site of the proposed operation, data statistically representative of the site, or a combination of both. The PHC determination shall include estimates of the impact of the proposed operation upon sediment yield from the disturbed area; acidity, salinity, or other important water-quality parameters of local impact; flooding or streamflow alteration; ground-water and surface-water availability; and other characteristics as required by the regulatory authority on the proposed permit area and potentially impacted offsite areas. Remedial measures for potential water-quality or water-quantity problems of local impact revealed by the PHC determination shall be developed according to paragraph (h) of this section.

(h) *Cumulative hydrologic impact statement.* The regulatory authority shall provide an assessment of the probable cumulative hydrologic impact of mining. The assessment shall include consideration of all anticipated mining which may have a cumulative

hydrologic impact with the proposed operation, and shall be sufficient to determine whether the proposed operation has been designed to prevent material damage to the hydrologic balance. The applicant may provide a draft cumulative hydrologic impact statement with the permit application.

(i) *Plans for protection of the hydrologic balance.* The application shall include a description, including maps and plans, of how the requirements of § 816.41 of this chapter will be achieved and the steps to be taken during mining and reclamation to assure protection of the hydrologic balance. The description shall be consistent with the local hydrologic conditions and with minimization of disturbances to the prevailing hydrologic balance at both onsite and offsite areas during and after mining. Specific information shall be provided on the measures to be taken to avoid acid or other toxic drainage, prevent additional contributions of suspended solids to streamflow, maintain and remove water-treatment facilities when no longer needed, control drainage, and other planned measures to assure protection of the hydrologic balance. The planning requirements of this paragraph shall relate to potential hydrologic problems revealed in the PHC determination prepared under paragraph (g) of this section.

(j) *Ground-water monitoring.* The application shall include a ground-water monitoring plan, if the PHC determination required under paragraph (g) of this section indicates that advere onsite or offsite impacts may occur to a significant ground-water resource or if required by the regulatory authority. The plan shall be based on the PHC determination and the analysis of all available baseline information and shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved postmining land uses.

(1) The plan shall include a statement of the quantity and quality parameters to be monitored, sampling frequency, site location, and a narrative that describes how the data may be used to determine the impact, if any, of the operation upon the hydrologic balance. At a minimu, total dissolved solids or specific conductance, pH, total iron, total manganese, and water levels shall be monitored at least every 3 months at each approved monitoring location. The regulatory authority may require additional monitoring.

(2) If ground-water monitoring is not required, sufficient documentation supporting this finding, including geologic and hydrologic relations, shall be included as part of the permit application.

(k) *Surface-water monitoring.* The application shall include a surface-water monitoring plan based upon the PHC determination required under paragraph (g) of this section and the analysis of all available baseline information and shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved postmining land uses and to the effluent monitoring requirements of the Environmental Protection Agency (EPA). The plan shall include a statement of the surface-water quantity and quality parameters to be monitored, sampling frequency, site location, and a narrative that describes how the data may be used to determine the impact, if any, of the operation upon the hydrologic balance. For point-source discharges, monitoring shall be conducted, at a minimum, in accordance with 40 CFR Part 434. At monitoring locations in streams, lakes, and impoundments potentially impacted or into which water will be discharged and at upstream monitoring locations, total dissolved solids or specific conductance, total suspended solids, pH, total iron, total manganese, and flow shall be monitored, at a minimum, at least every 3 months. The regulatory authority may require additional monitoring.

§ 780.22 Geologic information and analyses.

(a) Geologic information in sufficient detail shall be provided by the applicant as required in paragraph (b) of this section to determine—

(1) The probable hydrologic consequences of the operation in the permit area and potentially impacted offsite areas, including to what extent, if any, ground-water monitoring is necessary during the surface mining and reclamation activities; and

(2) All potentially acid- or toxic-forming substances in the strata within the permit area down to and including the stratum immediately below the lowest coal seam to be mined;

(b) Required geologic information to be provided by the applicant shall include the following:

(1) The areal and structural geology, including lithology of the strata in the permit area and potentially impacted offsite areas, which influences the occurrence, availability, movement, and quality of ground water that may be impacted by the surface mining and reclamation activites.

(2) A narrative description of the geology within the permit area, which shall be based on the cross sections, maps, and plans required by § 779.25 of this chapter and the results of test borings or core samplings required by paragraph (b)(3) of this section. The narrative shall include the stratum immediately beneath the lowest coal seam to be mined and all overlying strata. Where an aquifer below the lowest coal seam to be mined may be adversely impacted, that aquifer and all its overlying strata shall also be included in the narrative.

(3) Samples from test borings or drill cores from the proposed permit area shall be collected and analyzed down to and including the stratum immediately below the lowest coal seam to be mined to provide the following data:

(i) Logs of drill holes showing the lithologic characteristics, including physical properties and thickness of each stratum, and location and quality of ground water where occurring.

(ii) Chemical analyses of each stratum within the overburden and the stratum immediately below the lowest coal seam to be mined to identify those strata that contain potentially acid-forming, toxic-forming, or alkalinity-producing materials and to determine their content.

(iii) Chemical analyses for acid- or toxic-forming substances of the coal seam including the total sulfur content and, if required by the regulatory authority, the determination of sulfate sulfur, pyritic sulfur, and organic sulfur.

(c) If required by the regulatory authority, samples from test borings or drill cores shall be collected and analyzed to greater depths within the proposed permit area, or for additional areas outside the proposed permit area, to provide for evaluation of the impact of the proposed activities on the hydrologic balance.

(d) An applicant for a specific permit may request that the requirements for a statement of the results of the test borings or core samplings, required under paragraphs (b)(2) and (3) of this section, be waived in part or in its entirely by the regulatory authority. The waiver may be granted only if the regulatory authority makes a written determination that the statement is unnecessary in part or in its entirety, as appropriate. The rationale supporting this determination shall be included.

§ 783.13, 783.14, 784.15, 783.16, and 783.17 [Removed]

4. Sections 783.13, 783.14, 783.15, 783.16, and 783.17 are removed.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

5. In Part 784, §§ 784.14 and 784.22 are revised to read as follows:

§ 784.14 Hydrologic information and analyses.

(a) *Baseline information.* The application shall contain baseline hydrologic information representative of the proposed permit area and potentially impacted offset areas. Water-quality sampling, when feasible, and all water-quality analyses performed to meet the requirements of this section shall be conducted according to the methodology in the most current editions or "Methods for Chemical Analysis of Water and Wastes," or "Standard Methods for the Examination of Water and Wastewater," which are incorporated by reference. "Methods for Chemical Analysis of Water and Wastes" is a U.S. Environmental Protection Agency publication and is available from the U.S. Environmental Protection Agency, Environmental Monitoring and Supply Laboratory, 26 W. St. Clair Street, Cincinnati, OH 45268. "Standard Methods for the Examination of Water and Wastewater," is a joint publication of the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation and is available from the American Public Health Association, 1015 Eighteenth Street, NW., Washington, DC 20036. Both Documents are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, D.C.; at the Office of the OSM Administrative Record, U.S. Department of the Interior, Room 5315, 1100 L Street, NW., Washington, D.C.; at the OSM Eastern Technical Service Center, U.S. Department of the Interior, Building 10, Parkway Center, Pittsburgh, Pa.; and at the OSM Western Technical Service Center, U.S. Department of the Interior, Brooks Tower, 1020 15th Street, Denver, Colo.

Note.—This incorporation by reference was approved by the Director of the Federal Register on ———. These publications are incorporated as they exist on the date of the approval, and a notice of any change in these publications will be published in the Federal Register.

(b) *Ground-water information.* The application shall include the following ground-water inventory information:

(1) The location and ownership of existing wells, springs, and other ground water resources; seasonal quality and quantity of ground water; and usage for the permit area and potentially impacted offsite areas. Water-quality descriptions shall include, at a minimum, baseline information on total dissolved solids or specific conductance, pH, total iron, total manganese, and other information required by the regulatory authority. Ground-water quantity descriptions shall include, at a minimum, discharge rates and depth to water in each significant water-bearing strata above, immediately below, and including the coal seam.

(2) If the determination of the probable hydrologic consequences (PHC) required by paragraph (g) of this section indicates that a currently used or significant water resource is likely to be adversely impacted, other information in addition to that provided under paragraph (b)(1) of this section shall be provided on the baseline properties of the ground-water system such as that obtained or developed from drilling, aquifer test data, hydrogeologic analysis of the water-bearing strata, analysis of additional water-quality characteristics, and other ground-water information which is required by the regulatory authority as necessary to fully evaluate such probable hydrologic consequences or to plan remedial or reclamation activities.

(c) *Surface-water information.* The application shall include the following surface-water information.

(1) The name, location, and description of streams, lakes, and impoundments potentially impacted or into which water will be discharged, including information on quality and quantity, sufficient to demonstrate seasonal variations and water usage for the permit area and potentially impacted offsite areas. Water-quality descriptions shall include, at a minimum, baseline information on total suspended solids, total dissolved solids or specific conductance, pH, total iron, total manganese, and other information required by the regulatory authority. Base acidity and alkalinity information shall be provided if there is a potential for acid drainage from the proposed mining operation or if required by the regulatory authority. Water-quality descriptions shall include, at a minimum, baseline information on seasonal flow rates.

(2) If the determination of the probable hydrologic consequences (PHC) required by paragraph (g) of this section indicates that a currently used or significant water resource is likely to be adversely impacted, information in addition to that required under paragraph (b)(1) of this section shall be provided on flood flows, base flows, and other characteristics or information required by the regulatory authority as necessary to fully evaluate such probable hydrologic consequences or to plan remedial and reclamation activities.

(d) *Cumulative impact area information.* Information on hydrology outside the permit area and potentially impacted offsite areas but within the cumulative impact area, necessary to determine the probable cumulative impact of all anticipated mining, shall be provided by the regulatory authority to the extent that these data available from an appropriate Federal or State agency.

(1) If this information is not available from those sources, the applicant may gather and submit this information to the regulatory authority as part of the permit application.

(2) The permit shall not be approved until the information is available to the regulatory authority.

(e) *Modeling.* The use of modeling techniques may be included as part of the permit application, but the same surface- and ground-water information may be required for each site as when models are not used.

(f) *Alternative water source information.* Information on water availability and an alternative water source shall be provided, including information on the suitability of the alternative water source for existing premining uses and approved postmining land uses if the PHC determination required by paragraph (g) of this section indicates that the proposed mining operation may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or potentially impacted offsite area.

(g) *Probable hydrologic consequences assessment.* The application shall include a determination of the probable hydrologic consequences (PHC) of the proposed mining and reclamation upon the quality and quantity of ground water and surface water under seasonal flow conditions in the proposed permit area and potentially impacted offsite areas. The PHC determination shall be based on baseline data collected at or near the site of the proposed operation, data statistically representative of the site, or a combination of both. The PHC determination shall include estimates of the impact of the proposed operation upon sediment yield from the disturbed area; acidity, salinity, or other important water-quality parameters of local impact; flooding or streamflow alteration; ground-water and surface-

water availability; and other characteristics as required by the regulatory authority on the proposed permit area and potentially impacted offsite areas. Remedial measures for potential water-quality or water-quantity problems of local impact as revealed by the PHC determination shall be developed according to paragraph (h) of this section.

(h) *Cumulative hydrologic impact statement.* The regulatory authority shall provide an assessment of the probable cumulative hydrologic impact of mining. The assessment shall include consideration of all anticipated mining which may have a cumulative hydrologic impact with the proposed operation, and shall be sufficient to determine whether the proposed operation has been designed to prevent material damage to the hydrologic balance. The applicant may provide a draft cumulative hydrologic impact statement with the permit application.

(i) *Plans for protection of the hydrologic balance.* The application shall include a description, including maps and plans, of how the requirements of § 816.41 of this chapter will be achieved and the steps to be taken during mining and reclamation to assure protection of the hydrologic balance. The description shall be consistent with the local hydrologic conditions and with minimization of disturbances to the prevailing hydrologic balance at both onsite and offsite areas during and after mining. Specific information shall be provided on the measures to be taken to avoid acid or other toxic drainage, prevent additional constributions of suspended solids to streamflow, maintain and remove water-treatment facilities when no longer needed, control drainage, and other planned measures to assure protection of the hydrologic balance. The planning requirements of this paragraph shall relate to potential hydrologic problems revealed in the PHC determination prepared under paragraph (g) of this section.

(j) *Ground-water monitoring.* The application shall include a ground-water monitoring plan, if the PHC determination required under paragraph (g) of this section indicates that adverse onsite or offsite impacts may occur to a significant ground-water resource or if required by the regulatory authority. The plan shall be based on the PHC determination and the analysis of all available baseline information and shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved postmining land uses.

(1) The plan shall include a statement of the quantity and quality parameters to be monitored, sampling frequency, site location, and a narrative that describes how the data may be used to determine the impact, if any, of the operation upon the hydrologic balance. At a minimum, total dissolved solids or specific conductance, pH, total iron, total manganese, and water levels shall be monitored at least every 3 months at each approved monitoring location. The regulatory authority may require additional monitoring.

(2) If ground-water monitoring is not required, sufficient documentation supporting this finding, including geologic and hydrologic relations, shall be included as part of the permit application.

(k) *Surface-water monitoring.* The application shall include a surface-water monitoring plan based upon the PHC determination required under paragraph (g) of this section and the analysis of all available baseline information and shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved postmining land uses and to the effluent monitoring requirements of the Environmental Protection Agency (EPA). The plan shall include a statement of the surface-water quantity and quality parameters to be monitored, sampling frequency, site location, and a narrative that describes how the data may be used to determine the impact, if any, of the operation upon the hydrologic balance. For point-source discharges, monitoring shall be conducted, at a minimum, in accordance with 40 CFR Part 434. At monitoring locations in streams, lakes, and impoundments potentially impacted or into which water will be discharged and at upstream monitoring locations, total dissolved solids or specific conductance, total suspended solids, pH, total iron, total manganese, and flow shall be monitored, at a minimum, at least every 3 months. The regulatory authority may require additional monitoring.

§ 784.22 Geologic information and analyses.

(a) Geologic information in sufficient detail shall be provided by the applicant as required in paragraph (b) of this section to determine—

(1) The probable hydrologic consequences of the operation in the permit area and potentially impacted offsite areas, including to what extent, if any, ground-water monitoring is necessary during underground mining and reclamation activities;

(2) All potentially acid- or toxic-forming substances in the strata that may be affected within the permit area, including the stratum immediately below the lowest coal seam to be mined; and

(3) Conditions that may influence ground subsidence in areas where underground mining is to be conducted.

(b) Required geologic information to be provided by the applicant shall include the following:

(1) The areal and structural geology, including the lithology of the strata in the permit area and potentially impacted offsite areas, which influences the occurrence, availability, movement, and quality of ground water that may be impacted by the underground mining and reclamation activities.

(2) A narrative description of the geology within the permit area which shall be based on the cross sections, maps, and plans required by § 783.25 of this chapter and the results of the test borings or core samplings required by paragraphs (b)(3) and (b)(4) of this section. The narrative shall include the stratum immediately beneath the lowest coal seam to be mined and all overlying strata that may be affected. Where an aquifer below the lowest coal seam to be mined may be adversely impacted, that aquifer and all affected overlying strata shall also be included in the narrative.

(3) For any portion of a proposed permit area in which the strata down to the coal seam to be mined will be removed, as in the faceup area, samples from test borings or drill cores shall be collected and analyzed down to and including the stratum immediately below the lowest coal seam to be mined to provide the following data:

(i) Logs of drill holes showing the lithologic characteristics, including physical properties and thickness of each stratum, and location and quality of ground water where occurring.

(ii) Chemical analyses of each stratum within the overburden and the stratum immediately below the lowest coal seam to be mined to identify those strata that contain potentially acid-forming, toxic-forming, or alkalinity-producing materials and to determine their content.

(iii) Chemical analsyes for acid- or toxic-forming substances of the coal seam including the total sulfur content and, if required by the regulatory authority, the determination of sulfate sulfur, pyritic sulfur, and organic sulfur.

(4) For lands within the proposed permit area where the strata above the coal seam to be mined will not be removed, samples from test borings or drill cores shall be collected and analyzed to provide the following data:

(i) Logs of drill holes showing the lithologic characteristics, including physical properties and thickness of each stratum that may be affected, and location and quality of ground water where occurring.

(ii) Chemical analyses for acid- or toxic-forming or alkalinity-producing substances in the strata immediately above and below the coal seam to be mined.

(iii) Chemical analyses for acid- or toxic-forming substances of the coal seam including the total sulfur content and, if required by the regulatory authority, the determination of sulfate sulfur, pyritic sulfur, and organic sulfur.

(iv) The engineering properties of clays or soft rock such as clay shale, if any, in the stratum immediately underlying each coal seam to be mined and the thickness of this stratum.

(c) If required by the regulatory authority, samples from test borings or drill cores shall be collected and analyzed to greater depths within the proposed permit area, or for additional areas outside the proposed permit area, to provide for evaluation of the impact of the proposed activities on the hydrologic balance.

(d) An applicant for a specific permit may request that the requirements for a statement of the results of the test borings or core samplings, required under paragraphs (b)(2) and (3) of this section be waived in part or in its entirety by the regulatory authority. The waiver can be granted only if the regulatory makes a written determination that the statement is unnecessary in part or in its entirety, as appropriate. The rationale supporting this determination shall be included.

§§ 816.43, 816.44, 816.46, 816.50, 816.51, 816.52, 816.53, 816.54, and 816.55 [Removed]

6. Sections 816.43, 816.44, 816.46, 816.50, 816.51, 816.52, 816.53, 816.54, and 816.55 are removed.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

7. Section 816.41 is revised to read as follows:

§ 816.41 Hydrologic-balance protection.

(a) *General.* All surface mining and reclamation activities shall be conducted to minimize both onsite and offsite disturbances of the hydrologic balance, to assure the protection or replacement of water rights, and to support approved postmining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this part. The regulatory authority may require additional preventive, remedial, or monitoring measures to assure that material damage to the hydrologic balance is prevented. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

(b) *Ground-water protection.* (1) Ground-water quality shall be protected by handling and managing earth materials and runoff in a manner that will minimize acidic, toxic, or other harmful infiltration to ground-water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into ground water.

(2) Ground-water quantity shall be protected by handling and managing earth materials and runoff in a manner that will restore approximate subsurface storage and flow capability of the reclaimed area as a whole, excluding coal-processing wastes and underground waste-disposal areas and fills, to transmit water to the ground-water system so as to restore approximate premining onsite and offsite water availability, to support approved postmining land uses, and to minimize disturbance of the hydrologic balance.

(c) *Ground-water monitoring.* (1) Ground-water monitoring shall be conducted according to the ground-water monitoring plan approved under 30 CFR 780.21(i). The regulatory authority may require additional monitoring, where necessary.

(2) Ground-water monitoring data shall be submitted at least every 3 months to the regulatory authority or more frequently as prescribed by the regulatory authority.

(3) Ground-water monitoring shall proceed through mining and continue during reclamation until bond release or until the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(i) The operation has minimized disturbances of the hydrologic balance both onsite and offsite; water availability and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or

(ii) Monitoring is no longer necessary to achieve the purposes of the monitoring plan approved under 30 CFR 780.21.

(4) Equipment, structures, and other devices used to monitor the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer required.

(d) *Surface water protection.* (1) Surface-water quality shall be protected by handling earth materials, ground-water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage and the additional contribution of suspended solids to streamflow outside the permit area and otherwise prevents water pollution. If drainage control, restabilization and revegetation of disturbed areas, diversion of runoff, mulching, and other reclamation and remedial practices are not adequate to meet the requirements of this section and 30 CFR 816.42, the person who conducts surface mining activities shall operate and maintain the necessary water-treatment facilities or water-quality control for as long as is necessary to meet the requirements of this section and 30 CFR 816.42.

(2) Surface-water quantity and flow rates shall be protected by handling and managing earth materials and runoff in a manner that will maintain the approximate premining onsite and offsite water availability, support approved postmining land uses, and minimize disturbance of the hydrologic balance.

(e) *Surface-water monitoring.* (1) Surface-water monitoring shall be conducted according to the surface-water monitoring plan approved under 30 CFR 780.21(j). The regulatory authority may require additional monitoring where necessary.

(2) The data acquired by the operator for meeting the requirements of this paragraph and 30 CFR 780.21(j) shall be submitted at least every 3 months to the regulatory authority or more frequently as prescribed by the regulatory authority. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any surface-water sample indicates noncompliance with the permit conditions or other applicable standards, the operator shall promptly notify the regulatory authority. The reporting requirements of this paragraph do not exempt the operator from meeting the National Pollutant Discharge Elimination System (NPDES) reporting requirements.

(3) Surface-water monitoring shall continue during reclamation until bond release or until the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(i) The operator has minimized disturbance to the hydrologic balance both onsite and offsite;

(ii) Water availability and quality are suitable to support approved postmining land uses; and

(iii) The water rights of other users have been protected or replaced.

(4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer required.

(f) *Diversions.* With the approval of the regulatory authority, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas after bond release may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse onsite and offsite hydrologic impacts and assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the regulatory authority under paragraph (j) of this section.

(1) *Diversion of perennial and intermittent streams.* (i) Diversion of perennial and intermittent streams within the permit area may be approved by the regulatory authority after making the findings called for in 30 CFR 816.57 if the diversion and its appurtenant structures are designed to—

(A) Be stable;

(B) Provide protection against flooding and resultant damage to life and property;

(C) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(D) Comply with all local, State, and Federal laws and regulations.

(ii) The design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion.

(iii) Temporary and permanent diversions designed so that the combination of channel, bank, and flood-plain configuration is adequate to pass safely the peak runoff of a 10-year, 24-hours precipitation event for a temporary diversion and a 100-year, 24-hour precipitation event for a permanent diversion shall be deemed to comply with the requirements of paragraph (f)(1)(i)(B) of this section.

(iv) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with 30 CFR 816.24, 816.25, 816.101–816.105, and 816.111–816.117. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the operator from maintenance of water-treatment facilities otherwise required. When a permanent diversion is constructed or a stream channel is restored after temporary diversion, the operator shall assure that the permanent diversion or stream channel is designed and constructed to approximate the premining characteristics of the original stream channel in order to augment the recovery and enhancement of the aquatic habitat.

(v) The regulatory authority may specify design criteria for diversions which shall be designed, constructed, and maintained according to the criteria and under the direction of a registered professional engineer.

(2) *Diversion of miscellaneous flows.* (i) Diversion of flows within the permit area from undisturbed areas, other than perennial and intermittent streams but including ground-water discharges and emphemeral streams, may be approved by the regulatory authority if the diversion and its appurtenant structures are designed to—

(A) Be stable;

(B) Provide protection against flooding and resultant damage to life and property;

(C) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(D) Comply with all local, State, and Federal laws and regulations.

(ii) The design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion.

(iii) Temporary and permanent diversions designed so that the combination of channel, bank, and flood-plain configuration is adequate to pass safely the peak runoff of a 2-year, 24-hour precipitation event for a temporary diversion and a 10-year, 24-hour precipitation event for a permanent diversion shall be deemed to comply with the requirements of paragraph (f)(2)(i)(B) of this section.

(iv) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with 30 CFR 816.24, 816.25, 816.101–816.105, and 816.111–816.117. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the operator from maintenance of water-treatment facilities otherwise required. When a permanent diversion is constructed or a stream channel is restored after temporary diversion, the operator shall assure that the permanent diversion or stream channel is designed and constructed to approximate the premining characteristics of the original stream channel in order to augment the recovery and enhancement of the aquatic habitat.

(v) The regulatory authority may specify design criteria for diversions, which shall be designed, constructed, and maintained according to the criteria and under the direction of a registered professional engineer.

(g) *Drainage from acid- and toxic-forming materials.* Drainage from acid- and toxic-forming materials into surface water and ground water shall be avoided by—

(1) Identifying and burying or treating or, when necessary, burying and treating materials which may adversely affect water quality or be detrimental to vegetation if not buried and/or treated. Storage of acid- or toxic-forming materials shall be limited to the period until burial and/or treatment first becomes feasible, so long as storage will not result in any risk of water pollution or other environmental damage; and

(2) Storing acid- or toxic-forming materials in a manner that will protect surface water and ground water by preventing erosion and the formation of polluted runoff and infiltration of polluted water.

(h) *Transfer of wells.* Before final release of bond, exploratory or monitoring wells must either be sealed in a safe and environmentally sound manner in accordance with 30 CFR 816.13 and 816.15 or, with the prior approval of the regulatory authority, be transferred to another party for further use. The conditions of the transfer shall comply with State and local laws, regulations, and other requirements.

(i) *Water rights and replacement.* Any person who conducts surface mining activities shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source, where the water supply

has been affected by contamination, diminution, or interruption proximately resulting from the surface mining activities. The water replaced shall be of a suitable quality and quantity to meet the use requirements of the damaged party. Baseline information required in § 780.21 of this chapter shall be used to determine the extent of the impact of mining upon ground water and surface water.

(j) *Discharge of water into an underground mine.* (1) The discharge of water into an underground mine is prohibited, unless approved by the regulatory authority after a demonstration that the discharge would—

(i) Minimize disturbance to the hydrologic balance or otherwise eliminate public hazards resulting from surface mining activities;

(ii) Not result in a violation of applicable water-quality standards or effluent limitations;

(iii) Be discharged at a known rate and quality which shall meet the effluent limitations of the Environmental Protection Agency for pH and total suspended solids, except that the pH and total suspended-solids limitations may be exceeded, if approved by the regulatory authority; and

(iv) Meet with the approval of the Mine Safety and Health Administration.

(2) Discharges shall be limited to the following:

(i) Water.

(ii) Coal processing waste.

(iii) Fly ash from a coal-fired facility.

(iv) Sludge from an acid-mine-drainage treatment facility.

(v) Flue-gas desulfurization sludge.

(vi) Inert materials used for stabilizing underground mines.

(vii) Underground mine development wastes.

§§ 817.43, 817.44, 817.50, 817.52, 817.53, 817.54, and 817.55 [Removed]

8. Sections 817.43, 817.44, 817.50, 817.52, 817.53, 817.54, and 817.55 are removed.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

9. Section 817.41 is revised to read as follows:

§ 817.41 Hydrologic-balance protection.

(a) *General.* All surface mining and reclamation activities shall be conducted to minimize both onsite and offsite disturbances of the hydrologic balance, to assure the protection of water rights, and to support approved postmining land uses in accordance with the terms and conditions of the approved permit and the performance standards of this part. The regulatory authority may require additional preventive, remedial, or monitoring measures to assure that material damage to the hydrologic balance is prevented. Mining and reclamation practices that minimize water pollution and changes in flow shall be used in preference to water treatment.

(b) *Ground-water protection.* (1) Ground-water quality shall be protected by handling and managing earth materials and runoff in a manner that will minimize acidic, toxic, or other harmful infiltration to ground-water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into ground water.

(2) Ground-water quantity shall be protected by handling and managing earth materials and runoff in a manner that will restore approximate subsurface storage and flow capability of the reclaimed area as a whole, excluding coal-processing wastes and underground waste-disposal areas and fills, to transmit water to the ground-water system so as to restore approximate premining onsite and offsite water availability, to support approved postmining land uses, and to minimize disturbance of the hydrologic balance.

(c) *Ground-water monitoring.* (1) Ground-water monitoring shall be conducted according to the ground-water monitoring plan approved under 30 CFR 784.14(i). The regulatory authority may require additional monitoring where necessary.

(2) Ground-water monitoring data shall be submitted at least every 3 months to the regulatory authority or more frequently as prescribed by the regulatory authority.

(3) Ground-water monitoring shall proceed through mining and continue during reclamation until bond release or until the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(i) The operation has minimized disturbances of the hydrologic balance both onsite and offsite; water availability and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected; or

(ii) Monitoring is no longer necessary to achieve the purposes of the monitoring plan approved under 30 CFR 784.14(i).

(4) Equipment, structures, and other devices used to monitor the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer required.

(d) *Surface-water protection.* (1) Surface-water quality shall be protected by handling earth materials, ground-water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage and the additional contribution of suspended solids to streamflow outside the permit area and otherwise prevents water pollution. If drainage control, restabilization and revegetation of disturbed areas, diversion of runoff, mulching, and other reclamation and remedial practices are not adequate to meet the requirements of this section and 30 CFR 817.42, the person who conducts surface mining activities shall operate and maintain the necessary water-treatment facilities or water-quality control for as long as is necessary to meet the requirements of this section and 30 CFR 817.42.

(2) Surface-water quantity and flow rates shall be protected by handling and managing earth materials and runoff in a manner that will maintain the approximate premining onsite and offsite water availability, support approved postmining land uses, and minimize disturbance of the hydrologic balance.

(e) *Surface-water monitoring.* (1) Surface-water monitoring shall be conducted according to the surface-water monitoring plan approved under 30 CFR 784.14(j). The regulatory authority may require additional monitoring where necessary.

(2) The data acquired by the operator for meeting the requirements of this paragraph and 30 CFR 784.14(j) shall be submitted at least every 3 months to the regulatory authority or more frequently as prescribed by the regulatory authority. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any surface-water sample indicates noncompliance with the permit conditions or other applicable standards, the operator shall promptly notify the regulatory authority. The reporting requirements of this paragraph do not exempt the operator from meeting the National Pollutant Discharge Elimination System (NPDES) reporting requirements.

(3) Surface-water monitoring shall continue during reclamation until bond release or until the operator demonstrates, using the monitoring data obtained under this paragraph, that—

(i) The operator has minimized disturbance to the hydrologic balance both onsite and offsite; and

(ii) Water availability and quality are suitable to support approved postmining land uses.

(4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed by the operator when no longer required.

(f) *Diversions.* With the approval of the regulatory authority, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas after bond release may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse onsite and offsite hydrologic impacts and assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the regulatory authority under paragraph (i) of this section.

(1) *Diversion of perennial and intermittent streams.* (i) Diversion of perennial and intermittent streams within the permit area may be approved by the regulatory authority after making the findings called for in 30 CFR 817.57 if the diversion and its appurtenant structures are designed to—

(A) Be stable;

(B) Provide protection against flooding and resultant damage to life and property;

(C) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(D) Comply with all local, State, and Federal laws and regulations.

(ii) The design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion.

(iii) Temporary and permanent diversions designed so that the combination of channel, bank, and flood-plain configuration is adequate to pass safely the peak runoff of a 2-year, 24-hour precipitation event for a temporary diversion and a 10-year, 24-hour precipitation event for a permanent diversion shall be deemed to comply with the requirements of paragraph (f)(1)(i)(B) of this section.

(iv) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with 30 CFR 817.24, 817.25, 817.101–817.106, and 817.111–817.117. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the operator from maintenance of water-treatment facilities otherwise required. When a permanent diversion is constructed or a stream channel is restored after temporary diversion, the operator shall assure that the permanent diversions or stream channel is designed and constructed to approximate the premining characteristics of the original stream channel in order to augment the recovery and enhancement of the aquatic habitat.

(v) The regulatory authority may specify design criteria for diversions which shall be designed, constructed, and maintained according to the criteria and under the direction of a registered professional engineer.

(2) *Diversion of miscellaneous flows.* (i) Diversion of flows within the permit area from undisturbed areas, other than perennial and intermittent streams but including ground-water discharges and ephemeral streams, may be approved by the regulatory authority if the diversion and its appurtenant structures are designed to—

(A) Be stable;

(B) Provide protection against flooding and resultant damage to life and property;

(C) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and

(D) Comply with all local, State, and Federal laws and regulations.

(ii) The design capacity of channels for temporary and permanent diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion.

(iii) Temporary and permanent diversions designed so that the combination of channel, bank, and flood-plain configuration is adequate to pass safely the peak runoff of a 2-year, 24-hour precipitation event for a temporary diversion and a 10-year, 24-hour precipitation event for a permanent diversion shall be deemed to comply with the requirements of paragraph (f)(2)(i)(B) of this section.

(iv) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with 30 CFR 817.24, 817.25, 817.101–817.106, and 817.111–817.117. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the operator from maintenance of water-treatment facilities otherwise required. When a permanent diversion is constructed or a stream channel is restored after temporary diversion, the operator shall assure that the permanent diversion or stream channel is designed and constructed to approximate the premining characteristics of the original stream channel in order to augment the recovery and enhancement of the aquatic habitat.

(v) The regulatory authority may specify design criteria for diversions, which shall be designed, constructed, and maintained according to the criteria and under the direction of a registered professional engineer.

(g) *Drainage from acid- and toxic-forming materials.* Drainage from acid- and toxic-forming materials and underground development waste into surface water and ground water shall be avoided by—

(1) Identifying and burying or treating or, when necessary, burying and treating materials which may adversely affect water quality or be detrimental to vegetation if not buried and/or treated. Storage of acid- or toxic-forming materials shall be limited to the period until burial and/or treatment first becomes feasible, so long as storage will not result in any risk of water pollution or other environmental damage; and

(2) Storing acid- or toxic-forming materials in a manner that will protect surface water and ground water by preventing erosion and the formation of polluted runoff and infiltration of polluted water.

(h) *Transfer of wells.* Before final release of bond, exploratory or monitoring wells must either be sealed in a safe and environmentally sound manner in accordance with 30 CFR 817.13 and 817.15 or, with the prior approval of the regulatory authority, be transferred to another party for further use. The conditions of the transfer are to comply with State and local laws, regulations, and other requirements.

(i) *Discharge of water into an underground mine.* (1) The discharge of water into an underground mine is prohibited, unless approved by the regulatory authority after a demonstration that the discharge would:

(i) Minimize disturbance to the hydrologic-balance or otherwise eliminate public hazards resulting from surface mining activities;

(ii) Not result in a violation of applicable water-quality standards or effluent limitations;

(iii) Be discharged at a known rate and quality which shall meet the effluent limitations of the Environmental Protection Agency for pH and total suspended solids, except that the pH and total suspended solids limitations may be exceeded, if approved by the regulatory authority; and

(iv) Meet with the approval of the Mine Safety and health Administration.

(2) Discharges shall be limited to the following:

(i) Water.

(ii) Coal-processing waste.

(iii) Fly ash from a coal-fired facility.

(iv) Sludge from an acid-mine-drainage treatment facility.

(v) Flue-gas desulfurization sludge.

(vi) Inert materials used for stabilizing underground mines.

(vii) Underground mine development wastes.

(j) *Discharges of water from underground mines.* (1) Surface entries and accesses to underground workings shall be managed to prevent or control gravity discharge of water from the mine. Gravity discharges of water from an underground mine, other than a drift mine subject to paragraph (j)(2) of this section, may be allowed by the regulatory authority if it is demonstrated that the untreated or treated discharge complies with the requirements of this part and 30 CFR 817.42. Discharge of water from an underground mine may be diverted into other underground workings according to paragraph (i) of this section.

(2) Notwithstanding anything to the contrary in paragraph (j)(1) of this section, for a drift mine first used after the implementation of a State or Federal lands program and located in acid-producing or iron-producing coal seams, surface entries and access shall be located in such a manner as to prevent any gravity discharge from the mine.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

[FR Doc. 82-17010 Filed 6-24-82; 8:45 am]

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30 CFR Parts 701, 709, 784, 815, and 817

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Remining and Reprocessing

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining (OSM) is proposing permit and performance standards for remining previously mined areas and for reprocessing coal mine waste. The widespread prevalance of remining and reprocessing has demonstrated a need for specific rules which take into account the special conditions particular to these types of operations. These proposed rules would provide a practical approach to the reclamation of previously mined areas and would provide for maximum coal recovery and increased environmental protection, while reducing potential use of the Abandoned Mine Reclamation Fund.

DATES:

Written comments: Accepted until further notice.

Public hearings: Held on request only, on August 4, 1982, at 9:00 a.m.

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.07), Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (TSR 14.07), Room 5315L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.; Pittsburgh, Pa.—William S. Moorehead Federal Building, Room 2212, 1000 Liberty Avenue; and Denver, Colo.—Brooks Towers, 2d Floor Conference Room, 1020 15th Street.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Public hearings and information: Raymond E. Aufmuth, Division of Engineering Analysis, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202-343-5245.

Public meetings: Jose del Rio, 202-343-4922.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking. The comment period will remain open until the close of the comment period on the draft environmental impact statement that will consider this proposed rule.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L Street). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Expansion of surface coal mining operations into previously mined areas has increased dramatically in recent years. This is attributable to several

factors: (1) The advancing technology of overburden removal has allowed cost-effective operations in areas where previous mining was limited by lower overburden-to-coal ratios; (2) the price of coal has made remining costs effective in areas with higher overburden ratios; (3) the availability of virgin coal seams (or thicker seams) for development is dwindling, thus renewing interest in previously mined areas.

Remining is most common in the steep slope areas of Appalachia, where removal of mountaintop remnants, auger mining, and second cuts on single and multiple seams are typical mining methods. In area mining there is also remining, although less frequently, where recovery of lower coal seams may require excavation through spoil ridges from previous operations. Reprocessing (or secondary recovery) occurs in coal refuse areas by reprocessing coal refuse deposits created by less efficient coal preparation methods. Some of these deposits contain as much as 60 percent recoverable coal.

All of these methods redisturb areas on which varying degrees of reclamation had been performed. In many instances, before remining, the sites contribute to environmental, health, or safety problems through erosion, sedimentation, spoil instability, hazardous embankments and impoundments, leaching of toxic and acid materials, and water pollution. Remining of the areas will almost always result in an improvement of environmental conditions and could potentially eliminate or offset the use of the Abandoned Mine Land Reclamation Fund established under Title IV of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). This fact can be significant when illustrated by comparative estimates that indicate costs of $53.1 billion are required to abate nationwide abandoned mine land (AML) problems, while only $4.0 billion in collections will be generated over the 15-year life of the program (OSM, 1980; complete citations to references are provided at end of preamble). Remining, if accomplished in accordance with the standards of Title V of the Act, would serve to extend the useful application of limited AML funds while accomplishing an improvement of environmental conditions.

OSM is currently exploring the use of various types of incentives to encourage remining. In some areas, State AML funds are used to reclaim abandoned minesites adjacent to active permits. Other suggestions have been made to reduce the bond or to eliminate or lower the Title IV collections on remining permits. A number of possibilities exist; however, many of the alternatives conflict with the Act or other statutes and regulations. Until these issues are resolved, the rules that OSM promulgates must conform with the Act and other Federal statutes.

A. Extent of Remining

The extent of remining and reprocessing is unknown, since many State regulatory authorities do not keep records for such operations separate from records for other mining operations. However, available data indicate that on a national level, remining activities have become quite prevalent.

For example, current statistics on minable reserves and coal production rates in Virginia indicate that during the remaining 10- to 20-year life of Virginia's coal reserves, surface mining will occur primarily in previously mined areas (Commonwealth of Virginia, 1981). In the past, 71,000 acres in Virginia have been disturbed by surface mining activities that have left 2,765 miles of orphaned highwalls.

In West Virginia, where surface mining makes up less than 30% of coal production, there were an estimated 248,078 acres of land disturbed prior to the State's 1971 highwall elimination law (Schmidt and Stoneman, 1972). Since 1975, when records on remining begin, there have been 257 miles of highwall remined, or an estimated 10,000 acres (West Virginia Department of Natural Resources, oral communication, 1981).

In testimony before the House of Representatives Sub-Committee on Energy and the Environmental, Pennsylvania Governor Milton Shapp stated that in Pennsylvania 3,000 acres are restored annually by remining (U.S. Congress, 1977a, p. 63, 871). OSM recognizes that these statistics represent only a limited amount of data, and welcomes comments and any further information on remining that can be supplied by other State regulatory agencies.

B. Remining Problems

Remining operations face a range of problems, some of which are comparable to virgin mining operations and some of which are unique to remining. Specific types of remining situations are outlines below, together with a description of certain problems that are unique to remining.

1. *Mountaintop remnants.* This method of mining is similar to mountaintop removal. A large or small mountaintop remnant is excavated to allow coal removal. Under Section 515(b)(3) of the Act, the overburden should then be redistributed over the bench in a manner which blends into the surrounding unmined topography to restore the approximate original contour (AOC). Where previous mining has taken large cuts, there may be insufficient overburden available to achieve AOC. (A more complete discussion of the AOC restoration requirement is included later in the preamble.) Another problem relates to ensuring that all spoil is placed on the solid portion of the bench and is not loaded on top of unstable spoil that was placed on the outslope during previous operations. A further problem is that surface drainage was not controlled in the previous operation so that surface runoff in the remaining operation cannot be introduced into spoil on the outslope because such drainage would cause erosion, instability, or both.

2. *Second cuts.* Potential problems in second-cut contour mines (single or multiple seams) are identical to those outlined for mountaintop remnants with regard to spoil on the outslope. In addition, there are some situations where remining will not generate the volume of spoil necessary to achieve highwall elimination, much less achieve AOC.

3. *Auger mining.* The surface impacts of auger mining parallel those of underground mining. In the auger mining of preexisting highwalls, the vibration of a weathered highwall and the forces of nature and gravity ensure immediate or eventual highwall collapse, retrogressive block-type failure, and subsidence.

The counterbalancing measure of backfilling a highwall is not readily feasible in a remining augering situation, but it is nevertheless necessary in order to minimize environmental damage after remining. The obvious problem is obtaining backfill materials, since auger operations may occur on previously mined areas which may have insufficient available spoil for backfilling and grading the auger holes and highwall.

4. *Reprocessing.* The excavation of existing coal waste deposits, besides raising the same concerns as disposal of coal waste after initial processing, presents mainly logistical problems. In general, these deposits were previously dumped in the easiest manner possible, at the site closest to the mine or loading or coal-preparation facility. Refuse piles are noted for discharging highly contaminated seepage, due to the concentrations of pyrite, trace elements, organics, and heavy metals in the waste.

This practice resulted in many waste piles located in, or immediately adjacent to, streams. When an operator reprocesses these embankments, it is almost impossible to avoid affecting the stream. The operator who reprocesses a coal waste deposit may well inherit an onerous discharge of polluted water. The remining of that deposit may improve or eliminate future discharges.

5. *Water quality.* Another general problem which often impairs or negates the feasibility of remining and reprocessing is the requirement to comply with water-quality criteria. Many previously mined areas are economically attractive for remining and reprocessing operations in the short term but become uneconomic when long-term treatment of poor-quality water is taken into account. Many operators are willing to accept the responsibility for dealing with water quality caused by previous mining the term of the remining or reprocessing operation, but assert that they are financially unable to cope with long-term treatment and/or unreleased bonds.

6. *Revegetation.* Another difficult standard which detracts from the feasibility of remining and reprocessing is the revegetation requirements. An adequate quantity of topsoil or alternative material is needed in areas where some or much of the topsoil has been destroyed by previous mining. A topsoil substitute which is suitable enough to achieve revegetation standards may not be available. OSM has recently proposed changes to its revegetation performance standards in 30 CFR 816.111–816.117 and 817.111–817.117. See 47 FR 12596 (March 23, 1982).

The problems related to remining and reprocessing are not directly addressed by the Act and OSM rules, the requirements of which are more suited to first-time mining operations. Remining usually affects lands which already are degraded below acceptable environmental-protection standards. Thus, regulatory provisions designed to restore the mine site to conditions existing before any mining often discourage remining. Two regulatory standards that present difficulty in remining situations are the AOC restoration requirement and the highwall-elimination requirement. This proposed rulemaking attempts to deal with the latter two requirements in remining situations.

C. Legal Standards

1. *The Act.* The relevant requirements are set forth in two places in the Act, section 515(b)(3) and section 515(d)(2).

Section 515(b)(3) provides that all surface coal mining and reclamation operations shall be required to

> backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and regrade in order to *restore the approximate original contour* of the land *with all highwalls*, spoil piles, and depressions *eliminated* (emphasis added).

In addition, section 515(d)(2) establishes special performance standards for steep slope surface coal mining:

> *Complete backfilling* with spoil material shall be required to *cover completely the highwall and return the site to the appropriate* (sic) *original contour*, which material will maintain stability following mining and reclamation (emphasis added).

Approximate original contour is defined in section 701(2) of the Act (and 30 CFR 701.5) as

> that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with *all highwalls* and spoil piles *eliminated* (emphasis added).

The decision of Congress to require AOC restoration and highwall elimination was based on the understanding that

> [i]n virtually all cases of contour mountain mining, sufficient spoil by volume is created to return the mine site to approximate original contour * * * The swell property of the materials removed (overburden) assures this condition with present stripping ratios. (U.S. Congress, 1977b, pp. 96–97.)

This premise is not substantiated in every instance, a fact that Congress also recognized.

For example, the first proviso in section 515(b)(3) of the Act addresses "thin overburden" conditions in which the overburden-to-coal ratio would prevent return of mined land to AOC. The section provides an exception to the AOC restoration requirement that states

> [t]hat in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region * * *

Other examples include section 515(c) of the Act, which does not require a return to AOC for mountaintop removal operations, and section 515(e) of the Act, which allows variances from the AOC restoration requirement in certain situations. Neither of these sections allows the retention of highwalls.

2. *Existing Rules.* The existing permanent program rules implementing sections 515(b)(3) and (d)(2) of the Act are set forth at 30 CFR 816.102(a) and 826.12(b). These rules require the restoration to AOC and elimination of all highwalls and apply to both disturbed and redisturbed areas. With regard to previously mined areas, § 816.102(e) allows the regulatory authority to modify the backfilling and grading requirements "where the surface mining activities are reaffecting previously mined lands that have not been restored to the standards of this part [the permanent regulatory program] and sufficient spoil is not available." The section goes on to require, in § 816.102(e)(2), that the person who conducts surface mining activities must, at a minimum, "Backfill and grade to the most moderate slope possible, to eliminate the highwall which does not exceed either the angle of repose or such lesser slope as is necessary to achieve a minimum static safety factor of 1.3. In all cases the highwall has to be eliminated."

The rationale for this provision was included in the preamble to the permanent program rules published on March 13, 1979, which states:

> In order to promote the reclamation of previously mined areas which have been inadequately reclaimed and where much of the previous spoil and waste had been deposited so as to leave insufficient material for grading to approximate original contour, the regulations give discretion to the regulatory authority to modify requirements of § 816.101(b). These regulations are intended to encourage an improvement in land quality and perhaps water quality, through current mining and reclamation of lands poorly reclaimed by previous mining in accordance with one of the purposes of the Act (section 102(b)). Some previously mined areas lack sufficient available spoil or topsoil to achieve postmining conditions which meet all the land configuration and revegetative requirements. Reclamation activities for such operations are required to meet the minimum standards for backfilling and grading, including retention of overburden and spoil material on the bench *and grading to completely eliminate the highwall* and maintain a stable slope.

(emphasis added) (44 FR 15227–15228, March 13, 1979).

OSM recently adopted another rule pertaining to previously mined areas, § 816.75. The rule adopted on April 29, 1982 (47 FR 16553–16555), encourages, but does not require, the use of excess spoil for the purpose of backfilling preexisting benches. The rule requires that (1) all spoil must be placed on the solid portion of the bench, (2) the bench must be backfilled and graded to achieve the most moderate slope possible which does not exceed the angle of repose, (3) the spoil must have a long-term static safety factor of 1.3, and (4) the existing highwall does not have to be completely eliminated. With the adoption of the above rule, OSM removed § 826.16, which allowed for similar activities but only in steep slope mining. New rule § 816.75 is not as limited.

Directly related to today's proposal is the rule proposed on January 7, 1982 (47 FR 928), that would allow an exception from the requirement for the complete elimination of highwalls for steep slope second-cut mining in previously mined areas. Although OSM intends in the near future to issue a separate final rule on its January 7, 1982, proposal, the proposal is being reproposed in this rulemaking so that it may be considered in context with the other remining rules proposed herein and that it may be considered in an environmental impact statement that OSM is preparing on many of its rule changes.

However, today's proposal is not limited to mining on steep slopes. The legal justification for the January 7, 1982, rule is clearly also applicable to this proposal and states as follows:

> It is plain from the legislative history, however, that Congress did not consider the application of highwall elimination requirements to previously mined areas where operators must excavate borrow pits to comply. As Congress noted: It should be emphasized * * * that a reasonable interpretation of H.R. 2 cannot justify the assertion that the bill requires * * * the useless act of digging a new pit to obtain fill material to acheive topography." [U.S. Congress, 1977(b), at pp. 96–97].
>
> "OSM is concerned that application of the regulation does require the 'useless act of digging a new pit to obtain fill material.' The economics of coal recovery today differ from those that existed during the period of congressional consideration of legislation which culminated in the enactment of [the Act]. As a result, the Nation's recoverable reserve base has expanded to include many previously mined areas. However, extending [the Act] to such existing unnatural conditions exposes latent difficulties in its application. OSM believes it has an obligation to assist the states in resolving such conflicts and to develop rules consistent with the intentions of Congress.
>
> "The policy proposed in these rules is consistent with the stated purposes of [the Act] to (1) 'promote the reclamation of mined areas left without adequate reclamation', section 102(h); (2) 'assure that surface coal mining operations are so conducted as to protect the environment', section 102(d); (3) 'assure that the coal supply essential to the Nation's energy requirements and to its economic and social well-being is provided and strike a balance between protection of the environment and agricultural productivity and the nation's need for coal as an essential source of energy', section 102(f); (4) 'assist the States in developing and implementing a program to achieve the purposes of [the Act]', section 102 (g); and (5) insure that operators 'cover completely the highwall and return the site to the approximate original contour, with material which will maintain stability following reclamation', section 515(d) (so long as such language is strictly interpreted to apply to natural premining conditions). Given the legislative history of the provision, Congress' concern that the backfilled material maintain stability following reclamation, the changing economics of coal mining today, Congress' desire to effect the reclamation of abandoned mined lands, and the potential damage to the environment possible through a different application of the Act's standards, OSM believes the proposed rule herein to be a reasonable construction of the Act's provisions." (47 FR 928, January 7, 1982)

3. *Appeals Board Cases.* OSM also intends to modify its rules to conform to two decisions of the Interior Board of Surface Mining Appeals (the Board). In these two cases, the Board held that in order for OSM to require an operator to eliminate all or part of a preexisting highwall, the operator's activities must in some way have had an adverse physical impact on that portion of the highwall. *Cedar Coal Co.* v. *OSM,* 1 IBSMA 145, (April 20, 1979) and *Miami Springs Properties* v. *OSM,* 2 IBSMA 399 (December 23, 1980) (U.S. Office of Hearings and Appeals, 1979, 1980).

OSM informally circulated drafts of these proposed rules prior to this publication, and all comments received regarding the draft will be considered during the course of the final rulemaking.

III. Discussion of Proposed Rules

OSM is proposing new rules to regulate the various types of remining and reprocessing operations that may be conducted under the Act. The proposed rules would cover the permit-application requirements for surface and underground mining and the environmental performance standards for both types of mining. The new rules would supplement the existing rules for new mining operations and would add additional rules that are applicable only to remining and reprocessing operations.

Part 701—Permanent Regulatory Program

§ 701.5 Definitions.

Definitions of the terms "adverse physical impact," "highwall remnant," "previously mined area," "remining," and "reprocessing" are being proposed for use for the other rules herein.

Adverse physical impact. This term would mean, with respect to a highwall, actions that cause or can reasonably be expected to cause, sloughing of material, subsidence, instability, or an increase in wind or water erosion of the highwall. Examples follow: An adverse physical impact may result when an operator removes spoil or coal below a preexisting highwall and, by doing so, alters the structural integrity of the highwall. Also, a highwall remaining from a remining operation may be unstable, so that it slides. Auger mining or driving an underground mine entrance into a highwall will affect the structural integrity of the highwall, which may result in subsidence or collapse of the highwall.

Highwall remnant. This term would mean an engineered cut slope designed to be incorporated into the final grade of a reclaimed remining site. A highwall remnant would be defined to mean a stabilized portion of the highwall which could not be backfilled due to insufficient spoil. The highwall remnant may be shaved and blended into natural ground above the excavation, or may be stair-stepped, laid back, or otherwise mechanically reduced in a manner so as to safely convey upslope runoff and minimize sloughing, spalling, and erosion.

Previously mined area. The term would mean any lands from which coal was extracted or which were affected by an earlier surface coal mining operation. The land included in the term may or may not have been reclaimed to the requirements of the permanent program performance standards. A site that has not been fully reclaimed would be characterized by preexisting highwalls and spoil on the outslope. OSM solicits comments on whether unpermitted operations which did not meet the applicable performance standards should be included within this definition of previously mined areas.

Remining. This term would mean conducting surface coal mining and reclamation operations which affect previously mined areas. Remining would include, but not be limited to, auger mining of preexisting highwalls, second

or successive contour or area single or multiple seam cuts, mountaintop-remnant removal, underground-entry development on preexisting benches, or the surface effects of reopening underground mines for the purpose of coal extraction on any previously mined area.

Reprocessing. This term would mean the processing of coal mine waste to remove marketable coal. Coal mine waste includes coal processing waste and underground development waste that has been deposited in coal refuse piles, slurry ponds, dams, and embankments. These refuse piles and embankments may contain coal that is now economical to recover by processing the waste material.

Part 780—Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

§ 780.34 Remining and reprocessing.

A new § 780.34 would be added that would set forth the permit-application requirements for the various types of remining and reprocessing operations. The proposed rules would apply to the various types of remining, such as second cut, additional seams in area and bench mining, auger mining of preexisting highwalls and reprocessing of refuse piles, slurry ponds, dams, and embankments. Section 780.34 would apply to any permit application for any type of coal remining operation on a previously mined area as that term would be defined in proposed § 701.5. The proposed section would also apply to all reprocessing operations as that term is defined in proposed § 701.5.

The operator would be required to furnish this information to the regulatory authority for approval of the mining permit. The provisions in § 780.34 supplement the existing permit-application requirements in Part 780 and cover the additional provisions for a remining or reprocessing operation.

The individual requirements of this section are keyed to two objectives: (1) Require the permit applicant to properly plan a remining or reprocessing operation in light of the particular problems and conditions relative to the type of remining or reprocessing method, and (2) give the regulatory authority sufficient data to evaluate impacts of the operation, appropriateness of reclamation methods, and compliance with the Act and rules. The proposed permit rules for remining or reprocessing are general enough to provide the regulatory authority flexibility if it elects to elaborate or expand upon the requirements to ensure that they encompass individual problems which have been encountered under the varying conditions within its jurisdiction.

Proposed § 780.34 would separate the permit-application requirements into four paragraphs: (a) General requirements, (b) remining, (c) auger mining, and (d) reprocessing. The paragraph on general requirements would include the items common to the three general categories: remining, auger mining, and reprocessing. The paragraph on remining would cover all of those situations where additional overburden would be moved to mine the coal. The next paragraph would cover traditional auger mining plus the newer technologies for coal recovery in previously mined areas. The reprocessing requirements would include situations where it is economically feasible to recover the coal from coal waste. These include such items as refuse piles, gob piles, slurry ponds, and waste embankments.

Proposed § 780.34(a) would include application requirements for all remining or reprocessing operations and would include the information to meet the performance standards of proposed § 816.109, "Backfilling and grading: Remining and reprocessing." Under proposed § 780.34(a)(1), each application would contain detailed descriptions, including appropriate maps, cross sections, and drawings, depicting the proposed remining or reprocessing operation for review by the regulatory authority. These descriptions and drawings are needed by the regulatory authority to judge the effect the remining or reprocessing operation would have on the land area.

Proposed § 780.34(a)(2) would require the applicant to identify and show the extent of preexisting highwalls and spoil on the outslope. This information would allow the regulatory authority to determine how much spoil is "reasonably available" within the meaning of proposed § 816.109(a)(3) and whether to approve a plan for less than complete highwall elimination. Also, the applicant would identify and show the location of surface- or ground-water discharges that fail to meet applicable Federal, State, or local water-quality standards and that are adjacent to, or may be impacted by, the proposed operation. These locations are needed by the regulatory authority to judge the effects of the proposed operation.

In some situations, spoil and coal mine waste from previous operations may need to be moved before beginning the remining operation. According to proposed § 780.34(a)(3), the operator would show the new location for this material on the plans submitted to the regulatory authority.

According to proposed § 780.34(a)(4), an analysis of the remining or reprocessing operation would be made to show any effects caused or contributed to by the proposed remining or reprocessing operation. If adverse impacts cannot be prevented, the operator would describe the mitigating measures and the design specifications for implementation. This information would be used to determine compliance with proposed § 816.109 (a)(6) and (a)(7).

Proposed § 780.34(b) would include all of the permit requirements that apply to the remining of coal in its original location. All of these operations would be in previously mined areas that are now economical to remine. It would include such operations as second cut remining in steep and nonsteep slope areas, multiple-seam remining, and other operations that must move overburden to reach the coal. The permit application maps and plans would detail the effect the operation would have on any new and preexisting highwall and the proposed postmining land-surface contour.

The plans and drawings submitted by the applicant in accordance with proposed § 780.34(b)(1) would delineate the lateral and vertical extent of the highwalls to be formed by remining. The highwalls shown on the plans and drawings would be those remaining after completing the backfilling and grading operation and would be stabilized by the operator. This information would be used by the regulatory authority in determining whether the highwall had been eliminated to the maximum extent practical as would be required under proposed § 816.109(a). In addition, the information would be used in determining if proposed § 816.109(a)(3) would be met.

According to proposed § 780.34(b)(2), the applicant would show the volume of spoil available for backfilling the highwall compared to the volume of spoil necessary to eliminate the highwall and that necessary to achieve the approximate original contour. The spoil available for backfilling and grading would be from the current mining operation as well as spoil that is reasonably available from previous mining operations. These calculations are needed to provide the regulatory authority with information on the relationship between available and needed spoil and to determine if proposed § 816.109(a)(3) would be met by the proposed operation.

Proposed § 780.34(b)(3) would require that the application include all plans, drawings, designs, and specifications for long-term stability of the highwall remaining after remining.

Such procedures as stepping the highwall, back sloping and any other proposals to stabilize a newly formed or preexisting highwall to prevent danger to public health and safety would be shown. This permit application requirement would provide the regulatory authority with the information necessary to make a finding that the operation would comply with the proposed standard for highwall stability, § 816.109(a)(5).

The methods for protecting the highwall from runoff would be shown on the plans and drawings in accordance with proposed § 780.34(b)(4). Any stabilized channels constructed for protecting the highwall would also be shown, including the dimensions and slopes of the channels. This would provide the information needed to determine compliance with proposed § 816.109(c).

Proposed § 780.34(b)(5) would require the operator to show the proposed postmining surface contour whether there is or is not sufficient spoil to achieve the approximate original contour. The regulatory authority will use this information to determine the impact of the new surface contour when determining whether or not to approve a final contour that does not achieve AOC and to issue a permit for the operation. In addition, proposed § 780.34(b)(6) would require the applicant to show that all reasonably available spoil would be used in the backfilling and grading operation. This information would be used to determine compliance with the general backfilling and grading standards made applicable by proposed § 816.109(a)(1) and the special remining standard of proposed § 816.109(a)(3).

Proposed § 780.34(b)(7) would require a description of the impact of the proposed remining operation on any preexisting highwall where remining of a lower coal seam intersects the preexisting highwall. This information would be used along with that from proposed § 780.34(b)(3) to determine compliance with proposed § 816.109(a)(5) requiring that highwalls be made stable.

In proposed § 780.34(b)(8), the applicant would be required to show the proposed reclamation plan for areas on the outslope where spoil would be moved to provide additional fill for covering the highwall in the remining areas. This information is needed so the regulatory authority can assure that preexisting spoil on the outslope is not made unstable by operations to pull it up onto the bench. Instability of such spoil can be a significant hazard to the public and the environment, so any operations to move it must be planned carefully.

The permit application process for remining by auger mining would be in § 780.34(c). The operator would show according to § 780.34(c)(1) the description of the augering methods, the methods and types of materials to seal the auger holes, the limit and extent of the auger operation, and the provisions to be incorporated into the operation to assure future access to any remaining coal reserves.

Proposed § 780.34(c)(2) would require additional information where the impacts of augering would be detrimental to the stability of the preexisting highwall or the area upslope from the highwall. If stability would be decreased, under paragraph (c)(2)(i) the operator would be required to show the mitigating measures to assure the long-term stability of the remaining highwall. Under paragraph (c)(2)(ii) the operator would be required to show measures to counter the effects of subsidence where it will be detrimental to structures or facilities both during and after auger mining. Under paragraph (c)(2)(iii), a reclamation plan would be required to show plans for reclaiming areas where material is to be removed to backfill auger-mined preexisting highwalls to achieve stability. These may be areas containing preexisting spoil or, in certain cases, where material was obtained from borrow areas. (For additional discussion see § 816.109(g)(2).)

Proposed § 780.34(d) would include all types of reprocessing operations affecting areas where the coal is not in its original location. Each of these operations is unique and the operation and reclamation plan must be site specific for each location and proposed reprocessing method. Proposed § 780.34(d)(1) would require a permit applicant to show the plans and methods for removal of embankments, dams, waste piles or other sites to be used in reprocessing. Section 780.34(d)(2)(i) would require a description of how the methods of the operation will minimize further disturbance to the hydrologic balance. The applicant would show according to paragraph (d)(2)(ii) the measures that will be used to protect the public health and safety when the operation will extract coal from ponds, piles or embankments. Section § 780.34(d)(2)(iii) would include the measures to be taken to achieve reclamation of the area.

Part 784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

§ 784.34 Remining

A new § 784.34 would be added that would set forth the permit-application requirements for the surface effects of underground mining when remining previously mined areas. The proposed rules would apply to reopening an underground mine or establishing a new underground mine in a previously mined area. Section 784.34 would apply to any permit application for any type of underground mining activity on a previously mined area as that term would be defined under proposed § 701.5.

Proposed § 784.34 would include all of the requirements of proposed § 780.34 (a) and (b) for surface mining activities, other than the requirements of delineating the extent of highwalls in proposed § 780.34(b)(1) and pertaining to effects of remining lower coal seams in proposed § 780.34(b)(7). This latter requirement would not be necessary because such operations would not occur in underground mining. Furthermore, proposed § 784.34 would not contain specific paragraphs for auger mining or reprocessing operations similar to proposed § 780.34 (c) and (d) because underground mining also does not involve these operations. For a discussion of the permit-application requirements for the surface effects of underground mining, see the earlier discussion of proposed § 780.34.

Part 816—Permanent Program Performance Standards—Surface Coal Mining Activities

§ 816.109 Backfilling and grading: Remining and reprocessing

Proposed § 816.109 describes the performance standards which would allow variance from AOC and highwall elimination in those remining situations where insufficient backfill material is available due to previous operations which did not meet the performance standards of the Act. These performance standards would also deal with potential environmental problems resulting from specific types of remining activities and methods that would assure compliance with the Act. Generally, the rules require certain reclamation standards to be implemented even when variances are applicable, because remining will create adverse physical impacts which would contribute to environmental degradation.

Problems of instability, pollution, access, erosion, safety, and esthetics

have been attributed to highwalls resulting from surface mining operations (Grim and Hill, 1974, pp. 157–158; Giles, 1980, p. 80; U.S. Congress, 1977). Foremost among the problems, and a co-contributer to the other problems, is stability of the rock cut which makes up the highwall. Incomplete backfilling of a highwall results in the potential for sloughing, rockfalls, erosion, and retrogressive failure of the rock cut which would otherwise be minimized when backfilling acts as a buttress. Problems of highwall instability may be taken into account in mining operations through planning and design. Various methodologies of abatement of problems associated with rock cuts are commonly used where exposed rock highwalls must be left. In order to combat these problems, the proposed rules would require that a permittee who qualifies to utilize partial highwall elimination in remining must demonstrate, through standard geotechnical analysis, that stability of the remaining highwall is assured. Proposed § 816.109(a)(5). This requirement has also been upheld in recent administrative proceedings dealing with highwalls that are adversely affected by remining (1 IBSMA 145, and 2 IBSMA 399, U.S. Office of Hearings and Appeals, 1979, 1980). These same administrative decisions held that an operator was responsible for backfilling only that part of the highwall adversely affected by the new mining operation. With the proposal of these rules, OSM recognizes that an operator may not have sufficient spoil to completely eliminate the new highwall created as a result of remining.

Proposed § 816.109(a) would govern remining operations in previously mined areas that were not reclaimed to the standards of the OSM rules. In these situations, the operator would be required to demonstrate in writing to the regulatory authority that the volume of all reasonably available spoil is insufficient to completely backfill the highwall and achieve the approximate original contour that existed before mining. The remaining highwall must be eliminated to the maximum extent practical in accordance with the following criteria.

The backfilling and grading would be required to be conducted in accordance with the requirements of existing §§ 816.101–816.103 for reclaiming mined-out areas (proposed § 816.109(a)(1)). There is no difference in backfilling a newly mined area and a remined area except for allowing some portion of the highwall to remain. In the latter situation the regulatory authority would require the operator to strive to eliminate the highwall to the maximum extent practical. Revised backfilling and grading rules have been proposed in a separate rulemaking and the above references to that section will be changed at a later date.

According to proposed § 816.109(a)(2), the person who conducts a surface coal mining and reclamation operation would demonstrate the stability of all portions of the backfill. The demonstration to the regulatory authority would consist of a certification from a qualified registered professional engineer that the minimum static safety factor for all portions of the backfill is at least 1.3. This is the same safety factor required for backfill on the bench in newly mined areas.

Proposed § 816.109(a)(3) would require that all spoil generated by the mining operation and other reasonably available spoil must be used to backfill the area. The permit application would show the location of spoil from a previous mining operation that is reasonably available to be used to backfill the mined-out area. The spoil that is used should improve the area and not contribute to environmental problems. Here again, the idea is to use the spoil to eliminate the highwall to the maximum extent practical.

For the purposes of these rules, reasonable available spoil is considered to be spoil that is generated by the mining operation and other spoil located on the permit site that is accessible and available for use and that when rehandled will not cause a hazard to the public safety or significant damage to the environment. OSM anticipates that the required showing that sufficient spoil is not available will be demonstrated by a certification of a registered professional engineer.

OSM has selected the phrase "to the maximum extent practical" to describe the limits of highwall elimination for those conditions of insufficient spoil. It is OSM's intent, by the use of "practical", to require the operator to eliminate only that portion of the highwall it is both technologically *and* economically feasible to eliminate. OSM believes that "possible" should not replace "practical" because otherwise the phrase might be interpreted to require complete highwall elimination if it is technologically feasible, notwithstanding extraordinarily high costs of completing the backfilling and grading operation.

Under proposed § 816.109(a)(4) the backfill would be graded to a slope which is compatible with the postmining land use and which provides adequate drainage and long-time stability. The final land surface should not contribute to drainage and erosion problems.

The highwall would be made stable according to the requirements of proposed § 816.109(a)(5). A stable highwall is required to eliminate any hazard to the public health or safety or to the environment. The highwall may be stabilized by different measures as selected by the design engineer, including flattening the slope or stepping the highwall.

A demonstration that the remaining highwall is stable would be required of the operator. This demonstration must be satisfactory to the regulatory authority.

Certain precautions concerning the use of soil from previous mining operations would be stated in proposed §§ 816.109(a)(6) and (a)(7). Proposed § 816.109(a)(6) would state that preexisting spoil on the outslopes can not be disturbed if such disturbance will cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to the public health and safety. The disposition of existing spoil is a site-specific design consideration; but, when ever possible, the spoil should be considered for highwall elimination. Proposed § 816.109(a)(7) would prevent slumping and sliding of preexisting spoil from being caused by the remining operation. Surface drainage from the remining operation would not be allowed to drain into or across preexisting spoil unless it was demonstrated that such drainage would not contribute to erosion or instability of the spoil on the outslope.

Proposed § 816.109(b) would allow the operator to move preexisting spoil and coal mine waste to gain access to the coal. Any material that is moved for this reason would be required to be backfilled and graded in accordance with § 816.101–816.103. The propose of the provision is to prescribe the treatment of materials that the operator may encounter when returning to a previously mined area.

In proposed § 816.109(c), each highwall remnant must be protected from the runoff from the area upslope from the highwall and from the highwall itself. Proper planning for the protection of the highwall remnant is essential in areas where the regulatory authority would allow a highwall remnant. The protection is necessary to prevent erosion of the highwall and the backfill if runoff would cascade over the remaining highwall during runoff events.

Proposed § 816.109(d) states that in a previously mined area that has been fully reclaimed to the performance standards of Part 816, the environmental

protection performance standards must be met for the remining operation. The economics of mining change continuously, and in that light it is entirely possible that it may be profitable to remine a fully reclaimed area. Because such an area has already been reclaimed to the standards of the Act the remining operation should be held to the same standards so as not to degrade the land.

Proposed § 816.109(e) states that some standards of this section would not apply to the preexisting highwall if the remining operation would not cause an adverse physical impact on the preexisting highwall. This determination must be made on a case-by-case basis. This proposal is based on the two decisions by the Interior Board of Surface Mining Appeals discussed earlier in the preamble. An adverse physical impact includes actions that cause, or can reasonably be expected to cause, sloughing of material, subsidence, instability, or an increase in wind or water erosion of the highwall.

The procedures to conduct remining operations in steep slope areas would be set forth in proposed § 816.109(f). The requirements to remine would be in accordance with § 816.109(a) on returning to AOC and elimination of the highwall to the extent practical. The requirements of Part 826 would control the other aspects of mining on steep slopes, such as not placing spoil or other materials on the outslope and working above the highwall only by permission of the regulatory authority. As discussed in another rulemaking for backfilling and grading, the requirements of existing Part 826 would be in proposed § 816.107. See 47 FR 26760, June 21, 1982.

The requirement to stabilize highwalls is particularly appropriate for the auger mining of preexisting highwalls and would be governed by proposed § 816.109(g). The impact of augering on highwalls often becomes quickly evident as sloughing and subsidence occur and is more severe than when simply taking a second cut or when mining multiple seams below highwalls. This places the burden upon an operator wishing to remine by augering to demonstrate that the operation will maximize coal recovery as required by section 515(b)(1) of the Act. The auger mining operation may also create liability for any subsidence damage upslope. The proposed rules also require that the highwall above an auger operation cannot be adversely impacted unless the operator is prepared to assume responsibility for stabilizing the highwall, even if it means backfilling to eliminate the highwall (Giles, 1981).

The proposed rules for auger mining as a remining operation in § 816.109(g) would be based on the provisions of Part 819, except for conditions unique to remining. These conditions would be covered in §§ 816.109 (g)(1) and (g)(2). In § 816.109(g)(1) if the auger mining operation has an adverse physical impact or can reasonably be expected to have such an impact on the preexisting highwall, the highwall would be required to be stabilized through backfilling and grading. In those operations where the highwall could not be stabilized to the satisfaction of the regulatory authority, auger mining would be prohibited.

For some situations, it would be economical for the operator to propose in the reclamation and operation plan to borrow material. The borrow material would be used to backfill the area which has been auger mined to provide the necessary material to stabilize the highwall. The use of borrow material is strictly at the option of the operator, on the basis of an analysis that it would be economical to auger mine the coal and then borrow material to backfill the highwall. Each borrow area would be required to be reclaimed to the standards of existing Part 816.

Section 816.109(h) of the proposed rules specifically states that reprocessing of coal waste deposits must comply with the applicable performance standards of the permanent program. The inclusion of this activity within the jurisdiction of the Act has previously been challenged due to enforcement actions and title IV collections. Recent administrative hearings have confirmed that these activities are covered by the term "surface coal mining operations" as defined at 30 USC 1291(28) and 30 CFR 700.5 (IBSMA 80-05, U.S. Office of Hearings and Appeals, 1981). These rules are intended to apply to reprocessing of either coarse or fine fractions of coal waste as they occur in embankments, dams, impoundments, or other recovery locations.

Part 817—Permanent Program Performance Standards—Underground Mining Activities

§ 817.109 Backfilling and grading: Remining

Section 817.109 would be proposed to clarify that the surface effects from reopening of underground mines or establishing entries on previously mined areas are subject to the permanent program performance standards for underground mining activities. As with the surface mining activities in Part 816, all of the performance standards in Part 817 would apply to underground mining activities. In addition, the same exceptions for elimination of the highwall and return to AOC because of insufficient spoil would apply to underground mining activities.

The paragraphs of § 817.109 that would apply to underground mining activities include: (a) highwall elimination to the maximum extent practical; (b) moving preexisting spoil and coal mine waste to gain access to the coal; (c) protect the highwall from runoff; (d) remining in a fully reclaimed area; (e) Paragraphs (a)(1)–(a)(6) would not apply if there is not an adverse impact on the highwall; and (f) remining in a steep slope area. The rationale for each of these requirements is the same as in the discussion of surface mining activities and the reader is referred to that discussion.

Reference Materials

These references used to develop the proposed rules are as follows:

Commonwealth of Virginia, 1981. Permanent regulatory program for surface coal mining and reclamation operations: Department of Conservation and Economic Development, Division of Mined Land Reclamation, 1981, Appendix C, pp. 73–74.

Giles, R.H., 1979. A decision aid system for abandoned strip mine reclamation; U.S. Fish and Wildlife Service, pp. 60–61.

Griles, J.S., 1981. Letter from Deputy Director, Office of Surface Mining Reclamation and Enforcement, to Elmore C. Grim, Commissioner of Kentucky Department of Natural Resources and Environmental Protection, Bureau of Surface Mining and Reclamation Enforcement, September 3, 2 pp.

Grim, E.C. and Hill, R.D., 1974. Environmental protection in surface mining of coal. U.S. Environmental Protection Agency, EPA-670/2-74-093, pp. 157–159.

Schmidt, R.A., and Stoneman, W.C., compilers, 1972. A study of surface coal mining in West Virginia: West Virginia Legislature Joint Committee on Government and Finance, p. 60. (Available through U.S. Department of Commerce, NTIS, N 74-74917); prepared by Stanford Research Institute.)

U.S. Congress, 95th, 1977a. Hearings on H.R. 2 before the Committee on Interior and Insular Affairs, House of Representatives, to accompany H.R. 2: v. II, pp. 63 and 871.

U.S. Congress, 95th, 1977b. House Rept. 95-218, 1st Session pp. 76, 96-97.

U.S. Office of Hearings and Appeals, Board of Surface Mining Appeals. 1979. 1 IBSMA 145, April 20.

U.S. Office of Hearings and Appeals, Board of Surface Mining Appeals, 1980. 2 IBSMA 399, December 23.

U.S. Office of Hearings and Appeals, Board of Surface Mining Appeals. 1981. IBSMA 80-95 June 29.

U.S. Office of Surface Mining Reclamation and Enforcement, 1980. Implementation of program policies for Federal, State, and Indian abandoned mined land reclamation under Title IV of the Surface Mining Control and Reclamation Act of 1977, Final Environmental Impact Statement: pp. III–25 through III–27.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers. In addition, the proposed rules emphasize the use of performance standards instead of design criteria, which will allow operators to utilize the most cost-effective means of achieving the performance standards.

Paperwork Reduction Act

The information collection requirements in existing 30 CFR Parts 780, 784, 816, and 817 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned new clearance numbers 1029–0036, 1029–0039, 1029–0047, and 1029–0048, respectively, on April 1, 1981. This approval was identified in notes at the introduction of each part, under the old number (No. 8–190482). OSM would delete those notes and codify the OMB approvals under the new §§ 780.10, 784.10, 816.10 and 817.10. The information required by 30 CFR Parts 780, 784, 816 and 817 is for permit and performance standards for remining and reprocessing previously mined areas. The regulatory authority will use this information to evaluate the operation and reclamation plan submitted by the applicant. This information required by 30 CFR Parts 780, 784, 816 and 817 is mandatory. In addition, OSM will be filing for OMB approval of several new information gathering requirements specified in proposed §§ 780.34(a)–(d); 784.34(a)–(j); 816.109(a), (a)(2) and (a)(5); and 817.109(a), (a)(2) and (a)(5).

The package for approval, including SF 83's, and supporting statements justifying the need for this information, will be submitted to OMB. These documents will estimate the compliance burden of the requirements. Opportunity to comment on these documents will be afforded by separate notice.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow small coal operators increased flexibility in meeting performance standards and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared an Environmental Assessment (EA) of the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. This cululative EA is on file in the OSM Administrative Record office at the address listed in the "Addresses" section of this preamble. OSM is also preparing a Supplemental Environmental Impact Statement that will consider this proposed rule. (See 47 FR 18920, May 3, 1982.)

List of Subjects

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 780

Coal mining, Reporting requirements, Surface mining.

30 CFR Part 784

Coal mining, Reporting requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting requirements, Underground mining.

Accordingly, 30 CFR Parts 701, 780, 784, 816 and 817 are proposed to be amended as set forth herein.

Dated: June 9, 1982.

Daniel N. Miller Jr.,

Assistant Secretary, Energy and Minerals.

PART 701—PERMANENT REGULATORY PROGRAM

1. In § 701.5, the definitions listed below are added alphabetically to read as follows:

§701.5 Definitions.

* * * * *

Adverse physical impact means, with respect to a highwall, actions that cause or can reasonably be expected to cause, sloughing of material, subsidence, instability or an increase in wind or water erosion of the highwall.

* * * * *

Highwall remnant means an engineered cut slope designed to be incorporated into the final grade of a reclaimed remining site and is the portion of stabilized highwall that remains after backfilling and grading of a remining permit area when it is demonstrated that sufficient spoil is not available to eliminate the highwall.

* * * * *

Previously mined area means any lands from which coal was extracted by, or which were affected by, earlier surface coal mining operations.

* * * * *

Remining means conducting surface coal mining and reclamation operations which affect previously mined areas.

* * * * *

Reprocessing means processing coal mine waste to remove the marketable coal.

* * * * *

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

2. In Part 780, § 780.34 is added to read as follows:

§ 780.34 Remining and reprocessing.

(a) *General requirements.* Each application for a permit for a remining or reprocessing operation shall—

(1) Contain detailed descriptions, including appropriate maps, cross sections and drawings of the proposed operation in accordance with § 816.109 of this chapter;

(2) Identify and show on the maps the extent of preexisting highwalls and spoil on the outslope. Also, identify and show the location of surface- or ground-water discharges that fail to meet applicable Federal, State or local water quality standards and that are adjacent to, or may be impacted by, the proposed operation;

(3) Show each location to which preexisting spoil and coal mine waste

are to be moved to allow access to the coal; and

(4) Contain analyses of the effects the proposed operation will have on preexisting highwalls, preexisting spoil on the outslope, and the water quality. If the analyses show that adverse impacts cannot be prevented, the application shall describe mitigating measures and the design specifications for implementation of the measures.

(b) *Remining.* Each application for a permit for a remining operation shall—

(1) Delineate the lateral and vertical extent of highwalls to be created by remining;

(2) Include volumetric calculations showing the volume of spoil available for backfilling and grading compared to the volume of spoil necessary to eliminate the highwall and to achieve the approximate original contour;

(3) Include plans, drawings, designs, and specifications for long-term stability of the highwall remaining after remining;

(4) Describe the methods, by plans and narrative, for protecting the highwall remnant from runoff from the area upslope from the highwall and from the highwall itself;

(5) Show the postmining surface contour;

(6) Where remining will not generate sufficient spoil to eliminate the highwall or achieve approximate original contour, show that all reasonably available spoil will be used to eliminate the highwall to the maximum extent practical and to backfill and grade to the most moderate slope possible;

(7) Describe the impact on the preexisting highwall where the remining of a lower seam intersects the highwall; and

(8) Show the plan for the reclamation of the areas on the outslope from which spoil will be removed to provide additional fill for the remined area.

(c) *Auger mining.* Each application for a permit to remine an area by augering shall—

(1) Contain a description of the augering methods to be used, the methods and types of materials to be used to seal the auger holes, the limits and extent of the auger operation, and the provisions to be incorporated in the operation to assure access to any remaining coal reserves;

(2) Where the augering would cause adverse physical impacts on the stability of the preexisting highwall or areas upslope from the highwall, show the mitigating measures that will be used to—

(i) Assure long-term stability of the highwall remnant, such as buttressing, backfilling the highwall, or other stabilizing techniques;

(ii) Counteract the potential effects of substance to structures or facilities both during and after mining; and

(3) Show the plan for the reclamation of areas where preexisting spoil has been removed or material from borrow areas has been utilized to backfill auger-mined preexisting highwalls to achieve stability.

(d) *Reprocessing.* Each application for a permit for reprocessing shall—

(1) Show the plans and methods for removal of embankments, dams, waste piles, or other sites for the purpose of reprocessing the coarse or fine-coal fractions; and

(2) Include—

(i) A description of how the operation will minimize further disturbance of the hydrologic balance;

(ii) Measures that will be used to protect the public health and safety where the operation will extract coal from ponds, piles or embankments, and

(iii) A description of measures to be taken to achieve reclamation in accordance with the applicable provisions of Part 816 of this chapter.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. In Part 784, § 784.34 is added to read as follows:

§ 784.34 Remining.

Each application for a permit shall—

(a) Contain detailed descriptions, including appropriate maps, cross sections, and drawings of the proposed remining operation in accordance with § 817.109 of this chapter;

(b) Identify and show on the maps the extent of preexisting highwalls and spoil on the outslope. Also, identify and show the location of surface- or ground-water discharges that fail to meet applicable Federal, State or local water quality standards and that are adjacent to, or may be impacted by, the proposed operation;

(c) Show each location to which preexisting spoil and coal mine waste are to be moved to allow access to the mine; and

(d) Contain analyses of the effects the proposed remaining operation will have on preexisting highwalls, preexisting spoil on the outslope, and the water quality. If the analyses show that adverse impacts cannot be prevented, the application shall describe mitigating measures and the design specifications for implementation of the measures.

(e) Include volumetric calculations showing the volume of spoil available for backfilling and grading compared to the volume of spoil necessary to eliminate the highwall and to achieve the approximate original contour.

(f) Include plans, drawings, designs, and specifications for long-term stability of the highwall remaining after remining.

(g) Describe the methods, by plans and narrative, for protecting the highwall remnant from runoff from the area upslope from the highwall and from the highwall itself.

(h) Show the postmining surface contour.

(i) Where remining will not generate sufficient spoil to eliminate the highwall or achieve approximate original contour, show that all reasonably available spoil will be used to eliminate the highwall to the maximum extent practical and to backfill and grade to the most moderate slope possible.

(j) Show the plan for the reclamation of the areas on the outslope from which spoil will be removed to provide additional fill for the remined area.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

4. In Part 816, § 816.109 is added to read as follows:

§ 816.109 Backfilling and grading: Remining and reprocessing

(a) The operator shall ensure that where remining or reprocessing operations affect previously mined areas that were not reclaimed to the standards of this part and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall and achieve the approximate original contour that existed before any mining, the remaining highwall shall be eliminated to the maximum extent practical in accordance with the following criteria:

(1) Backfilling and grading shall be conducted in accordance with §§ 816.101–816.103.

(2) The person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority with a certification from a qualified registered professional engineer that the minimum static safety factor for stability of the backfill is at least 1.3.

(3) All spoil generated by the mining operation and other reasonably available spoil shall be used to backfill the area so as to eliminate the highwall to the maximum extent practical.

(4) The backfill shall be graded to a slope which is compatible with the postmining land use and which provides adequate drainage and long-term stability.

(5) Any remaining highwall shall be made stable and not pose a hazard to the public health or safety or to the environment. The operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable.

(6) Spoil placed on the outslope during previous mining operations shall not be disturbed if such disturbance will cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to public health and safety.

(7) No surface drainage from a remining or reprocessing operation shall be discharged into spoil placed on the outslope by previous mining operations unless such drainage will not increase erosion or decrease stability.

(b) Preexisting spoil and coal mine waste moved to allow access to the coal shall be backfilled and graded in the new location in accordance with §§ 816.101–816.103.

(c) Each highwall remnant shall be protected from runoff from the area upslope from the highwall and from the highwall itself.

(d) Remining operations in a previously mined area that has been reclaimed to the performance standards of part 816 shall reclaim the area to the performance standards of part 816.

(e) If the remining operation will not cause an adverse physical impact on the preexisting highwall, the standards of Paragraphs (a)(1) through (a)(6) of this section shall not apply.

(f) Remining operations on steep slopes shall be conducted in accordance with Part 826 of this chapter.

(g) Auger mining of preexisting highwalls shall be conducted in accordance with the provisions of Part 819 of this chapter.

(1) The highwall shall be stabilized through backfilling and grading in accordance with §§ 816.101–816.103.

(2) Borrow material may be used by the operator to furnish material to backfill and grade the highwall.

(h) Each reprocessing operation conducted by an operator shall comply with all performance standards of Part 816.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

5. In Part 817, § 817.109 is added to read as follows:

§ 817.109 Backfilling and grading: Remining.

(a) The operator shall ensure that where remining operations affect previously mined areas that were not reclaimed to the standards of this part and the volume of all reasonably available spoil is demonstrated in writing to the regulatory authority to be insufficient to completely backfill the highwall and achieve the approximate original contour that existed before any mining, the remaining highwall shall be eliminated to the maximum extent practical in accordance with the following criteria:

(1) Backfilling and grading shall be conducted in accordance with §§ 817.101–817.103.

(2) The person who conducts the surface coal mining and reclamation operation shall demonstrate to the regulatory authority with a certification from a qualified registered professional engineer that the minimum static safety factor for stability of the backfill is at least 1.3.

(3) All spoil generated by the mining operation and other reasonably available spoil shall be used to backfill the area so as to eliminate the highwall to the maximum extent practical.

(4) The backfill shall be graded to a slope which is compatible with the postmining land use and which provides adequate drainage and long-term stability.

(5) Any remaining highwall shall be made stable and not pose a hazard to the public health or safety, or the environment. The operator shall demonstrate, to the satisfaction of the regulatory authority, that the highwall remnant is stable.

(6) Spoil placed on the outslopes from previous mining operations shall not be disturbed if such disturbance will cause instability of the remaining spoil or increase the potential for damage to the environment and/or danger to the public health and safety.

(7) No surface drainage from a remining operation shall be discharged into spoil placed on the outslope by previous mining operations unless such drainage will not increase erosion or decrease stability.

(b) Preexisting spoil and coal mine waste moved to allow access to the coal shall be backfilled and graded in the new location in accordance with §§ 817.101–817.103.

(c) Each highwall remnant shall be protected from runoff from the area upslope from the highwall and from the highwall itself.

(d) Remining operations in a previously mined area that has been reclaimed to the performance standards of Part 817 shall reclaim the area to the performance standards of Part 817.

(e) If the remining operation will not cause an adverse physical impact on the preexisting highwall, the standards of Paragraphs (a)(1) through (a)(6) of this section shall not apply.

(f) Remining operations on steep slopes shall be conducted in accordance with Part 826 of this chapter.

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*)

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30 CFR Parts 731, 732, and 795

Permanent Regulatory Program for Submission of State Programs, Procedures and Criteria for Approval or Disapproval of State Program Submissions, and Small Operator Assistance

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, is seeking comments on proposed amendments of rules concerning small operator assistance. The proposed changes would revise standards pertaining to administration of the Small Operator Assistance Program (SOAP) under a permanent State regulatory program or Federal regulatory program, State program submission requirements, and State program approval or disapproval criteria as they relate to small operator assistance. The objective of the revisions is to provide States with additonal flexibility in the administration of SOAP.

DATES: *Written Comments:* Accepted until 5 p.m. (eastern time) on or before July 26, 1982.

Public hearings: Held on request only, on July 20, 1982, at 9:00 a.m. (local).

Public meetings: Scheduled on request only. See Supplementary Information for more detail.

ADDRESSES: *Written comments: Hand-deliver* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–06, Room 5315, 1100 L Street, NW., Washington, D.C.; or *mail* to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (SPA–06), Room 5315 L, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public hearings: Washington, D.C.—Department of the Interior Auditorium, 18th and C Streets, NW.

Public meetings: OSM offices in Washington, D.C.; Charleston, W. Va.; Knoxville, Tenn.; Indianapolis, Ind.; Pittsburgh, Pa.; and Denver, Colo.

FOR FURTHER INFORMATION CONTACT: Douglas J. Growitz, Branch of State Small Operator Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; 202-343-9104.

SUPPLEMENTARY INFORMATION:

I. Public Commenting Procedures.
II. Background.
III. Discussion of Proposed Rules.
IV. Procedural Matters.

I. Public Commenting Procedures

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Commenters are requested to submit five copies of their comments (see "Addresses"). Comments received after the time indicated under "Dates" or at locations other than Washington, D.C., will not necessarily be considered or be included in the Administrative Record for the final rulemaking.

Public Hearings

Persons wishing to comment at the public hearings should contact the person listed under "For Further Information Contact" by the close of business *three working days* before the date of the hearing. If no one requests to comment at a public hearing at a particular location by that date, the hearing will not be held. If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

Public hearings will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment, and persons present in the audience who wish to comment, have been heard.

Public Meetings

Persons wishing to meet with OSM representatives to discuss these proposed rules may request a meeting at any of the OSM offices listed in "Addresses" by contacting the person listed under "For Further Information Contact."

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record room (1100 L St.). A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Title V of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, requires the implementation of permanent programs to regulate coal mining and reclamation operations in each State where coal is or may be mined. Pursuant to Sections 501 and 507(c) of Act, OSM promulgated national permanent program rules which established minimum standards for the regulatory program in each State to provide for the implementation of the SOAP. The Small Operator Assistance Program is authorized under Sections 201, 501, 502, and 507(c) of the Act. Section 401(b)(1) of the Act provides for ten percent of the fees assessed on the production of coal for the abandoned Mine Line reclamation program to be made available for the SOAP. The existing national permanent SOAP rules are found in 30 CFR Part 795 and were published on December 13, 1977 (42 FR 62719-62712).

SOAP provides technical information to assist small coal operators in meeting the Act's permitting requirements. Section 507(c) of the Act authorizes assistance to any coal surface mining operator whose probable total annual production at all location will not exceed 100,000 tons. The small operator must submit a written application to the appropriate program administrator in the State within which the operator intends to mine if the State has an approved permanent regulatory program. If the operator is found eligible, a qualified laboratory will provide the determination of probable hydrologic consequences and the statement of results of test borings or core sampling required by sections 507(b)(11) and 507(b)(15) of the Act, respectively. These requirements are defined at §§ 779.13–779.18 and § 780.21(c) for surface mines and §§ 783.13–783.18 and § 784.14(c) for underground mines in the existing permanent program rules.

This document contains proposed revisions to rules so that the Director of OSM or the State regulatory authority, under an approved State permanent regulatory program, would regulate and administer the SOAP.

These rules are being proposed because of the need to clarify certain provisions and to provide States with flexibility for effective and efficient administration of the program. Written comments from States, industry, and public interest groups were received on an earlier proposed draft. All comments were considered in drafting the proposed revisions.

III. Discussion of Proposed Rules

Establishment of Subchapter H for Small Operator Assistance

The rules for small operator assistance would be removed from Subchapter G (permitting and coal exploration) and added as a new, separate Subchapter H. This change would recognize that the small operator assistance program is a separate one and not a part of the permit requirements for surface coal mining and reclamation operations.

Submission of State Program (Part 731)

Existing § 731.14(g)(16) would be amended by revising the requirement that a State program include a small operator assistance grants component and requiring the State's submission to include a narrative description of how the State will meet the requirements of section 507(c) of the Act to provide a determination of the probable hydrologic consequences of mining a and statement of the results of test borings or core samplings. Thus, States would have the option of requesting grant assistance and meeting the requirements in Part 795 or proposing alternative ways to meet the requirements of Section 507(c) of the Act. This change is further discussed below with related changes to existing § 795.4.

Criteria for Approval or Disapproval of State Program Submissions (Part 732)

Existing § 732.15(b)(13) would be amended to indicate that provisions for small operator assistance in State Program submissions will be evaluated on their merits, whether they are similar to Part 795 or contain alternative mechanisms for meeting the requirements of section 507(c) of the Act.

Small Operator Assistance Program (Part 795)

Sections 795.1 through 795.5 of the existing rules would be combined into General Provisions.

Section 795.1 would be retitled "Scope and Purpose" Paragraphs (a) and (b)

would be removed as this information is descriptive in nature and is adequately covered by proposed § 795.18.

Existing § 795.2 would be combined with proposed § 795.1. Existing § 795.3 would be removed as this information is unnecessary and is adequately covered in the general authority statement for the part.

Existing § 795.4 would be removed. Through the other proposed revisions to this rule, it is OSM's intention to distinguish the grants program established under Title IV, section 401(b)(1), of the Act and the permitting requirements under Title V, section 507(c), of the Act. By distinguishing these program elements, OSM is not intending to indicate that the regulatory authority will no longer have to comply with the requirements of section 507(c) with respect to performing certain hydrologic analyses for small operators and for providing statements of test borings and core samples; rather, this revision recognizes that there are a variety of mechanisms through which the State may provide the required section 507(c) analyses and statements, including use of the State's existing technical staff, without requiring the States to participate in the Federal SOAP grants program. This change is expected to be particularly significant in those States that have relatively few and intermittent small operations, and where the administrative expense involved with staffing, administering, and maintaining a separate Federal grants program may exceed the benefits from the program.

Existing § 795.5 would be redesignated as proposed § 795.3. The technical issues covered by the definitions in this section would be covered by additions to the hydrology sections of the amended permanent rules, which would be proposed in a separate rulemaking. A new term "program administrator" would be added. The purpose of this term is to emphasize that SOAP is a distinct program within the structure of the regulatory agency.

A new § 795.10 entitled "Information Collection" would be added. The information collection requirements contained in proposed §§ 795.14, 795.16, and 795.17 have been approved by the Office of Management and Budget and assigned clearance numbers 1029–0014, 1029–0060, 1029–0061, and 1029–0062. Two new requirements contained in proposed § 795.14 will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

New § 795.2, entitled "Federal Small Operator Assistance Program" would be added to describe the circumstances under which a Federal SOAP could be implemented. This proposed section revises the provisions in existing § 795.11(a)(3) (i) and (ii) to reflect the current status of States assuming primary regulatory authority.

Existing §§ 795.11 through 795.19 would be incorporated into "Small Operator Assistance Program Requirements." These sections would comprise the minimum requirements with which program administrators must comply in managing the program.

Existing § 795.11 would be removed. This change reflects the fact that most States that regulate coal mining have submitted regulatory programs. Removal of the 6-month notice, which placed an unenforceable restriction on States, imposes no burden on OSM. States submitting new programs for the first time in the future will have few, if any, small operators and would not be subject to any particular program initiation procedures.

A new § 795.11 entitled "Grant Application Procedures" would be added. This would describe how a State program administrator would initiate the program in a particular State. The change in reference to Part 735 is consistent with grant application procedures found in the permanent regulatory program rules.

Section 795.12, which sets general provisions for program services, would be removed to eliminate repetition with existing § 795.16. The latter section specifies that the services furnished are tied to the present application requirements in other cited sections of the rules.

Section 795.13(b) would be amended by removing "* * * for each year of the permit * * *" and replacing it in proposed § 795.13(a)(2) with language specifying "* * * from all locations during any consecutive 12-month period either during the term of his or her permit or during the first 5 years after issuance of his or her permit, whichever period is shorter * * *". This change is consistent with section 507(c) of the Act regarding "total annual production" and would provide flexibility for the operator to establish his or her production schedule and meet spot market conditions rather than be held to a rigid calendar year. If adopted as a final rule, the consecutive 12-month period would remain the same over the life of the permit. The 5-year period for liability purposes is consistent with the Act. Also, States believe that most small operators will complete mining under a permit in less than 5 years.

Current § 795.13(b) (1) and (4) would be revised and renumbered (a)(2)(i) and (a)(2)(iv). The present provisions of paragraph (b)(1) would be reduced to focus on ownership (present paragraph (b)(2), renumbered (a)(2)(i)) and family members owning separate operations (proposed paragraph 9a)(2)(iv)). The present subparagraph is all-encompassing and difficult to apply. The proposed revision would make it more concrete and easier to apply. Section 795.13(b)(2) would be renumbered (a)(2)(i) and current § 795.13(b)(3) would be renumbered (a)(2)(ii) and amended. The eligibility in relation to attributed production of the operator owning outside interests and having outside parties owning interests in the small operation would be retained. In § 795.13(a)(21)(ii), a 5-percent base for attributed production would be retained, but would provide for prorating production of other operations which a person who owns all or a percentage of the applicant. There would be prorating of the production from other operations based on the percentage of ownership and prorating of that production based on percentage of ownership of the applicant. Current § 795.13(b)(3) does not allow for prorating the amount of coal produced by persons who own an interest of 5 percent or more in the applicant's operation. This change may increase the number of operators who would qualify for SOAP.

There would be two new subparagraphs in proposed § 795.13(a), subparagraphs (iii) and (iv), to clarify the present provision in § 795.13(b)(4). Paragraph (a)(2)(iii) would cover the situation covered by the present paragraph (b)(4), but would use language taken from the present paragraph (b)(i)—a provision which is being revised, as described above. As proposed paragraph (a)(2)(iii) would attribute production from operations owned by persons who of such persons' ownership of other operations. Proposed paragraph (a)(2)(iv) would cover members of the same family who own coal operations. There would be a presumption of attribution, again to the extent of percentage of ownership in other operations, but the presumption is rebuttable by proof that there is no direct or indirect business relationship between the applicant and family members.

Proposed § 795.13(a)(3) would incorporate the language of existing § 795.15(a) and would require the program administrator to examine and

screen out those applicants who, for example, propose mining at or near a site that may be unsuitable for mining and may not get permit approval.

Proposed § 795.13(a)(4) would disallow assistance to anyone who reorganizes his or her company solely for the purpose of obtaining assistance and is intended to prevent abuses in the program. Proposed paragraph (b) of § 795.13, which would allow States to establish alternative eligibility criteria, is intended to provide flexibility to State program administrators. However, it is recognized that OSM has the discretion to limit SOAP grants to the amounts States would receive if they did not adopt alternative criteria.

Paragraph (c)(2) of § 795.14 would be changed to reflect the new agency name of "Mine Safety and Health Administration (MSHA)." Section 795.14(d)(4) would be amended by adding the requirement that the operator provide a statement of reserves in the permit area and the manner by which the reserves in the permit area were calculated. Also, new paragraph (d)(5) is proposed which would require the operator to describe the type of mining equipment that will be used. OSM is considering requesting this information to determine if the operator's production information for eligibility purposes is reasonably accurate. This additional information would help eliminate providing services to operators who are not eligible and from whom it would be impractical to seek reimbursement at a later time. Section 795.14(e)(3) would be removed. This information has no direct relevance to the assistance application.

The phrase in paragraph (a) of existing § 795.15, regarding not having available information which would preclude issuance of a permit to an applicant, would be moved to proposed § 795.13(a)(3). The context of the existing phrase is more appropriately related to the initial determination of eligibility rather than notice of application approval. Other minor editorial changes would be made where the title "regulatory authority" would be replaced by "program administrator." Existing § 795.15(a) (1) and (2) would be removed. The information in § 795.15(a)(1) is covered in § 795.16, and the removal of § 795.15(a)(2) would cause no discernible impact on the SOAP. OSM's intent is to allow flexibility for program administrators to use any contractual arrangement with qualified laboratories, provided it is consistent with OMB Circular A–102.

An editorial change would remove the statement concerning concurrent data collection and mine plan development from existing § 795.16(a), where it is included with other objectives and has caused some confusion, and place it in proposed §795.16(b).

The detailed information in § 795.16 (b) and (c) would be removed and replaced with references to appropriate sections of Parts 779 and 780 for surface mines and 783 and 784 for underground mines. These sections contain details on technical data requirements and methodologies to prepare the required determination of probable hydrologic consequences and statement of results of test borings and core samplings. This change is intended to stress that a dual set of standards does not exist for large as compared to small operators. All operators will be subject to the same hydrologic and geologic permit application requirements. If Federal funds authorized for the program are not sufficient to provide all components of these requirements, States may use alternative sources of funding.

Section 795.17(a)(1) would be removed as this information has been included in § 795.3 of the proposed rules.

Section 795.17(a)(2) would be amended to clarify that a State regulatory authority may designate qualified laboratories and, if so, shall coordinate with OSM to maintain a joint list of qualified laboratories. Having OSM publish the joint list would remove this administrative burden from the States and provide a more cost-effective and efficient means of publishing a consistent nationwide list.

OSM encourages States to allow it to continue to qualify laboratories nationwide. OSM believes, and written comments have so far indicated, that this approach provides laboratories with a consistent qualification and requalification policy, especially for those firms having branch offices in several States. This would also eliminate an administrative burden for States and the associated personnel and travel costs to support the State laboratory qualification program.

The scientific fields of expertise required in § 795.17(b)(1)(i) would be removed to allow program administrators the flexibility to determine the expertise necessary to perform the required work. Section 795.17(b)(1)(i) would be amended to include "technical" personnel on the staff of qualified laboratories. Written comments received indicated that use of the term "professional" implies that the person has to be registered or certified under a recognized accrediting system by the State or a professional organization. Many disciplines do not have such a system. Laboratories are often staffed with experienced professional and/or technical personnel who are qualified to perform the required work. Therefore, the phrase "or technical" would be inserted after "professional" to clarify the need for having qualified persons on the laboratory staff who need not be registered or licensed by a State. Furthermore, the incorporation by reference at existing § 795.17(b)(1)(vi) of technical literature setting analytical standards and methods would be deleted from this proposed rule. These standards and methods would be included in the soon to be proposed revised hydrology rules which are the subject of a separate rulemaking. The proposed SOAP rules on laboratory qualification reference the pertinent permitting regulations §§779.13–779.16, 780.21(c), 783.13–16, and 784.14(c).

Subparagraph (v) of existing § 795.17(b) would be removed because OSM believes that financial information is difficult to obtain if the laboratory applicant is an integrated corporation and laboratory disqualifications based on such information may be difficult to substantiate.

Due to the above proposed change, Subparagraph (vi) would be renumbered (iv), and Subparagraph (vii) would be renumbered (v). The existing language in Subparagraph (ii) would be incorporated into proposed Subparagraph (v) to clarify that laboratories must not only be capable of making onsite data measurements but also be capable of collecting field samples. A minor editorial change would be made by deleting "engineering" and inserting "geologic" to make it consistent with section 507(c) of the Act. Within the limitations of the proposed permitting rule § 780.21, as mentioned above, State program administrators would have the discretion to determine which State and/or Federal data collection and analysis methods should be used by laboratories.

Section 795.18(a) would be amended by specifying the cost and services authorized for the program. These include technical services provided by qualified laboratories and the planning activities upon which these services are dependent. Planning activities must be directly related to individual assistance sites. Furthermore, they are limited to compiling and evaluating available hydrologic and geologic information and developing specifications, work statements, or monitoring plans for the work to be performed at each site.

Section 795.18 would be amended to provide flexibility to establish a formula for fund distribution. As a result of this change, the specific factors in the formula would be deleted. Program

Administrators would be responsible for developing formulas which would best meet the needs for each State. Information contained in § 795.19(a)(1), (2), and (3) would be included in proposed § 795.19(a)(1). Section 795.19(a)(4), as changed in accordance with proposed § 795.13, would be numbered § 795.19(a)(2).

A new subparagraph (3) would be added to § 795.19(a) which would require that if a permit is sold, transferred, or assigned to another mining company or to a family member whose production was included in the attributed production of the applicant, the recipient would be liable for reimbursement if his or her operation exceeds the 100,000-ton annual production limitation during the remaining period of the applicant's liability. This provision was suggested by States to close a loophole for potential abuse in the program because permits are often transferred or sold to larger coal companies. Finally, in paragraph (b) of § 795.19, the title "regulatory authority" would be deleted and replaced with "program administrator."

IV. Procedural Matters

Executive Order 12291

The Department of the Interior (DOI) has examined these proposed rules according to the criteria of Executive Order 12291 (February 17, 1981). OSM has determined that these are not major rules and do not require a regulatory impact analysis because they will impose only minor costs on the coal industry and coal consumers.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that these rules will not have a significant economic impact on a substantial number of small entities. The proposed rules will allow States increased flexibility in effective and efficient administration of SOAP and should especially ease the regulatory burden on small coal operators in Appalachia.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA) on this proposed rule and has made an interim finding that it would not significantly affect the quality of the human environment. The draft EA is on file in the OSM Administrative Record at the address listed in the "Addresses" section of the preamble. A final EA will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule.

Federal Paperwork Reduction Act

The information collection requirements in existing 30 CFR Part 795 were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned a new clearance number 1029–0014 on April 1, 1981. This approval was identified in a "Note" at the introduction to 30 CFR Part 795 under the old number RO501 under No. B–190462. OSM has deleted this "Note" and has codified the OMB approval under the new Section 795.10 as follows: For §§ 795.14, 795.16, and 795.17, OMB clearance numbers 1029–0014, 1029–0060, 1029–0061, and 1029–0062 have been assigned. OSM is requesting OMB approval of the two new information collection requirements being proposed for § 795.14 and will codify the OMB approvals when the final rules are promulgated.

The information required by 30 CFR Part 795 will be used by the regulatory authority in implementing the Small Operator Assistance Program. This information required by 30 CFR Part 795 is mandatory.

List of Subjects

30 CFR Parts 731 and 732

Coal mining, Intergovernmental relations, Reporting requirements, Surface mining, Underground mining.

30 CFR Part 795

Coal mining, Grants programs—natural resources, Small businesses, Surface mining, Technical assistance, Underground mining.

Accordingly, 30 CFR Parts 731, 732, and 795 are proposed to be amended as set forth herein.

Dated: May 11, 1982.

William Pendley, Jr.,

Acting Assistant Secretary, Energy and Minerals.

PART 731—SUBMISSION OF STATE PROGRAMS

1. In § 731.14, paragraph (g)(16) is revised to read as follows:

§ 731.14 Content requirements for program submissions.

* * * * *

(g) * * *

(16) Providing the determination of probable hydrologic consequences and the statement of the results of test borings or core samples required by section 507(c) of the Act.

* * * * *

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

2. In § 732.15, paragraph (b)(13) is revised to read as follows:

§ 732.15 Criteria for approval or disapproval of State programs.

* * * * *

(b) * * *

(13) Provide for small operator assistance.

* * * * *

3. Subchapter H entitled "Small Operator Assistance" is established consisting of Part 795, which is transferred from Subchapter G and revised to read as follows:

SUBCHAPTER H—SMALL OPERATOR ASSISTANCE

PART 795—PERMANENT REGULATORY PROGRAM

Sec.

795.1 Scope and purpose.
795.2 Federal Small Operator Assistance Program.
795.3 Definitions.
795.10 Information collection.
795.11 Grant application procedures.
795.13 Eligibility for assistance.
795.14 Filing for assistance.
795.15 Application approval and notice.
795.16 Data requirements.
795.17 Qualified laboratories.
795.18 Assistance funding.
795.19 Applicant liability.

Authority: Secs. 201, 501, 502, and 507, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*).

§ 795.1 Scope and purpose.

This part comprises the small operator assistance program (SOAP) and governs the procedures for providing assistance to qualified small mine operators by the program administrator.

§ 795.2 Federal Small Operator Assistance Program.

The Office of Surface Mining (OSM) may elect to implement a Federal Small Operator Assistance Program in a State which (a) has declared its intention not to submit a permanent regulatory program; (b) has received final disapproval of its permanent regulatory program and has not indicated an intention to file again; or (c) requests OSM to implement an interim program on behalf of the State.

§ 795.3 Definitions.

As used in this part—

Program administrator means the State or Federal official who has the authority and responsibility for overall management of the program; and

Qualified laboratory means a designated public agency, private consulting firm, institution, or analytical laboratory which can prepare the required determination of probable hydrologic consequences or statement of results of test borings or core samplings under this program.

§ 795.10 Information collection.

The information collection requirements contained in §§ 795.14, 795.16, and 795.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0014, 1029–0060, 1029–0061, and 1029–0062.

§ 795.11 Grant application procedures.

A State intending to administer a Small Operator Assistance Program under a grant from the Office of Surface Mining may submit a grant application to the Office for funding of the program under the procedures of Part 735 of this chapter.

§ 795.13 Eligibility for assistance.

(a) An applicant is eligible for assistance if he or she—

(1) Intends to apply for a permit pursuant to the Act;

(2) Establishes that his or her probable total actual and attributed production from all locations during any consecutive 12-month period either during the term of his or her permit or during the first 5 years after issuance of his or her permit, whichever period is shorter, will not exceed 100,000 tons. Production from the following operations shall be attributed to the applicant—

(i) The pro rata share, based upon percentage of ownership of applicant, of coal produced by operations in which the applicant owns more than a 5-percent interest;

(ii) The pro rata share, based upon percentage of ownership of applicant, of coal produced in other operations by persons who own more than 5 percent of the applicant's operation, but only to the extent of the percentage of ownership of those other operations;

(iii) All coal produced by operations owned by persons who directly or indirectly control the applicant by reason of ownership or direction of the management, but only to the extent of the percentage of ownership of those other operations; and

(iv) All coal produced by operations owned by members of the applicant's family and their relatives, unless it is established that there is no direct or indirect business relationship between or among them.

(3) Is not restricted in any manner from receiving a permit under the permanent regulatory program; and

(4) Does not organize or reorganize his or her company solely for the purpose of obtaining assistance.

(b) A State may provide alternate criteria or procedures for determining the eligibility of an operator for assistance under the program, provided that such criteria may not be used as a basis for grant requests in excess of that which would be authorized under the criteria of paragraph (a) of this section.

§ 795.14 Filing for assistance.

Each application for assistance shall include the following information:

(a) A statement of the operator's intent to file a permit application.

(b) The names and addresses of—(1) The permit applicant; and

(2) The operator if different from the applicant.

(c) A schedule of the estimated total production of coal from the proposed permit area and all other locations from which production is attributed to the applicant under § 795.13. The schedule shall include for each location—

(1) The operator or company name under which coal is or will be mined;

(2) The permit number and Mine Safety and Health Administration (MSHA) number;

(3) The actual coal production during the year preceding the year for which the applicant applies for assistance and production that may be attributed to the applicant under § 795.13; and

(4) The estimated coal production and any production which may be attributed to the applicant for each year of the proposed permit.

(d) A description of—(1) The proposed method of coal mining;

(2) The anticipated starting and termination dates of mining operations;

(3) The number of acres of land to be affected by the proposed mining operation;

(4) A general statement on the probable depth and thickness of the coal resource including a statement of reserves in the permit area and the method by which they were calculated; and

(5) A description of the mining equipment that will be used.

(e) A U.S. Geological Survey topographic map at a scale of 1:24,000 or larger or other topographic map of equivalent detail which clearly shows—

(1) The area of land to be affected;

(2) The names of property owners within the permit area and potentially impacted offsite areas;

(3) The location of any existing or proposed test borings; and

(4) The location and extent of known workings of any underground mines.

(f) Copies of documents which show that—

(1) The applicant has a legal right to enter and commence mining within the permit area; and

(2) A legal right of entry has been obtained for the program administrator and laboratory personnel to inspect the lands to be mined and potentially impacted offsite areas to collect environmental data or to install necessary instruments.

§ 795.15 Application approval and notice.

(a) If the program administrator finds the applicant eligible and he or she does not have information readily available which would preclude issuance of a permit to the applicant for mining in the area proposed, he or she shall inform the applicant in writing that the application is approved.

(b) If the program administrator finds the applicant ineligible, he or she shall inform the applicant in writing that the application is denied and shall state the reasons for denial.

(c) The granting of assistance under this subpart shall not be a factor in decisions by the State or Office of Surface Mining on a subsequent permit application.

§ 795.16 Data requirements.

(a) The program administrator shall determine the data collection requirements in accordance with §§ 779.13–779.16, 780.21(c), 783.13–783.16, and 784.14(c) of this chapter for each applicant or group of applicants with respect to—

(i) The determination of the probable hydrologic consequences of the mining and reclamation operations in the permit area and potentially impacted offsite areas; and

(ii) The statement of the results of test borings or core samplings for the proposed permit area.

(b) Data collection and analysis may proceed concurrently with the development of mining and reclamation plans by the operator.

(c) Data collected under this program shall be made available in accordance with § 786.15 of this chapter. The program administrator shall develop procedures for interstate coordination and exchange of data.

§ 795.17 Qualified laboratories.

(a) A State program administrator may elect to qualify laboratories in the State and, if he or she does, shall develop procedures necessary to establish the qualifications required by

paragraph (b) of this section and coordinate with the Office of Surface Mining (OSM) to maintain a joint list of State and Federal qualified laboratories for publication in the Federal Register. If the State program administrator does not elect to qualify laboratories, he or she should request OSM to qualify laboratories on behalf of the State. Persons who desire to be included in the list of qualified laboratories shall apply to the states or office, as appropriate and provide such information as is necessary to establish the qualifications required by paragraph (b) of this section.

(b) *Basic qualifications.* (1) To qualify, the laboratory shall demonstrate that it—

(i) Is staffed with experienced, professional or technical personnel in the fields applicable to the work to be performed;

(ii) Has adequate space for material preparation and cleaning and sterilizing necessary equipment and has stationary equipment, storage, and space to accommodate workloads during peak periods;

(iii) Meets applicable Federal or State safety and health requirements;

(iv) Has analytical, monitoring and measuring equipment capable of meeting applicable standards; and

(v) Has the capability of collecting necessary field samples and making hydrologic field measurements and analytical laboratory determinations by acceptable hydrologic, geologic, or analytical methods in accordance with the requirements of §§ 779.13–779.16 and 780.21(c) or §§ 783.13–783.16 and 784.14(c) of this chapter. Other appropriate methods or guidelines for data acquisition approved by the program administrator or other Federal or State agencies may also be used.

(2) The qualified laboratory shall be capable of performing services for either the determination or statement under §§ 779.13–779.16 and 780.21(c) or §§ 783.13–783.16 and 784.14(c) of this chapter. Subcontractors may be used to provide some of the required services provided their use is identified in the application and they meet requirements specified by the program administrator.

§ 795.18 Assistance funding.

(a) *Use of funds.* Funds specifically authorized for this program shall be used to provide the services specified in § 795.16 and shall not be used to cover administrative expenses.

(b) *Allocation of funds.* The program administrator shall establish a formula for allocating funds to provide services for eligible small operators if available funds are less than those required to provide the services pursuant to this Part.

§ 795.19 Applicant liability.

(a) The applicant shall reimburse the State or Office of Surface Mining for the cost of the laboratory services performed pursuant to this part if—

(1) The applicant submits false information, fails to submit a permit application within 1 year from the date of receipt of the approved laboratory report, or fails to mine after obtaining a permit;

(2) The program administrator finds that the applicant's actual and attributed annual production of coal for all locations exceeds 100,000 tons during any consecutive 12-month period either during the term of the permit for which assistance is provided or during the first 5 years after issuance of the permit; or

(3) The permit is sold, transferred, or assigned to another mining company or to a family member whose production was included in the attributed production of the applicant and the transferee's operation exceeds the 100,000-ton annual cumulative production under the permit during the remaining period of the applicant's liability.

(b) The program administrator may waive the reimbursement obligation if he or she finds that the applicant at all times acted in good faith.

(30 U.S.C. 1201 *et seq.*)

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June 25, 1982

Part IV

Department of Energy

Residential Conservation Service Program

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 456

[Docket No. CAS-RM-81-130]

Residential Conservation Service Program

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Final rule amendments.

SUMMARY: The Department of Energy (DOE or the Department) is amending the Residential Conservation Service (RCS) Program regulations (10 CFR Part 456). The RCS Program is mandated by Part 1 of Title II of the National Energy Conservation Policy Act (NECPA), as amended. The legislation requires large natural gas and electric utilities to perform energy audits of their customers' homes upon request and to provide certain other related services to their residential customers.

Today's notice amends the existing RCS Program regulations to provide greater flexibility to States and utilities and to permit reductions in the overall costs of implementing the program. The amendments also incorporate changes to the program made by the Energy Security Act (ESA). Finally, in a separate document published in this issue of the Federal Register, DOE is withdrawing one proposed rule relating to the use of urea-formaldehyde foam insulation under the program.

EFFECTIVE DATE: July 26, 1982; except that the effective date shall be January 21, 1983 for the second sentence of paragraph (3) in the definition for "Residential Building" in § 456.105 governing the expansion of the RCS Program to residential buildings, containing more than four dwelling units, which are neither centrally heated nor cooled, or both.

FOR FURTHER INFORMATION CONTACT: Mark D. Friedrichs, CE-115, Building Services Division, Conservation and Renewable Energy, Department of Energy, Room 5F-064, Washington, D.C. 20585, (202) 252-1650; Daniel Ruge, Office of General Counsel, Department of Energy, Room 6B-144, Washington, D.C. 20585, (202) 252-9513.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Amendments to the Residential Conservation Service Program (section-by-section analysis)
III. Regulatory Impact Analysis
IV. Regulatory Flexibility Act
V. Environmental Impacts
VI. Paperwork Reduction Act

I. Introduction

Today's amendments to the RCS Program regulations are part of the Administration's efforts to eliminate unnecessary or overly burdensome Federal regulations and to increase the flexibility of States, utilities, and other institutions to design and implement federally mandated programs. By Executive Order 12291 of February 17, 1981 (46 FR 13493, February 19, 1981), the President ordered the review of existing regulations. Section 3(i) of the Executive order provides that, subject to the direction of the Presidential Task Force on Regulatory Relief, the Director of the Office of Management and Budget (OMB) may designate currently effective regulations for review and establish schedules for review and analysis under the Executive order. In accordance with section 3(i), OMB identified the RCS Program regulation for review. The Department's review is reflected in today's amendments.

The RCS Program was established by Part 1 of Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, November 9, 1978, as amended by Subtitle B of Title V of the Energy Security Act (ESA), Pub. L. 96-294, June 30, 1980, 42 U.S.C. 8211 *et seq.* Implementation of the program was begun November 7, 1979, with the issuance of a final rule (the Nov. 7th rule.).[1]

The RCS Program, as mandated by statute, requires large electric and natural gas utilities to inform their residential customers of the benefits of certain energy conservation and renewable resource measures, to offer their customers energy audits of their homes, and to offer to arrange for the installation and financing of such measures. For those States that elect to participate in the program, the legislation requires substantial and detailed State activity. Where States are unwilling or unable to carry out their role under the law, the legislation requires implementation of a Federal Standby Program.

Because of rising energy prices and tax incentives, homeowners have an incentive to increase their conservation efforts. Private firms, utilities, and other institutions have substantial incentives to provide the information and services required by consumers to conserve energy and to utilize renewable energy resources. DOE's Regulatory Impact Analysis (RIA) indicates that the cumulative energy savings likely to result from the RCS Program until the year 2000 may vary from less than 10 million barrels of oil equivalent (BOE) to more than 1,400 million BOE, depending on whether pessimistic or optimistic estimates of the program's impacts are used. This compares to the Nation's current consumption of about 13,000 million BOE per year—or more than 230,000 million BOE until the year 2000. Further, the RIA indicates that the costs of achieving these additional savings may be as high as $170 per BOE saved or, in the most optimistic case, a little under $10 per BOE saved. Consequently, the Department believes it is undesirable for the Federal Government to mandate the provision of the services required by the RCS Program. Unless the program is legally discontinued or amended, however, the Department is obligated to continue to execute the existing law.

To carry out this responsibility and reduce the burden of Federal regulations, the Department published on November 12, 1981, a proposed rule (46 FR 55836) (the Nov. 12th notice or proposed amendments) to amend the RCS Program regulations. The intent of the proposed amendments was to make the existing regulations as simple and flexible as possible, consistent with existing law and sound program management.

DOE received 345 written comments on the proposed rulemaking, and 71 individuals testified at public hearings held during December 1981 and January 1982 in Chicago, San Francisco, and Washington, D.C.

Diverse views were expressed by the institutions, firms, and individuals who submitted comments. Virtually all commenters recognized the importance of energy conservation, but there was

[1] On November 7, 1979, the Department published a final rule (44 FR 64602) to implement the RCS Program, pursuant to Part I of Title II of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, November 9, 1978. Since that time the Department has issued final rules establishing additional standards (45 FR 63432, September 24, 1980, and 45 FR 63786, September 25, 1980) and incorporating technical corrections to the Nov. 7th rule (46 FR 1616, January 6, 1981) and has issued an interpretative rule on the changes made by the Energy Security Act (ESA) (Pub. L. 96-294, June 30, 1980) to the RCS Program (45 FR 53434, August 11, 1980). Additionally, the Department has proposed amendments to implement the Federal Standby Program (46 FR 2522, January 9, 1981) and to incorporate the changes made by the Energy Security Act (45 FR 66960, October 8, 1980, and 46 FR 4482, January 16, 1981). The Nov. 12, 1981, notice (46 FR 55836) officially withdrew these latter two proposals. Finally, the Department has proposed to make changes to the interim final standards for urea-formaldehyde (u.f.) foam insulation or, in the alternative, to ban the use of this insulation within the RCS Program (46 FR 8996, January 27, 1981). The Nov. 12, 1981, notice proposed the withdrawal of this proposal and, as a result of the decision by the Consumer Product Safety Commission to ban u.f. foam insulation (16 CFR Part 1205), this notice formally withdraws DOE's interim final standards. In a separate document, DOE will withdraw the proposed amendments.

little agreement on the best means to achieve energy savings. A substantial number of the commenters strongly supported the Department's proposals to simplify or eliminate the restrictions imposed by the existing program regulations, while an equally large number of commenters generally opposed these proposals. About three-fourths of all comments included specific recommendations for changes to the proposals.

In reviewing the comments received and in preparing the final amendments, DOE's chief objectives were:

1. To carry out the requirements of NECPA;

2. To eliminate burdensome program requirements that were neither clearly cost effective nor otherwise required for effective program implementation;

3. To retain requirements that had demonstrated benefits for program participants or consumers nationwide, yet imposed comparatively small or insignificant burdens;

4. To retain those requirements necessary to ensure that the program is implemented in a fair, open, and nondiscriminatory manner and is not anticompetitive; and

5. To insure that the requirements and intent of the amended regulation are easily understood.

Because it was impossible to estimate reliably the benefits and costs of many specific provisions contained in the Nov. 7th rule or Nov. 12th notice, the Department often had to rely on the informed judgments of the persons who commented. Further, as a result of the regional diversity of experiences with the RCS Program and similar programs, the available data and the judgments of the experts in the field often differed widely. Where considerable uncertainty regarding the benefits or costs of particular provisions persisted, the Department generally concluded that the amended rule should give States and other implementing institutions the flexibility to retain or eliminate the provision (or to devise State approaches to achieving a broad statutory objective).

An important DOE objective—and one often misinterpreted—is to give States and nonregulated utilities the flexibility to expand the scope of the RCS Program or to implement other activities in conjunction with the program without seeking the approval of the Department. For example, the amended regulations give States the authority to add any new energy conservation or renewable resource measure to the RCS Program audit without seeking DOE's approval. This flexibility has been provided by the elimination of the provisions concerning DOE approval of "State measures" included in the Nov. 7th rule. In one case where similar flexibility was intended in the proposed rule regarding conditional audit offers, the misinterpretation of DOE's intent was so great that clarifying language has been inserted in the regulation. In general, unless a particular type of activity is prohibited by the regulation, it is DOE's intent to give States and nonregulated utilities the flexibility to conduct the activity in conjunction with the RCS Program.

Several commenters also asked whether DOE intended, by its amendments to the existing regulations, to require or encourage modifications to existing or proposed programs. The amendments issued today do not require any modifications to approved program plans, except with respect to the ESA requirements expanding the coverage of the RCS Program to residential buildings, containing more than four dwelling units, which are neither centrally heated nor cooled, or both. Further, while DOE believes increased flexibility is essential to permit programs to be more closely tailored to State or local needs, it is not DOE's intent to suggest that any particular provisions of the existing program plans should be eliminated by all States and nonregulated utilities. DOE encourages States and nonregulated utilities to review their existing plans and to make independent judgments regarding the need to retain or submit to DOE proposed amendments to strike or change particular plan provisions.

For those States or nonregulated utilities with DOE-approved plans, it is necessary that all the provisions of these approved plans be observed until such time that modifications to the plans have been submitted to and approved by DOE. DOE intends to expedite the review of such plan amendments to the extent resources permit.

A general concern raised during the comment period was the effect of the proposed amendments on competition. NECPA contains several provisions, including the continuing prohibition of the direct supply or installation of RCS measures by covered utilities, that are clearly designed to avoid or minimize the potentially anticompetitive effects of certain aspects of the program. In the Nov. 7th rule, DOE established a number of specific requirements that were designed to ensure that certain potentially anticompetitive activities were specifically prohibited or restricted. The Nov. 12th notice proposed the deletion of many of these specific provisions, while retaining the broad prohibitions against anticompetitive or discriminatory activities contained in the statute. These proposals were intended to increase the flexibility of the States to develop procedures to meet their own needs. This approach received many favorable and negative comments. While the flexible approach has largely been retained, in one instance where the comments strongly suggested that the anticompetitive effects may be too great (advertising included in the program announcement), the final rule requires States that wish to permit such an activity to establish procedures in their plans to avoid such effects. The States and utilities now bear the primary responsibility to identify potentially anticompetitive activities and to develop procedures or restrictions to prevent such anticompetitive acts or practices. DOE plans, however, pursuant to the requirements of existing law, to monitor potentially anticompetitive activities and, if necessary, to order their cessation.

DOE has completed its preparation of a final Regulatory Impact Analysis (RIA) pursuant to Executive Order 12291. The RIA indicates that the amended regulation is likely to permit direct program cost reductions of approximately 35 percent if a State chooses to meet only the minimum requirements of the amended regulation. The amended rule also is likely to permit a significant improvement in program cost-effectiveness. The RIA, however, concludes that the uncertainties associated with estimating the effects of the program are so great that it is impossible to reach firm conclusions on the total costs, energy savings, or dollar savings likely to result from the program. A more detailed discussion of the results of the RIA is included in Part III of the preamble.

Despite DOE's efforts to clarify the rule and preamble, some persons undoubtedly will have questions about the meaning of particular provisions. Formal interpretations concerning the rule may be obtained pursuant to the procedures found in 10 CFR 205.80 *et seq.* General information about the RCS Program can be obtained from the Building Services Division at the address given at the beginning of this notice.

Given the length and complexity of the final rule, DOE has arranged a briefing and question and answer session for interested persons and representatives of interested organizations following publication of this notice. The session will be held at 10 a.m. on July 1, 1982, in the DOE Auditorium, Forrestal Building, 1000

Independence Avenue, SW., Washington, D.C. A transcript of the session will be made available in the DOE Freedom of Information Office, Room 1–E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday.

II. Amendments to the Residential Conservation Program (section-by-section analysis)

A. Subpart A—General Provisions and Definitions

1. General Provisions. Section 456.103 of the proposed rule provided the procedures by which any person aggrieved by or seeking relief from the application of this rule may submit a request for relief under Subparts H and R of 10 CFR part 205.

Five commenters expressed concern that the revised section would allow a utility to appeal directly to DOL for relief from the correct enforcement by a State of its approved RCS Program and thus infringe upon a State's rights. It was never DOE's intent to circumvent the authority of States, but rather to provide RCS participants with an avenue for relief when a Temporary Program exemption is unavailable. To reinforce this point, approval by the Governor in applicable situations has been added to § 456.103(a).

2. Section 456.105: Definitions. Most of the 370 comments addressing § 456.105 of the proposed rule were from persons commenting on: (1) Class B audits; (2) eligible customer; (3) energy conservation measures; (4) energy-conserving practices; (5) measure warranties; (6) program measures; (7) renewable resource measures; and (8) residential building. Definitions that are not discussed have not been changed, nor were they subject to significant comment.

Class B Audits: The 17 comments addressing Class B audits demonstrated a high level of confusion generated by the deletion of all references to Class B audits in the Nov. 12th notice. Class B audits are neither defined nor referenced in the amended final rule because NECPA does not mandate their inclusion in the program. It is DOE's intent that utilities be allowed to offer Class B audits in addition to RCS audits, as long as Class B audits are not offered in lieu of, or as a precondition to, an RCS audit. However, DOE will no longer prescribe substantive requirements for Class B audits offered in conjunction with the RCS Program as part of this program rule.

Eligible Customer: The majority of the 70 comments received on this definition requested clarification of "eligible customer" with respect to multifamily residential buildings. With the expansion of the program by the ESA to residential buildings, with five or more dwelling units, which are neither centrally heated nor cooled, or both, the significance of the term "residential building" in the definition was unclear. To resolve the confusion, the term "residential building" in the definition of "eligible customer" has been revised by adding the phrase "or dwelling unit therein." In addition, to allow utilities sufficient time to expand their programs to include these new eligible customers, DOE is setting the effective date of this eligibility to be January 21, 1983 (see preamble discussion II.A.2—Residential Building). Finally, the method for addressing the common areas of these larger mutifamily buildings is being reserved until the completion of further analysis. This analysis will determine the different program measures and auditing techniques required for common areas in these multifamily buildings, while identifying their differences from the procedures under the Commercial and Apartment Conservation Service (CACS) Program.[2]

Energy Conservation Measures: DOE received many comments regarding the definitions of "replacement furnaces or boilers" and "replacement central air-conditioners" which limited such replacements to those of the same fuel type. The majority of commenters stated that limiting the analysis of replacement furnaces and central air-conditioners in such a way was not specifically required by statute and was not in the best interest of energy conservation.

The inclusion in the definitions of the phrase "of the same fuel type" has been retained in the final rule for the following reasons. There are a great many conflicting claims on the efficiencies of different furnaces. Whether or not fuel conversions are the best choice in economic and energy-saving terms depends greatly on climate, fuel price projections, and other factors which vary substantially around the country. DOE believes that these reasons, together with the anticompetitive problems that could arise regarding fuel conversions, are sufficient to support the exclusion of fuel conversion as a national energy conservation measure. However, any State that wishes to establish a fuel conversion measure in conjunction with its RCS Program may do so without DOE approval.

Many commenters stated that replacement of air-conditioners should not be limited to central systems, but should also cover window units or through-the-wall units. The energy saving estimates for room air-conditioners are much more difficult to estimate than for central air-conditioners. The savings depend on, among other factors, how much time is spent in a particular room. Therefore, DOE will retain the measure as replacement central air-conditioners. However, a State may adopt a replacement room air-conditioner as a measure in conjunction with its RCS Program.

DOE received many comments (primarily from utilities) that the requirement that load management equipment be "customer owned or leased" was overly restrictive. Commenters believed the definition should also include utility-owned devices. In response, DOE has deleted the phrase "customer owned or leased" from the definition of electric load management devices. This provides utilities with the flexibility to audit for load management devices which are customer owned or leased, utility owned, or both.

Energy-Conserving Practices: Approximately one-sixth of the commenters addressed the subject of energy-conserving practices. Of those persons commenting on the definition of energy-conserving practices, approximately one-half agreed that States should have the flexibility to develop their own list. Many of these commenters affirmed their continued support of energy-conserving practices as program features, with State-level evaluation as a desirable alternative. The other half of the commenters addressing the definition of energy-conserving practices opposed the deletion of the specific list of practices. These commenters felt the definition list should be retained as a minimum, with States given the flexibility to add to it.

DOE believes energy-conserving practices may constitute one of the most useful components of the entire RCS Program. They offer an opportunity to educate and motivate consumers, provide an inexpensive way to include low-income households and renters in the audit program, and are a method of realizing immediate energy savings. DOE also agrees that individual States and nonregulated utilities should have the flexibility to tailor a list of practices

[2] Title VII of NECPA mandates a similar audit program for apartment buildings with central heating or cooling systems and for small commercial buildings.

to the needs and circumstances of specific geographic areas.

Therefore, DOE has reinserted a definition of "suggested" energy-conserving practices. A State or nonregulated utility shall identify in its RCS plan a specific list of energy-conserving practices, drawing from the DOE suggested list of practices or any other State-developed list, which it believes has the greatest potential for energy cost savings in its region.

Measure Warranties: The definition of measure warranties in the proposed rule reflects those changes required by the ESA. Section 212(b)(3) of NECPA, as amended by the ESA, requires that manufacturers, suppliers, and installation contractors provide 1-year warranties for measures manufactured, supplied, or installed under the RCS Program. Several commenters were concerned that the contractor's measure warranty required a contractor to duplicate the manufacturer's warranty covering any defect in materials, manufacture, or design of a program measure. The intent of the statute and the rule is that a contractor could satisfy the warranty requirement by an assignment of the manufacturer's warranty to the person for whom the measure is installed.

Program Audit: In the preamble to the Nov. 12th notice, DOE stated that it did not believe that Congress had intended utilities to be required to make unit-by-unit audits in residential buildings containing five or more units. DOE proposed that States be free to allow utilities to audit these large residential buildings by sampling the units in the building. For example, sample audits of individual units with common floor plans and exposure might be performed. When a customer requests an audit, the utility could provide the results of the sample audit applicable to the individual's unit. In this way, the necessity of unit-by-unit audits could be avoided, while information useful to the customer would be provided.

Most of the comments addressing multifamily building audits supported sampling techniques and requested that this more flexibile auditing procedure be permitted. In response to these comments, DOE has revised the definition of program audit to permit the adoption of a sampling audit technique for large multifamily buildings. (See also preamble discussion II.C.4.b—audit validation procedures.)

Program Measures: Additional guidance was requested to clarify DOE's intent in revising the definition of program measures and in eliminating the definition of State measure. DOE has established a list of measures to be included in each State and nonregulated utility plan. Measures from this list may be deleted if a State or nonregulated utility can provide substantiating data justifyng the exclusion of the measures pursuant to the formula set out in § 456.315. At the same time, any additional measure may be included at each State's or nonregulated utility's discretion without giving substantiating data to DOE or otherwise obtaining DOE approval.

Renewable Resource Measures: DOE received several comments questioning DOE's retention in the Nov. 12th notice of definitions for active solar space heating systems and combined active solar space heating and solar domestic hot water systems. Commenters questioned their inclusion because these measures did not fall within the 7-year payback period in any climate zone or for any fuel type, and were, therefore, no longer mandated as program measures. In the amended final rule, DOE has retained the definitions for these measures since NECPA still defined them as renewable resource measures. Additionally, active solar space heating systems and combined active solar space heating and solar domestic hot water systems are subject to the prohibition against utility supply or installation of such measures under section 216 of NECPA. Finally, in the final rule, based on more refined analysis, these measures have been determined to pay back in 7 years or less in a few States and have, therefore, been included in Appendix I, where appropriate.

Passive Solar Measures: In the Nov. 12th notice, DOE proposed to reserve decision on all passive solar measures, as the necessary research to determine the payback periods for passive solar measures had not been completed. In the Nov. 7th rule, passive solar measures were defined by DOE to include direct gain glazing systems, indirect gain systems, solaria/sunspace systems, and window heat-gain or loss retardants.

DOE originally intended that the proposed amendments regarding passive solar, published June 17, 1982 (47 FR 26148), would be included as part of this amended final rule. However, unanticipated delays occurred in issuance of these proposed amendments. Therefore, until such time as the proposed amendments are made final, all program requirements included in the Nov. 7th rule regarding passive solar are reserved.

Residential Building: In accordance with section 210(9)(A) of NECPA, the definition of "residential building" excluded all new buildings to which final mandatory building energy performance standards, pursuant to section 304(a) and section 305 of the Energy Conservation and Production Act, (ECPA), Pub. L. 94-385, as amended, would apply. The Omnibus Budget Reconciliation Act of 1981 (OBRA), Pub. L. 97-35, however, amended section 304(a) of ECPA by making these "mandatory" energy performance standards "voluntary" for all new buildings except Federal buildings, and deleted section 305 of ECPA in its entirety.

Because of this later congressional action, several commenters suggested that reference to section 304(a) and section 305 of ECPA be deleted from the definition of "residential building" in the RCS Program rule. In response to these comments, DOE has revised the definition of "residential building" to include reference to "voluntary performance standards" under ECPA, as amended. DOE notes that utilities will be required to offer audits under the RCS Program to all eligible customers unless they are in buildings which are constructed in accordance with the voluntary energy performance standards to be issued by DOE.

Some commenters expressed concern about problems which would arise when utilities expand their programs to include large multifamily buildings. The necessity for different audit techniques, expanded program measures, and the handling of common areas were cited as areas which would require extensive revisions in utility program procedures. To allow utilities sufficient time to expand their programs to include multifamily buildings with five or more dwelling units, DOE is delaying the effective date for this expansion until January 21, 1983.

3. *Utility and Home Heating Supplier Liability.* DOE requested comments on the proposed deletion of § 456.106 of the Nov. 7th rule, which stated that a covered utility or home heating supplier should not be held liable, by virtue of its role in performing or arranging services, in any cause of action between a customer and a lender or contractor. The more than 100 comments received addressing this section were unanimously opposed to its deletion.

In view of this response, DOE has reinserted § 456.106 limiting the liability of utilities and home heating suppliers. As stated in the Nov. 7th rule, by including this section in the regulations, DOE does not intend to override contrary State law, or to suggest that utilities or others involved in the RCS Program cannot be held liable in other circumstances.

B. Subpart B—Preparation, Submission, and Approval of State Plans and Temporary Programs

1. *Sections 456.202, 456.203, and 456.204: Procedures for Submission and Approval of State Plans.* DOE received numerous comments concerning the proposed deletion of specific procedures for meeting the requirements of section 213 of NECPA for public notice and public hearings prior to submission of the initial State Plan. Although a number of commenters supported DOE's proposal to increase State flexibility in meeting the public hearing and notice requirements, the majority criticized the proposed deletions. They emphasized the importance of guaranteed public participation in the design and implementation of the RCS Program. DOE agrees that adequate opportunity for public comment and hearings is important, but continues to believe that the States should be allowed to develop their own procedures to meet the requirements of NECPA in this area.

Additionally, DOE proposed deletion of all requirements for coordination among the States or between the Governor and the State regulatory agency as contained in § 456.203 of the Nov. 7th rule. Also deleted were the requirement that the Governor certify to DOE utility compliance with the State Plan upon its approval, and the requirement that the State inform the utilities of the contents and requirements of the State Plan. Although a few commenters objected to each of these proposed deletions, many other comments supported the deletion of such requirements. In response to the majority of the comments, today's rule makes final these deletions. As stated in the Nov. 12th notice, DOE believes such Federal requirements are unnecessary and infringe upon proper State responsibilities.

In § 456.204(b), DOE states that the time for submission of proposed State Plans was June 4, 1980, unless an extension was requested and granted. This date is based on the statutory requirement that proposed plans be submitted for approval within 180 days after the effective date of the rule. Although the time for submission is provided in the statute, DOE recognizes that because of changed circumstances, a number of States or nonregulated utilities may wish to submit initial or revised plans. This provision does not preclude such submittals.

A number of commenters addressed the requirements for State Plan amendments. DOE proposed to eliminate the Nov. 7th rule requirement that amendments to the State Plan follow the same submission procedures as the original plan, since NECPA does not require notice and hearing in the case of plan amendments. The majority of commenters opposed the deletion of the requirement that plan amendments be subject to public notice and a public hearing prior to submission to DOE. They argued that since amendments could contain major alterations to the State Plan and the RCS Program, the public was just as entitled to comment on the appropriateness of those alterations as it had been on the original submission.

DOE has chosen not to reinsert this provision since it is not required by NECPA and because most plan amendments do not involve significant departures from the provisions originally subject to public hearings and comment. Nevertheless, DOE does believe that major plan revisions should be subject to public review and comment and that States are in the best position to determine when it is appropriate to specifically solicit such comments on proposed plan amendments. Therefore, DOE encourages States to follow the same notice and public hearing procedures for major amendments as those for original State Plans when they propose to make such substantive changes.

2. *Section 456.207: Temporary Programs.* Section 456.207 of the Nov. 12th notice contained the procedures for submission and approval of Temporary Program requests that would exempt one or more utilities from some of the requirements of the provisions of subpart C of the RCS rule. Section 456.207(e) contained the legislatively mandated criteria to be used by the Assistant Secretary in determining when to approve Temporary Program requests.

DOE received more than 30 comments on Temporary Programs. Most comments requested that the approval criterion contained in § 456.207(e)(3) be clarified or eliminated. This criterion states that a Temporary Program "is likely to result in the installation of program measures in at least as many residential buildings as would have been installed had such utility not been exempt from the requirements for which exemption is sought." While the language for this criterion is taken from NECPA, it is not evident whether the emphasis was intended to be on the number of measures installed or on the number of residential buildings in which measures are installed. Since neither interpretation seems to stand alone as a viable quantitative criterion, DOE believes that Congress' stated purpose to conserve nonrenewable energy resources without inhibiting beneficial economic growth should be considered in the approval of Temporary Programs. Therefore, DOE intends to consider collectively the number of measures likely to be installed, the affected residential buildings, and the projected energy conservation in its case-by-case determinations on whether to approve Temporary Program requests.

C. Subpart C—Content of State Plans

1. *Section 456.303: Procedures for Enforcing Compliance With the State Plan.* Under the Nov. 12th notice, as in the Nov. 7th rule, a State is responsible for enforcing compliance with the State RCS Plan, including its consumer protection provisions. Pursuant to § 456.303 the State Plan must describe adequate State enforcement procedures to be followed. DOE proposed, however, to delete specific provisions to be included in these procedures to permit States the discretion to describe procedures most suitable for their individual circumstances.

Three-fourths of the commenters on proposed § 456.303 agreed with DOE's proposed approach of providing States with the flexibility to select the most appropriate enforcement mechanisms. However, several comments criticized DOE's proposal. They claimed that requiring enforcement procedures to be developed would not ensure that those procedures are followed or that the utilities will implement the RCS Program as intended. DOE sees no reason, at this time, to conclude that States lack the commitment or ability to enforce compliance with the State Plans. Therefore, DOE has decided to continue to allow States flexibility in specifying their enforcement procedures.

For clarification purposes, the term "RCS participant" in § 456.303 has been defined as "any person or entity directly governed by the State Plan, including covered utilities, participating home heating suppliers, and all suppliers, contractors, and lenders on the Master Record."

2. *Section 456.304: State Monitoring of Utility Supply, Installation, and Financing.* This section reflects the ESA changes to NECPA requiring that a State Plan contain provisions to assure that utility supply, installation, and financing programs comply with certain statutory requirements.

In the Nov. 12th notice, DOE also proposed to delete as unnecessary the requirement that utilities conducting such activities be listed in the same manner as other suppliers, installers, and lenders and the requirement that

State Plans describe the content and treatment of State or locally authorized utility supply, installation, or financing in relation to the RCS Program. A few commenters opposed these deletions on the grounds that they would open the RCS Program to anticompetitive behavior by utilities. However, since the statutory requirement governing such activities remains, States are still required to adopt procedures that may be necessary to avoid discriminatory or anticompetitive activities. By deleting the specific requirements contained in the Nov. 7th rule, DOE intends to give States the flexibility to design plan procedures most appropriate to their individual circumstances.

3. *Section 458.305: Program Announcements.* Approximately 150 comments were received on issues raised by the Department's proposed amendments to provisions on the content and distribution of program announcements. As with other provisions, the commenters were sharply divided on the desirability of the proposed changes. A large group of commenters, made up mainly of covered utilities and some States, agreed with the attempt to limit the program announcement to the information specifically required by law. These comments were challenged by a large number of individuals and groups that recommended retaining many (if not all) of the original requirements.

Regarding the distribution of program announcements, it was DOE's intent to continue to allow States to propose alternative approaches for delivering program announcements, other than by mail. Any such alternative, however, would have to provide the required information to at least as many eligible customers as would a mail distribution.

Another activity for which DOE proposed to provide continued flexibility was the timing of so-called "unconditional" audit offers. The Nov. 7th rule included a specific provision explicitly permitting States and utilities to phase the offers of RCS audits over a 2-year period. If a State chose to adopt this phased approach, it would distribute program announcements and "conditional" program audit offers to all eligible customers within 6 months of plan approval and then phase the distribution of specific offers of audit services over the following 2 years. The specific provision in the Nov. 7th rule assuring this flexibility was proposed for deletion by the Nov. 12th notice. Because many commenters mistakenly believed that it was DOE's intent to eliminate the flexibility previously granted, the provision contained in the Nov. 7th rule assuring this flexibility has been restored in the final amendments.

Numerous comments were received on DOE's proposal to eliminate the requirements to include in the program announcement information on low-income weatherization assistance programs and residential energy tax credits. Many contended this information added to the costs of printing and distributing the announcements and was not relevant to all eligible residential customers. Other commenters contended that these requirements should be retained because they ensured that useful and relevant information was available to all eligible customers at very little additional cost to covered utilities.

DOE has decided not to restore the requirement to include information on the low-income weatherization assistance program. The major reason for deleting this requirements is that the weatherization services are available for only a small percentage of persons eligible for the RCS Program. In addition, there is uncertainty regarding the future availability of the federally assisted weatherization programs. States or utilities in regions with active weatherization or other financial assistance programs should consider making available information on such services as part of the program announcement or audit results.

On the other hand, because a large majority of all eligible customers are also eligible for Federal energy tax credits and the current Federal tax credits are scheduled to be in effect until 1985, DOE has decided to restore the requirement that the program announcement include information on the availability of such credits. DOE believes that basic information on the tax credits would not require significant additional costs. For example, the addition of the following information would suffice:

> The Federal Government permits most homeowners or tenants to claim tax credits of up to 15 percent of the cost of conservation investments (such as insulation or storm windows) and up to 40 percent of the cost of solar energy systems (such as solar water heaters). For more information on your eligibility for these tax credits, contact your local Internal Revenue Service Office.

A number of commenters also addressed the proposed deletion of the requirement that energy savings estimates be consistent among utilities serving the same geographic area. Many utilities supported the proposed deletion and argued that the requirement imposed a significant burden by requiring regular and extensive consultations or negotiations with neighboring utilities. Several commenters also noted that experts in the field still disagree on the best methods to estimate potential energy savings. Other commenters expressed concern that deletion of this requirement would result in such substantial differences in energy savings estimates that the credibility of all savings estimates under the program would be questioned. A few commenters also felt that some utilities might be tempted to use the energy savings estimates as a means to provide information favorable to devices using the energy supplied by the utility.

DOE has decided not to restore a requirement that all enery savings estimates be consistent among utilities serving the same customers. DOE believes that there is room for informed differences in energy savings estimates and that the Government should not impose an artificial consistency to bolster the credibility of the estimates. It should be noted that States still are required, by § 458.305(c) regarding calculation procedures, to describe these procedures in their State Plans. If different procedures are used by utilities within the State, the State Plan must describe all such calculation procedures in the plan. Finally, standard test procedures have been established for evaluating the energy efficiency of many major appliances, including furnaces and central air-conditioners. Under the Energy Conservation Program for Consumer Products Other Than Automobiles,[3] these test procedures must be used by manufacturers when making representations about the energy efficiency of covered equipment (see Federal Trade Commission Labeling Regulations, 44 FR 66466, November 19, 1979). States may want to explore the possibility of using these estimates as the basis for determining the energy savings estimates for replacement furnaces or air-conditioners.

The proposal to delete the existing prohibition on including advertising in the program announcement was the subject of considerable comment. Again, commenters were sharply divided on the desirability of keeping this prohibition. Supporters of the proposal felt that it would remove an unnecessary restraint to additional uses of the program announcement and to the development of an alternative means of marketing the RCS Program that might be both more effective and less costly. They believed the wording of proposed § 458.305(b) would be sufficient to avoid any abuses

[3] See Energy Policy and Conservation Act, Section 324 (42 U.S.C. 6294).

of this approach that might be either anitcompetitive or discriminatory. Other commenters argued forcefully, however, that there was a significant risk that advertising included in the program announcement would be either anticompetitive or discriminatory. Many of these commenters recommended that advertising continue to be banned.

DOE believes that the inclusion of advertising in the program announcement should not be prohibited. However, because of the potential risks of anticompetitive or discriminatory uses of advertising, § 456.305 of today's final rule requires that any State that permits advertising must specify so in its plan and have approved, as part of its plan, procedures designed to minimize or eliminate such risks. As an example of DOE's intent, such procedures might include a requirement that the availability of advertising space not be artificially limited to certain products or types of firms. States might also require that all advertising clearly be identified as such and that there be a reasonable opportunity for firms of all sizes to participate.

Finally, the provisions of this section governing the treatment of subsequent (or new) owners under the program were subject to considerable comment. In the Nov. 12th notice, DOE proposed to require utilities to maintain and to inform subsequent owners of the availability of the results of audits previously performed on the residence. But virtually all the commenters on this subject emphasized that utilities generally do not maintain records on building ownership and, therefore, would be unable to determine the identity of new owners to satisfy this requirement. Many commenters recommended that DOE substitute "subsequent eligible customer" for "subsequent owner" wherever it appears. They argued that this would substantially lessen the impact of this requirement. DOE cannot eliminate the statutory requirement that a copy of the energy audit report "shall be available to any subsequent owner without charge." However, because most new owners also are likely to be new customers, DOE has modified the provision to require only that utilities "inform each subsequent eligible customer who is an owner of a residential building, or dwelling unit therein, of the availability of this report." This requirement permits utilities that have information on subsequent owners to restrict this notice to new owners only. Utilities, of course, are free to include this notice in the general program announcement sent to all new customers. There is no requirement that utilities provide this notice to all subsequent owners. However, a utility would still be obligated to make available, upon request, a copy of the audit report to any subsequent owner.

4. *Section 456.306: Requirements for Program Audits.*

(a) *Section 456.306(a): Timing.* Several comments were submitted to DOE on the proposal to delete the requirement that an audit be provided to an eligible customer within a "reasonable time" after the customer's request. Under the Nov. 7th rule, DOE had interpreted "reasonable time" to mean less than 60 days. In the Nov. 12th notice, DOE proposed to delete the "reasonable time" requirement, believing that utilities and home heating suppliers would, as good business practice, promptly respond to all audit requests.

Many utilities and one State agreed with the deletion of the reasonable time requirement. Commenters stated that good business practices would ensure prompt response to an audit request, but that deletion of the specific requirement would give utilities the greater flexibility needed to schedule audits, especially when unusual circumstances occur. Other commenters, including State agencies, felt that it was necessary for DOE to specify that audits must be provided within a reasonable time, because it was important to the success of the RCS Program not to discourage customers who request an audit by having them wait an unreasonable amount of time to receive one.

The amended final rule restores the reasonable time requirement for audit response. However, DOE has decided to leave it up to the States to determine this reasonable time period, and DOE will not require that a time limit be established as part of the State Plan. DOE considered either interpreting for States how many days constituted a reasonable time or requiring that a fixed limit be set by the State. However, it was decided that many circumstances could arise, such as difficulty contacting a customer, in which it would be impossible for a utility to meet any such requirement. DOE encourages States to make allowances for similar circumstances when making determinations on this requirement.

(b) *Section 456.306(b): Content of Program Audit.* The Nov. 7th rule specified that a State Plan shall require that in each program audit the auditor shall determine which of the energy-conserving practices would save energy in the residence, explain these energy-conserving practices to the eligible customer, emphasize the importance of these practices, and recommend that they be performed before installation of any measure. The Nov. 12th notice proposed the deletion of these requirements and requested comments on whether this deletion would significantly affect the costs or benefits of the audits.

Over 55 commenters addressed the proposed elimination of energy-conserving practices from the program audit. Fewer than one-third of these commenters supported this elimination, citing as reasons the increased flexibility, reduction in audit time, and reduction in audit costs. One commenter stated that the elimination of this and other audit requirements would reduce costs without affecting real benefits to the customer. Several other commenters said that utilities would continue to provide information about energy-conserving practices to their customers, either during audits or through informative pamphlets.

More than two-thirds of the commenters supported the retention of energy-conserving practices in the program audit. They described the discussion of practices as an opportunity to educate and motivate consumers, a way to benefit renters and low-income households through the audit program, and a method of a realizing immediate energy savings.

Many commeters said the reduction in audit costs would be insignificant, while the lose in consumer benefits in terms of energy savings would be large. Some estimated the savings attributed to low- and no-cost practices as ranging from 5 percent to 30 percent of energy used in a residence, while the discussion of practices would add only about 15 minutes to the auditor's time in the residence. Other commenters stressed the importance of the in-person explanation of conservation information and advice. They felt that many customers have a general awareness of at least some energy-conserving practices but may not be aware of which practices are truly beneficial in their homes.

Almost 25 percent of these commenters cited the negative effect the deletion of practices would have on the participation of renters and low-income households. They felt that low-income customers could not afford the more expensive program measures. Also, renters who would be reluctant to spend money on program measures might implement low-cost or no-cost practices. It was pointed out that practices may be the only method available for some customers to reduce fuel costs.

After reviewing all these comments and performing a simple cost/benefit analysis, DOE has determined that the elimination of practices from the audit could significantly reduce the resulting benefits with little effect on the total cost of providing the audit. DOE has estimated that energy savings of 2.0 percent to 6.5 percent are likely to be realized in homes that adopt conservation practices. This translates into dollar savings of $20 to $60 per year for an average home. DOE has also estimated the cost of retaining the identification of conservation practices in the audit to be about $5. Using the range of estimates contained in the Regulatory Impact Anaylsis, the savings resulting from the adoption of conservation practices are expected to outweigh the cost of their inclusion even under the most pessimistic case. Therefore, DOE has reinserted the requirement that applicable energy-conserving practices be identified in the program audit. Pursuant to this requirement, the auditor will determine which practices are appropriate for a residence and, if requested, discuss their application with the eligible customer.

It is DOE's intent to require that auditors determine whether each of the practices listed in the RCS plan are applicable to the residence audited and, at a minimum, to identify these practices to the resident during or immediately following the conduct of the audit. States may also want to consider making available further information on the adoption of the identified practices as part of the audit or in printed material.

DOE proposed to delete the specific applicability criteria set forth in the Nov. 7th rule in favor of allowing a State to develop its own applicability criteria, to be approved by DOE, which an auditor would consider in determining whether a particular measure should be audited for in a given residence. These applicability criteria could then be used to change the scope of the audit to those measures applicable to a particular residence. Since several commenters expressed approval of the flexibility that this provision provided States and utilities, the amended final rule continues to allow a State to develop its own applicability criteria.

In response to the concern expressed by many commenters over the applicability of the RCS measures table to residential buildings containing more than four dwelling units (multifamily dwelling units), DOE has included references in § 456.306(b)(2) and in Appendix III that identify specific multifamily applicability criteria and procedures for determining energy and hot water usage cutoff levels. The amended final rule gives States three options concerning audit requirements for multifamily dwelling units. For those program measures identified in Appendix I, a State has the following options regarding multifamily dwelling unit audits:

1. Accept the measures indicated by Appendix I for use in multifamily dwelling units;

2. Use the DOE multifamily applicability criteria and/or the procedures for determining specific cutoffs for heating energy use, cooling energy use, or domestic hot water use in Appendix III for all, or some, of the program measures identified in Appendix I; or

3. Develop its own method for determining applicability and submit it to DOE for approval in accordance with § 456.306(b).

DOE has not developed separate applicability criteria for mobile homes. DOE believes that the characteristics of mobile homes are more similar to many of the characteristics of the single family prototypical house used to develop the measures table than are those of multifamily dwelling units. A State has the opportunity, however, to submit, as part of its State Plan, mobile home applicability criteria. States may wish to consider using the same cutoff levels as those developed by DOE for multifamily dwelling units as a method of determining applicability of program measures in mobile homes.

DOE reminds States that if any changes are made to their existing audit techniques, including the addition of new audit techniques for multifamily dwelling units, the State Plan pursuant to § 456.306(b)(3) must contain procedures to assure the validity of the program audit with respect to all program measures.

(c) *Section 456.306(c): Results of Program Audit.* Section 456.306(c) of the Nov. 12th notice addressed the requirements governing the delivery and content of the results of the RCS audits. The approximately 100 comments received on this section addressed two major categories—on-site, in-person delivery of audit results and the inclusion of Federal tax credit information with the audit results.

In the preamble to the Nov. 7th rule, DOE delineated the basis for the requirement of in-person delivery of the audit results. This reflected DOE's beliefs that: (1) in-person delivery will assure a greater understanding of the results of the audit and of the further services which the program offers; (2) in-person delivery does not necessarily mean higher costs for the audit; and (3) in-person delivery provides a better opportunity for the auditor to attempt to motivate the customer to take some energy conservation action. The Nov. 12th notice proposed the elimination of this on-site and in-person requirement because it was not contained in NECPA and because there was no firm data indicating that any of the beliefs cited in the Nov. 7th rule were valid.

The 84 comments received addressing the elimination of the requirements for in-person delivery of audit results were split evenly between those supporting and those opposing the proposal. Many of the supporting comments agreed with in-person delivery in principle, but welcomed the flexibility at the State level. Others, however, cited the additional costs of on-site delivery of audits, such as the added costs of portable computer terminal audit services compared to batch processing, and the uncertain benefits of such an approach.

On the other hand, other commenters strongly urged the retention of the on-site delivery requirements. These commenters cited some experience with existing programs that indicated that in-person delivery was a more effective means of conveying the results of the audit than mailing audit results without any personal explanation.

DOE's amended final rule does not require on-site and in-person delivery of audit results. In its place, DOE has established a requirement in § 456.306(b)(4) that, if audit results are not presented in person, the auditor offer to provide the customer, at the time of the audit, with a written sample of the typical form of the audit results and a brief explanation of how to interpret such results. Further, if the results are not delivered in person, the utility, pursuant to § 456.306(c)(2), must provide an opportunity for the customer to ask a qualified person questions about the results of the audit.

The other major category of comments on § 456.306(c) discussed the inclusion of Federal tax credit information with the audit results. Over 90 percent of these comments favored the retention of tax credit information as part of the audit results. DOE believes that audit results must, as required by NECPA, provide estimates of the expected costs of conservation and renewable resource measures covered by the audit. Since tax credits can be claimed by most audit recipients, they may represent an important cost factor. Further, DOE believes that the inclusion of general tax credit information, such as that included

in the program announcement, does not constitute a significant program burden. Therefore, simplified Federal tax credit information is required by § 456.306(c)(1)(iv).

(d) *Section 456.306(d): Prohibitions.* DOE proposed to delete the requirement that the auditor provide the eligible customer with a written statement of any substantial interest which the auditor or the auditor's employer has directly in the sale or installation of any program measure, and the prohibition against an auditor estimating (as part of the audit) the cost or energy savings of any product which is neither an energy-conserving practice nor a program measure. Instead DOE proposed a general prohibition against anticompetitive and discriminatory practices.

Most commenters advocated the restoration of a disclosure requirement. Some stated that a general prohibition against anticompetitive and discriminatory practices was inadequate and unenforceable. Others felt that written disclosure of substantial interest was necessary to protect consumers and small businesses from anticompetitive or discriminatory practices. DOE has decided not to specifically require written disclosure of substantial interest by the auditor in the amended final rule. DOE believes that if auditors are permitted to have direct and substantial financial interests in the supply or installation of program measures, the potential for anticompetitive acts or practices probably exists. However, the general prohibition against anticompetitive or discriminatory practices provides States with sufficient notice that procedures to eliminate or minimize this potential may be necessary. States are free, of course, to retain the requirements for written disclosure of substantial interest or to implement other requirements to address this concern.

Commenters were divided over the issue of nonprogram measures. One State conservation office felt that if utilities were allowed to recommend nonprogram measures, company products rather than conservation could become the focus of discussion with the customer. Another commenter felt that there should be a restriction on the utility to limit its audit to approved program measures which conserve nonrenewable energy. Comments from utilities approved of the deletion of the prohibition. They appreciated the flexibility to discuss non-RCS Program measures, especially when questioned about such measures by customers.

As was proposed in the Nov. 12th notice, DOE has eliminated the prohibition against an auditor estimating the cost or energy savings of any product that is neither an energy-conserving practice nor a program measure. Even though this specific prohibition has been eliminated, DOE has decided that an auditor may include in an RCS Program audit only those measures or products approved by the Governor. Similarly, audit results may include information only on those measures or products that are also approved by the Governor. In this way, States will be assured sufficient control over audit content. These changes have been incorporated in the amended final rule under § 456.306(b)(6) and § 456.306(c)(3).

(e) *Section 456.306(f): Auditor Qualifications.* Over 70 commenters addressed the DOE proposal that the State Plan be required only to provide that each person who performs a program audit need only be qualified to conduct the necessary measurements to determine the estimated costs and savings of the installation of program measures, and that all specific Federal requirements for qualifying installers and inspectors be eliminated.

The majority of those who commented on this issue expressed agreement with the DOE proposal. These commenters approved of the flexibility given to develop State-specific training programs. Utilities argued that even without specific Federal training requirements, utilities would continue to ensure quality auditors to enhance their company image and to give beneficial information to their customers. Commenters also stated that existing State and local agencies could effectively monitor contractor installations and supervise building inspections. The commenters who opposed the elimination of specific training requirements thought that the development of qualification procedures should not be left to the States and that it was DOE's responsibility to provide guidelines to ensure that auditors, installers, and inspectors were qualified.

The amended final rule retains the basic requirements for auditor qualification contained in the Nov. 12th notice. Furthermore, the amended final rule does not address qualification procedures for installers of measures or inspectors of installed measures. DOE agrees with those commenters who believed that specific Federal requirements were unnecessary as States and utilities will ensure that RCS audits are conducted by properly trained auditors. With respect to the qualification requirements for installers and inspectors, States may wish to maintain or establish requirements similar to those contained in the Nov. 7th rule in partial fulfillment of their responsibility to assure the quality of measures supplied or installed under the program (see preamble discussion II.C.14—Quality Assurance of Supply and Installation Activities). In response to those commenters who felt that DOE should provide qualification guidelines for auditors, installers, and inspectors, the qualification procedures listed in § 456.314 of the Nov. 7th rule, along with the technical assistance developed by DOE[4] are available for use by States and utilities in developing or maintaining auditor installer, or inspector training programs.

5. *Sections 456.307 and 456.308: Arranging Installation and Financing.* The Department received about 100 comments on those provisions of the proposed rule requiring utilities to offer to help eligible customers to arrange the installation and financing of RCS Program measures. Almost all of the comments were from utilities that supported the increased flexibility provided in the proposal, but recommended some further modifications.

Some commenters recommended that the requirements to provide arranging services be dropped entirely, or be further reduced to require only that utilities distribute the required Master Lists of contractors, suppliers, and lenders. These commenters often noted that arranging services were requested by very few of their audited customers and were not considered a vital part of the program by themselves or most customers. A few commenters recommended that DOE maintain the requirements contained in the Nov. 7th rule.

DOE has largely adopted the amended requirements regarding arranging as they were proposed in the Nov. 12th notice. The statutory requirement that utilities offer to assist eligible customers in arranging the installation and financing of program measures is clear.

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[4] Auditor training materials, including the *RCS Auditor Training Manual*, are available through the Energy Training and Education Center, P.O. Box 58, North Hampton, Massachusetts 01061, (413) 586-8540; or the Association of Energy Engineers, 4025 Pleasantdale Road, Suite 340, Atlanta, Georgia 30340, (404) 447-5083. The *RCS Inspector's Guide for Conservation and Renewable Resource Measures* (Stock no. 061-000-00-521-6), the *RCS Installer/Inspector Qualification Workbook: Renewable Resources* (Stock no. 061-000-000-522-6), and a *Guide to the Inspection and Installation of Vent Dampers and IID's* (Stock no. 061-000-00-526-9) are available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The *RCS Installer's Guide for Conservation Measures* (Stock no. 061-000-00-520-0) is presently out of print.

This requirement is distinguished in the statute and conference report from the requirements to prepare and distribute lists of contractors, suppliers, and lenders. DOE believes Congress intended that utility arranging services be more than simple distribution of these lists. The statute, however, is not clear on the specific type or scope of the arranging services to be provided. DOE has given States full flexibility to develop and propose for inclusion in their State Plans specific procedures to govern utility arranging services. This added flexibility might be used, for example, to limit arranging services to the distribution of information to customers that would directly assist the customer in selecting and entering into a contract with a listed firm. Among other items, such information might include copies of standard bid forms, information on any relevant government or private standards, samples of appropriate written contracts, and a description of warranty and other RCS Program protections. The service also might include a hot line or telephone information service.

Many commenters suggested that DOE make two minor modifications in the language proposed in the Nov. 12th notice. First, it was recommended that the requirements for arranging service only apply to applicable program measures. This would limit the availability of these services to those program measures determined to be applicable at the State/utility level. This change has been adopted.

Second, many commenters recommended that the regulation specifically recognize that some utilities may be unable to arrange for the installation of certain specific program measures if there are no listed contractors for those measures. If there are no contractors meeting the minimum requirements of the program for a particular measure, the utility has never been obligated to provide an arranging service for that measure. No changed to the wording of the regulation is necessary.

6. *Section 456.309: Accounting and Payment of Costs.* Section 456.309 of the Nov. 12th notice contains the procedures for accounting and payment of program costs and the limitations on duplication of audits. Most of the 52 comments received addressing this section agreed with all revisions, but requested some editorial clarification of § 456.309(c) which discusses duplication of audits. The comments expressed confusion concerning the use of the term "residence" particularly as it relates to multifamily dwellings.

DOE has revised the language of this section to preclude any future misinterpretation of the Department's intent. The term "residence" has been change to "residential building or dwelling unit therein." The language of subparagraph (c)(1) of this section addresses the possible duplication of audits as a result of an eligible customer being served by more than one covered utility. On the other hand, the language of subparagraph (c)(2) addresses the possible duplication of audits as a result of a change in ownership or tenancy of a residential building or dwelling unit therein.

7. *Section 456.310: Customer Billing, Repayment of Loans, and Termination of Service.* Proposed § 456.310(a) provided that ratepayers of a covered utility need not receive bills which itemize separately the costs of the utility RCS Program which are charged to all ratepayers, although any direct charge to a customer for an RCS service (such as loan repayment) included on the customer's bill must be stated separately. A number of comments urged that utilities be allowed to include direct charge information on or with the customer's bill. They argued that such a change would allow the utilities to bill concurrently with, but not necessarily on, the bill itself, thereby avoiding costly bill redesigning and development of new computer and accounting practices. DOE is persuaded by these arguments and has changed the language of § 456.310(a) accordingly.

Proposed § 456.310(b) reflected an ESA change requiring repayment of all loans arranged for under the RCS Program to be a part of the customer's utility or fuel service billing upon request of the lender. A number of commenters objected to language in this proposed section which appeared to ignore the customer's right to decide whether to repay a loan for RCS services through a covered utility's periodic bill. DOE has always believed that the choice of using a utility's repayment service is the customer's and lender's jointly, and never intended to imply otherwise. DOE has clarified the language in § 456.310(b) to confirm this belief.

8. *Section 456.311: List of Suppliers, Contractors, and Lenders.* The Nov. 12th notice eliminated most of the criteria previously required in the Nov. 7th rule for listing and delisting, giving States the opportunity to develop any additional criteria.

One requirement specified in the Nov. 7th rule was that the listing agency not be a regulated utility. Since this prohibition was not required by NECPA, DOE proposed to eliminate it. Virtually all of the 110 comments received on proposed § 456.311(a) disagreed with the deletion of this prohibition. Utilities argued that the mechanics of listing and delisting contractors, suppliers, and lenders would be burdensome and costly and that this responsibility could result in liability and public relations problems. These commenters also noted that a centralized list compiled by a State agency would be more efficient and economical than individual lists maintained by several utilities. Comments from consumers and contractors expressed concern about the discriminatory and anticompetitive effects of allowing utilities which supply, install, or finance measures to compile the Master Record of suppliers, contractors, and lenders. In addition, many commenters pointed out that the congressional intent was to prohibit utilities from controlling the Master Record. In response to these comments, DOE has reinstated the prohibition against utilities acting as the listing agency in § 456.311(a)(1).

The Nov. 12th notice also proposed to eliminate the criterion contained in the Nov. 7th rule regarding the responsibility of a State in preparing its lists to notify all potential listees and required instead that a State make a "reasonable attempt" to notify all eligible suppliers, contractors, and lenders. The few comments on this issue were divided. DOE has retained the proposed language, believing that it reduces the burden on States.

Most of the comments addressing § 456.311(b) criticized the proposed reduction in requirements for contractor, supplier, and lender inclusion on the Master Record. Commenters were particularly concerned about DOE's deletion of the requirements that contractors: (1) provide a written contract to customers, (2) correct violations of installation standards without cost to the customer, (3) meet bonding or liability insurance qualifications, and (4) be qualified to install furnace retrofit devices and wind energy systems. Commenters also disagreed with DOE's proposal to eliminate the lender listing requirement which prohibited lenders from taking security in property unless the homeowner acknowledges in writing that he/she is aware of the consequences of default on the loan. Commenters argued that without guaranteed consumer protection in these areas, the credibility of the RCS Program would be diminished. They predicted that, as a result, consumer participation and subsequent energy savings would

decline. The commenters also claimed that the reinstatement of these listing requirements would not add to the cost of the RCS Program.

On the other hand, several commenters agreed with DOE's proposed deletions, supporting the idea of allowing States to design their own listing requirements. A few also specifically supported the deletion of the requirement that contractors be bonded for performance, maintaining that bonds were often impossible to obtain.

DOE has not reinstated several of the requirements for contractor inclusion on the Master Record for the following reasons. The requirements for free correction of violations and particular contractor qualifications are no longer necessary. The definition of "contractor's measure warranty" in § 456.105 contains the ESA requirement that installation contractors remedy, without charge, any defects in materials, manufacture, design, or installation found within 1 year of installation. The requirement that contractors be qualified to install furnace retrofit devices and wind energy systems is not essential, since the Federal installation standards have been deleted. In lieu of these standards, however, § 456.317 now requires States to develop procedures to assure quality installations in their jurisdictions. (See preamble discussion II.C.14—Quality Assurance of Supply and Installation Activities.) In fulfillment of this broader requirement, States may wish to consider the retention of some qualification requirements. The Gas Applicance Manufacturers Association suggested, for example, the retention of general qualification standards for contractors who install vent dampers. Lastly, the bonding requirement has not been reinstated, because of the difficulties associated with satisfying this requirement.

DOE has reinstated two listing requirements. DOE is persuaded that the benefits associated with the contractor requirement to provide written contracts in § 456.311(b)(1)(iv) and the prohibition contained in § 456.311(b)(3)(iii) against lenders taking security in property without acknowledgment by the customer outweigh the small costs which may result from these requirements.

Several commenters asserted that DOE's attempt to simplify § 456.311(b) had resulted in confusing the complaint and redress processes, such that redress proceedings occasionally were said to cover situations where the complaint process would be the proper procedure. DOE has reworded the provisions of § 456.311(b) to correct this problem.

A number of commenters addressed DOE's proposal to replace the requirement in § 456.311(c) that States update the list every 30 days with a requirement that they do so "periodically." Two-thirds of the commenters supported the change as a way of increasing States' flexibility. DOE continues to stress the importance of States updating the lists as frequently as necessary, to enable new businesses entering the field to be included in the RCS Program and to provide consumers with current information. However, the proposed language is retained, as the appropriate frequency for updating may vary widely, depending on State conditions and the stage of development of the RCS Program in a specific area.

Section 213(a)(3) of NECPA, as amended by ESA, provides that the State Plan shall require that the list of lenders include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from listed lending institutions. DOE inadvertently omitted this statutory requirement from the Nov. 12th notice and has included it at this time.

One comment objected to the phrase in § 456.311(c)(4) that the lists of suppliers, installers, and lenders be periodically updated "for distribution to eligible customers." It was argued that the latter provision could be interpreted to require mailings of such lists to all eligible customers, despite the fact that the NECPA Conference Report clearly indicates that the updating requirement does not require mailing of the lists (H. Rep. 1751, 95th Cong. 2d Sess. at 97). A mailing or other distribution of the updated list is only necessary when an eligible customer requests a copy of that list. Therefore, DOE has deleted the reference to distribution.

9. *Section 456.312: Complaints Processing and Redress Procedures.* As required by section 213 of NECPA, § 456.312 proposed that the State Plan shall contain: (1) procedures for resolving complaints against persons who install or sell measures under the program, and (2) redress procedures for any individual alleging injury under the program. In the proposed rule, DOE deleted the provisions of the Nov. 7th rule defining minimum procedural content to give the States flexibility in determining their complaint and redress procedures.

A variety of comments were received on this proposed section. Some supported the deletion of the specific complaints and redress procedures, while others urged that they be reinstated to assure consumer confidence in the RCS Program. The majority requested clarification of DOE's use of the words "complaints" and "redress" and the difference between them.

DOE has retained the wording contained in the proposed rule. Complaints processing procedures are for resolving complaints by eligible customers against persons who sell or install measures under the RCS Program. The purpose is to allow consumers to have access to informal, and presumably less costly, complaint resolution or conciliation procedures, before the more formal redress procedures. The latter are to be available to any person, including consumers, contractors, lenders, and others, alleging any injury under the RCS Program. Several commenters felt that the wording "shall be entitled to redress" implies that a person is entitled to a remedy even without proof of injury. DOE uses the term "redress," as does NECPA, to refer to the process for seeking a remedy, rather than the actual satisfaction for an alleged injury.

10. *Section 456.313: Coordination.* In the Nov. 12th notice, DOE retained the requirement mandated by NECPA that the State Plan include procedures to ensure effective coordination between the RCS Program and all local, State, and Federal energy conservation programs within the State. However, DOE proposed to delete the requirement that a State provide, as a part of its plan, the procedures for coordination of RCS Programs among energy suppliers and—the requirement that, if the lead agency is not the State regulatory authority, the lead agency coordinate State Plan implementation with the State regulatory authority.

A few commenters opposed the deletion of these requirements. They felt that a lack of coordination could create a burden for utilities and home heating suppliers implementing RCS Programs in multiple States, because of inconsistent provisions in the various State Plans.

DOE believes that while coordination within and between States is essential, the exact nature of that coordination should be left up to the States. Consequently, the language of the proposed rule is retained to allow States the flexibility to determine their own coordination procedures.

11. *Section 456.314: Home Heating Suppliers.* DOE has adopted the provisions of § 456.314 as proposed in the Nov. 12th notice.

12. *Section 456.315: Program Measures.* DOE proposed that a State need only require audits for those energy conservation and renewable

resource measures which had a payback period of 7 years or less, based upon an economic formula prescribed by DOE for use in a prototypical house. The payback was calculated in the following manner:

$$P=\frac{F-T}{S}$$

where:
P=simple payback
S=first year energy savings (in dollars)
F=installed first cost
T=Federal and State tax credits

The proposed economic formula estimated simple payback by taking into account State energy prices, national material and installation costs, Federal and State income tax credits, heating degree days, and cooling degree days. For purposes of calculation, savings due to reduced air-conditioning energy use were included whenever there were any cooling degree days in a particular region. The first year energy savings (S) were determined by applying the DOE Model Audit calculation procedures. The formula did not take into account interaction between measures.

DOE received over 100 comments on the factors used in the economic formula. Most of these centered around the inclusion of Federal and State tax credits in the formula. Some of these comments supported inclusion of tax credits in the economic formula. However, the majority of the comments were from utilities which opposed tax credit inclusion. Reasons most often stated for the elimination of tax credits in the formula included: (1) It was the Administration's policy to reduce tax credits wherever possible; (2) only housing completed before April 1977 is eligible; (3) low-income individuals are not able to take advantage of tax credits; (4) tax credits are only available for a taxpayer's principal residence; (5) State tax credits often are not credits but exemptions from sales tax; and (6) it was inconsistent to include them since DOE had proposed to eliminate the requirement for discussion of tax credits in the program announcement and as part of the audit.

DOE has retained the use of both Federal and State tax credits as part of the economic formula. The Administration has taken no direct action to propose the elimination of residential energy tax credits. DOE realizes that small groups of eligible customers do not qualify for tax credits for several reasons. Either their income is too low, or the residence for which they request an audit is not their principal residence or the residence was built after April 1977. However, the majority of customers eligible for an RCS audit do qualify for the Federal tax credit. Also, DOE, in the Nov. 12th notice and in this amended final rule, applied Federal and State tax credits only against those measures that were specifically eligible for tax credits. State tax credits were used, but not State sales tax exemptions. In today's final rule, DOE also has restored the requirements for tax credit discussion in the program announcement and with the audit results. (See preamble discussion II.C.3—Program Announcement and II.C.4—Results of Program Audit.)

Even though DOE has considered both Federal and State tax credits in developing the list of program measures identified in Appendix I, a State has the flexibility to decide whether its own State tax credits should be excluded from the economic formula. Therefore, a State may develop its own list of program measures based on such an exclusion in accordance with § 456.315(b). Upon request, DOE will make available the technical support necessary to make such calculations.

DOE received numerous comments regarding the choice of 7 years as the maximum limit for payback of program measures. Many commenters supported the idea of limiting program measures to those measures that have a payback period of 7 years or less. Several utilities stated that their customers were not interested in measures with unrealistic paybacks. However, a number of commenters took issue with the use of a 7-year simple payback. Some commenters felt that, if DOE were going to limit the analysis to simple payback, a 10-year or 15-year payback period should be used. Some felt that DOE should not limit the variety of energy savings options available to eligible customers by only requiring an audit for those measures which pay back in 7 years or less. Commenters argued that consumers want information about, and are willing to invest in, measures that have longer payback periods. Others opposed the use of simple payback and instead suggested the use of a life-cycle costing or a return on investment methodology. Finally, others suggested that DOE consider the value that the installation of a measure added to a residence.

After much consideration, DOE has retained in the final rule the use of a 7-year simple payback period. As stated in the Nov. 12th notice, DOE believes that by not requiring the audit to address any measure that has a simple payback of more than 7 years, the audit will include only those measures which are most cost effective and, thus, most likely to be considered seriously by consumers. DOE reminds a State that it has the flexibility to add measures that pay back in more than 7 years to the list of program measures identified in Appendix I for that State.

Several commenters questioned DOE's use of estimated current fuel prices as part of the economic formula. Virtually all of these commenters expressed the belief that DOE should consider rising fuel prices to determine more accurately the payback periods of measures.

In the amended final rule, DOE has substituted in the economic formula projected year-end 1982 fuel prices on a State-by-State basis for the projected 1981 fuel prices used in the Nov. 12th notice. In response to the comments received, DOE believed that some change to the fuel prices used in the Nov. 12th notice was required. DOE chose projected year-end 1982 fuel prices since they offered a fair basis to determine payback of measures, and DOE felt reasonably confident in their accuracy. If a State disagrees with the energy price data used by DOE, it has the flexibility to substitute its own energy price data, in accordance with § 456.315(b), and to determine the payback periods of measures using the calculation procedures outlined in the technical support document for the derivation of the amended RCS measures table.

13. *Section 456.316: Reporting and Recordkeeping.* More than 50 comments were received on the proposed amendments to the Reporting and Recordkeeping requirements contained in § 456.316 of the Nov. 12th notice. These comments included views both strongly in favor of and strongly opposed to the amended requirements.

Some commenters suggested further reductions in the proposed reporting and recordkeeping requirements, including the elimination of the requirement to retain audit results for at least 5 years. Section 215(b)(1)(A) of NECPA requires that audit results be retained for 5 years. Further, DOE believes that the proposed reporting requirements cannot be further reduced without substantially impairing DOE's ability to monitor program implementation.

Many commenters supported the proposed amendments. They stated that these amendments would significantly reduce the costs of reporting and recordkeeping activities and provide flexibility to submit a narrative report based only on data that was determined by the States or utilities to be easily derived.

An equal number of commenters criticized the proposed amendments. These commenters suggested that the proposed amendments would eliminate many worthwhile reporting requirements, would not require any information on program energy savings or program effectiveness, and would produce reports containing information that largely was not comparable from one State to another. Several commenters also noted that the specific data listed in the proposed amendments were easily derived from existing utility and State records.

In the amended final rule, DOE has retained the basic reporting and recordkeeping requirements contained in the proposed rule. However, DOE has removed the provision granting States and utilities the authority to decide independently whether they are exempt from any of the requirements to gather and report specific data. Pursuant to § 456.316(d)(2), DOE retains the authority to waive such requirements if they can be shown to be unusually burdensome or costly to fulfill. If a State feels it or any of its utilities should be exempted from one or more of these requirements, it may submit a request to DOE, together with its justification, at any time.

DOE believes that the amended reporting requirements are essential to effectively monitor program implementation. The information required will ensure that DOE and the Congress have basic information on the extent of program implementation and customer response. For example, DOE believes it is essential for the Federal Government to have simple information on the rate at which customers are choosing to use the services offered under the program. This information could lead to the modification or elimination of costly services that are not being used. Although this information may not be sufficient for DOE to draw conclusions about the ultimate impact of the program or about State and utility compliance with the program regulations, it can provide a basis for more detailed and selective efforts to monitor and evaluate the program.

On a separate point, it should be noted that the reporting requirements of § 456.316 are not related to or duplicated by the information requested of some covered utilities by the Residential Energy Consumption Survey (RECS) conducted by the Energy Information Administration. The information provided by RECS on basic energy use trends and the characteristics of existing housing is used by the Building Services Division to identify program opportunities and limits. It is requested that utility companies continue to participate in RECS when asked to do so.

14. *Section 456.317: Quality Assurance of Supply and Installation Activities.* In the Nov. 7th rule, DOE promulgated standards to govern the manufacture and installation of many suggested program measures. To ensure that these material and installation standards were fully implemented, the Nov. 7th rule also established a two-tier system of post-installation inspections. The first tier consisted of the mandatory inspections of all vent dampers, electric ignition systems, and wind energy systems which were considered especially hazardous if improperly installed. The second tier of the inspection system consisted of a schedule of random inspections of the remaining measures for which standards were set.

The Nov. 12th notice proposed the elimination of all material and installation standards and post-installation inspection requirements from the RCS Program. There were several reasons cited for the proposed elimination of standards, including: (1) The ability of competitive forces in the marketplace to ensure that conservation and renewable resource measures are installed to perform effectively; (2) the lack of specific data indicating that sufficient hazards are posed by RCS measures to justify the establishment of Federal standards; and (3) the actions already taken by the Consumer Product Safety Commission with respect to cellulose insulation and urea-formaldehyde foamed-in-place insulation.

The requirements for post-installation inspections were proposed for deletion because: (1) They were not specifically required by the statute; (2) the proposed elimination of material and installation standards removed their most obvious application; and (3) there remained a general provision requiring States to enforce the requirements of their State Plans.

Together, nearly 200 comments were received on the proposed deletion of post-installation inspections and material and installation standards from the RCS rule.

A total of approximately 80 comments were received on the subject of material and installation standards. Many of those comments supported the elimination of these standards from the final RCS rule. Many commenters felt that the marketplace provided the necessary quality controls, that the fear of product liability claims was sufficient incentive to an industry to make safe products and to update continuously its safety standards to address identifiable risks, and that the marketplace should be given the opportunity to police itself unless it has proven unwilling to do so. Other commenters felt that maintaining the present RCS standards would, in effect, second-guess the national "testing" and standards organizations and undermine the effectiveness of the RCS Program without contributing to greater safety.

On the other hand, many commenters supported retaining the material and installation standards in the final rule. A number of these commenters felt that national uniformity of standards would lead to less duplication of effort and less burden on manufacturers. The energy conservation retrofit industry is a rapidly changing one, with a large turnover in firms and often inadequate building codes, making dissemination of quality control information to contractors very difficult. Although voluntary consensus standards are developed for parts of this industry, they sometimes conflict between originating organizations. Other commenters believed that without mandatory standards there is little objective recourse available to evaluate a contractor's work and no benchmark to use as a basis for complaint, to delist a contractor, or to determine exactly what is warranted.

Finally, commenters criticized the elimination of health and safety standards for materials, especially where Government tests show that certain products may pose a hazard to dwelling occupants if improperly manufactured or installed. They disagreed with DOE's premise that safety standards should be based on the determination that a safety risk actually exists. They felt that DOE should consider the potential safety hazards that might exist in the future as a result of the widespread retrofit of particular measures.

Over 115 comments were received addressing post-installation inspections, with about half supporting each side of the issue. The most commonly cited reason for eliminating the post-installation inspection was cost. Many commenters felt that the inspection requirement is the most burdensome, expensive, and most difficult provisions of the program to administer. A few commenters stated that there is little consumer interest in post-installation inspections. Other commenters felt that the post-installation inspection requirement is unnecessary since consumers retain all other statutory and

common law remedies for resolving disputes, and existing building codes already require inspections for items affecting health and safety. Finally, some commenters thought that listing and delisting procedures and warranties on program measures provide adequate safeguards.

Other commenters responding to the issue of post-installation inspections supported the inclusion of an inspection requirement as part of the RCS Program. Although most of these commenters indicated that the existing requirements should be retained, a significant number suggested modifications or variations which would be preferable. The most frequently mentioned reason for retaining the inspection requirement was that inspections were considered necessary to protect consumer interests and maintain consumer confidence in the RCS Program. Many commenters stated that inspections are needed to ensure complete, correct, and safe installations and to maintain utility credibility and good will. Several commenters stressed the need for inspections during a program's early shakedown period. Three early conservation programs, at TVA, Pacific Power and Light, and Rhode Island's RISE, found that 50 percent or more of the installations inspected in the initial stages of the programs had some type of defect. Several commenters also noted that the necessity for inspections during the initial stages of the program was supported in the ESA Conference Report (H. Rep. No. 1104, 96th Cong. 2d Sess., at 296). In addition, even after an initial shakedown period, TVA's post-installation inspections found contractor call-backs necessary in 25 percent of the installations inspected.

A significant number of commenters felt that some type of State-level quality assurance or inspection program is desirable. However, they differed on whether States, utilities, or others should perform any required inspections. Utilities generally agreed that State and local building inspectors are best qualified and situated to determine the proper installation of measures. On the other hand, States and local governments pointed out that the lack of building codes or adequate funding would make it extremely difficult for them to implement inspection programs. These commenters consistently agreed, however, that any enforcement mechanism should be developed at the State level.

DOE has carefully considered the full range of comments received on both standards and post-installation inspections. After an analysis of these comments and a review of congressional intent as expressed in the legislative history of both NECPA and ESA, DOE has concluded that there is not sufficient justification to retain the mandatory Federal requirements contained in the Nov. 7th rule for standards and post-installation inspections. DOE believes, however, that there remains sufficient concern about the safety and effectiveness of measures installed under the program to retain a general requirement that States establish, as part of their implementation plans, pursuant to § 456.317, procedures designed to ensure the quality of such supply and installation activities.

First, with respect to the material standards established in the Nov. 7th rule, DOE believes that there is no significant evidence, based on the public comments received and other available information, that manufacturers of conservation and renewable energy measures included in the program are supplying products that fail to meet reasonably expected levels of product safety or product performance. The instances where product safety or product performance problems have occurred have been adequately addressed by actions taken by private consensus standards, State and local governments, or by the Consumer Product Safety Commission (see later discussion in this section on cellulose and urea-formaldehyde foam insulation standards). For these reasons, DOE has decided not to retain any of the material standards contained in the Nov. 7th rule.

Second, regarding the installation standards established by the Nov. 7th rule, a number of comments provided evidence that incidents of improper installation of conservation and renewable energy measures are comparatively commonplace, especially in the initial stages of any major utility conservation program. However, these comments do not demonstrate a need for the retention of federally mandated RCS installation standards. In most cases, improper installation can be identified by reference to the manufacturer's installation instructions, or to private consensus standards or to State and local codes. This means that States have available a number of alternative installation "standards" for use as part of any effort to improve installation quality.

Finally, while an obvious problem exists as a result of the improper installation of conservation and renewable resource measures, there is virtually no evidence that these improper installations pose significant near- or long-term risks to homeowners or occupants. DOE agrees with the many commenters who stated that it would be improper to base a decision on the need for such safety-related standards solely on the number or rate of injuries or deaths resulting from the use of a particular type of product. Consequently, in reaching a decision on this issue, DOE did consider any public comments or other available information that indicated there was a potentially significant risk associated with conventional use of RCS measures, whether or not actual injuries or deaths had already occurred in significant numbers. Even using this somewhat broader criterion, however, DOE has still concluded that there is insufficient evidence that actual or potential hazards exist which are sufficient to justify the retention of the mandatory RCS installation standards related to safety.

The other major issue that falls under the heading of quality assurance in supply and installation is the retention or deletion of post-installation inspection requirements. Based on the comments received, it is clear that these requirements were perceived as some of the most costly and burdensome contained in the Nov. 7th rule. On the other hand, where aggressive post-installation inspection programs have been implemented, they appear to have identified large numbers of improper installations and contributed significantly to improvements in the general quality of installation work.

One of the major purposes for the establishment of the post-installation inspection requirements contained in the Nov. 7th rule was to ensure that a mechanism was implemented to enforce the material and installation standards also established by that rule. With the deletion of these mandatory standards, the need for specific post-installation inspection requirements is diminished. However, even in the absence of federally mandated standards, post-installation inspections could be used to ensure that conservation and renewable resource measures were installed in accordance with manufacturer instructions, private consensus standards, or State and local codes, if any.

The post-installation inspections required by the Nov. 7th rule are only one of several mechanisms that a State or utility might employ to help improve installation quality. Further, while significant installation problems have occurred during the first years of several major utility or State-sponsored retrofit programs, there is insufficient evidence to conclude that similar problems exist

in all States, regardless of the type of program being implemented, or that these problems persist. For these reasons, DOE continues to believe that the specific post-installation inspection requirements contained in the Nov. 7th rule should not be retained.

In lieu of any specific provisions requiring conformance with material and installation standards or the conduct of post-installation inspections, DOE has included in the amended final rule, pursuant to § 456.317, a general requirement that States and nonregulated utilities establish procedures to ensure that reasonable levels of effectiveness and safety are maintained in the supply and installation of measures under the program. This provision was established in response to the broad concerns expressed by many commenters and the apparent intent of the Congress, as reflected in Section 212(b)(1) (A), (B), and (E), as well as in the conference report to the ESA where the conferees agreed that, at least during the first year of any utility program, it is essential to perform a sufficient number of post-installation inspections to assure that a high quality performance be provided by the installers. Further, the conferees assumed that, in addition to adopting procedures to protect consumers against fraud, States, in the interest of maximizing the conservation benefits of utility programs, would also adopt procedures to assure that high quality installation work is accomplished.

In satisfying the requirements of § 456.317 [5] of the final rule, DOE believes that there are many methods for achieving the overall objective of quality installation work. As suggested by the conferees, a 1-year inspection program may suffice. Another alternative is improved training or licensing requirements for installers of major energy conservation or renewable resource measures similar to the installer qualification requirements in the Nov. 7th rule. Another possibility might be to make available information and assistance to consumers so that the purchasers of measures under the RCS Program are better able to assure the quality of installation work performed at their residence. The types of information that could be provided include: the identity of contractors who agree to comply with specified voluntary standards; the identity of measures which, when improperly installed, may significantly impair safety or effectiveness; descriptions of how to recognize the most common types of improper installation; the identity of individuals or firms qualified to perform independent inspections; and a description of protections available under State and local law, as well as the RCS program. Additionally, greater emphasis on the application of local building codes to retrofit situations may be a viable alternative to State- or utility-conducted post-installation inspections. For those States who do not wish to amend their State Plans, their existing plan provisions on standards and post-installation inspections would, of course, be sufficient to meet the general requirements of § 456.317. Finally, if a State determines, based on a study of the quality of supply and installation activities under the program, that existing private or public sector mechanisms are sufficient to ensure that reasonable levels of quality are attained for all or some measures, it need not establish special plan procedures for those measures. However, in this case it must provide DOE with information on the basis for this conclusion.

It should be noted that § 456.317 requires only that States incorporate in their plans procedures to ensure that reasonable levels of effectiveness and safety are maintained. Several utilities and States operating aggressive quality assurance programs have found that the number of monitoring activities (such as post-installation inspections) could be substantially reduced or eliminated after an initial period of program implementation. Therefore, States may choose to establish procedures which change with time. In those cases where a State chooses to phase down its quality assurance activities after an initial period, DOE urges the State to consider continuing a low-level monitoring effort.

In conclusion, DOE believes that States and nonregulated utilities have a responsibility to ensure that reasonable levels of effectiveness and safety are attained for measures installed under the program. It is DOE's intent, however, to provide States and nonregulated utilities with maximum flexibility to design and implement a quality assurance program appropriate to their needs.

Cellulose and Urea-Formaldehyde Foam Insulation Material and Installation Standards:

In the preamble to the Nov. 12th notice, DOE proposed to defer to the judgment of the Consumer Product Safety Commission (CPSC) on the subject of urea-formaldehyde (u.f.) foam insulation and loose-fill cellulosic or wood fiber insulation products. DOE proposed to delete the existing final and interim final standards on these measures (44 FR 64663, November 7, 1979, and 45 FR 63786, September 25, 1980) and to withdraw its proposal to amend the u.f. foam insulation standards or ban the use of this insulation in the RCS Program (46 FR 8996, January 27, 1981).

With respect to cellulose insulation, CPSC has already established a mandatory national standard governing the manufacture of such insulation (16 CFR Part 1205). Therefore, DOE will not require that this standard be separately mandated under the RCS Program.

On January 28, 1981, CPSC proposed a ban on urea-formaldehyde foam insulation (46 FR 11188, February 5, 1981). On March 29, 1982, CPSC issued its final rule banning the use of u.f. foam insulation in residences and schools (47 FR 14366, April 2, 1982). The Commission's ban is based on findings that u.f. foam insulation is being distributed in commerce and presents an unreasonable risk of injury from irritation, sensitization, and cancer because of the release of formaldehyde gas from the product after it is installed. The Commission has evaluated the effectiveness of existing standards as well as other possible approaches to controlling consumer exposure to formaldehyde gas released from the product. The Commission found that no feasible standard, including labeling or information disclosure, would adequately protect the public from the risk of injury associated with the product.

The CPSC ban eliminates the use of u.f. foam insulation in conjunction with the RCS Program. In light of the CPSC's action, the amended final rule deletes the material and installation standards for u.f. foam insulation from the RCS regulations.

D. Subpart D—Nonregulated Utility Plans

Subpart D, as proposed, contained a substantial simplification of the procedures for submission of RCS plans by covered nonregulated utilities not subject to a State Plan. These

[5] States may wish to maintain the existing material and installation standards as part of their quality assurance procedures. To assist States in their efforts to establish and maintain such guidelines, DOE is now planning the publication, as voluntary guidelines, of the material and installation standards included in the Nov. 7th rule, as amended. To assist in preparing this technical document, DOE is now requesting public comment on the provisions of the standards previously established and the desirability of maintaining any advisory guidelines for each of the products previously covered. Any comments on this issue should be sent to the Building Services Division at the address provided at the beginning of this notice. Copies of the subject standards can also be obtained by writing the Building Services Division.

simplifications were consistent with the changes proposed in subparts B and C.

One comment was submitted which expressed concern that the requirement for "written agreements with the appropriate State agencies" in § 456.406(c)(4) is unnecessarily burdensome. However, DOE believes that when a nonregulated utility proposes to utilize services provided for in the State Plan, evidence of the agreements with the State Lead Agency is necessary to satisfy DOE that the plan is viable and should be approved. Therefore, this requirement has been retained in the amended final rule.

Some commenters expressed concern about possible inconsistencies in the reporting requirements proposed in the Nov. 12th notice. After careful consideration, DOE has determined that the annual reporting requirement established for States and regulated utilities in § 456.316 is also appropriate for nonregulated utilities. Therefore, DOE has eliminated the separate reporting requirements for nonregulated utilities contained in § 456.406(b) of the proposed rule.

E. Subpart E—Supply, Installation, and Financing by Utilities

DOE received over 20 comments on its proposal to incorporate the changes made by the ESA to the NECPA prohibition against utility supply, installation, and financing of residential energy conservation and renewable resource measures. These changes included completely removing the prohibition against utility financing and permitting a utility an exemption to supply and install measures through independent subcontractors. Section 216(c) of NECPA allows a utility to supply and install measures through subcontracts with independent suppliers and contractors who are listed on the RCS Master Record and who are not under the control of the public utility or its affiliates or subsidiaries. Section 216(c)(2) contains restrictions intended to prevent anticompetitive activities by utilities in exercising unreasonable control over the marketplace.

Some of the commenters expressed concern over the anticompetitive potential that exists in utility supply and installation programs, especially in light of the fact that rather than offering detailed guidance, the DOE proposal to incorporate these ESA provisions had basically tracked the language of the statute. Commenters also stated that, at a minimum, DOE should require public hearings on any State Plan amendment that would allow or require utilities to supply or install measures through subcontractors before the plan amendment is submitted to DOE.

The final rule incorporates the changes made by the ESA to the NECPA prohibition against utility supply, installation, and financing of energy conservation and renewable resource measures, as outlined in the Nov. 12th notice. DOE recognizes that anticompetitive problems might arise concerning individual utility supply and installation programs. However, as stated in the Nov. 12th notice, DOE does not believe a prescriptive regulation in this area could adequately resolve every situation that might arise with regard to the prohibition. Though it is not a requirement, DOE suggests to States that plan amendments which incorporate procedures to allow utility supply and installation programs through subcontractors should be subject to some form of public review before submission to DOE. (See preamble discussion II.B.1—State Plan Amendments.)

F. Subpart F—Federal Standby Authority and Enforcement Provisions

Subpart F concerns the Federal Standby Authority and Enforcement provisions. No changes were proposed to this subpart because it closely follows the requirements of section 219 of NECPA. It remains in effect as published in the Nov. 7th rule.

As a separate item, DOE withdrew the proposed Federal Standby Plan, which was proposed as subpart J of part 456 (46 FR 2522, January 9, 1981). DOE stated its intention to develop a revised Federal Standby Plan reflecting the amended final RCS rule. DOE received a few comments on this withdrawal. Several comments supported DOE's decision to withdraw the proposed Federal Standby Plan and replace it with a simpler, more flexible plan reflecting this final RCS rule. It is DOE's current plan to repropose the Federal Standby Plan later in 1982.

G. Appendices

1. *Appendix I—Program Measures.* To reduce the burden on utilities of auditing both for the cost of purchasing a program measure and the cost of contractor installation, DOE proposed to designate whether a measure was a program measure if installed on a do-it-yourself basis (R), by a contractor (C), or both (RC). This proposal meant that with respect to an "R" measure an audit would have to address only the cost of purchasing the material and with respect to a "C" measure only the total cost of contractor installation. Only with respect to an "RC" measure would the audit have to address both the cost of purchase and the total cost of contractor installation.

DOE proposed requiring only resident-installed costs for those measures that were not likely to be installed by a contractor (e.g., caulking, weatherstripping, and clock thermostats). Contractor-installed costs only were required for those items DOE believed were not likely to be installed by the resident or where building codes or regulations and safety considerations were likely to preclude resident installation. These measures were: wall insulation, storm or thermal windows and doors, replacement heating systems and oil burners, vent dampers, IID's, replacement central air-conditioners, active solar heating, combined active solar space heating and hot water heating systems, solar domestic water heating systems, replacement solar pool heaters, and wind energy devices. Finally, DOE proposed to require both resident-installed costs and contractor-installed costs for those measures commonly installed by either a resident or a contractor (e.g., ceiling and floor insulation, water heater insulation, duct and pipe insulation, and heat reflective or absorptive films).

DOE had solicited comments on whether its assumptions regarding resident and contractor installation of measures accurately reflected common practices in the marketplace.

The DOE installation assumptions regarding clock thermostats, storm windows, storm doors, and solar domestic water heaters were questioned by several commenters. A few commenters suggested that both contractor- and resident-installed costs should be required for clock thermostats because many homeowners will need contractor assistance to install these devices. DOE agrees with these commenters and has changed the final rule to require both "R" and "C" costs for clock thermostats.

Several commenters took issue with DOE's proposal not to require resident-installed costs for storm or thermal windows and storm or thermal doors. Commenters suggested that these measures commonly are available in retail stores and often are installed by homeowners. One utility found in a post-audit survey that over 20 percent of its customers who installed these measures performed the work themselves. DOE also received several comments suggesting that resident-installed costs should be included for solar domestic water heaters.

DOE agrees that in some cases these measures are installed on a do-it-yourself basis. However, DOE does not

believe that there is enough evidence that a substantial number of these measures are resident installed to require both resident- and contractor-installed costs. Therefore, in the final rule, DOE has included only contractor-installed costs for storm or thermal windows, storm or thermal doors, and solar domestic water heaters. A State in which do-it-yourself installation of these measures is a common practice is not precluded from requiring utilities to audit for resident-installed costs, nor is a utility precluded from offering this information voluntarily.

A few commenters inquired why the same type of solar domestic water heater was used in all climate zones as a basis for the development of the measures table. They felt that for warmer climates, DOE should have considered a less expensive system that did not require freeze protection.

DOE realizes that there are specific differences in collector types and systems for solar domestic hot water systems that would allow optimization on a climatic basis. In addition, it is recognized that similar regional differences exist regarding freeze protection. Since these types of regional differences were not taken into consideration for any other RCS measures, DOE has decided to continue to base its analysis on a solar domestic hot water system that can be used nationwide. However, as with the other solar measures, the DOE Model Audit procedures do size the solar domestic hot water system appropriately for each climate zone.

Several commenters expressed confusion over the fact that, for replacement central air-conditioners and heat absorbing and heat reflective window and door material, the applicability of the measure was inappropriately related to the type of fuel used to heat the residence rather than to the type of fuel used to cool the residence. The measures table in Appendix I of the Nov. 12th notice had a column labeled "fuel," for which the possibilities were "electric," "gas," "oil," and "heat pump." DOE's intention was that the fuel type would refer to the fuel used by the system or device which was relevant to that measure. For example, the water heater insulation column referred to the fuel used for the water heater.

There were two measures for which the payback estimates were based entirely on the cost for cooling. These were replacement central air-conditioners and heat absorbing window and door material. For these measures, the type of heating fuel was irrelevant. The calculations for these two measures were based on a cooling system that was fueled by electricity.

Although the analysis that produced the measures table assumed that "fuel" would refer to the fuel used by certain systems or devices, the assumptions were not reflected in the definitions at the beginning of Appendix I. Because of this fact, commenters were confused about the fuel column. To eliminate confusion and potential ambiguities in Appendix I to the final rule, DOE has expanded the section on "Category of Residential Fuel Use" (Appendix I (c)) and has eliminated certain ambiguous statements in paragraph (d) of Appendix I. Also, it was not DOE's intention to replace heat pumps with central air-conditioners. Therefore, the heat pump lines have been removed from the columns in Table I for replacement air-conditioners and for heat reflective and heat absorbing window and door material. In addition, the meaning of "electricity" for these two measures is defined in greater detail under paragraphs (c)(3) and (c)(4) of Appendix I.

In the Nov. 12th notice, the active solar space heating and combined space/water heating measures were not included as program measures in any State. Their exclusion was based on analysis using the computer program F-chart 3.0, in which the same type of system was assumed for the whole country, and system costs were based on a survey of solar system manufacturers and suppliers. This analysis was also based on projected 1981 fuel prices. Although the F-chart analysis was carried out using a best case approach, no systems qualified under the 7-year simple payback criterion.

For the amended final rule, DOE updated the costs for these solar measures based on the Residential Retrofit Specifications/Cost Data Base developed after publication of the Nov. 12th notice by the Solar Energy Research Institute with assistance from the R. S. Means Company. The use of updated system costs and the use of 1982 fuel prices caused active solar space heating and combined space heating and hot water systems to qualify as measures in a few locations in the amended final rule. For this reason, DOE has included active solar space heating and combined space heating and hot water systems as program measures in appropriate cases in Appendix I of the amended final rule. Also, in the analysis for the amended final rule, as it did with the other active solar measures, DOE updated the costs used for solar domestic water heaters and replacement solar pool heaters. The use of updated costs for these two systems, which were substantially higher than those costs assumed for the Nov. 12th notice, and the use of 1982 fuel prices resulted in a net decrease in the number of times these measures are identified in Appendix I. This result stems from the increased system costs that were not offset by the increased fuel costs.

In the amended final rule, IID's have also been identified as a program measure in Oregon for climate zone 8. The major factors qualifying IID's as a program measure in this instance were the use of updated 1982 fuel prices and the availability of State tax credits for that measure. DOE reminds States that § 456.315 gives them the flexibility to exclude State tax credits from the economic formula used to determine payback periods for program measures.

In the Nov. 12th notice, several measures became program measures for particular climate zones in States although they were not identified as program measures in those geographic areas in the Nov. 7th rule. In order not to increase the burden of the RCS Program on States and utilities, DOE proposed not to include those additional measures in the RCS Program. Those measures appeared in brackets in Appendix I to the Nov. 12th notice. DOE solicited comments on its approach to additional measures. DOE received very few comments on this proposal. One commenter stated that DOE, by not including these additional measures in the RCS Program, was in effect, discriminating among measures and that all measures which meet the payback criteria should be mandated by DOE as program measures. In the amended final rule, DOE requires a State to include these additional program measures, but only if the State changes its audit requirements by deleting other measures based on the new RCS measures table. DOE has made this revision because in those instances where other changes are being made to the program, it was felt that DOE's justification for proposing that bracketed measures not be included (i.e., the additional costs to implement these changes would be burdensome) would no longer be applicable.

Modifications to the Nov. 12th proposal to identify single R-values for ceiling insulation and floor insulation were suggested by several commenters. The proposed measures table represented the addition of R–11 ceiling insulation to the existing R–7 ceiling insulation assumed for the prototypical house. DOE chose the addition of R–11 insulation because it was a standard batt size which, when added to an existing R–7, would often result in a

7-year payback. Therefore, in the Nov. 12th notice, DOE proposed to establish an insulation level of R–18 or more for ceiling insulation. The effect of this choice was to require an audit for that program measure if an eligible customer's residence had less than R–18 ceiling insulation. The proposed measures table also represented the addition of R–11 floor insulation to an uninsulated floor assumed for the prototypical house. Therefore, DOE proposed to require an audit for that measure if an eligible customer's residence had less than R–11 floor insulation.

Commenters requested clarification of DOE's intent when it set the R-value for ceiling insulation at R–18 or more. One commenter asked if R–18 was a target level or if that was what should be added to existing insulation. Others raised the problem of adding so little insulation that the cost exceeded the savings. A few commenters suggested that DOE retain the approach used in the Nov. 7th rule to require specific R-values for ceiling and floor insulation which varied by climate zones and categories of fuel type. On the other hand, others felt that DOE should let the States determine the insulation levels appropriate for their climate zones.

In the amended final rule, DOE has not established insulation levels for ceiling and floor insulation. In a State where these measures are program measures, DOE has decided that a State shall be given the flexibility to determine the appropriate levels of recommended insulation. DOE also encourages a State to develop, as part of the State Plan, in accordance with § 450.306(b)(2), applicability criteria for an auditor to consider in determining whether these measures should be audited for in a given residence. Technical assistance is available from DOE to help States determine cost-effective insulation levels and develop appropriate applicability criteria.

DOE solicited comments on the impact of its proposal to apply the economic formula to two types of wind energy devices. The first type was a 2-kilowatt (kW) nonutility interconnected direct current (DC) wind machine, and the second type was an interconnected alternating current (AC) wind machine. The Nov. 7th rule did not specify the type of wind energy device for which an audit had to be conducted. Therefore, in those few geographic areas where it was proposed that both wind energy devices were cost effective, DOE was concerned that the proposal might have unintentionally created additional burdens. In Appendix I to the Nov. 12th notice, a wind energy device appeared in brackets for a particular climate zone in a State only when it had not been identified as a program measure in that area under the Nov. 7th rule.

In the amended final rule, wind energy devices either are bracketed [ ] or are bracketed and asterisked [ ]*. If a wind energy device is bracketed and asterisked, a State that does not change its State Plan by deleting measures based on the amended RCS measures table is allowed to continue to require utilities to audit for the same type of wind energy device currently in their program. If, in Appendix I, a wind energy device is either bracketed or bracketed and asterisked, a State that changes its State Plan by deleting meaures based on the amended RCS measures table must require utilities to audit for the appropriate type of wind energy device identified in Appendix I. Where both types of wind energy devices are identified, an audit is required for only one of these devices.

DOE did receive several other comments regarding other assumptions DOE made about wind devices. Many commenters questioned why battery storage was not included for the 2-kW DC wind machine. Battery storage was not included because the power expected to be generated under most wind regimes will be sufficiently low to be used entirely on the premises as it is generated. The stand alone capability implied by battery storage was not considered reasonable for the majority of eligible customers, as it would require considerable additional system expense and might entail battery storage hazards. Several commenters took issue with the 2-kW size wind machine used as the basis for developing the measures table, while other commenters questioned why buyback rates were not considered. A 2-kW machine was selected in order to enable all of the electric output generated to be used on the premises. This allowed all the electric energy supplied by the wind machine to be valued at retail residential electric rates, which simplified the analysis by eliminating the need to consider buyback rates. A 2-kW machine operating in a 12-mph average annual wind regime generates approximately 400 kWh of electricity per month. According to the Rocky Mountain Electric League, 360 kWh of electricity are required to operate an electric domestic water heater. In certain areas of the country that have greater than 12 mph average annual winds or locations with better than average utility buyback rates, a larger size machine may be more appropriate. DOE considered this situation and decided not to change the size of the wind machine used as the basis for calculation for the measures table because the energy output of a 2-kW machine could be utilized by the majority of households that use electricity. Under the analysis, it was never intended that these systems would provide energy to operate electrical appliances. It was assumed that the AC machine would provide supplementary energy for space and water heating. It was also assumed that electric resistance elements would be added to the DC machine to heat water and space.

Copies of the methodology used to determine the final RCS measures tables, including copies of the DOE Model Audit, may be obtained by writing the Building Services Division at the address provided at the beginning of this notice.

2. *Appendix II—Prototypical House Assumptions.* As part of the Nov. 12th notice, DOE solicited comments on the prototypical house used by DOE for the measures table. The prototypical house is a model of the ranch style home developed in the National Bureau of Standards document NBSIR–77–1309. The house is based upon a National Association of Home Builders (NAHB) survey of 84,000 homes built by 1,600 builders selected randomly from the builder members of NAHB. The home is typical of ranch styles built in 1974.

Several comments were received from States and utilities stating that the prototypical house was not characteristic of the type of housing found within their geographic areas. These commenters requested that States be given the flexibility to develop their own prototypical house for use as a basis for determining the applicable measures for that State.

DOE recognizes that a single prototypical house cannot possibly represent all the housing stock in the Nation. The prototypical house was established only as a basis to estimate the payback of measures. If a State wishes to develop a State-specific prototypical house that is representative of houses in its geographic area, it may do so as part of its State Plan, in accordance with § 456.315(b). The State-specific prototypical home should be configured so that it allows reasonable savings calculations of all program measures.

Commenters also felt that the measures table should be listed by type of dwelling (single family, multifamily, and mobile home). Many of the commenters stated that it was

particularly important to have a separate measures table for multifamily dwelling units, since these buildings were not thermally similar to the prototypical house. DOE has decided that a new measures table for multifamily buildings is not appropriate since the multifamily housing stock is so diverse that it cannot be easily characterized by a single prototypical building. Therefore, DOE has included in Appendix III specific multifamily applicability criteria and procedures for determining energy usage cutoffs that would correspond to a 7-year simple payback for multifamily dwelling units. (See preamble discussions under II.C.4.b. and Appendix III.)

Commenters also questioned the modifications and assumptions made by DOE regarding the prototypical house. As stated in the preamble to the Nov. 12th notice, DOE modified characteristics of the house to make it more representative of existing housing stock and to allow for the calculation of all RCS measures.

One commenter correctly pointed out that an error was made in Appendix II in the designation of east and west wall areas. In the final rule, DOE has corrected these errors. The area of the east wall now reads "264 ft^2," and the west wall area reads "260 ft^2." Also, under the heading "Glazing" the second line reads "East Area Sliding Glass Door=72 ft^2" and the third line reads "West Area=56 ft^2."

3. *Appendix III—Multifamily Applicability Criteria and Procedures for Determining Usage Cutoff Levels.* Appendix III contains specific applicability criteria for residential buildings containing more than four dwelling units (multifamily) and procedures for determining energy and hot water usage cutoff levels in such buildings. (See also preamble discussion under II.C.4.b—Content of Audit.)

The applicability criteria would determine whether a program measure should be audited for in a particular multifamily dwelling unit. DOE has not developed multifamily applicability criteria for caulking, weatherstripping, duct and pipe insulation, storm or thermal windows, heat reflective and heat absorbing window materials, and IID's, as DOE has determined that they have the same applicability in multifamily dwelling units as in the prototypical house. Specific applicability criteria have been developed for ceiling insulation, floor insulation, wall insulation, storm or thermal doors, clock thermostats, water heater insulation, solar domestic water heaters, and combined active solar space heating and solar domestic hot water systems because of the physical differences possible between the prototypical house and a multifamily dwelling unit. DOE has determined that wind energy devices and replacement solar pool heaters are not applicable in multifamily dwelling units.

In addition to the applicability criteria, energy usage cutoff levels have been developed for replacement furnaces, replacement oil burners, flue opening modifications, replacement central air-conditioners, solar domestic water heaters, active solar space heating systems, and combined active solar space heating and solar domestic hot water systems because they may have significantly different paybacks for multifamily dwelling units as compared to the prototypical house. The payback for these measures is dependent upon heating energy use or cooling energy use or hot water use. A cutoff level for a measure is that level of usage for which a 7-year payback is probable. DOE has developed procedures for determining the appropriate cutoffs for heating and cooling energy use and hot water use for these measures. An audit for each of these measures would be required when annual energy usage or hot water usage in a multifamily dwelling unit is high enough such that a 7-year payback is probable.

The derivation of the formulae to determine cutoff levels for heating and cooling energy usage and hot water usage are available from DOE and may be obtained by writing to Mr. Mark Friedrichs at the address which appears at the beginning of this notice.

III. Regulatory Impact Analysis

A Regulatory Impact Analysis on the amendments to the RCS Program regulations has been prepared by DOE, and reviewed by the Office of Management and Budget, pursuant to the requirements of Executive Order 12291. Copies of the Regulatory Impact Analysis can be obtained by writing the Building Services Division at the address which appears at the beginning of this notice. A summary of the findings of the RIA is provided below.

During the comment period, many persons severely criticized DOE for not completing a preliminary RIA by the time the proposed amendments were issued. Although DOE had already initiated the preparation of an RIA, the analysis had not at that time been completed even in a draft form. Further, the lack of data on the actual costs and benefits of RCS or similar programs hindered DOE's efforts to complete the analysis.

The RIA, completed by DOE, analyzes the costs and benefits of the Nov. 7th regulations and the amended final regulations using a range of different assumptions or estimates regarding the program's impacts. For a significant number of these parameters, it was not possible to assign a single value because of uncertainties in the data. Because of these considerations, the Department adopted a case study-type approach in which each critical parameter was assumed to vary over a reasonable range. Four cases were defined which represented a spectrum of program performance assumptions from the least to the most optimistic. Table 1 indicates the ranges of estimates used for each of six critical parameters.

Tables 2 through 4 summarize the results of the cost/benefit analysis for the four cases, each considering the Nov. 7th and amended final rule options. In case 1, the program is assumed to obtain a comparatively low public response, both in terms of audit requests and the number of actions taken in response to audits. In this case, cumulative energy savings (through the year 2000) are calculated to reach 8.72 million barrels of oil equivalent (BOE) under the new rule and 9.95 million BOE under the old rule. These savings would be achieved at a cumulative cost to Federal and State governments, utilities, and consumers (through 1985) of $715 million under the new rule and $1,030 million under the old rule. Benefits and costs each increase successively for the three remaining cases. As Table 3 indicates, savings increase very rapidly under the assumptions posed for the four cases. In each case, the energy savings are less under the new rule than under the old rule. There are several reasons for this drop in energy savings, including the elimination of measures from the audit and the replacement of the more stringent requirements concerning post-installation inspections and effectiveness standards with a more general requirement that States establish quality assurance procedures. However, in each instance, there are cost savings realized under the new rule, as is shown in Table 2. Thus, for each case, the new rule is likely to result in greater cost savings, while sacrificing some energy savings.

To evaluate the costs saved under the proposed new rule, relative to energy savings foregone, the present discounted values of the dollar cost per BOE saved under the old and new rules were calculated. Table 4 presents a comparison of the old and new rules for each case when either a 10-percent or 15-percent discount rate and a 3-percent annual fuel price increase are assumed. The RIA also includes calculations using

a variety of assumptions about other fuel price escalation rates and discount rates. Although no concrete benchmark is available with which to compare these numbers, a reasonable opportunity cost range is bounded by current retail prices of natural gas and fuel oil. The 1981 average retail price for natural gas delivered to residential markets was $27.19 per barrel of oil equivalent. Typical oil prices in 1981 include imported crude oil at $37.86/bbl and home heating oil at $51.53/bbl. The comparable value for electricity would be $31.76 per BOE, since all energy costs and quantities are calculated in primary (rather than end-use) fuel units. A useful cost figure for comparison is the quantity weighted average cost of residential fuels and electricity. This average for 1981 was $32.25 per BOE.

It is noteworthy that a significant benefit/cost differential exists between the old and new rule. This is reflected in the lower estimated costs of saving a barrel of oil equivalent under the new rule than under the old in each of the four cases postulated.

For cases 3 and 4, using the price of natural gas or heating oil and a 10-percent discount rate indicates that energy may be "obtained" economically through the RCS Program. This indicates that under these assumptions the program's benefits appear to exceed its costs. In other words, if no program were implemented, the Nation is likely to have to purchase additional energy supplies at a greater total cost than the estimated cost of implementing the program. However, with the more conservative assumptions about the program in case 1, the opposite conclusion results. Case 2 results in energy savings at a cost somewhat higher than current natural gas and electricity prices, as well as the average residential energy price. Also, the cost per BOE saved under case 2 even exceeds the price of imported oil if a 15-percent discount rate is used. The benefit/cost results of the program, therefore, depend highly on the assumptions of the costs and responses to the program. This case study analysis indicates an advantage to the new rule when compared to the overall cost-effectiveness of the old rule, but it does not indicate a clear advantage to implementation of the program compared to the effects of no program.

TABLE 1.—ESTIMATES OF CRITICAL PARAMETERS

	1 Old/new	2 Old/new	3 Old/new	4 Old/new
Audit rate (percent) [1]	1.5/1.5	2.5/2.5	4/4	7/7
Major retrofit rate [1] (percent)	25/25	30/30	40/40	50/50
Program fraction [2] (percent)	20/20	30/30	45/45	75/75
Percent of energy saved by major retrofit [3] (percent)	7.2/6	13/11.7	15/13	30/25
Major retrofit cost/unit	$800/$867	$1,000/$833	$800/$867	$1,200/ $1,000
Audit cost/unit	$130/$117	$115/$92	$90/$72	$80/$57

[1] The fraction of those persons receiving audits who do major retrofits.
[2] The program fractions are those persons performing the indicated activity because of the RCS Program.
[3] Energy savings are expressed as a fraction of total energy use.

TABLE 2.—CUMULATIVE COSTS TO YEAR 1985 (INCLUDES PROGRAM COSTS AND CUSTOMER INVESTMENT COSTS; PROGRAM COSTS ONLY ARE INDICATED IN PARENTHESES)

[Billions of dollars]

	1	2	3	4
Old rule	1,030 (874)	1,662 (1,337)	2,747 (1,206)	9,607 (1,554)
New rule	715 (577)	1,227 (702)	2,103 (721)	7,747 (969)

TABLE 3.—CUMULATIVE ENERGY SAVING TO THE YEAR 2000 UNDER OLD AND NEW RULES

[Billions of BOE]

	1	2	3	4
Old rule	9.95	62	239	1,661
New rule	9.72	57	214	1,496

TABLE 4.—COSTS OF BARRELS OF OIL EQUIVALENT SAVED UNDER OLD AND NEW RULES

[Dollars per BOE]

	Discount rate (percent)	1	2	3	4
Old rule	10	181.67	41.64	17.96	9.03
	15	212.37	54.70	23.59	11.86
New rule	10	197.96	33.69	15.33	8.42
	15	168.09	46.25	20.14	11.08

In conclusion, DOE believes that the RIA demonstrates that there is substantial uncertainty about the cost-effectiveness of the program as a whole and the many specific requirements imposed by statute or regulation. Because of this uncertainty, it is probable that the program is not cost-effective for at least some regions of the country. Of particular note is that the revised RIA demonstrates that the cost-effectiveness and overall impact of the program was substantially overestimated in the original RIA for the program, issued in 1979. Finally, the RIA indicates that the program revisions will permit about a 35-percent reduction in direct program costs (the RIA indicates a 34- to 36-percent range), and they also are likely to result in a modest, but still significant increase in the program's overall cost-effectiveness. Based on the substantial uncertainty surrounding the program's effects and the marginal improvements in estimated overall cost-effectiveness, DOE believes the RIA supports the general conclusions that the changes made in the amended final rule are justified.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354) requires, in part, that an agency prepare an initial regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and explanation of that determination in the Federal Register.

DOE certified in the Nov. 12th notice that the proposed rule would not have a significant economic impact on a substantial number of small entities. DOE did not receive any comments directed specifically at this certification. However, numerous comments were received on the potential impact of the proposed amendments on small entities. None of these comments suggested that the proposed rule, if finalized, would impose any additional direct burdens or costs on small businesses. The regulations generally apply only to States and major utilities. In fact, several comments suggested that the proposed deletion of many provisions, such as detailed requirements for contractors and manufacturers to observe material and installation standards, would relieve a considerable burden on nonutility entities, many of which are small.

On the other hand, many commenters, including the Small Business Administration, expressed concern that the removal of several provisions designed to prevent or minimize anticompetitive utility activity might adversely affect small businesses. Anticipating this concern, the Nov. 12th notice emphasized that a general requirement that RCS plans contain adequate measures to prevent such acts or practices remains. Further, in response to comments received from small entities and other institutions and

persons, DOE has added several provisions to the amended final rule that are intended to reduce further the risk of anticompetitive or discriminatory activities. Therefore, DOE again certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

V. Environmental Impacts

As indicated in the Nov. 12th notice, DOE has prepared an Environmental Impact Statement for the entire Residential Conservation Service Program (DOE/EIS–0050) in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The notice of availability was published in the **Federal Register** on November 7, 1979. Copies may be obtained by writing the Building Service Division at the address provided at the beginning of this notice.

This EIS addressed both the national aggregate pollution impacts of the program, and the potential site-specific health and safety impacts. In general, the EIS concluded that the program was likely to have a small, but positive impact on pollution levels nationwide. With respect to site-specific impacts, the EIS addressed the potential health and safety impacts of each energy conservation or renewable resource measure to be addressed by the energy audits required under the program. The EIS concluded that these measures posed no significant health or safety problems if properly manufactured and installed. Finally, the EIS discussed a general concern about the effects of those measures designed to reduce air infiltration. Lower levels of air infiltration often increase the levels of air pollutants found in indoor air.

On November 12, DOE proposed amendments to the RCS rule. The amendments that are most relevant to the issues addressed in the programmatic EIS include: the reduction of the number of different conservation and renewable resource measures required to be included in program audits and the establishment of a general requirement that States adopt procedures to assure quality supply and installation activities under the program as a substitute for the very detailed material and installation standards and post-installation inspection requirements that were contained in the Nov. 7th rule.

The Nov. 12th notice stated that the subject matter of the proposed rulemaking was within the scope of the programmatic EIS and that the impacts of the proposed rulemaking were adequately addressed in the EIS. The notice specifically called attention to the potential adverse effects of the RCS Program on indoor air quality which were indentified in the EIS. To respond to this potential environmental problem, DOE specifically solicited public comment on whether the program announcement or the energy audit should be required to include information on indoor air quality.

Approximately 25 comments were received which addressed DOE's finding that the previously completed EIS sufficiently addressed the provisions of the proposed rule, or DOE's request for comments on the need to require the distribution of information on indoor air quality.

DOE continues to believe that the impacts of the amendments to the Nov. 7th rule are adequately analyzed in the EIS. No supplement to the existing EIS is required since the amendments do not include substantial changes to the RCS Program which are relevent to environmental concerns not analyzed in the EIS nor have significant new circumstances or information relevant to the environmental concerns arisen since completion of the EIS.

Several commenters strongly objected to the DOE finding on the sufficiency of the existing EIS. These commenters generally felt that the proposal would lead to a substantial reduction in resulting energy savings and, consequently, to an increase in air and water pollutants over levels that would have been attained under the Nov. 7th rule.

DOE recognizes that the revised regulations will permit States and utilities to implement simpler and less costly programs that may not achieve all of the energy savings possible from the more costly program required by the Nov. 7th rule. While the Nov. 7th rule is the environmentally preferable alternative from this perspective, DOE believes that the amended final rule will still reduce energy consumption and consequently the national levels of major pollutants. The impacts of the reduced energy conservation benefits that would likely result from the program as amended are within the range of impacts analyzed in the EIS. Under either the original Nov. 7th rule or the amended final rule, the overall impact on the environment from the program would be small. For the reasons discussed earlier in the preamble, DOE has decided that the significant reduction in overall program costs justifies the reduction in potential environmental benefits due to reduced energy consumption.

In addition to the national impacts, the EIS analyzed the potential impacts of the program's energy conservation and renewable resource measures on the site-specific health and safety of eligible residential customers. The EIS concluded that no significant risk exists from any of the measures if manufactured and installed properly. The EIS categorized the covered measures according to the perceived risk of their use if manufactured or installed improperly.

One category of measures was considered to have a very low probability of producing an adverse health or safetly impact, even if the measures were improperly manufactured or installed. These measures included caulking, weatherstripping, replacement air-conditioners, passive solar measures, duct and pipe insulation, clock thermostats, heat reflective and heat absorbing window or door material, devices associated with electric load management techniques, and energy conservation practices.

The second category of measures described in the EIS was considered to have a "higher probability" of producing an adverse health or safety impact, if improperly manufactured or installed. For example, if some forms of insulation are put in contact with a heat source, such as a lighted cigarette or recessed light fixture, laboratory tests indicate that there will be an increased risk of fire. The measures in this category included ceiling insulation, wall insulation (other than urea-formaldehyde foam), floor insulation, water heater insulation, storm or thermal windows, storm or thermal doors, replacement furnaces or boilers, oil furnace replacement burners, active solar heating, active solar water heating and solar pool heaters.

A third category was identified that included measures which, if improperly manufactured or installed, were likely to significantly increase the potential for adverse health and safety impacts. For example, an improperly installed vent damper can significantly increase the risks of carbon monoxide poisoning or explosion. These measures were: urea-formaldehyde foam insulation,[6] vent dampers, electric and mechanical intermittent ignition devices, and small wind energy conversion systems.

DOE considered a range of alternatives for addressing the potential problems associated with the improper manufacture or installation of covered measures.

[6] This insulation is no longer part of the program, due to action by the Consumer Product Safety Commission (47 FR 14366, April 2, 1982).

Among the restrictive alternatives considered was the Nov. 7th rule, which included standards for all measures in the second and third categories described above and required the performance of either random or 100 percent post-installation inspections of these same measures. The least restrictive alternative considered was represented by the Nov. 12th proposal, which contained no mandatory material and installation standards nor any requirements for post-installation inspections.

Based on the analysis in the EIS, on the public comments received on the proposed amendments, and on a further review of existing data on the health and safety impacts of the covered measures, DOE has determined that the retention of mandatory Federal standards is not warranted.[1] However, DOE included in the amended final rule a general requirement that States and nonregulated utilities establish procedures to ensure that reasonable levels of effectiveness and safety are maintained in the supply and installation of measures under the program.

There is little evidence of actual incidents directly attributable to the use of covered measures. The EIS describes the potential hazards that can result from the improper manufacture or installation of covered measures. In many cases these hazards can be created solely by the actions of the manufacturer or installer of the covered measurer. In other cases, the hazards are not significant unless improper installation is associated with other contributing factors (such as overfused wiring).

Most of the potential hazards identified have already been the subject of actions by: manufacturers (in the form of improved materials and construction or installation guidelines); private industry in general (in the form of consensus standards issued by organizations such as the American National Standards Institute, the American Society for Testing and Materials, the American Society of Heating, Refrigeration and Air-Conditioning Engineers, Underwriter's Laboratory, and the American Gas Association); State and local governments (in the form of building codes); and the Federal Government (in the form of national mandatory standards issued by the Consumer Product Safety Commission or guidelines issued by other agencies).

The environmentally preferable alternative is the retention of the standards and post-installation inspection requirements in the RCS Program. However, the additional health and safety benefits that would likely be realized by these requirements are estimated to be very small, relative to the requirements of the present amendment.

While a few measures might pose a significant health and safety risk if improperly manufactured and installed, actions by manufacturers, installers, State and local governments, and other institutions are capable of ensuring that reasonable levels of safety can be maintained, without the retention of specific RCS standards or post-installation requirements. For this reason, DOE has adopted in the amended final rule a general requirement that States and nonregulated utilities adopt procedures to provide quality assurance for supply and installation activities under the program.

The final major issue concerns the effects of the RCS Program on indoor air quality and the extent to which DOE or States should take actions under the RCS Program to mitigate the potential health problems that might result from significantly reduced indoor air quality levels.

The discussion of this issue in the programmatic EIS is still current and comprehensive. The EIS identifies numerous sources of indoor air pollutants, such as radon, formaldehyde, and combustion byproducts; and discusses the potential health hazards posed by high concentrations of these pollutants. It also discusses the potential impact of certain RCS Program measures, such as weatherstripping and caulking, on air exchange rates in residences and, ultimately, on the concentrations of these pollutants.

It is generally recognized that these measures, which are regularly recommended by RCS Program audits, are designed to reduce air infiltration in existing residences. Reduced air infiltration saves energy by slowing the rate at which heated or cooled indoor air escapes the structure. As a result, these measures slow the rate at which indoor air is mixed with outdoor air. This reduced air exchange rate means that indoor air contaminants are replaced by "fresh" air less often and, as a result, the indoor air quality may be reduced. The seriousness of the risks posed by such reduction in air quality, however, is still largely unknown. How much air exchange rates can be reduced without posing significant health risks is subject to considerable debate.

Since the completion of the EIS, some additional information has become available on indoor air quality. For example, both DOE and HUD have supported research on the possible effects of conventional weatherization techniques on air exchange rates. DOE's research indicated that weatherization efforts directed specifically at reducing air infiltration in about 100 New Jersey homes were able to reduce exchange rates by about 15 percent on average. HUD's research indicated up to a 25-percent reduction was achieved in some of the residences included in a 76 home sample. Other DOE research has also confirmed that there are very large variations in the concentrations of indoor air pollutants, paraticularly radon. Radon concentrations have been found to vary by a factor of several hunderd even within the same region. In general, no significant new research on the health effects of indoor air pollutants has been completed; an exception is the additional research on the effects of formaldehyde which led to a CPSC decision to ban urea-formaldehyde foam insulation. Finally, ASHRAE has recently issued a new consensus standard (62–81) on the ventilation levels required for acceptable indoor air quality.

Although this added information has contributed to an understanding of the indoor air quality issue, it does not constitute significant new circumstances or information relevant to environmental concerns and bearing on the program or its impacts. Present information is still insufficient to lead to any firm conclusions about the level of health hazards posed now by indoor air pollutants, the likely effect of the RCS Program on this level, or the most appropriate mitigating actions. This lack of reliable data on indoor air quality has been recognized recently by several organizations, including ASHRAE, the World Health Organization, the National Academy of Sciences, and the Council on Environmental Quality, all of whom recommend that additional research be performed.

Most of the comments received on this issue agreed that insufficient evidence existed to warrant the establishment of specific requirements as part of these amendments. In general, these commenters recommended continued research.

On the basis of these comments, DOE had decided not to require the distribution of specific information on indoor air quality as part of the program

[1] This finding does not apply to cellulose insulation or urea-formaldehyde foamed-in-place insulation, both of which have been the subject of action by the Consumer Product Safety Commission, to which DOE defers.

announcement or the program audit. Nevertheless, DOE believes that States and utilities should continue to be cognizant of the potential risks posed by very low air exchange rates and/or by major sources of hazardous indoor air contaminants. In those areas where high levels of such contaminants exist or where particularly aggressive efforts to reduce substantially air infiltration are being undertaken, DOE encourages States and utilities to consider the distribution of information on the importance of maintaining indoor air quality and on viable measures to assure that reasonable safe levels of air quality are maintained, while still conserving energy. Such information is available from DOE by writing the Building Services Division at the address given at the beginning of this notice.

The decisions made on two of the three issues discussed above reflect a rentention of provisions intended to minimize environmental impacts, while providing considerably greater flexibility and responsibility to States to design and implement a program most appropriate to their needs. These decisions were: to include several provisions, largely drawn from the Nov. 7th rule, which are expected to result in higher levels of energy savings than would have been realized under the Nov. 12th notice (e.g., the retention of conservation practices in the program audit); and to establish a general provision requiring States to adopt (or retain) procedures to assure that reasonable levels of safety are maintained in the supply and installation of measures under the program. The overall conclusions of the programmatic EIS remain valid. These are that the RCS Program is likely to result in small, but positive impacts on national pollutant levels, and that the conservation and renewable resource measures covered by the program are safe and environmentally benign when properly manufactured and installed.

This preamble constitutes the record of decision required by 40 CFR 1505.2 (Regulations for Implementing the Procedural Provision of the National Environmental Policy Act).

VI. Paperwork Reduction Act

The reporting and recordkeeping requirements contained in § 456.316 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 1904-0510.

List of Subject in 10 CFR Part 456

Energy audits, Energy conservation, Housing, Insulation, Reporting requirements, Solar energy, Utilities.

In consideration of the foregoing, the Department of Energy amends Chapter II, Title 10 of the Code of Federal Regulations, by amending Part 456 as set forth below.

Issued in Washington, D.C., on June 15, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

10 CFR Part 456 is amended by revising Subparts A through F and Appendices I and II, adding a new Appendix III, and removing Subparts G through I. As amended, Part 456 reads as follows:

PART 456—RESIDENTIAL ENERGY CONSERVATION PROGRAM

Subpart A—General Provisions and Definitions

Sec.
456.101 Purpose and scope.
456.102 Petitions concerning conflicts of laws.
456.103 Appeals and other relief.
456.104 List of covered utilities.
456.105 Definitions.
456.106 Utility and home heating supplier liability.

Subpart B—Preparation, Submission, and Approval of State Plans and Temporary Programs

456.201 Scope.
456.202 Initial submission.
456.203 Notice, comment, and public hearing.
456.204 Procedures for submission and approval of State plans.
456.205 Home heating suppliers.
456.206 Tennessee Valley Authority (TVA).
456.207 Temporary Programs.

Subpart C—Content of State Plans

456.301 Scope.
456.302 Coverage of State Plan.
456.303 Procedures for enforcing compliance with the State Plan.
456.304 State monitoring of utility supply, installation, and financing.
456.305 Program announcement.
456.306 Requirements for program audits.
456.307 Arranging installation.
456.308 Arranging financing.
456.309 Accounting and payment of costs.
456.310 Customer billing, repayment of loans, and termination of service.
456.311 List of suppliers, contractors, and lenders.
456.312 Complaints processing and redress procedures.
456.313 Coordination.
456.314 Home heating suppliers.
456.315 Program measures.
456.316 Reporting and recordkeeping.
456.317 Quality assurance.

Subpart D—Nonregulated Utility Plans

Sec.
456.401 Scope.
456.402 Coverage.
456.403 Notice, comment, and public hearing.
456.404 Procedures for submission and approval of Nonregulated Utility Plans.
456.405 Temporary Programs.
456.406 Content of plans.

Subpart E—Supply, Installation, and Financing by Utilities

456.501 Scope and definitions.
456.502 Prohibition.
456.503 Exemption for certain measures.
456.504 Exemption for utility subcontractor supply and installation.
456.505 Exemption for existing supply and installation.
456.506 Exemption for supply and installation authorized by State or local law.
456.507 Waivers.
456.508 Notification.
456.509 Procedure for obtaining determinations and waivers.
456.510 Appeals.
456.511 Certain exempt activities and compliance with accounting, costing, billing, and repayment provisions.

Subpart F—Federal Standby Authority and Enforcement Provisions

456.601 Scope.
456.602 Conditions under which standby authority shall be invoked.
456.603 Standby authority in lieu of State Plans.
456.604 Standby authority for nonregulated utilities.
456.605 Failure to comply with orders.
456.606 Enforcement provisions; Penalties; Election of review procedure.
Appendix I to Part 456—Program Measures.
Appendix II to Part 456—Prototypical House Assumptions.
Appendix III to Part 456—Multifamily Applicability Criteria and Procedures for Determining Usage Cutoff Levels.

Authority.—Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.* (42 U.S.C. 8211 *et seq.*), as amended by Subtitle B of Title V of the Energy Security Act, Pub. L. 96-294, 92 Stat. 611 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 *et seq.* (42 U.S.C. 7101 *et seq.*).

Subpart A—General Provisions and Definitions

§ 456.101 Purpose and scope.

This part contains the regulations of the Residential Conservation Service (RCS) Program. This program is mandated by Part 1 of Title II of the National Energy Conservation Policy Act, Pub. L. 95-619 as amended by Subtitle B of Title V of the Energy Security Act (ESA), Pub. L. 96-294.

§ 456.102 Petitions concerning conflicts of laws.

(a) A utility filing a petition to determine whether the utility—

(1) Is prohibited by a State or local law or regulation from taking any action required to be taken under NECPA, or

(2) Is required or permitted by a State or local law or regulation to take any action prohibited by NECPA, shall file the petition with the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Any such petition shall contain a copy of the applicable State or local laws or regulations and a description of the action the utility believes it is prohibited from taking or is permitted or required to take under such laws or regulations.

(b) The Assistant Secretary shall give notice of the petition to the Governor, State Energy Office, and State Regulatory Authority of the applicable State, and such other persons as the Assistant Secretary deems appropriate. Any such person or entity may file comments with the Assistant Secretary with respect to such petition within 30 days of receipt of the notice.

(c) If the Assistant Secretary determines pursuant to such petition that a State or local law or regulation prohibits a utility from taking any action required to be taken under NECPA or permits or requires a utility to take any action prohibited by NECPA, the Assistant Secretary shall issue an order superseding such State or local laws or regulations to the extent the laws or regulations are inconsistent with NECPA. Such an order shall be effective with respect to all utilities otherwise subject to such State or local laws or regulations and shall moot any outstanding petitions under this section by such utilities.

§ 456.103 Appeals and other relief.

(a) Any person seeking relief from the application of this rule may submit a request for relief in accordance with Subpart R of 10 CFR Part 205. When applicable, such a request shall contain the approval of the Governor.

(b) Any person aggrieved by any order, finding, or determination made under §§ 456.102, 456.502–456.505, or § 456.507 may appeal that order, finding, or determination in accordance with Subpart H of 10 CFR Part 205. Any person so aggrieved has not exhausted his administrative remedies until an appeal has been filed under Subpart H of 10 CFR Part 205 and an order granting or denying the appeal has been issued.

§ 456.104 List of covered utilities.

(a) Before the beginning of each calendar year, the Department of Energy shall publish in the Federal Register a list of all covered utilities for that calendar year.

(b) Not later than 60 days after publication of the list, each State Regulatory Authority shall forward to the Assistant Secretary a copy of such list with designations as to which covered utilities on the list are under the jurisdiction of that Regulatory Authority.

(c) The publication of the list is for informational purposes, and the failure to include a covered utility on the list or the failure of a State Regulatory Authority to designate a covered utility subject to its jurisdiction in no way affects the duties of or requirements upon such covered utility under these rules or any plan promulgated pursuant to these rules.

§ 456.105 Definitions.

For purposes of this part—

Assistant Secretary. The term "Assistant Secretary" means the Assistant Secretary for Conservation and Renewable Energy of the U.S. Department of Energy.

Covered Utility. The term "covered utility" means in any calendar year a public utility which during the second preceding calendar year had either—

(1) Sales of natural gas for purposes other than resale which exceeded 10 billion cubic feet, or

(2) Sales of electric energy for purposes other than resale which exceeded 750 million kilowatt-hours.

Eligible Customer. The term "eligible customer" means a person who both—

(1) Owns or occupies a residential building or dwelling unit therein (except that the owner of the common area within a residential building containing five or more dwelling units shall not be treated as an eligible customer for the purposes of the common area until such time as further rules are issued pursuant to this Part); and

(2) Receives a fuel bill from a covered utility or participating home heating supplier for fuel used in such residential building or dwelling unit therein.

Energy Conservation Measures. The term "energy conservation measures" means the following measures in a residential building—

(1) *Caulking.* The term "caulking" means pliable materials used to reduce the passage of air and moisture by filling small gaps which may include (i) at fixed joints on a building, (ii) under baseboards inside a building, (iii) in exterior walls at electric outlets, (iv) around pipes and wires entering a building, and (v) around dryer vents and exhaust fans in exterior walls. Caulking includes, but is not limited to, materials commonly known as "sealants," "putty," and "glazing compounds."

(2) *Weatherstripping.* The term "weatherstripping" means narrow strips of material placed over or in movable joints of windows and doors to reduce the passage of air and moisture.

(3) *Furnace Efficiency Modifications.* The term "furnace efficiency modifications" means—

(i) *Replacement Furnaces or Boilers.* The term "replacement furnaces or boilers" means a furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation, or reduced heat losses.

(ii) *Furnace Replacement Burner (Oil).* The term "furnace replacement burner (oil)" means a device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and which, because of its design, achieves a reduction in the oil used from that used by the device which it replaces.

(iii) *Flue Opening Modification (Vent Damper).* The term "flue opening modification (vent damper)" means an automatically operated damper installed in a gas-fired furnace which—

(A) Is installed downstream from the drafthood; and

(B) Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace is not in operation.

(iv) *Intermittent Pilot Ignition Device (IID).* The term "intermittent pilot ignition device (IID)" means a device which, when installed in a gas-fired furnace or boiler, automatically ignites the gas burner and replaces a gas pilot light.

(4) *Replacement Central Air Conditioner.* The term "replacement central air conditioner" means a central air conditioner which replaces an existing central air conditioner of the same fuel type and which reduces the amount of fuel consumed due to an increase in efficiency.

(5) *Ceiling Insulation.* The term "ceiling insulation" means a material, primarily designed to resist heat flow, which is installed between the conditioned area of a building and an unconditioned attic. Where the conditioned area of a building extends to the roof, the term "ceiling insulation" also applies to such material used between the underside and upperside of the roof. The term "ceiling insulation"

also includes such material installed on the exterior of the roof.

(6) *Wall Insulation.* The term "wall insulation" means a material, primarily designed to resist heat flow, which is installed within or on the walls between conditioned areas of a building and unconditioned areas of a building or the outside.

(7) *Floor Insulation.* The term "floor insulation" means a material, primarily designed to resist heat flow, which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space, or the outside beneath it. Where the first level conditioned area of a building is on a ground level concrete slab, the term "floor insulation" also means such material installed around the perimeter of or on the slab. In the case of mobile homes, the term "floor insulation" also means skirting to enclose the space between the building and the ground.

(8) *Duct Insulation.* The term "duct insulation" means a material, primarily designed to resist heat flow, which is installed on a heating or cooling duct in an unconditioned area of a building.

(9) *Pipe Insulation.* The term "pipe insulation" means a material, primarily designed to resist heat flow, which is installed on a heating or cooling pipe in an unconditioned area of a building.

(10) *Water Heater Insulation.* The term "water heater insulation" means a material, primarily designed to resist heat flow, which is suitable for wrapping around the exterior surface of the water heater casing.

(11) *Storm Window.* The term "storm window" means a window or glazing material placed outside or inside an ordinary or prime window, creating an air space, to provide greater resistance to heat flow than the prime window alone.

(12) *Thermal Window.* The term "thermal window" means a window unit with improved thermal performance through the use of two or more sheets of glazing material affixed to a window frame to create one or more insulated air spaces. It may also have an insulating frame and sash.

(13) *Storm Door.* The term "storm door" means a second door, installed outside or inside a prime door, creating an insulating air space.

(14) *Thermal Door.* The term "thermal door" means—

(i) A door with enhanced resistance to heat flow through the glass area by affixing two or more sheets of glazing material; or

(ii) A prime exterior door with an R-value of at least 2.

(15) *Heat Reflective and Heat Absorbing Window or Door Material.* The term "heat reflective and heat absorbing window or door material" means a window or door glazing material with exceptional heat reflecting or heat absorbing properties; or reflective or absorptive films and coatings applied to an existing window or door which thereby result in exceptional heat reflecting or heat absorbing properties.

(16) *Devices Associated with Electric Load Management Techniques.* The term "devices associated with electric load management techniques" means devices that reduce the maximum kilowatt demand on an electric utility and which are either—

(i) Part of a radio, ripple or other utility controlled load switching system on the customer's premises;

(ii) Clock-controlled load switching devices on major appliances;

(iii) Interlocks, and other load-actuated, load-limiting devices; or

(iv) Energy storage devices with control systems.

(17) *Clock Thermostat.* The term "clock thermostat" means a device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed and which uses—

(i) A temperature control device for interior spaces incorporating more than one temperature control level, and

(ii) A clock or other automatic mechanism for switching from one control level to another.

Energy Conserving Practices. The term "energy conserving practices" means low or no cost practices designated by the Governor in a State Plan which (a) save energy, (b) do not require the installation of energy conservation or renewable resource measures, and (c) do not adversely impact the RCS Program. Such practices may include, but are not limited to—

(1) Furnace Efficiency Maintenance and Adjustments, which means cleaning and combustion efficiency adjustment of gas or oil furnaces, periodic cleaning or replacement of air filters on forced-air heating or cooling systems, lowering the bonnet or plenum thermostats to 80° F. on gas or oil forced-air furnaces, and turning off the pilot light on a gas furnace during the summer;

(2) Nighttime Temperature Setback, which means manually lowering the thermostat control setting for the furnace during the heating season to a maximum of 55° during sleeping hours;

(3) Reducing Thermostat Settings in Winter, which means limiting the maximum thermostat control setting for the furnace to 66° F. during the heating season;

(4) Raising Thermostat Setting in Summer, which means setting the thermostat control for an air conditioner to 78° F. or higher during the cooling season;

(5) Water Flow Reduction in Showers and Faucets, which means placing a device in a shower head or faucet to limit the maximum flow to three gallons per minute, or replacing existing shower heads or faucets with those having built-in provisions for limiting the maximum flow to three gallons per minute;

(6) Reducing Hot Water Temperatures, which means manually setting back the water heater thermostat setting to 120° F., and reducing the use of heated water for clothes washing;

(7) Reducing Energy Use When a Home is Unoccupied, which means reducing the thermostat setting to 55° F. when a home is empty for four hours or longer in the heating season, turning an air conditioner off in the cooling season when no one is home, and turning a water heater off when a home is vacant for two days or longer;

(8) Plugging Leaks in Attics, Basements, and Fireplaces, which means (i) installing scrap insulation or other pliable materials in gaps around pipes, ducts, fans, or other items which enter the attic or basement from a heated space, (ii) installing fireproof material to plug any holes around any damper in a fireplace, and (iii) adding insulation to an attic or basement door;

(9) Sealing Leaks in Pipes and Ducts, which means installing caulking in any leak in a heating or cooling duct, tightening or plugging any leaking joints in hot water or steam pipes, and replacing washers in leaking water valves; and

(10) Efficient Use of Shading, which means using shades or drapes (i) to block sunlight from entering a building in the cooling season, (ii) to allow sunlight to enter during the heating season, and (iii) to cover windows tightly at night during the heating season.

ESA. The term "ESA" means Subtitle B of Title V of the Energy Security Act, Pub. L. 96-294, which amended Part 1 of Title II of the National Energy Conservation Policy Act (NECPA).

Governor. The term "Governor" means the Governor or chief executive officer of a State or his designee; or, if a State agency is specifically designated by State law to carry out any function under the RCS Program, then the term "Governor" means that State agency for that function.

Home Heating Supplier. The term "home heating supplier" means a person who sells or supplies home heating fuel

(including No. 2 heating oil, kerosene, butane, and propane) to an eligible customer for consumption in a residential building.

Measure Warranties. (1) The term "manufacturer's measure warranty" means, at a minimum, a written warranty by the manufacturer of an energy conservation or renewable resource measure that the eligible customer for whom the measure is installed, the installation contractor who installs the measure, and the seller of the measure shall be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design;

(2) The term "supplier's measure warranty" means, at a minimum, a written warranty equivalent to that referred to in paragraph (1) of this definition provided by the supplier of an energy conservation or renewable resource measure to persons who purchase the measure from the supplier.

(3) The term "contractor's measure warranty" means, at a minimum, a written warranty by a contractor installing an energy conservation or renewable resource measure that any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time.

NECPA. The term "NECPA" means Part 1 of the Title II of the National Energy Conservation Policy Act, Pub. L. 95–619, as amended by Subtitle B of Title V of the Energy Security Act (ESA).

Nonregulated Utility. The term "nonregulated utility" means a public utility which is not a regulated utility.

Nonregulated Utility Plan. The term "nonregulated utility plan" means a plan developed pursuant to Subpart D of this part.

Participating Home Heating Supplier. The term "participating home heating supplier " means a home heating supplier that has elected to participate in a State Plan which includes home heating suppliers.

Program Announcement. The term "program announcement" means the RCS program information and offer of services required to be provided by a covered utility or participating home heating supplier to each eligible customer by § 456.305.

Program Audit. The term "program audit" means an audit in which the estimates of costs and energy savings are based on an adequate assessment, including actual measurements or inspections, as appropriate, performed on-site by the auditor, of the building shell and of the space heating, space cooling, and water heating equipment of the residence of an eligible customer. In the case of residential buildings containing more than four dwelling units, the program audit may mean an audit in which the estimates of costs and energy savings are based on a sampling of the types of units in the building.

Program Information. The term "program information" means the program announcement and any information dissemination activities related to an RCS Program.

Program Measures. The term "program measures" means those energy conservation or renewable resource measures which the Assistant Secretary has by rule determined to be appropriate by climatic region and fuel use category and which are found in Appendix I to this part, or which are determined to be program measures by a Governor in accordance with § 456.315(b).

Public Utility. The term "public utility" means any person, State agency, or Federal agency which is engaged in the business of selling natural gas or electric energy, or both, to residential customers for use in residential buildings.

Rate. The term "rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to sales of electric energy or natural gas, any rule, regulation, or practice respecting any such rate, charge or classification, and any contract pertaining to the sales of electric energy or natural gas.

Ratemaking Authority. The term "ratemaking authority" means authority to fix, modify, approve, or disapprove, rates.

RCS Program. The term "RCS Program" (Residential Conservation Service Program) means the program required to be implemented by covered utilities pursuant to an approved State Plan, an approved Nonregulated Utility Plan, or a Federal Standby Plan.

Regulated Utility. The term "regulated utility" means a public utility with respect to whose rates a State regulatory authority has ratemaking authority.

Renewable Resource Measure. The term "renewable resource measure" means the following measures in or with respect to a residential building—

(1) *Solar Domestic Hot Water Systems.* The term "solar domestic hot water systems" means equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.

(2) *Active Solar Space Heating Systems.* The term "active solar space heating systems" means equipment designed to absorb the sun's energy and to use this energy to heat living space by use of mechanically forced energy transfer devices, such as fans or pumps.

(3) *Combined Active Solar Space Heating and Solar Domestic Hot Water System.* The term "combined active solar space heating and solar domestic hot water system" means equipment designed to perform both of the functions described in paragraphs (1) and (2) of this definition.

(4) *Wind Energy Devices.* The term "wind energy devices" means equipment that uses wind energy to produce energy in any form for residential purposes.

(5) *Replacement Solar Swimming Pool Heaters.* The term "replacement solar swimming pool heaters" means a device which uses the sun's energy solely for the purpose of heating swimming pool water and which displaces the use of a swimming pool heater using electricity, gas or other fossil fuels.

Residential Building. The term "residential building" means any building used for residential occupancy which—

(1) Is not a new building to which voluntary performance standards under Section 304(a) of the Energy Conservation and Production Act, as amended, apply;

(2) Has a system for heating or cooling or both; and

(3) Contains at least one, but not more than four, dwelling units. After January 1, 1982, the term "residential building" also includes any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.

Secretary. The term "Secretary" means the Secretary of Energy.

State. The term "State" means a State, the District of Columbia and Puerto Rico.

State Agency. The term "State agency" means a State, a political subdivision thereof, or any agency or instrumentality of either.

State Plan. The term "State Plan" means a plan developed pursuant to Subpart B and C of this part.

State Regulatory Authority. The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sales of electric energy or natural gas by any public utility (other than by such State agency), except that in the case of a

public utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

TVA. The term "TVA" means the Tennessee Valley Authority.

§ 456.106 Utility and home heating supplier liability.

A covered utility or participating home heating supplier that arranges for a lender to make a loan to, or a contractor to perform work for, an eligible customer should not be held liable, by virtue of its role as project manager for the RCS program, in any cause of action between such customer and such lender or contractor.

Subpart B—Preparation, Submission, and Approval of State Plans and Temporary Programs

§ 456.201 Scope.

This subpart identifies the responsibilities of the States and the Tennessee Valley Authority (TVA) in the preparation and submission of State Plans; the procedures for approval of the State Plan by the Assistant Secretary; and the procedures for submission and criteria for approval of Temporary Programs.

§ 456.202 Initial submission.

If a State intends to submit a State Plan, the Governor shall submit by January 6, 1980, a list of nonregulated covered utilities, if any, operating in the State which will be subject to the State Plan.

§ 456.203 Notice, comment, and public hearing.

Prior to submission of the State Plan to the Assistant Secretary for approval, the Governor shall provide for meaningful public notice, an opportunity for public comment, and public hearing.

§ 456.204 Procedures for submission and approval of State Plans.

(a) *Who shall submit.* Three (3) copies of the proposed State Plan shall be submitted to the Assistant Secretary by either:

(1) The Governor of the State; or

(2) The TVA with respect to all covered utilities over which the TVA has ratemaking authority and, in the discretion of TVA, with respect to any covered utility over which the TVA and another State Regulatory Authority have ratemaking authority.

(b) *Time for submission.* The proposed State Plan shall be submitted by June 4, 1980, unless the time for submission has been extended by the Assistant Secretary, upon request of the Governor, for good cause shown.

(c) *Approval.* If a proposed State Plan meets the criteria of Subparts B and C of this part, the Assistant Secretary shall approve it within 90 days of the date the proposed State Plan was submitted.

(d) *Disapproval.* (1) If a proposed State Plan does not meet the criteria of Subparts B and C of this part, the Assistant Secretary shall, within 90 days of the date the proposal State Plan was submitted, disapproved the proposed State Plan in writing and shall specify in writing the grounds for disapproval.

(2) Within 60 days of the date of disapproval of a proposed State Plan, or such longer period as the Assistant Secretary may determine, for good cause shown, the Governor may submit another proposed State Plan.

(e) *Amendments.* The Governor may submit proposed amendments to an approved State Plan at any time. The Assistant Secretary shall approve or disapprove a proposed amendment within 90 days of receipt of the proposed amendment.

§ 456.205 Home heating suppliers.

If the Governor submits a plan applicable to home heating suppliers in the State, it shall be a part of the State Plan and shall be submitted in accordance with the procedures of this subpart applicable to the submission of the State Plan.

§ 456.206 Tennessee Valley Authority.

In this part, except as otherwise specified, references to the Governor shall be deemed to refer also to the TVA and references to the State Plan shall be deemed to refer also to the TVA Plan. References in this part to a State as a geographic area shall with respect to the TVA Plan, be referenced to the service areas of the covered utilities subject to the TVA Plan. Reference in this part to a State as a governmental entity (other than references to State laws or regulations) or to any State Agency or officer shall be deemed to refer also to the TVA.

§ 456.207 Temporary Programs.

(a) *Definition of Temporary Program.* A Temporary Program is a plan or a part of a State Plan which exempts in whole of in part for a specified period, to be determined by the Assistant Secretary, but not to exceed three years from the date of approval of such Temporary Program, one or more utilities from one or more of the following provisions—

(1) The requirements for preparing and distributing the Program Announcement described in § 456.305;

(2) The requirements for offering and performing audits described in § 456.306;

(3) The requirements for offering to arrange and arranging installation of program measures described in § 456.307;

(4) The requirements for offering to arrange and arranging financing for the purchase or installation of program measures described in § 456.308;

(5) The requirements concerning accounting and payment of costs described in § 456.309;

(6) The requirements regarding billing of costs, repayment of loans, and termination of service described in § 456.310;

(7) The requirements for distributing the lists described in § 456.311(c); and

(8) The prohibition against supplying and installing by covered utilities described in § 456.502(a).

(b) *Who may submit.* A proposed Temporary Program may be submitted to the Assistant Secretary by either—

(1) The Governor of a State;

(2) A covered utility which is included in a State Plan, with the support of the Governor; or

(3) A nonregulated utility not included in a State Plan.

(c) *Time for submission.* A proposed Temporary Program shall be submitted to the Assistant Secretary anytime prior to 180 days after the effective date of these rules.

(d) *Approval.* (1) The Assistant Secretary shall approve or disapprove a proposed Temporary Program within 90 days of receipt of the Temporary Program, or later if he so notifies the person who submitted the proposed Temporary Program.

(2) The Assistant Secretary may approve a Temporary Program for a period not to exceed three years from the date of approval.

(e) *Criteria for approval.* The Assistant Secretary shall approve a proposed Temporary Program only if the person submitting the proposed Temporary Program demonstrates to the Assistant Secretary's satisfaction that the Temporary Program—

(1) Contains adequate procedures to assure that each covered utility under such program will charge fair and reasonable prices and rates of interest to its eligible customers in connection with the purchase and installation of residential energy conservation and renewable resource measures;

(2) Contains adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such program; and

(3) Is likely to result in the installation of program measures in at least as many residential buildings as would have

been installed had such utility not been exempt from the requirements for which exemption is sought.

(f) *Federal Standby Authority.* The Federal Standby Authority described in Subpart F shall not be exercised with respect to a covered utility which either—

(1) Is subject to an approved Temporary Program;

(2) Is proposed for inclusion under a proposed Temporary Program which has been submitted in accordance with paragraph (c) of this section, but has not yet been approved or disapproved by the Assistant Secretary; or

(3) Was subject to an approved Temporary Program which has terminated and such covered utility will be subject, within a reasonable time to be determined by the Assistant Secretary, to an adequately implemented approved State Plan or Nonregulated Utility Plan.

Subpart C—Content of State Plans

§ 456.301 Scope.

This subpart prescribes the minimum requirements for the content of State Plans. The State may include additional information and provide additional requirements in the State Plan for the RCS Program if such information and requirements are not specifically prohibited by these rules or by any applicable law or regulation. All references in this subpart to covered utilities apply to regulated and nonregulated covered utilities subject to the State Plan.

§ 456.302 Coverage of State Plan.

(a) *Regulated utilities.* All regulated utilities providing utility service in a State which meet the definition of "covered utility" in § 456.105 shall be subject to the State Plan and shall be identified in the State Plan.

(b) *Nonregulated utilities.* The State Plan shall identify which nonregulated covered utilities, if any, are covered under the State Plan.

(c) *Home heating suppliers.* The State Plan shall state whether it includes an RCS Program for home heating suppliers.

(d) *Temporary Programs.* The State Plan shall identify any covered utilities for which a request for a Temporary Program provision has been submitted, and describe or attach such provision for each such utility.

§ 456.303 Procedures for enforcing compliance with the State Plan.

(a) For the purposes of this section the term "RCS participant" means any person or entity directly governed by the State Plan, including covered utilities, participating home heating suppliers, and all suppliers, contractors, and lenders on the Master Record.

(b) The State Plan shall require each RCS participant to comply with the State Plan.

(c) The State Plan shall contain adequate procedures for enforcing compliance with the State Plan by each RCS participant.

§ 456.304 State monitoring of utility supply, installation, and financing.

The State Plan shall—

(a) Contain procedures to ensure that covered utilities which supply, install or finance the sale or installation of energy conservation or renewable resource measures shall—

(1) Charge fair and reasonable prices and interest rates, which shall be determined by periodic review of comparative prices and interest rates by a State designated agency;

(2) Conduct such activities in a manner which does not have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices;

(3) When undertaking to finance a lending program for such measures through financial institutions, seek funds for such financing from financial institutions located throughout the area covered by the lending program (to the extent each such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers); and

(4) Meet the requirements of § 456.504 if they undertake supply or installation activities under § 456.504.

(b) Require any utility undertaking a program involving the supply or installation of any energy conservation or renewable resource measures as permitted by § 456.504, or providing financing for the purchase or installation of any such measure, to notify the Assistant Secretary when such program becomes effective.

§ 456.305 Program announcement.

(a) *Distribution and content.* The State Plan shall require each covered utility and each participating home heating supplier to provide each eligible customer, no later than six months after approval of the State Plan and every two years thereafter until January 1, 1985, with the following:

(1) A list of the program measures for the category of residential buildings owned or occupied by such eligible customer.

(2) A reasonable estimate (or range of estimates) of the savings in energy costs for a specified period of time which are likely to result from installation of each of the program measures in a typical building or buildings in such category.

(3) A list of the energy conserving practices which shall be developed by the Governor. Such practices may include the practices defined in § 456.105.

(4) A reasonable estimate (or range of estimates) of the savings in energy costs for a specified period of time which are likely to result from the adoption of the practices, individually or as a group.

(5) An offer to perform each of the services required to be offered under §§ 456.306 (Program Audits), 456.307 (Arranging Installation), 456.308 (Arranging Financing), and 456.311(c) (List Distribution to Eligible Customers), and a description of the services. The offer of the program audit may be conditioned upon a nondiscriminatory factor such as serving one geographic area at a time or serving a certain type of energy user first.

(6) Federal tax credit information.

(b)(1) The State Plan shall specify whether a covered utility or participating home heating supplier is permitted or prohibited from including with the program information any advertising for the sale, installation or financing by any supplier, contractor, or lender (including the covered utility) of any program measure.

(2) If advertising is permitted, the State Plan shall contain procedures to ensure that such advertising does not unfairly discriminate against any person.

(c) *Calculation procedures.* The State Plan shall, with respect to the estimates of the savings required under § 456.305(a)(2), describe the procedures by which such estimates shall be made.

(d) *New customers.* (1) A new customer is a person who becomes an eligible customer after initial distribution of the Program Announcement but before January 1, 1985.

(2) The State Plan shall require that each covered utility and participating home heating supplier provide each new customer within 60 days of such customer becoming a new customer with the information required in §456.305(a).

(3) The State Plan shall require that a covered utility or participating home heating supplier retain in its files for not less than five years a copy of each report of each program audit performed pursuant to the State Plan which shall be available to any subsequent owner without charge. The State Plan shall require that a covered utility or participating home heating supplier inform each subsequent eligible

customer who is an owner of a residential building, or dwelling unit therein, of the availability of this report.

(e) The State Plan shall prohibit unfair discrimination among measures, eligible customers, suppliers, contractors, and lenders in the content of, and in the providing of, information required under this section.

§ 456.306 Requirements for program audits.

(a) *Timing of program audit.* The State Plan shall require that each covered utility and participating home heating supplier shall provide a program audit to each eligible customer within a reasonable time after the request for an audit.

(b) *Content of program audit.* (1) The State Plan shall describe the program audit services to be offered by utilities and participating home heating suppliers and shall require at a minimum that covered utilities and participating home heating suppliers provide (either directly or through one or more auditors under contract), upon request, to each eligible customer a program audit which addresses the applicable program measures and identifies the applicable energy conserving practices which shall be developed by the Governor. Such practices may include those practices defined in § 456.105.

(2) The State Plan may allow the auditor in each program audit to determine the applicability of each program measure in that residence based on applicability criteria set forth in the State Plan subject to DOE approval; and, in the case of residential buildings containing more than four dwelling units, based on either the above or DOE applicability criteria and usage cut-off procedures, as set forth in Appendix III. If a program measure is not applicable, then the requirements of this section to provide estimates of the cost and savings of installation of such measure in such residence do not apply.

(3) The State Plan shall contain procedures to assure the validity of the program audit with respect to all program measures.

(4) The State Plan shall require the auditor to offer at the time of the audit to provide the customer at a minimum with a written sample of the typical format of the audit results and a brief explanation of how to interpret such results.

(5) The State Plan shall allow auditors to perform a program audit only for those measures or products approved by the Governor.

(c) *Results of program audit.* (1) The State Plan shall require that the utility provide the following information in writing to each eligible customer who receives a program audit—

(i) An estimate of the total cost, expressed in dollars or a range of dollars, of installation by a contractor of each applicable program measure as designated in the Table of Program Measures (Appendix I);

(ii) An estimate of the total cost, expressed in dollars or a range of dollars, of purchase by the customer of each applicable program measure as designated in the Table of Program Measures (Appendix I);

(iii) An estimate of the energy savings, expressed in dollars or a range of dollars, of each applicable program measure addressed by the program audit; and

(iv) Information on existing Federal tax credits.

(2) The State Plan shall require any utility which does not provide in-person results of audits to provide customers with the opportunity to discuss the results of the audit with a qualified person.

(3) The State plan shall allow utilities to provide audit results only for those measures or products approved by the Governor.

(d) *Prohibitions.* (1) The State Plan shall prohibit covered utilities and participating home heating suppliers from discriminating unfairly among eligible customers in providing program audits.

(2) The State Plan shall prohibit any auditor from recommending any supplier, contractor, or lender who supplies, installs, or finances the sale or installation of any program measure if such recommendation would unfairly discriminate among such suppliers, contractors, or lenders.

(3) The State Plan shall prohibit any unfair discrimination among program measures.

(e) *Program audits of furnaces.* The State Plan shall require that, in order for an auditor of a covered utility or participating home heating supplier to provide cost and savings estimates for furnace efficiency modifications with respect to a furnace which uses as its primary source of energy any fuel or source of energy other than the fuel or source of energy sold by that covered utility or participating home heating supplier, the eligible customer must request such audit in writing.

(f) *Qualifications for program auditors.* The State Plan shall require that each person who performs a program audit pursuant to the State Plan shall be qualified to perform the necessary measurements and inspections to determine the estimated cost of purchasing and installing the recommended program measures and the savings in energy costs that are likely to result from the installation of such measures.

§ 456.307 Arranging installation.

The State Plan shall—

(a) Require each covered utility and participating home heating supplier to arrange installation of any applicable program measure upon request by an eligible customer;

(b) Describe these arranging services;

(c) Require each covered utility and participating home heating supplier when arranging installation to do so only with suppliers and installers who provide the requisite measures warranties under § 456.105 (definition of measure warranties);

(d) Prohibit a covered utility or participating home heating supplier, when arranging installation of any program measure, from recommending, selecting, or providing information regarding any supplier or contractor, if such recommendation, selection, or information would unfairly discriminate among suppliers and contractors; and

(e) Prohibit each covered utility and participating home heating supplier, when arranging installation of program measures, from discriminating unfairly among eligible customers, among suppliers, among contractors, or among program measures.

§ 456.308 Arranging financing.

The State Plan shall—

(a) Require each covered utility and participating home heating supplier to arrange financing for the supply and installation of any applicable program measure upon request by any eligible customer;

(b) Describe these arranging services;

(c) Prohibit a covered utility or participating home heating supplier, when arranging financing for the purchase or installation of any program measure, from recommending, selecting, or providing information regarding any lender if such recommendation, selection or information would unfairly discriminate among such lenders; and

(d) Prohibit each covered utility and participating home heating supplier, when arranging financing of program measures, from discriminating unfairly among eligible customers, among suppliers, among contractors, among lenders, or among program measures.

§ 456.309 Accounting and payment of costs.

(a) *Accounting.* The State Plan shall require with respect to Federally mandated measures, and may permit

with respect to costs or revenues directly associated with State measures, that all amounts expended or received by a covered utility which are attributable to the RCS Program, including any penalties paid under Subpart F (Federal Standby Authority), shall be accounted for on the books and records separately from amounts attributable to all other activities of the covered utility.

(b) *Payment of costs.* The State Plan shall require that covered utilities treat costs as described below and shall describe how the costs described in paragraph (b)(2) of this section will be treated:

(1) All amounts expended by a covered utility in providing the information required under § 456.305(a) and in conducting all public education and program promotion directly related to providing information about a utility's RCS Program shall be treated as a current expense of providing utility service and be charged to all ratepayers of the covered utility in the same manner as other current operating expenses of providing such utility service;

(2) The cost of the following program elements shall be recovered in the manner specified by the State regulatory authority (in the case of a regulated utility) or the nonregulated utility (except that the amount that may be recovered directly from a residential customer for whom the activities described in § 456.309(b)(2)(ii) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less):

(i) Administrative and general expenses, including those associated with program audits, customer billing services, and arranging; and

(ii) Project management requirements, including—

(A) The providing of program audits;

(B) The arranging for a lender to make a loan to an eligible customer to finance the purchase and installation costs of energy conservation and renewable resource measures;

(C) The arranging to have the program measures installed; and

(D) List distribution; and

(3) In determining the amount to be recovered directly from customers as provided in paragraph (b)(2) of this section, the State regulatory authority (in the case of a regulated utility) or the nonregulated utility shall take into consideration, to the extent practicable, the eligible customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

(c) *Duplication of audits.* (1) In areas where a residential customer is an eligible customer of more than one covered utility, the Governor, or the covered nonregulated utility, as appropriate, may include in a State Plan or a Nonregulated Utility Plan procedures to ensure that each eligible customer may receive an RCS audit from only one of these covered utilities.

(2) No utility shall be required to make more than one audit of a residential building or dwelling unit therein unless a new owner requests a subsequent audit.

§ 456.310 Customer billing, repayment of loans, and termination of service.

The State Plan shall require that—

(a) *Customer billing.* Every charge by a covered utility or a participating home heating supplier to a customer for any portion of the costs of carrying out any activity pursuant to the State Plan that is charged to the residential customer for whom such activity is performed (including repayment of a loan) and that is included on a billing for utility service submitted by the utility or home heating supplier to such residential customer shall be stated separately on such billing from the cost of providing utility or fuel service. Nothing in this paragraph shall be construed so as to require that charges to the customer for activities performed pursuant to the State Plan must be included on the bill for periodic utility service.

(b) *Repayment of loans.* (1) In the case of any loan arranged by a covered utility pursuant to § 456.308, the utility, at the request of the lender and with the approval of the customer, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the lender the cost incurred by the utility in carrying out such manner of repayment.

(2) In the case of any loan for the purchase or installation of program measures made by a participating home heating supplier under the RCS Program—

(i) The participating home heating supplier shall permit the eligible customer to include repayment of the loan in such customer's payment of his periodic fuel bill over a period of not less than three years, unless the eligible customer chooses a shorter repayment period;

(ii) A lump-sum payment of outstanding principal and interest may be required by the lender upon default in payment (as determined under applicable law) from the eligible customer; and

(iii) No penalty shall be imposed by a home heating supplier, or any other lender with which a loan is arranged by the home heating supplier, for payment of all or any portion of the outstanding loan amount prior to the date such payment would otherwise be due.

(c) *Termination of service.* No covered utility or participating home heating supplier shall terminate utility or fuel service to any customer for any default by such customer for payments due for any services under the RCS Program.

§ 456.311 Lists of suppliers, contractors, and lenders.

(a) *Master Record.* The State Plan shall contain procedures for the preparation, in a fair, open and nondiscriminatory manner, of a Master Record of all suppliers, contractors, and lenders who sell, install, or finance program measures in the State and who wish to be included in the lists distributed pursuant to paragraph (c) of this section. These procedures shall, at a minimum—

(1) Identify the entity(ies), hereinafter referred to as the "Listing Agency," which shall be responsible for the preparation and maintenance of the Master Record. The Listing Agency shall not be a regulated utility;

(2) Ensure that a reasonable attempt is made to inform all suppliers, contractors, and lenders who sell, install or finance program measures in the State of the pending compilation of the Master Record and the intended use of the Master Record, and provide such suppliers, contractors, and lenders an opportunity through effective notice to apply for inclusion in the Master Record;

(3) Ensure that all persons who agree to comply with the requirements of paragraph (b) of this section (unless on the basis of past experience, the Governor determines that such person's agreement is not adequate assurance of compliance with the requirements of paragraph (b)), and only such persons, are included in the Master Record;

(4) Ensure that all persons in the Master Record who fail to comply with the requirements of paragraph (b) of this section are removed from the Master Record. The State Plan shall establish the criteria by which such failure shall be grounds for removal from the Master Record. Removal procedures shall ensure that—

(i) Each person proposed for such removal shall have—

(A) Written notice of the proposed removal and the grounds for such removal at least 30 days before the actual removal; and

(B) An opportunity to respond in writing to the allegations contained in the notice described in paragraph

(a)(4)(i)(A) of this section, with at least 30 days' notice; and

(ii) Each person removed from the Master Record shall have an opportunity to file a complaint through and participate in the redress proceedings described in § 456.312 for the purpose of contesting such removal;

(5) Ensure that all persons deleted from the Master Record have an opportunity to be included anew in the Master Record under criteria established by the Governor; and

(6) Ensure that the name and address of any supplier, installer or lender who has been added to or deleted from the Master Record is forwarded to the appropriate covered utilities or home heating suppliers.

(b) *Requirements for inclusion in the Master Record.* (1) The State Plan shall require that, when installing program measures under the RCS Program, all installation contractors included in the Master Record shall—

(i) Install only measures covered by the warranties provided for in the definition of Measure Warranties (§ 456.105);

(ii) Participate in good faith in the complaint proceedings described in the State Plan pursuant to § 456.312(a) when there is a complaint by an eligible customer against such person;

(iii) Comply with all applicable Federal, State, and local laws and regulations; and

(iv) Furnish the customer with a written contract describing the job to be performed and its cost.

(2) The State Plan shall require that, when supplying program measures under the RCS Program, all suppliers included in the Master Record shall—

(i) With respect to the program measures the supplier is listed as carrying, supply program measures covered by the measure warranties provided for in subparagraph (1) or (2) of the definition of Measure Warranties (§ 456.105);

(ii) Have a method for informing customers of those products supplied by the supplier that are program measures, and that have a measures warranty;

(iii) Participate in good faith in the complaint proceedings described in the State Plan pursuant to § 456.312(a) when there is a complaint by an eligible customer against such person; and

(iv) Comply with all applicable Federal, State, and local laws and regulations.

(3) The State Plan shall require that, when financing the sale or installation of program measures under the RCS Program, all lenders included in the Master Record shall—

(i) Agree to participate in good faith in the complaint proceedings described in the State Plan pursuant to § 456.312(a) when there is a complaint by an eligible customer against such person;

(ii) Comply with all applicable Federal, State, and local laws and regulations; and

(iii) Not take security in real property that is used as the principal residence of the eligible customer, unless the eligible customer acknowledges in writing that he or she is aware of the consequences of default on the loan.

(4) The State Plan may include additional requirements if the Assistant Secretary determines that such requirements are fair, nondiscriminatory, and do not adversely affect competiton or the RCS Program.

(c) *List distribution to eligible customers.* The State Plan shall require that every covered utility and participating home heating supplier provide, upon request, to every eligible customer, lists of all suppliers, contractors, and lenders included in the Master Record who sell, install or finance program measures in its service area or such other reasonable area required by the State Plan.

(1) The State Plan shall require that these lists present the appropriate information in a fair, open, and nondiscriminatory manner.

(2) The State Plan shall require that these lists be distributed in a fair, open, and nondiscriminatory manner.

(3) The State Plan may require or permit additional information to be included on the lists if the Assistant Secretary determines that it is fair, nondiscriminatory and does not adversely affect competition or the RCS Program.

(4) The State Plan shall contain procedures to ensure that these lists are periodically updated.

(5) The State Plan shall require that the Master Record of lenders shall include a notation informing customers that financial assistance under the Solar Energy and Energy Conservation Bank Act may be available from lenders included in the Master Record.

§ 456.312 Complaints processing and redress procedures.

The State Plan shall contain procedures—

(a) For resolving complaints against persons who sell or install energy conservation or renewable resource measures under the RCS Program; and

(b) To assure that any person who alleges any injury resulting from a violation of any State Plan provision shall be entitled to redress.

§ 456.313 Coordination.

The State Plan shall provide procedures to ensure effective coordination between the RCS Program and all local, State, and Federal Energy Conservation programs within and affecting the State.

§ 456.314 Home heating suppliers.

(a) *Consideration of limited resources.* If a State Plan covers home heating suppliers, it shall, within the terms of the requirements of this subpart, take into account the limited resources of small home heating suppliers.

(b) *Participation and withdrawal.* The State Plan, if it includes home heating suppliers, shall include a procedure by which the Governor shall allow a home heating supplier to participate in the RCS Program. The State Plan shall also allow participating home heating suppliers to withdraw voluntarily from the RCS program.

(c) *Waiver of requirements.* The State Plan shall contain a procedure by which the Governor may waive for any participating home heating supplier any requirement of the State Plan, except those listed below, upon a demonstration to the Governor's satisfaction that the resources of such supplier do not enable it to comply with the particular requirement. The requirements which the Governor shall not waive are the following sections which prohibit anticompetitive activities or unfair discrimination by covered utilities or participating home heating suppliers—

(1) Section 456.306(c) (Prohibitions concerning program audits);

(2) Section 456.306(d) (Furnace audits);

(3) Section 456.307 (c) and (d) (Prohibitions against discrimination in arranging installation);

(4) Section 456.308 (c) and (d) (Prohibitions against discrimination in arranging financing); and

(5) Section 456.311(c)(1)–(2) (Prohibitions against discrimination in listing).

§ 456.315 Program measures.

(a) The State Plan shall contain a list of the program measures. This list shall contain either those energy conservation and renewable resource measures identified in Appendix I to this rule as program measures for that State, or a list of energy conservation and renewable resource measures determined to be program measures by the Governor in accordance with paragraph (b) of this section.

(b) (1) The Governor may exclude from the State RCS program, any program measure identified in Appendix

I as a program measure for that State on the following bases:

(i) When, by substituting State derived data, the program measure has a payback period (P) of more than seven years, as determined by dividing the installed first cost (F) less any Federal and State (at the discretion of the Governor) tax credits (T), by the first year energy savings in dollars (S),

$$P = \frac{F-T}{S}; \quad P > 7 \text{ years; and/or}$$

(ii) When, by substituting a State specific prototypical house, it is determined that the program measure has a payback period (P) of more than seven years pursuant to the formula in paragraph (b)(1)(i) of this section.

(2) The State Plan shall contain data to substantiate any exclusion pursuant to paragraphs (b)(1) (i) or (ii) of this section.

(c) The Governor may add any measure not identified in Appendix I as a program measure for that State, to the State RCS Program without DOE approval.

§ 456.316 Reporting and recordkeeping.

(a) The State Plan shall contain provisions to assure that a report is submitted to the Assistant Secretary no later than July 1, 1982, and annually thereafter through July 1, 1986, covering the twelve-month period ending the preceding April 1.

(b)(1) The report shall include—

(i) The number and nature of program services (energy audits, arranged installation, and arranged financing) requested, and/or provided;

(ii) The nature and status of any direct financing activities or exempted or waived supply or installation activities engaged in by the utilities;

(iii) Estimated State costs and utility costs of implementing the program; and

(iv) The general nature and approximate number of complaints received about the program and the operation of the complaints processing procedures of § 456.312 in the State.

(2) The report shall also contain a copy of any program announcement not already provided. (Approved by the Office of Management and Budget under OMB control number 1904–0040).

(c) The State Plan shall contain procedures to assure that a copy of the data collected during each audit and a copy of the costs and savings presented to the customer receiving the audit are retained on file for five years from the date of the audit. (Approved by the Office of Management and Budget under OMB control number 1904–0040).

(d) Any other provisions of this section notwithstanding, the Assistant Secretary may, as he deems essential to Departmental implementation of program responsibilities—

(1) Require additional information; and

(2) Waive any reporting and recordkeeping requirements, except the recordkeeping requirement in paragraph (c) of this section.

§ 456.317 Quality assurance.

The State Plan shall contain procedures to ensure that reasonable levels of effectiveness and safety are maintained in the supply and installation of measures under the RCS Program.

Subpart D—Nonregulated Utility Plans

§ 456.401 Scope.

This subpart identifies the responsibilities of covered nonregulated utilities not subject to a State Plan for the preparation and submission of Nonregulated Utility Plans, the procedures for approval of Nonregulated Utility Plans by the Assistant Secretary, and the minimum requirements for the content of Nonregulated Utility Plans.

§ 456.402 Coverage.

This subpart shall apply to all nonregulated covered utilities which are not covered by a State Plan.

§ 456.403 Notice, comment, and public hearing.

Prior to submission of the Nonregulated Utility Plan to the Assistant Secretary for approval, the nonregulated utility shall—

(a) *Notice and comment.* Provide meaningful public notice of the requirement for the nonregulated utility to submit a Nonregulated Utility Plan.

(b) *Hearing.* Hold at least one public hearing in the nonregulated utility's service area for the purpose of hearing testimony and receiving comments on the content of the proposed Nonregulated Utility Plan.

§ 456.404 Procedures for submission and approval of Nonregulated Utility Plans.

(a) *Submission.* Each utility subject to this subpart shall submit to the Assistant Secretary a proposed Nonregulated Utility Plan by June 4, 1980, unless the time for submission has been extended by the Assistant Secretary for good cause shown upon request of the nonregulated utility.

(b) *Approval.* If a proposed Nonregulated Utility Plan meets the criteria of this subpart, the Assistant Secretary shall approve it within 90 days of the date the proposed Nonregulated Utility Plan was submitted.

(c) *Disapproval.* (1) If a Nonregulated Utility Plan does not meet the criteria of this subpart, the Assistant Secretary shall, within 90 days of the date the proposed Nonregulated Utility Plan is submitted, disapprove the proposed Nonregulated Utility Plan and specify in writing the grounds for disapproval.

(2) Within 60 days of the date of disapproval of a proposed Nonregulated Utility Plan, or such longer period as the Assistant Secretary may determine pursuant to the criteria of paragraph (a) of this section, the nonregulated utility shall submit another proposed Nonregulated Utility Plan.

(d) *Amendments.* The nonregulated utility may submit proposed amendments to an approved Nonregulated Utility Plan at any time. The Assistant Secretary shall approve or disapprove a proposed amendment within 90 days of receipt of the proposed amendment.

§ 456.405 Temporary Programs.

A nonregulated utility may submit a Temporary Program as defined in § 456.207(a) in accordance with the procedures and criteria of § 456.207. This submission may be a part of the proposed Nonregulated Utility Plan or a separate submission.

§ 456.406 Content of plans.

(a) *General requirements.* (1) Except as provided in this section, each Nonregulated Utility Plan shall meet all the requirements for State Plans in Subpart C.

(2) Except as otherwise provided in this section, all references in Subpart C to—

(i) Covered utilities shall be deemed to refer to utilities subject to this subpart;

(ii) A State Plan shall be deemed to refer to a Nonregulated Utility Plan;

(iii) Participating home heating suppliers shall not apply;

(iv) A State [as a governmental entity, other than references to State laws or regulations] or any State Agency or officer shall be deemed to refer to the nonregulated utility submitting the Plan; and

(v) A State (as a geographic area) shall be deemed to refer to the nonregulated utility's service area.

(b) *Utilizing State services.* (1) In a State submitting a State Plan, a nonregulated utility may, by written understanding with the appropriate State agency, utilize services which have been provided for in the State Plan.

(2) If a Nonregulated Utility Plan utilizes services as permitted by this paragraph, all references in the State Plan to those services with regard to utilities subject to the State Plan shall be deemed to refer to the nonregulated utility.

(3) If a Nonregulated Utility Plan uses a Master Record produced under a State Plan, the nonregulated utility may not add or delete contractors, suppliers, or lenders from the Master Record, and shall add or delete contractors, suppliers, or lenders from any list distributed only in accordance with the State Plan.

(4) If a Nonregulated Utility Plan proposes to utilize any of the services pursuant to this paragraph, the Plan shall so state and copies of the written agreements with the appropriate State agencies shall be included with the Nonregulated Utility Plan in the submission to the Assistant Secretary.

Subpart E—Supply, Installation, and Financing by Utilities

§ 456.501 Scope and definitions.

(a) This subpart contains the prohibition against a utility's supply and installation of energy conservation and renewable resource measures. It specifies the exemptions to this prohibition and the procedures, where applicable, for obtaining these exemptions. It also sets forth certain requirements concerning utility financing programs.

(b) For purposes of this subpart—(1) A "covered utility" means a covered utility, any company which is owned or controlled by such a utility, or any company which owns or controls such a utility;

(2) A covered utility "installs" a measure whenever the contract for installation obligates the covered utility to install the measure;

(3) A covered utility "supplies" a measure when it sells a measure at retail or leases a measure to an eligible customer; and

(4) A covered utility "finances" the supply or installation of a measure when the loan contract names the utility as the lender.

§ 456.502 Prohibition.

(a) Except as provided in this subpart, no covered utility may supply or install any energy conservation or renewable resource measure.

(b) Notwithstanding §§ 456.503–456.507, no covered utility may supply, install, or finance the supply or installation of any energy conservation or renewable resource measure if the Assistant Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

(1) Such supply, installation, or financing is being carried out by such utility at unreasonable rates or on unreasonable terms or conditions;

(2) Such supply, installation, or financing being carried out by such utility has a substantial adverse effect upon competition or involves the use of unfair, deceptive, or anticompetitive acts or practices; or

(3) Such supply or installation conducted pursuant to § 456.504 is being carried out in a manner which does not comply with the requirements of § 456.504.

(c) Violations of this section are subject to a civil penalty of not more than $25,000 for each day of violation assessed by order of the Assistant Secretary pursuant to Sections 216(h) and 219 of NECPA and § 456.606 of these rules.

§ 456.503 Exemption for certain measures.

The prohibition in § 456.502(a) shall not apply to the supply or installation of (a) furnace efficiency modifications, (b) clock thermostats, and (c) devices associated with load management techniques for the type of energy sold by the utility.

§ 456.504 Exemption for utility subcontractor supply and installation.

(a) The prohibition contained in § 456.502(a) shall not apply to any energy conservation measure or renewable resource measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply and installation and each supplier or contractor—

(1) Is on the list of suppliers and contractors referred to in § 456.311;

(2) Is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

(3) If selected by the utility, is selected in a manner consistent with § 456.504(b).

(b) Activities of a public utility conducted pursuant to paragraph (a)(3) of this section—

(1) May not involve unfair methods of competition;

(2) May not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of energy conservation or renewable resource measures;

(3) Shall be undertaken in a manner that provides, subject to reasonable conditions the utility may establish to ensure the quality of supply and installation of energy conservation or renewable resource measures, that any financing by the utility of such measures shall be available to finance the supply or installation by any contractor on the list referred to in § 456.311 or to finance the purchase of such measures to be installed by the customer;

(4) Shall be undertaken, to the extent practicable and consistent with paragraphs (b)(1)–(3) of this section, in a manner that minimizes the cost of energy conservation and renewable resource measures to such customers; and

(5) Shall include making available upon request a current estimate of the average price of supply and installation of energy conservation and renewable resource measures subject to the contracts entered into by the public utility under paragraph (a) of this section.

(c) Before a utility can undertake a supply or installation program permitted by this section, the State Plan must contain procedures to ensure that such a program will be undertaken in full compliance with requirements described in paragraphs (a) and (b) of this section.

§ 456.505 Exemption for existing supply and installation.

(a) The prohibition in § 456.502(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure in which the covered utility was engaged on November 9, 1978—

(1) During such time as applications for determinations with respect to such activities, filed in accordance with § 456.509, are pending; and

(2) Upon a final determination that, on or by November 9, 1978, such energy conservation or renewable resource measure was being supplied or installed by the utility seeking such determination.

(b) The prohibition in § 456.502(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure which the covered utility had by November 9, 1978, broadly advertised that it would supply or install, or with respect to which the utility had by November 9, 1978, completed substantial preparations for supplying or installing—

(1) During such time as applications for determinations with respect to such

activity filed in accordance with § 456.509 are pending; and

(2) Upon a final determination that, on or by November 9, 1978, such energy conservation or renewable resource measure had been broadly advertised or for which substantial preparations had been completed by the utility seeking such determination.

§ 456.506 Exemption for supply and installation authorized by State or local law.

(a) The prohibition in § 456.502(a) shall not apply to any supply or installation of any energy conservation or renewable resource measure—

(1) In which a State or local law or regulation in effect on November 9, 1978, required or explicitly permitted a covered utility to engage; or

(2) Which the Attorney General of the appropriate State certifies to the Assistant Secretary was intended by a State law or regulation in effect on November 9, 1978, to be required or permitted.

(b) A covered utility is exempt from any Federal requirement to include in its RCS program any supply or installation of any energy conservation or renewable resources measure in which it is engaged by reason of a State law or regulation in effect prior to November 9, 1978, permitting or requiring such activities. However, a covered utility that includes supply and installation in its RCS program pursuant to the exemption in paragraph (a) of this section shall be subject to all the requirements of the State Plan with respect to those activities in the same manner as any contractor, supplier, or lender, except that it shall be exempt from the requirements of § 456.309 (Accounting and Payment of Costs) and § 456.310 (Customer Billing, Repayment of Loans, and Termination of Service) with respect to such activities.

§ 456.507 Waivers.

(a) The Assistant Secretary may waive any prohibition of § 456.502(a) upon petition by a covered utility pursuant to § 456.509 and a finding that—

(1) The petition, in the case of a covered utility subject to a State Plan, is supported by the Governor; and

(2) If such waiver were granted—

(i) Fair and reasonable prices and rates of interest would be charged; and

(ii) The otherwise prohibited activities would not involve or result in unfair methods of competition or unfair or deceptive acts or practices.

(b) Before the Assistant Secretary makes the finding described in paragraph (a)(2)(i) of this section, he or she shall consult with the Federal Trade Commission.

§ 456.508 Notification.

Each utility undertaking a program involving the supply or installation of any energy conservation or renewable resource measure as permitted under § 456.504, or providing financing for the purchase or installation of any such measure, must notify the Assistant Secretary when such program becomes effective.

§ 456.509 Procedure for obtaining determinations and waivers.

(a) A utility making an application for a determination under § 456.505 or a petition for a waiver under § 456.507 shall file such application or petition clearly labeled as such with the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All such petitions shall contain all information necessary for the determination under § 456.505 or the findings required by § 456.507.

(b) In addition to any other requirement that may be applicable, any utility making an application or petition under this section shall give direct notice to the Governor, State Energy Office, and State Regulatory Authority of any State in which such exemption or waiver would be applicable, informing them that they may within ten days submit comments on the application or petition to the Assistant Secretary. The application or petition filed with the Assistant Secretary shall include a certification that the applicant or petitioner has complied with the requirements of this paragraph. In the discretion of the Assistant Secretary, opportunity to comment may be provided to other interested persons.

§ 456.510 Appeals.

Any person adversely affected by any decision made pursuant to this subpart by the Assistant Secretary may appeal that decision in accordance with Subpart H of 10 CFR Part 205. All such appeals shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

§ 456.511 Certain exempt activities and compliance with accounting, costing, billing and repayment provisions.

Any covered utility conducting activities pursuant to the exemptions provided for in § 456.503, § 456.504 or § 456.505(b) or the waiver provisions of § 456.507 shall comply with the requirements of §§ 456.309(a), (b)(2), and (b)(3), and § 456.310 with respect to those activities. Any covered utility carrying out activities pursuant to the exemptions provided for in § 456.505(a) shall, within such reasonable time as the Secretary prescribes, comply with the requirements of §§ 456.309(a), (b)(2), and (b)(3), and § 456.310 with respect to such activities.

Subpart F—Federal Standby Authority and Enforcement Provisions

§ 456.601 Scope.

This Subpart specifies the procedures to be followed to ensure that eligible customers receive the services of the Residential Conservation Service Program when a State or nonregulated utility does not submit an acceptable Residential Conservation Service Plan within the necessary time or fails to implement adequately an approved plan. These procedures are required to be implemented by the Secretary pursuant to the provisions of section 219 of NECPA. All of the Secretary's responsibilities under this Subpart, except for the authority to bring actions in any court of the United States, have been delegated to the Assistant Secretary. Section 456.602 specifies the conditions under which the Assistant Secretary shall invoke standby authority for covered regulated utilities and covered nonregulated utilities. Sections 456.603 and 456.604 specify the content of the Federal plans for States and nonregulated utilities, respectively. Section 456.605 specifies the procedures to be followed by the Secretary if a public utility fails to comply with a Federal standby order issued pursuant to §§ 456.603 or 456.604. Section 456.606 specifies the civil penalties which the Assistant Secretary may assess and the enforcement provisions.

§ 456.602 Conditions under which standby authority shall be invoked.

The Assistant Secretary shall invoke standby authority if he determines:

(a) That a State fails to submit a Residential Conservation Service Plan meeting the requirements of Subparts B and C by September 2, 1980 or within such additional period as the Assistant Secretary allows pursuant to § 456.204(b) or (d);

(b) That a nonregulated utility fails to submit a Residential Conservation Service Plan meeting the requirements of Subpart D by September 2, 1980 or within such additional period as the Assistant Secretary allows pursuant to § 456.404 (a) or (c);

(c) After notice and opportunity for a public hearing, that an approved State plan is not being adequately implemented in a State; or

(d) After notice and opportunity for a public hearing, that an approved plan is not being adequately implemented by a covered nonregulated utility.

§ 456.603 Standby authority in lieu of State plans.

When the Assistant Secretary determines that one of the conditions specified in §§ 456.602 (a) or (c) exists;

(a) The Assistant Secretary shall promulgate a Residential Conservation Service Plan which meets the appropriate requirements of Subpart B and C of this part and which is applicable to each covered regulated utility in the State;

(b) The Assistant Secretary shall, by order, require each covered regulated utility in the State to carry out a Residential Conservation Service Program, which meets the requirements of the plan promulgated pursuant to paragraph (a) of this section, within 90 days of the issuance of the order; and

(c) If the State had an approved plan which included nonregulated utilities, the Assistant Secretary shall take the actions described in §§ 456.604 (a) and (b) with respect to such nonregulated utilities.

§ 456.604 Standby authority for nonregulated utilities.

When the Assistant Secretary determines that one of the conditions specified §§ 456.602 (b) or (d) exists:

(a) The Assistant Secretary shall, by order, require the covered nonregulated utility to promulgate a plan which meets the requirements of Subpart D of this part; and

(b) The Assistant Secretary shall, by order, require such nonregulated utility to carry out a Residential Conservation Service Program, which meets the requirements of the plan promulgated pursuant to paragraph (a) of this section, within 90 days of the issuance of the order.

§ 456.605 Failure to comply with orders.

If the Secretary determines that any covered utility to which an order has been issued pursuant to §§ 456.603(b), 456.604(a), or 456.604(b) has failed to comply with such order, the Secretary may file a petition in the appropriate United States district court to enjoin such utility from violating the order.

§ 456.606 Enforcement provisions; Penalties; Election of review procedures.

(a) Any covered utility which violates any requirement of a plan promulgated under §§ 456.603(a) or 456.604(a), or which fails to comply with an order under §§ 456.603(b), 456.604(a), or 456.604(b) within 90 days from the issuance of such order, or which violates the prohibition in § 456.502 concerning supply, installation, or financing by covered utilities, shall be subject to a civil penalty of not more than $25,000 for each violation.

(b) Each day that such violation continues shall be considered a separate violation.

(c) A civil penalty under this section shall be assessed by an order of the Assistant Secretary.

(d) Before issuing an order assessing a civil penalty against any person under this section, the Assistant Secretary shall provide to such person notice of the proposed penalty. The notice of proposed penalty shall inform the person of the opportunity to make an election, in writing, within 30 days after receipt of the notice. The election involves deciding whether to have the procedures of paragraph (f) of this section apply, in lieu of the procedures in paragraph (e) of this section, with respect to the assessment of a civil penalty.

(e)(1) Unless the election described in paragraph (d) of this section is made within 30 calendar days after receipt of the notice given under paragraph (d) of this section, the Assistant Secretary shall assess the penalty, by order, after a determination of violation has been made on the record. Such determination of violation shall be made after an opportunity has been afforded for an agency hearing pursuant to Section 554 of Title 5, United States Code, before an administrative law judge appointed under Section 3105 of Title 5. The assessment order shall include the administrative law judge's findings and the basis for such assessment.

(2) Any person against whom a civil penalty is assessed under this paragraph (e) may, within 60 calendar days after the date of the order of the Assistant Secretary assessing the penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with Chapter 7 of Title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside, in whole or in part, the order of the Assistant Secretary, or the court may remand the proceeding to the Assistant Secretary for such further action as the court may direct.

(f)(1) In any case where the procedures of this paragraph (f) have been elected, as described in paragraph (d) of this section, the Assistant Secretary shall assess such penalty by order. The order shall be made not later than 60 calendar days after the alleged violator's date of receipt of notice of the proposed penalty under paragraph (d) of this section.

(2) If the civil penalty assessed by order under paragraph (f)(1) of this section has not been paid within 60 calendar days after the assessment order was made, the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(3) Any election to have this paragraph (f) apply may not be revoked, except with the consent of the Assistant Secretary.

(g) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (e) of this section, or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (f) of this section, the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of the respective final order or judgment imposing the civil penalty shall not be subject to review.

(h) Notwithstanding the provisions of Title 28, United State Code, or of Section 502 of the Department of Energy Organization Act, the Secretary shall be represented by the General Counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which this section applies (including any related collection action) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the General Counsel shall consult with the Attorney General concerning such litigation and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

Appendix I to Part 456—Program Measures

(a) *General.* (1) The measures table was developed by evaluating program measures with respect to a prototypical house (see Appendix II) for all HUD/MPS climate zones and categories of residential fuel use. A measure was determined to be a program measure for a climate zone and category of residential fuel use if the ratio of installed first cost, less any Federal and State income tax credits, divided by first year energy savings in dollars was less than or equal to 7

years. The RCS Model Audit procedures were used to determine energy savings.

(2) DOE applied only resident-installed costs to those measures which are not likely to be installed by a contractor: caulking and weatherstripping. Resident-installed and contractor costs were used to determine installed first cost for those measures which DOE believes could be easily installed by homeowners without encountering safety hazards or without conflicting with most building code requirements. These measures include ceiling insulation, floor insulation, water heater insulation, clock thermostats, heat reflective and heat absorbing window and door materials, and pipe and duct insulation. Contractor-installed costs alone were used for those measures where local codes or regulations and safety considerations are likely to preclude homeowner installations or where a measure is not easily installed by a homeowner. These measures include: wall insulation, storm and thermal windows and doors, replacement heating systems, oil burner replacements, vent dampers, intermittent ignition devices (IID's), replacement central air-conditioners, active solar space heating systems, combined active solar space heating and hot water heating systems, solar domestic water heating systems, replacement solar pool heaters, and wind energy devices.

(b) *Climate Zones of Program Measures.* In the table of program measures, the climate zones for heating degree-days are as follows:

Climate	Heating degree-days
1	0 to 1000.
2	1001 to 2500.
3	2501 to 3500.
4	3501 to 4500.
5	4501 to 5000.
6	5001 to 6000.
7	6001 to 7000.
8	7001 and above.

The cooling degree-days utilized in the evaluation of program measures for each climate zone within each State are the cooling degree-days for the weather station which is specified for that climate zone in the DOE Model Audit.

(c) *Category of Residential Fuel Use.* The program measures are designated in the following tables by categories of residential fuel use. These categories are:

(1) For ceiling insulation, wall insulation, floor insulation, duct insulation, pipe insulation, storm or thermal windows, storm or thermal doors, replacement heating systems, replacement oil burners, vent dampers, IID's, active solar space heating systems, and combined solar space heating and solar domestic hot water systems:

(i) "Electricity," which includes all residential buildings in which the principal source of space heating is an electric resistance heating system;

(ii) "Gas," which includes all residential buildings in which either natural gas, or propane, or butane is the principal space heating fuel;

(iii) "Oil," which includes all residential buildings in which either #2 heating oil or kerosene is the principal space heating fuel and includes all other residential buildings not included in the categories "Electricity," "Gas," or "Heat Pump";

(iv) "Heat Pump," which includes all residential buildings in which the principal source of space heating is an electric heat pump.

(2) For water heater insulation and solar domestic hot water:

(i) "Electricity" includes all residential buildings in which the principal fuel for water heating is electricity;

(ii) "Gas" includes all residential buildings in which the principal fuel for water heating is either natural gas, or propane, or butane;

(iii) "Oil" includes all residential buildings for which the principal fuel for water heating is either #2 heating oil, kerosene, or a fuel not included under "Electricity" or "Gas" in this subsection.

(3) For heat reflective and heat absorbing window and door material, "Electricity" includes all residential buildings in which electricity is used for air-conditioning and includes buildings that are cooled with a heat pump.

(4) For replacement central air-conditioners, "Electricity" includes all residential buildings in which electricity is used by a central air-conditioner.

(5) For replacement solar swimming pool heaters:

(i) "Electricity" includes all swimming pools for which the principal fuel for pool heating is electricity;

(ii) "Gas" includes all swimming pools for which the principal fuel for pool heating is natural gas, or propane, or butane;

(iii) "Oil" includes all swimming pools for which the principal fuel for pool heating is either #2 heating oil, kerosene, or a fuel not included under "Electricity" or "Gas" in this subsection.

(6) For wind energy devices:

(i) "Electricity" includes all residences in which the principal source of space heating is an electric resistance heating system and which have electric domestic water heating;

(ii) "Heat Pump" includes all residences in which the principal source of space heating is an electric heat pump and which have electric domestic hot water heating.

(d)(1) *Caulking, Weatherstripping, and Clock Thermostats.* Caulking and weatherstripping fall within the 7-year payback in all climate zones for all fuel use categories for resident-installed costs and are considered program measures in all States. Clock thermostats fall within the 7-year payback in all climate zones for all fuel use categories for resident- and contractor-installed costs. (For the sake of simplicity, these measures do not appear in the tables.)

(2) *Devices Associated with Electric Load Management Techniques.* Devices associated with electric load management techniques are program measures for all categories of fuel use if the local electric utility offers a residential rate that reflects any differences in the utility's cost of service (either energy or demand costs) between peak and off-peak periods, or if a residential electric rate comprised of an integrated peak measured demand and an energy use component is applied.

(3) *Ceiling Insulation.* Where indicated as a program measure in Table 2, the R-Value for ceiling insulation shall be determined by the State.

(4) *Floor Insulation.* Where indicated as a program measure in Table 2, the R-Value for floor insulation shall be determined by the State.

(5) *Replacement Solar Swimming Pool Heaters.* These are evaluated as a program measure as indicated in Table 2. This analysis assumed a pool blanket or cover is also used. The measure should be audited for as indicated in Table 2 whenever the residence has a heated pool.

(6) *Intermittent Ignition Devices (IID's).* IID's are not displayed as program measures in Table 2, but are program measures for the category "Gas" in the Oregon climate zone "8."

(7) *Active Solar Space Heating Systems and Combined Solar Space Heating and Hot Water Systems.* Active solar space heating systems and combined solar space heating and hot water systems are program measures as indicated by Table 1 below.

TABLE 1

State	RUDV MPS region	Fuel	Active solar systems	Combined [1]
Arizona	3	Electric	C	C.
		Gas		
		Oil		
		H.P.		
Arizona	4	Electric	C	C.
		Gas	[C]	
		Oil	C	
		H.P.	[C]	
California	3	Electric		C.
		Gas		
		Oil		
		H.P.		
New Mexico	3	Electric	C	C.
		Gas		
		Oil		
		H.P.		
New Mexico	4	Electric	C	C.
		Gas		
		Oil		
		H.P.	[C]	
New Mexico	5	Electric	C	
		Gas		
		Oil		
	all	H.P.		

[1] Combined solar space heating and hot water systems.

(8) *Wind Energy Devices.* A State that does not change its audit requirements by deleting measures based on the amended RCS measures table shall, whenever a wind energy device appears in Table 2 with brackets and is also asterisked, continue to include a wind energy device as a program measure in its State Plan. Whenever a wind energy device is bracketed or bracketed and asterisked, a State that changes its audit requirements by deleting measures based on the amended RCS measures table shall include in its State Plan the requirement that utilities audit for the appropriate type of wind energy device identified in Table 2. Where both types of wind energy devices are identified in Table 2, an audit is required for only one of these devices.

(e) *Bracketed Measures.* A State is required to include in its State Plan those

measures that appear in brackets in Table 1 or 2 only when a State changes its audit requirements by deleting any measures from its State Plan based upon the amended RCS measures tables.

(f) *Table of Program Measures by State.* All other program measures are displayed in Table 2 organized by State where:

R=Resident-installed costs
C=Contractor-installed costs
X=2-kW nonutility interconnected DC wind machine without battery storage
Y=2-kW interconnected AC wind machine without battery storage.

TABLE 2

State	HUD/MPS region fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling	Wall	Floor	Water heater	Duct	Pipe										
AL	2																
	Electric	RC	C	[RC]	RC	RC	RC			RC				C		C	
	Gas	RC		[RC]	RC	R	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC					C				C	
	H.P.	RC		[R]		R	R									C	
AL	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC				C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC										
AK	8																
	Electric	RC	C	RC		RC	RC	C		RC							
	Gas	RC	C	RC		RC	RC				C		C				
	Oil	RC	C	RC		RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
AZ	1																
	Electric	RC	C	[R]	RC	R	R	[C]		RC				C			
	Gas	RC	C	[R]	RC	R	R	[C]									
	Oil	RC	C	[R]	RC	R	R	[C]									
	H.P.	RC	C			R	R	[C]									
AZ	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC	[C]			C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
AZ	3																
	Electric	RC	C	RC	RC	RC	RC	C	[C]	RC	C			C			[X]
	Gas	RC	C	[RC]	RC	RC	RC	[C]			C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									[X]
AZ	4																
	Electric	RC	C	RC	RC	RC	RC	C	[C]	RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									
AZ	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C			C	
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C								C	
AZ	6																
	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C			C	C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
AZ	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
AR	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
AR	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									
CA	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
CA	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC				C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC										
CA	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									
CA	5																

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation: Ceiling	Insulation: Wall	Insulation: Floor	Insulation: Water heater	Insulation: Duct	Insulation: Pipe	Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
CA	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
CA	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
CA	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
CO	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C	C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C								C	
CO	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
CO	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC					C	C	[DY]
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[DY]
CT	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	[D]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[D]*
DE	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	
DC	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC	C			C						
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									
FL	1																
	Electric	RC	C	[R]	RC	R	R	[C]		RC				C		C	
	Gas	RC	C		RC	R	R										
	Oil	RC	C	[R]	RC	R	R	[C]								C	
	H.P.	RC	C			R	R									C	
FL	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[RC]	RC	R	RC										
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		R	R									C	
GA	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC				C		C	
	Gas	RC	C	[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[R]		R	R									C	
GA	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[RC]	RC	RC	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C				C	
	H.P.	RC	C	[RC]		RC	RC									C	
GA	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC									C	
HI	1																
	Electric	RC	C	[RC]	RC	RC	RC	[C]	[C]	RC				C			[xy]*
	Gas	RC	C	[RC]	RC	RC	RC	[C]	[C]				C				
	Oil	RC	C	[R]	RC	R	R	[C]	[C]								
	H.P.	RC	C	[R]		R	R	[C]	[C]								[xy]*
ID	7																
	Electric	RC	C	RC	RC	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
ID	8																

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation: Ceiling	Wall	Floor	Water heater	Duct	Pipe	Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
IL	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	
IL	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
IL	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
IL	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
IN	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC									C	
IN	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
IN	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
IN	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
IA	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
IA	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	
IA	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
KS	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									
KS	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		
	Gas	RC	C	RC	RC	RC	RC	C					C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
KS	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[X]*
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									[X]*
KS	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[X]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									[X]*
KY	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	RC	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC										
KY	5																

* [X]

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling	Wall	Floor	Water heater	Duct	Pipe										
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	R	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
KY	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
LA	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[R]	RC	RC	R										
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC									C	
LA	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
ME	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC							DG*
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									DG*
MD	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	
MD	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
MD	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
MA	6																
	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	[X]*
	Gas	RC	C	RC	RC	RC	RC	C			C		E				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[X]*
MA	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
MI	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
MI	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
MN	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
MS	2																
	Electric	RC	C	[RC]	RC	RC	RC			RC				C			
	Gas	RC		[R]	RC	R	R										
	Oil	RC	C	[RC]	RC	RC	RC					C					
	H.P	RC	C	[R]		R	R										
MS	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P	RC	C	[RC]		RC	RC										
MO	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P	RC	C	RC		RC	RC	C								C	
MO	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
MO	6																

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling	Wall	Floor	Water heater	Duct	Pipe										
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
MT	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
NB	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
ND	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
NB	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
NV	2																
	Electric	RC	C	[RC]	RC	RC	RC			RC	C						
	Gas	RC		[RC]	RC	RC	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC					C					
	H.P	RC		[RC]		R	RC										
NV	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	[RC]	RC	RC	RC				C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P	RC	C	[RC]		RC	RC										
NV	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P	RC	C	RC		RC	RC										
NV	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P	RC	C	RC		RC	RC	C									
NV	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
NV	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C									
NV	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
NH	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
NH	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	[x]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C			C					C	[x]*
NJ	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
NJ	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P	RC	C	RC		RC	RC	C								C	
NM	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[x]*
	Gas	RC	C	[RC]	RC	RC	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P	RC	C	[RC]		RC	RC	[C]									[x]*
NM	4																

State	
NM	
NM	
NM	
NM	
NY	
NY	
NC	
NC	
NC	
NC	
ND	
OH	
OH	
OH	
OK	
OK	

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling	Wall	Floor	Water heater	Duct	Pipe										
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[x]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C									[x]*
NM	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C	C	[x]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	[x]*
NM	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[xy]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									[xy]*
NM	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
NM	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	[x]*
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[x]*
NY	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	[x]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[x]*
NY	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C	C	[xy]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[xy]*
NY	8																
	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C				C	C	[xy]*
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[xy]*
NC	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC				C		C	
	Gas	RC		[RC]	RC	R	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC		[R]		R	R									C	
NC	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[RC]	RC	RC	RC				C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC									C	
NC	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC									C	
NC	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
ND	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
OH	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
OH	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
OH	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
OK	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			[x]*
	Gas	RC	C	[RC]	RC	RC	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									[x]*
OK	4																

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation: Ceiling	Wall	Floor	Water heater	Duct	Pipe	Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			[xy]*
	Gas	RC	C	RC	RC	RC	RC	C				C	C				
	Oil	RC	C	RC	RC	RC	RC	C				C					[xy]*
	H.P.	RC	C	RC		RC	RC	C									
OK	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C		[xy]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									[xy]*
OK	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C	C	C	[xy]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C								C	[xy]*
OR	4																
	Electric	RC	C	RC	RC	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC		RC		RC	RC										
OR	5																
	Electric	RC	C	RC	RC	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC		RC		RC	RC										
OR	6																
	Electric	RC	C	RC	RC	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
OR	7																
	Electric	RC	C	RC	RC	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
OR	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
PA	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
PA	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
PA	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
PA	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
RI	4																
	Electric	RC	C	RC	RC	RC	RC	C	C	RC	C					C	[x]*
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[x]*
SC	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC				C		C	
	Gas	RC		[RC]	RC	R	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC		[R]		R	R									C	
SC	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[RC]	RC	RC	RC				C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C				C	
	H.P.	RC	C	[RC]		RC	RC									C	
SC	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC									C	
SD	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
SD	8																

TABLE 2—Continued

State	HUD/MPS region limit	Insulation						Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
		Ceiling	Wall	Floor	Water heater	Duct	Pipe										
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
TN	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		[RC]	RC	RC	RC						C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC										
TN	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC										
TN	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC		RC	RC	RC	RC						C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
TX	1																
	Electric	RC	C	[R]	RC	R	R	[C]		RC				C			
	Gas	RC	C		RC	R	R	[C]									
	Oil	RC	C	[R]	RC	R	R	[C]									
	H.P.	RC	C			R	R	[C]									
TX	2																
	Electric	RC	C	[RC]	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC	[C]					C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
TX	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	[RC]	RC	RC	RC	[C]			C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]									
TX	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C				C	
	H.P.	RC	C	RC		RC	RC	C								C	
TX	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C				C	
	H.P.	RC	C	RC		RC	RC	C								C	
UT	5																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C			
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
UT	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
UT	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C				C		
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
UT	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC					C		
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
VT	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						[x]
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									[x]
VT	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC						C	[x]
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	[x]
VA	3																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C			C		C	
	Gas	RC	C	[RC]	RC	RC	RC	[C]			C		C				
	Oil	RC	C	[RC]	RC	RC	RC	[C]				C					
	H.P.	RC	C	[RC]		RC	RC	[C]								C	
VA	4																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C				C					
	H.P.	RC	C	RC		RC	RC	C								C	
VA	5																

TABLE 2—Continued

State	HUD/MPS region fuel	Insulation: Ceiling	Wall	Floor	Water heater	Duct	Pipe	Storm or thermal windows	Storm or thermal doors	Heat reflective and absorbing window materials	Replacement heating system	Replacement oil burner	Vent damper	Replacement central air conditioner	Solar domestic water heater	Replacement solar pool heater	Wind energy
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
VA	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C					C	
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C								C	
WA	6																
	Electric	RC		RC		RC	RC			RC							
	Gas	RC	C	RC	R	RC	RC	C			C		C				
	Oil	RC	C	RC	R	RC	RC	C			C	C					
	H.P.	R		RC		RC	RC										
WA	7																
	Electric	RC		RC	R	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC		RC		RC	RC										
WA	8																
	Electric	RC	C	RC	R	RC	RC			RC							
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
WV	5																
	Electric	RC	C	RC	RC	RC	RC			RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC										
WV	6																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
WI	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
WI	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC	C			C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
WY	7																
	Electric	RC	C	RC	RC	RC	RC	C		RC	C						
	Gas	RC	C	RC	RC	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
WY	8																
	Electric	RC	C	RC	RC	RC	RC	C		RC							
	Gas	RC	C	RC	R	RC	RC				C		C				
	Oil	RC	C	RC	RC	RC	RC	C			C	C					
	H.P.	RC	C	RC		RC	RC	C									
PR	1																
	Electric	RC	C	[RC]	RC	RC	RC	[C]	[C]	RC				C	C		
	Gas	RC	C	[R]	RC	R	R	[C]	[C]								
	Oil	RC	C	[R]	RC	R	R	[C]	[C]								
	H.P.	RC	C	[R]		R	R	[C]	[C]								

Appendix II to Part 456—Prototypical House Assumptions

(a) *Reference House.* (1) The prototypical house, on which the RCS measures table is based, is the ranch style home developed in the National Bureau of Standards document NBSIR 77–1309. This house is based upon a National Association of Home Builders (NAHB) survey of 84,000 homes built by 1,000 builders selected randomly from the builder members of NAHB. The house is typical of ranch style houses built in 1974.

(2) The house has been slightly modified to make it more representative of existing housing stock and to allow for the calculation of all RCS measures. DOE has elected to reduce the insulation levels from the NAHB survey (1974) level of R–19 ceiling and R–11 walls to R–7 insulation in the ceiling and no insulation in the walls as a basis for the measures table. Insulation manufacturers' data on residential retrofit applications for ceiling insulation indicate that the majority of existing attics that have not been reinsulated have an existing R-Value of between R–5 and R–9. The furnace/hot water space has been enlarged to accommodate oil furnaces and storage for solar domestic water heaters. The prototypical house, to provide the basis for audits, is assumed to have the features necessary for the application of renewable energy measures. For example, it was assumed to have a south-facing roof suitable for solar collectors, no obstruction to wind energy systems, and a swimming pool that could use a solar pool heater. It is recognized that many residences do not have these features.

(3) The prototypical house and assumptions were chosen as representative of typical homes in the Nation which could benefit from RCS measures. States are encouraged to review the prototypical house relative to construction practices on the local level. A State may submit an amended RCS measures table based upon modifications to the prototypical house if documentation supports such requests.

(b) *Characteristics of the Prototypical House.* (1) *Infiltration.* The prototypical house is assumed to have deteriorated caulking on window and door frames, no weatherstripping, and no gaskets on electrical outlets. Some minor cracks are assumed to exist in ceiling and floor joints.

Some wiring and pipe penetration is assumed through the attic floor.

Existing conditions also include undampered vents, no fireplace, and at least 13 entrances and exits through the home per average day. The infiltration category of the prototypical house is essentially the "poor" category listed in the RCS Model Audit.

(2) *Insulation.* As indicated above, the prototypical house is assumed to have no wall insulation, R–7 ceiling insulation in a vented attic, and no floor or crawl space insulation. The walls with 2 x 4 studs on 16-inch centers have a thermal conductance of 0.21 Btu per hour per square foot per degree Fahrenheit (Btu/h/ft²/° F). The thermal conductance of the ceiling with joists or truss cords on 24-inch centers is 0.12 Btu/h/ft²/° F. The thermal conductance of the floor with 2 x 10 floor joists on 24-inch centers and carpeting and vented crawl space is 0.19 Btu/h/ft²/° F.

(3) *Windows.* All glazing is assumed to be single pane with a thermal conductance of 1.13 Btu/h/ft²/° F.

(4) *Water Heater.* The water heater is assumed to be more than 3 years old and is in conditioned space with adequate clearance for an insulation jacket.

(5) *Space Heating and Cooling.* Primary space conditioning equipment for the prototypical home includes one of the following: electric resistance furnace, electric resistance baseboard, electric resistance radiant ceiling or wall panels, electric heat pump, electric boiler, natural gas-fired boiler, gas-forced air, or oil-fired furnace. An electric drive central air-conditioner is assumed. Industry accepted seasonal efficiencies for existing systems more than 5 years old, and new commercially available systems are used in the calculations. In the prototypical house, combustion air is taken from conditioned space, if required. Oil burners are not retention or wet base types. Natural gas pilot lights are assumed to be on for the heating season. All existing systems in the reference house are more than 5 years old.

(6) *Distribution Systems.* Distribution ducting and hydronic pipe are assumed to be in unconditioned areas and are uninsulated.

(7) *Heating and Cooling System Controls.* The prototypical house is assumed not to have a clock thermostat. It is also assumed that there is no manual nighttime temperature setback.

(8) *Heat Reflecting and Heat Absorbing Window and Door Material.* The prototypical house has 127 sq. ft. of unshaded windows which face east and west. For purposes of calculation, the house was oriented so that the ends of the house which contained no glazing face north and south.

(9) *Solar Domestic Hot Water Systems.* It is assumed that 80 gallons of hot water are used per day by a family of four (ASHRAE Systems Handbooks, 1980). The hip roof is not shaded and has an adequate south-facing area for collectors.

(10) *Replacement Solar Pool Heaters.* The 450 sq. ft. swimming pool is assumed to have a cover that is put in place in nonuse hours.

(11) *Wind Energy Systems.* There is no major obstruction to wind. The size of the wind generator is 2 kW, and all energy generated is used. The analysis was performed for residences that used electricity for heating and water heating.

(c) *Thermal Envelope.*

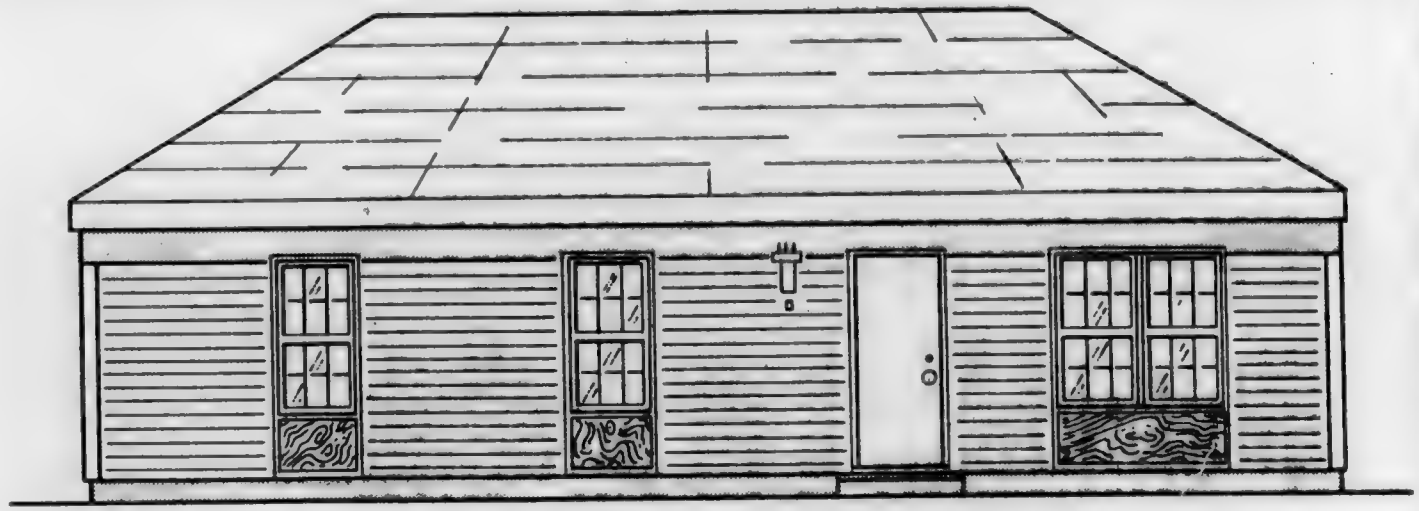
—Glazing
Single panel U-Value=1.13
East area + sliding glass door=72 ft²
West area=55 ft²
Total area=127 ft²
—Walls
No insulation
U wall=0.24—excludes the stud cross section and represents 75 percent of the exposed area
U studs=0.13—which is 25 percent of the exposed area
U overall=0.21—which is the weighted value of the U of the wall and the U of the stud cross section
South wall area=224 ft²
North wall area=224 ft²
East wall area=264 ft²
West wall area=260 ft²
—Ceiling
R–7 insulation
U ceiling=0.115—excludes the truss cord and represents 90 percent of the exposed area
U truss=0.17—which is 10 percent of the exposed area
U overall=0.12
Area=1,176 ft²
—Front Entry Door
U=0.47 (hardwood door)
Area=21 ft²
—Floor Above Crawl Space
No insulation
U floor=0.2—excludes the joist and represents 90 percent of the exposed area
U joist=0.09—which is 10 percent of the exposed area
U overall=0.19
Area=1,176 ft²

BILLING CODE 6450-01-M



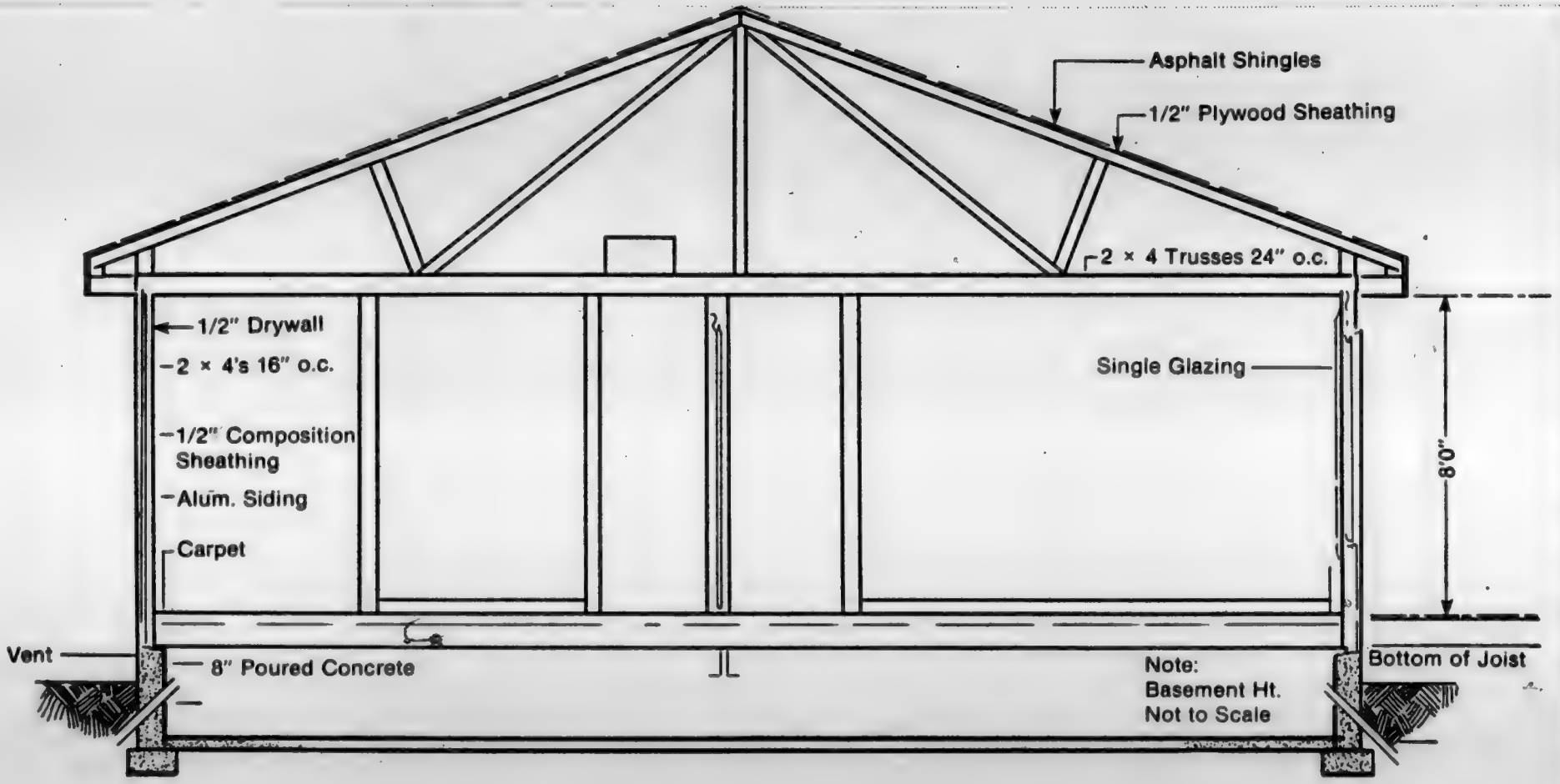
Rear Elevation of a Typical Ranch House

0 2 4 8

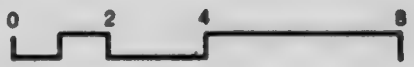


Front Elevation of a Typical Ranch House

0 2 4 8

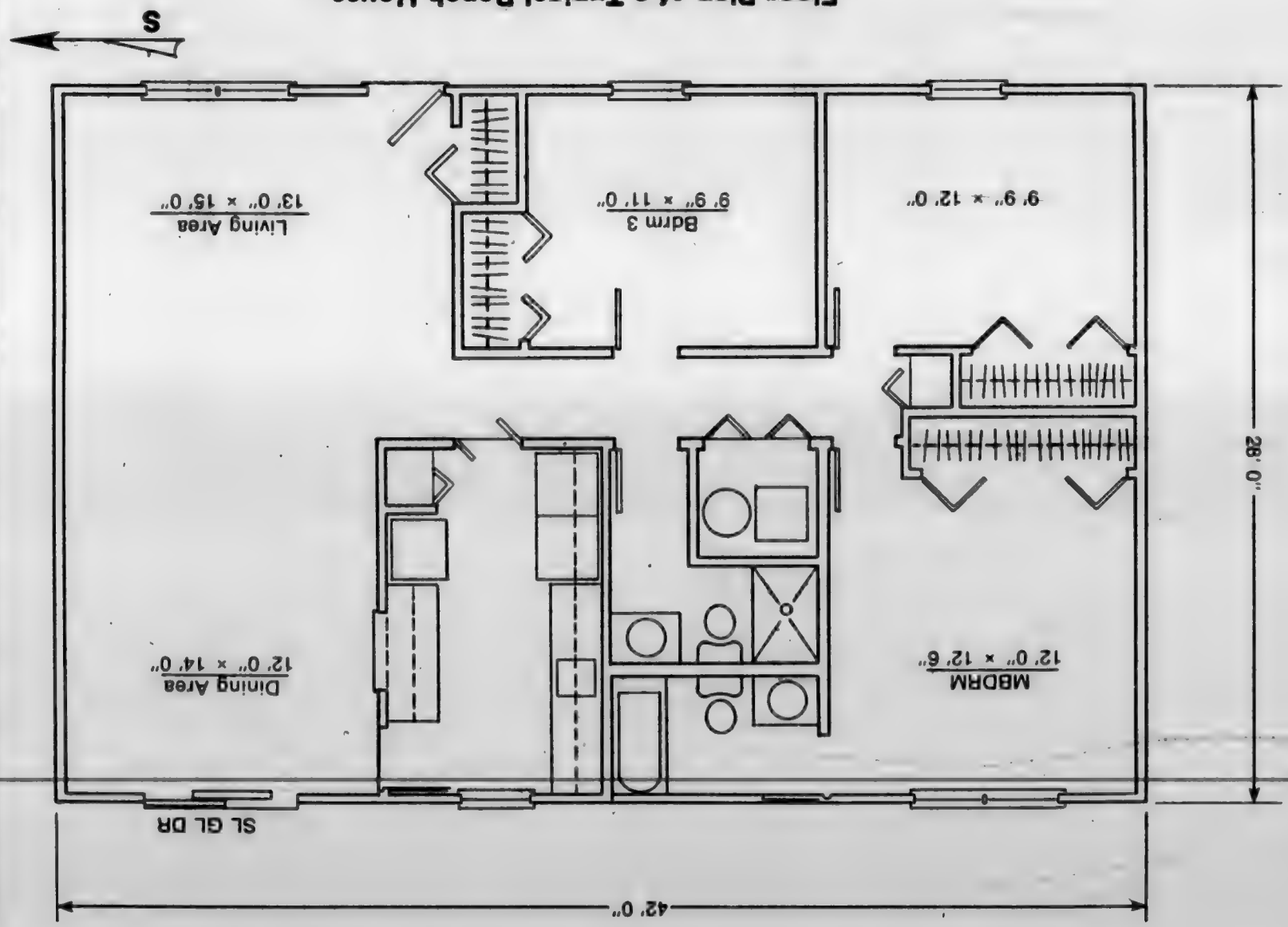


Section Thru Typical Ranch



BILLING CODE 6450-01-C

Floor Plan of a Typical Ranch House



Appendix III to Part 456—Multifamily Applicability Criteria and Procedures for Determining Usage Cutoff Levels

(a) *General.* (1) For those program measures identified in Appendix I, a State or nonregulated utility has the following options regarding audits for dwelling units in residential buildings containing more than four dwelling units (multifamily dwelling units):

(i) Accept the measures indicated by Appendix I for use in multifamily dwelling units.

(ii) Use the DOE multifamily applicability criteria and/or procedures for determining specific cutoffs for heating energy use, cooling energy use, or domestic hot water use in paragraphs (b), (c), (d), and (e) of this appendix for all or some of the program measures identified in Appendix I.

(iii) Develop a method for determining applicability and submit it to DOE for approval in accordance with § 456.306(b).

(2) DOE has not developed multifamily applicability criteria or methods for determining usage cutoff levels for caulking, weatherstripping, duct and pipe insulation, storm or thermal windows, heat reflective and heat absorbing window materials, and IID's. DOE has determined that these measures have the same applicability in multifamily dwelling units as in the prototypical house.

(3) DOE has developed specific applicability criteria for ceiling insulation, floor insulation, wall insulation, clock thermostats, storm or thermal doors, water heater insulation, solar domestic water heaters, replacement solar swimming pool heaters, combined active solar space heating and solar domestic hot water systems, and wind energy devices because of the possible physical differences between the prototypical house and a multifamily dwelling unit.

(4) In addition to the applicability criteria, methods for determining usage cutoff levels have been developed for replacement furnaces or boilers, replacement oil burners, flue dampers, replacement central air-conditioners, solar domestic water heaters, active solar space heating systems and combined active solar space heating and solar domestic hot water systems because they may have significantly different simple paybacks for multifamily dwelling units than for the single family prototypical house. The payback for these measures is dependent on heating energy use, cooling energy use, or hot water use. An audit for each of these measures is required if the annual energy usage or hot water usage in a multifamily dwelling unit is high enough such that a 7-year payback is probable. That level of usage for which a 7-year payback is probable is the cutoff level for that measure.

(b) *Applicability criteria.* (1) *Ceiling Insulation.* Ceiling insulation is applicable when the audit is for ceilings separating a conditioned space from an unconditioned space and when it is physically practical to insulate the ceiling.

(2) *Floor Insulation.* Floor insulation is applicable for floors separating a conditioned space from an unconditioned space and when it is physically practical to insulate the floor.

(3) *Wall Insulation.* Wall insulation is applicable for walls separating a conditioned space from an unconditioned space and when it is physically practical to insulate the walls.

(4) *Storm or Thermal Doors.* A storm or thermal door is applicable if the door separates a conditioned space from an unconditioned space.

(5) *Clock Thermostats.* A clock thermostat is applicable when the thermostat is not part of the furnace.

(6) *Water Heater Insulation.* Water heater insulation is applicable when there is an individual water heater for that multifamily dwelling unit.

(7) *Solar Domestic Water Heaters.* A solar domestic water heater is applicable when there is an individual water heater for that multifamily dwelling unit. This measure may also be subject to a hot water usage cutoff.

(8) *Combined Active Solar Space Heating and Solar Domestic Water Systems.* A combined active solar space heating and solar domestic hot water system is applicable when there is an individual water heater for that multifamily dwelling unit. This measure may also be subject to a hot water usage cutoff.

(9) *Wind Energy Devices.* A wind energy device is not applicable for multifamily dwelling units.

(10) *Replacement Solar Swimming Pool Heaters.* A replacement solar swimming pool heater is not applicable for multifamily dwelling units.

(c) *Heating Energy Use Cutoffs.* Heating energy use cutoffs shall be determined for replacement furnaces or boilers, replacement oil burners, flue dampers, active solar space heating, and combined solar space heating and solar domestic hot water systems. After all heating energy use cutoff levels for each category of fuel type have been determined, a State has the option to use the lowest of these levels as the cutoff for all of the heating measures. The auditor will audit for a measure if the annual heating energy use of the dwelling is greater than the heating energy use cutoff for that measure. The annual heating energy use of a dwelling unit must be determined by removing the contribution of nonspace heating sources (such as water heating or lighting) from the total energy usage.

(1) *Replacement Furnace or Boiler.* The following formula shall be used to determine the heating energy use cutoff for oil, gas, electric, and heat pump heating systems:

$$E_{RFCO} = \frac{C_{RF}}{7\ (LEP)\ (\Delta n)}$$

Where

E_{RFCO} = annual heating energy consumption (based on assumed worst existing system) necessary to give a 7-year simple payback on replacement furnaces or boilers (replacement furnace or boiler energy cutoff)

C_{RF} = installed capital cost − tax credit

7 is the payback period in years

LEP = local energy price, $/unit energy (same energy units as E_{RFCO})

$$\Delta = 1 - \frac{n_{existing}}{n_{new}}$$

Where

$n_{existing}$ = Assumed efficiency of existing heating system, varies by climate zone and fuel type.

n_{new} = Efficiency of new improved heating system, also varies by climate zone and fuel type.

Use the values in the following table for Δn. The values in this table were calculated based on the assumption of a relatively inefficient existing furnace or heat pump. All existing efficiencies were taken from the RCS Model Audit.

Δn

HUD IBPS Zone

Fuel	1	2	3	4	5	6	7	8
Electric	.55	.51	.44	.41	.35	.31	.26	.09
Gas	.26	.26	.26	.26	.26	.26	.26	.26
Oil	.20	.20	.20	.20	.20	.20	.20	.20
H.P.	.20	.20	.20	.20	.20	.20	.20	.20

(2) *Replacement Oil Burner.* The following formula shall be used to determine the heating energy use cutoff for replacement oil burners.

$$E_{RBCO} = \frac{C_{RB}}{(LEP)\ (7)\ (0.16)}$$

Where

E_{RBCO} = annual heating energy consumption necessary to give a 7-year payback on a replacement oil burner (replacement oil burner energy cutoff)

C_{RB} = cost of installed replacement oil burner − tax credit

LEP = local energy price, $/unit energy (same energy units as E_{RBCO})

7 is the payback period in years

0.16 is a high estimate of the proportion of heating energy that may be saved due to a replacement oil burner.

(3) *Flue Damper.* The following formula shall be used to determine the heating energy use cutoff for flue dampers for gas heating systems.

$$E_{FDCO} = \frac{C_{FD}}{(LEP)\ (7)\ (0.1)}$$

Where

E_{FDCO} = annual energy consumption necessary to give a 7-year payback on a flue damper (flue damper energy cutoff)

C_{FD} = installed flue damper cost − tax credit

LEP = local energy price, $/unit energy (same energy units as E_{FDCO})

7 is the payback period in years
0.1 is a high estimate of the proportion of heating energy that may be saved due to a flue damper.

(4) *Active Solar Space Heating.* (i) The cost of active solar space heating systems depends on insulation as well as heating energy use, which makes it difficult to produce a generic formula that will indicate the annual heating energy use cutoff level which corresponds to a 7-year simple payback. Therefore, a State shall determine the heating energy use cutoff level by calculating the simple payback associated with a range of annual heating energy uses and then, by successive approximation, determine the heating energy use cutoff level that corresponds to a 7-year simple payback.

(ii) Use the following procedure to determine the heating energy use cutoff for solar space heating:

(A) Determine savings (using each heating fuel type) and costs for active solar space heating using an approved audit procedure, such as the Model Audit, for a range of annual heating energy uses. For each fuel, choose an annual heating energy use cutoff level, based on these calculations, which corresponds to a 7-year simple payback.

(B) Calculations should assume: no obstruction to solar radiation; due south orientation of collectors; a solar savings fraction consistent with the values given in the Model Audit for the climate (solar savings fraction is the percent of the heating load provided by the solar system); enough roof area to provide the solar savings fraction indicated above; and the tilt of the collector should be optimal for the specified latitude.

(5) *Combined Solar Space Heating and Solar Domestic Hot Water Systems.*

(i) The cost of combined active solar space heating and solar domestic hot water systems depends on insulation as well as heating energy use which makes it difficult to produce a generic formula that will indicate the annual heating energy use cutoff level which corresponds to a 7-year simple payback. Therefore, a State shall determine the heating energy use cutoff level by calculating the simple payback associated with a range of annual heating energy uses and then by successive approximations determine the heating energy use cutoff level that corresponds to a 7-year simple payback.

(ii) Use the following procedures to determine the cutoff for combined solar space heating and domestic hot water systems.

(A) Determine savings (using each heating fuel type) and costs for active solar space heating using an approved audit procedure, such as the Model Audit, for a range of annual heating energy uses. For each fuel, choose an annual heating energy use cutoff level, based on these calculations, which corresponds to a 7-year simple payback.

(B) Calculations should assume: no obstruction to solar radiation; due south orientation of collectors; a solar savings fraction consistent with the values given in the Model Audit for the climate (solar savings fraction is the percent of the heating load provided by the solar system); enough roof area to provide the solar savings fraction indicated above; the tilt of the collector should be optimal for the specified latitude; and the hot water usage is 80 gallons per day with the water temperature set at 120° F.

(d) *Cooling Energy Use Cutoffs.* (1) Cooling energy use cutoffs shall be determined for replacement central air-conditioners.

(2) *Replacement Central Air-Conditioners.* (i) The following formula shall be used to determine the cooling energy use cutoff for replacement central air-conditioners:

$$E_{ACCO} = \frac{C_{RAC}}{7\ (LEP)\ (\Delta COP)}$$

Where

C_{RAC} = installed cost of replacement central air-conditioner

$$\Delta COP = 1 - \frac{COP_{existing}}{COP_{new}}$$

7 is the payback period in years
LEP = local energy price $/unit energy
$COP_{existing}$ = assumed coefficient of performance of existing system
COP_{new} = improved coefficient of performance of new system.

(ii) The value of 0.48 may be used for ΔCOP. This value is based on an assumed existing SEER of 6.6 (COP of 1.9) and a new SEER of 12.0 (COP of 3.5).

(iii) An audit should be conducted for replacement central air-conditioners if the annual cooling energy use of the dwelling unit is greater than the cooling energy cutoff. The annual cooling energy use of the dwelling unit shall be determined by removing the contribution of noncooling sources, (such as lighting, appliances, and water heating) from the total energy consumption.

(e) *Domestic Hot Water Use Cutoff.* (1) A domestic hot water use cutoff level shall be determined for solar domestic hot water systems. The cost of solar domestic water heater systems depends on insulation as well as hot water use which makes it difficult to produce a generic formula which will indicate the hot water use cutoff level which corresponds to a 7-year simple payback. Therefore, a State shall determine the simple payback associated with a range of daily hot water uses and then by successive approximation determine the hot water use cutoff level that corresponds to a 7-year simple payback.

(2) *Solar Domestic Hot Water System.* Use the following procedures to determine the domestic hot water use cutoff for solar domestic hot water systems.

(i) Determine savings (for each water heating fuel type) and costs for solar domestic hot water, using an approved audit procedure, such as the DOE Model Audit, for a range of gallons per day of hot water usage.

(ii) Based on the sample calculations, determine what is the gallons-per-day cutoff level for each fuel type which corresponds to a 7-year simple payback. Calculations should assume: no obstruction to solar radiation; due south orientation of collectors; a solar savings fraction consistent with the values given in the Model Audit for the climate (the solar savings fraction is the percent of the water heating load provided by the solar system); enough roof area to provide the solar savings fraction indicated above; and the tilt of the collector should be optimal for the specified latitude.

(iii) This gallons-per-day number shall be used as a cutoff level for determining whether to audit for a solar domestic hot water system in a multifamily dwelling unit. A method must be developed for auditors to determine gallons-per-day usage at the dwelling unit. (For example, the DOE Model Audit determines gallons-per-day usage using the number of people in residence and the presence of a dishwasher and/or a washing machine.)

[FR Doc. 82-17070 Filed 6-24-82; 8:45 am]
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DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 456

[Docket No. CAS-RM-79-101]

Residential Conservation Service Program; Withdrawal of Proposed Rulemaking

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Withdrawal of Notice of Proposed Rulemaking

SUMMARY: The Department of Energy is withdrawing the Notice of Proposed Rulemaking which relates to the treatment of urea-formaldehyde (U–F) foam insulation in the Residential Conservation Service (RCS) program (46 FR 8996, Janaury 27, 1981). The notice proposed in the alternative, amendments to improve the then existing material and installation standards for U–F foam insulation or a ban on the installation of U–F foam insulation under the RCS program. Through the revised RCS regulations issued June 15, 1982, DOE deleted the material and installation standards for U–F foam insulation from the RCS program, as a result of the Consumer Product Safety Commission ban on the use of U–F foam insulation in residences and schools (47 FR 14366, April 2, 1982).

DATE: The effective date of this withdrawal is June 25, 1982.

FOR FURTHER INFORMATION CONTACT:

Mark D. Friedrichs, CE–115, Building Services Division, Office of Conservation and Renewable Energy, Department of Energy Room 5 F–064, Washington, D.C. 20585, (202) 252–1650.

Daniel T. Ruge, Office of General Counsel, Department of Energy, Room 6B–144, Washington, D.C. 20585, (202) 252–9519.

SUPPLEMENTARY INFORMATION: The RCS program is mandated by Part I of Title II of the National Energy Conservation Policy Act (NECPA), as amended (42 U.S.C. 8211 *et seq.)*. The legislation requires large natural gas and electric utilities to perform energy audits of their customers' homes, upon request, and to provide certain other related services to their residential customers.

NECPA also requires the Secretary to develop material and installation standards determined necessary to ensure a minimum level of general safety and effectiveness for materials installed under the RCS program. Therefore, on September 25, 1980 (45 FR 63786), the Department of Energy (DOE) published interim final urea-formaldehyde (U–F) foam insulation standards relating both to its manufacture and its installation under the RCS program. In issuing the interim final standards, DOE indicated its intent to propose further improvements to the standards based on additional suggestions from the Consumer Product Safety Commission (CPSC).

On January 13, 1981, however, the CPSC voted to propose a ban on U–F foam insulation. Consequently, on January 27, 1981, Doe proposed in the alternative, several amendments to improve the interim standards or to preclude the use of U–F foam under the RCS program (46 FR 8996).

On March 29, 1982 the CPSC issued its final rule banning the use of U–F foam insulation in residences and schools (47 FR 14366, April 2, 1982). In light of the CPSC's action, by separate notice issued June 15, 1982, as a part of the overall revisions to the RCS regulations (10 CFR Part 456), DOE deleted the material and installation standards for U–F foam insulation from the RCS regulations.

For the reasons discussed above, DOE hereby withdraws the notice published in the **Federal Register** on January 27, 1981 (46 FR 8996) which proposed to amend Part 456 of Title 10 of the Code of Federal Regulations by either revising the interim final RCS standards pertaining to U–F foam insulation or banning its use within the RCS program.

Issued in Washington, D.C., June 22, 1982.

Howard S. Coleman,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82–17248 Filed 6–24–82; 8:45 am]

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federal register

Friday
June 25, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

Certain GRAS Status Approvals and Listing Procedures

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182 and 184

[Docket No. 78N-0277]

GRAS Status of Calcium Chloride, Calcium Gluconate, Calcium Acetate, and Calcium Phytate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that calcium acetate, calcium chloride, and calcium gluconate are generally recognized as safe (GRAS) as direct human food ingredients. FDA is not affirming the GRAS status of calcium phytate as a direct human food ingredient. The safety of these ingredients has been evaluated under the comprehensive safety review being conducted by the agency.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 16, 1979 (44 FR 10078), FDA published a proposal to affirm that calcium acetate, calcium chloride, and calcium gluconate are GRAS for use as direct human food ingredients, and that calcium chloride is GRAS as a component of paper and paperboard products and cotton and cotton fabrics used in food packaging. The agency also proposed to remove calcium phytate from the GRAS list as a direct human food ingredient. The proposal was published in accordance with the announced FDA safety review of GRAS and prior-sanctioned ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on calcium acetate, calcium chloride, calcium gluconate, and calcium phytate and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

In addition to proposing to affirm the GRAS status of calcium acetate, calcium chloride, and calcium gluconate, the agency also gave notice that it was unaware of any prior-sanctioned food ingredient uses for these substances or for calcium phytate, other than the proposed conditions of use. Persons asserting additional extended uses based upon approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of these substances recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of additional prior-sanctioned uses of calcium acetate, calcium chloride, calcium gluconate, or calcium phytate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of calcium acetate, calcium chloride, calcium gluconate, or calcium phytate under conditions different from those set forth in this final rule or in 21 CFR 181.29 has been waived.

Five comments were received in response to the proposal. A summary of the comments and the agency's conclusions follow:

1. One comment objected to the deletion of calcium phytate from the GRAS list. The comment stated that the only reason for the proposed deletion is that there is no evidence that the material is currently used in food. No additional use data or evidence of use was presented in the comment.

The agency pointed out in the proposal that although the National Academy of Sciences/National Research Council (NAS/NRC) survey of food manufacturers in 1971-1972 reported one user of calcium phytate, a subsequent inquiry by NAS/NRC to that respondent revealed that it no longer uses the ingredient. When contacted by FDA, a known manufacturer of calcium phytate reported that production was discontinued in 1975. Furthermore, FDA has not received any information on specifications, manufacturing process, or usage of calcium phytate in response to the proposal or in response to the agency's earlier request, published in the Federal Register of May 31, 1977 (42 FR 27676), for information on specific GRAS substances, including calcium phytate.

A determination of safety, as defined for the GRAS review, includes knowledge of the probable consumption of the substance and of any substance formed in or on food because of its use. Therefore, if there is no information on specifications, manufacturing process, or usage, the agency cannot affirm the substance as GRAS. Because the GRAS status of calcium phytate cannot be affirmed, this final rule deletes calcium phytate from 21 CFR Part 182. Future FDA approval of this substance may be sought through the GRAS or food additive petition procedures as outlined in § 170.35 or § 171.1 (21 CFR 171.1). Alternatively, an independent GRAS determination may be made in accordance with § 170.30 (21 CFR 170.30) and § 184.1 (21 CFR 184.1) for uses of calcium phytate, consistent with available safety data on this ingredient.

2. Two comments requested modification of the final rule to permit the use of calcium acetate in baked goods and baking mixes (defined in 21 CFR 170.3(n)(1)). These comments indicated that calcium acetate is currently used in amounts up to 0.2 percent in baked goods and baking mixes as a stabilizer and thickener (21 CFR 170.3(o)(28)) and as a texturizer (21 CFR 170.3(o)(32)).

Although there is no evidence that calcium acetate was being used in baked goods and baking mixes at the time of the NAS/NRC survey of uses of GRAS ingredients, the agency has found that the usage levels for calcium acetate described in the comments represent current good manufacturing practices (CGMP), and that there are adequate safety data to support such uses. Therefore, the agency has incorporated the requested usage level of calcium acetate into this final rule. The use of calcium acetate as a texturizer (21 CFR 170.3(o)(32)) and its use in nonstandardized baked goods and baking mixes (21 CFR 170.3(n)(1)) is permitted at a level up to 0.2 percent in accordance with CGMP.

3. One comment noted that the CGMP maximum use levels in the proposal exceed permissible levels for some standardized foods in these food categories. The comment requested information regarding which of these regulations takes precedence in such cases.

FDA advises that food standard regulations take precedence over GRAS affirmation CGMP maximum levels of use. The CGMP maximum use levels adopted in GRAS regulations are intended to cover all foods in each broad food category, including some standardized foods, but are not intended to replace or supersede the limits that are established for individual standardized foods.

4. One comment requested that no CGMP maximum use level be established for calcium chloride in the "all other foods category" (food categories not individually addressed in the proposal) until a survey is conducted to more accurately measure the calcium chloride that is now used in these categories of foods. The request was based upon information that taco and spaghetti sauces, prepared from canned tomatoes, may contain up to 0.2 percent calcium chloride and upon concern that other tomato-based products may also contain these higher levels.

The agency has thoroughly reviewed this comment and concludes that the specific concerns the comment raises can be addressed by modifying the CGMP maximum use level for use of calcium chloride in gravies and sauces, as defined in 21 CFR 170.3(n)(24), by raising it from 0.15 percent, as originally proposed, to 0.2 percent. The agency is unaware, however, that other remanufactured foods in other food categories present similar problems, and the agency cannot justify further inquiry into the use of calcium chloride beyond the NAS/NRC survey and the opportunity to comment on this rule that has been provided. Therefore, no additional action in response to this comment is necessary.

5. One comment requested that the CGMP levels for calcium chloride in condiments and relishes be increased from 0.11 percent to 0.4 percent to accommodate an expected new use in pickles.

Although calcium chloride is not currently used as a buffering agent or firming agent in the commercial preparation of pickles, FDA recognizes that foods consumed in high volume from some other food categories, such as coffee and tea (0.32 percent) and processed vegetables and vegetable juices (0.4 percent), have proposed CGMP maximum levels of usage of calcium chloride similar to that requested by this comment for condiments and relishes. Furthermore, the proposed use in pickles is consistent with the conclusion of the Select Committee that there is no evidence to suspect a public health hazard when calcium chloride is used at current levels or levels that might reasonably be expected in the future. The estimated total consumption of calcium chloride, upon which its safety has been evaluated, will not change appreciably by virtue of the expanded usage of this substance in condiments and relishes. Therefore, FDA concludes that adequate justification exists to incorporate the request usage levels for calcium chloride into this final rule. The CGMP maximum level of use of calcium chloride in condiments and relishes as defined in 21 CFR 170.3(n)(8) is raised to 0.4 percent in this final rule.

Consistent with its traditional practice, FDA proposed originally to establish separate regulations for calcium chloride in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA will not promulgate § 186.1193 as originally proposed. The indirect uses of calcium chloride proposed for inclusion in § 186.1193 are authorized under §§ 184.1193 and 184.1(a).

In the case of calcium chloride, FDA finds that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, no specific purity specifications are necessary for indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with the agency's current regulations, elsewhere in this issue of the **Federal Register** the agency is publishing a proposal to amend its procedural regulations in Parts 184 and 186 to reflect clearly those policies.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.70 [Amended]

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging,* by removing the entry for "Calcium chloride" from the list of substances.

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products,* by removing the entry for "Calcium chloride" from the list of substances.

§§ 182.1193, 182.1199, 182.6185, 182.6193, 182.6199, 182.6219 [Removed]

c. By removing § 182.1193 *Calcium chloride,* § 182.1199 *Calcium gluconate,* § 182.6185 *Calcium acetate,* § 182.6193 *Calcium chloride,* § 182.6199 *Calcium gluconate,* § 182.6219 *Calcium phytate.*

PART 184—DIRECT FOOD SUBSTANCES GENERALLY RECOGNIZED AS SAFE

2. In Part 184:

a. By adding new § 184.1185, to read as follows:

§ 184.1185 Calcium acetate.

(a) Calcium acetate ($Ca(C_2H_3O_2)_2$, CAS Reg. No. 62–54–4), also known as acetate of lime or vinegar salts, is the calcium salt of acetic acid. It may be produced by the calcium hydroxide neutralization of acetic acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 44, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal

Register, 1100 L St. NW., Washington, DC 20408.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; sequestrant as defined in § 170.3(o)(26) of this chapter; stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practices in accordance with § 184.1(b)(1). Current good manufacturing practices result in a maximum level, as served, of 0.2 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.02 percent for cheese as defined in § 170.3(n)(5) of this chapter; 0.2 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 0.15 percent for sweet sauces, toppings, and syrups as defined in § 170.3(n)(43) of this chapter; and 0.0001 percent for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section or in Part 181 of this chapter do not exist or have been waived.

b. By adding new § 184.1193, to read as follows:

§ 184.1193 Calcium chloride.

(a) Calcium chloride ($CaCl_2 \cdot 2H_2O$, CAS Reg. No. 10035–04–8) or anhydrous calcium chloride ($CaCl_2$, CAS Reg. No. 10043–52–4) may be commercially obtained as a byproduct in the ammonia-soda (Solvay) process and as a joint product from natural salt brines, or it may be prepared by substitution reactions with other calcium and chloride salts.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 47, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter; antimicrobial agent as defined in § 170.3(o)(2) of this chapter; curing or pickling agent as defined in § 170.3(o)(5) of this chapter; firming agent as defined in § 170.3(o)(10) of this chapter; flavor enhancer as defined in § 170.3(o)(11) of this chapter; humectant as defined in § 170.3(o)(16) of this chapter; nutrient supplement as defined in § 170.3(o)(2) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; surface-active agent as defined in § 170.3(o)(29) of this chapter; synergist as defined in § 170.3(o)(31) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods at levels not to exceed current good manufacturing practices in accordance with § 184.1(b)(1). Current good manufacturing practices result in a maximum level, as served, of 0.3 percent for baked goods as defined in § 170.3(n)(1) of this chapter and for dairy product analogs as defined in § 170.3(n)(10) of this chapter; 0.22 percent for nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; 0.2 percent for cheese as defined in § 170.3(n)(5) of this chapter and for processed fruit and fruit juices as defined in § 170.3(n)(35) of this chapter; 0.32 percent for coffee and tea as defined in § 170.3(n)(7) of this chapter; 0.4 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.2 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter; 0.1 percent for commercial jams and jellies as defined in § 170.3(n)(28) of this chapter; 0.25 percent for meat products as defined in § 170.3(n)(29) of this chapter; 2.0 percent for plant protein products as defined in § 170.3(n)(33) of this chapter; 0.4 percent for processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; and 0.05 percent for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1199, to read as follows:

§ 184.1199 Calcium gluconate.

(a) Calcium gluconate ($[CH_2OH(CHOH)_4COO]_2Ca$, CAS Reg. No. 299–28–5) is the calcium salt of gluconic acid which may be produced by neutralization of gluconic acid with lime or calcium carbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 51, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; formulation aid as defined in § 170.3(o)(14) of this chapter; sequestrant as defined in § 170.3(o)(26) of this chapter; stabilizer or thickener as defined in § 170.3(o)(28) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods at levels not to exceed current good manufacturing practices in accordance with § 184.1(b)(1). Current good manufacturing practices result in a maximum level, as served, of 1.75 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.4 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter; 4.5 percent for gelatins and puddings as defined in § 170.3(n)(22) of this chapter; and 0.01 percent for sugar substitutes as defined in § 170.3(n)(42) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective July 26, 1982.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on June 10, 1982, and is on file at the Office of the Federal Register.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17040 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 172, 182, and 184

[Docket No. 78N–0223]

GRAS Status of Adipic Acid and Sodium Adipate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that adipic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency. The agency is also not affirming the GRAS status of sodium adipate because there is no usage information concerning this substance.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–

335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 30, 1979 (44 FR 5902), FDA published a proposal to affirm that adipic acid is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review of adipic acid, reports of the mutagenic and teratogenic tests for the ingredient, and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents are also available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of adipic acid, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for the substance, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of adipic acid recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for adipic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of adipic acid under conditions different from those set forth in this final rule has been waived.

Two comments were received in response to the proposal. A summary of the comments and the agency's responses follow.

One comment from a food ingredient manufacturer opposed any change in the current Food Chemicals Codex (FCC) specifications for adipic acid. The comment indicated that the manufacturer's adipic acid does not meet the proposed melting point range of 151°–153° C but does meet the existing FCC specifications of 151.5°–154° C. The comment further questioned the need for adding any additional identity tests to those indicated in the FCC.

The Subcommittee on Codex Specifications of the National Academy of Sciences has indicated to FDA that adipic acid is among certain ingredients listed in the FCC that lack adequate assay/identity tests. The current Codex specifications for adipic acid consist only of an acid/base titration for the assay tests and a melting point determination for identification of the test substance. Adipic acid prepared from cyclohexanol or cyclohexanone, as specified in the proposed rule, could contain unreacted starting materials as well as hexanoic acid derivatives as impurities. The hexanoic acid derivatives, in particular, would contribute to the response in the acid/base titration and could lead to percent impurities higher than the actual percent of adipic acid in the sample. Likewise, the melting point of adipic acid is not itself very specific as an identity test, and the agency therefore concludes that the additional identity tests proposed are justified for this ingredient to supplement the low specificity of this assay. The agency also supports future adoption of improved assay methodology for adipic acid by the Codex Committee.

FDA proposed a narrower melting point range for food-grade adipic acid than appears in the FCC largely on the basis of data that are available in commercial chemical reagent catalogs. Adipic acid samples from these sources are indicated to have a melting point range of 151°–153° C, as adopted in the proposal. However, adipic acid produced by the above manufacturer has a melting point range within the current Codex specification (151.5°–154° C), although the manufacturers' melting point is outside the range of the proposed specification (151°–153° C). In view of this information, FDA concludes that no change is necessary in the FCC melting point range for adipic acid because the adoption of the additional identity tests will assure product identity.

A comment from a second food manufacturer objected to the adoption of current good manufacturing practice (CGMP) use levels for adipic acid. The comment said that inclusion of CGMP use levels for an ingredient affirmed as GRAS when there are no safety considerations to justify this limitation is a fundamental error in the application of GRAS affirmation regulations. The comment contrasted the proposed CGMP use levels with the old GRAS regulation for adipic acid (21 CFR 182.1009), in which the only limitation was undefined good manufacturing practice. The comment concluded by requesting that the list of food categories and CGMP use levels for adipic acid be deleted from the proposed regulation.

FDA finds that its current practice of listing food categories and CGMP maximum levels of use for GRAS affirmation regulations is a proper application of § 184.1(b)(1) (21 CFR 184.1(b)(1)) of its GRAS procedural regulations. Any interpretation that CGMP maximum use levels for adipic acid are intended as specific limitations is in error, as explained in § 184.1(b)(1). GRAS affirmation regulations with CGMP limitations in accordance with § 184.1(b)(1) may be contrasted with those GRAS affirmation regulations that prescribe specific limitations in accordance with § 184.1(b)(2). The question of current good manufacturing practice limitation versus specific limitations in GRAS affirmation regulations has arisen previously, and the agency answered it at length in the preambles to the GRAS regulations published in the Federal Register of September 23, 1974 (39 FR 34180, 34195) and December 7, 1976 (41 FR 53601). The agency has also dealt with this question in the preamble to the tentative final rule on calcium oxide and calcium hydroxide, which is published elsewhere in this issue of the Federal Register. The requested deletion from the proposed regulation of CGMP maximum levels of use for adipic acid is therefore denied.

In 1964 an FDA official issued an opinion letter that recognized the GRAS status of sodium adipate as a buffer and neutralizing agent. However, the agency announced in the January 30, 1979 proposal (44 FR 5905) that it does not consider itself bound by the 1964 opinion letter because it does not possess certain information that in accordance with § 170.35, is required in order to affirm the GRAS status of sodium adipate. In particular, the agency is unaware of the manufacturing methods and food-grade specifications for sodium adipate, the food categories in which it is used, and the usual and maximum use levels in each food category. Because the lack of this information prevents the definition of conditions of safe use, FDA requested the submission of this information as comments on the proposal. No

comments on sodium adipate were received in response to the proposal. Therefore, sodium adipate is not being affirmed as GRAS by FDA. Future FDA approval of sodium adipate may be sought through the GRAS or food additive petition procedures outlined in § 170.35 or § 171.1 (21 CFR 171.1) for any new use of this substance. Alternatively, an independent GRAS determination may be made in accordance with § 170.30 (21 CFR 170.30) and § 184.1 for uses of sodium adipate consistent with available safety data on this substance.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by that order.

List of Subjects

21 CFR Part 172

Food additives; Food preservatives; Spices and flavorings.

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 172, 182, and 184 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.515 [Amended]

1. In § 172.515 *Synthetic flavoring substances and adjuvants*, by removing the entry for "Adipic acid; 1, 4-butanedicarboxylic acid" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1009 [Removed]

2. By removing § 182.1009 *Adipic acid.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new § 184.1009 to read as follows:

§ 184.1009 Adipic acid.

(a) Adipic acid ($C_6H_{10}O_4$, CAS Reg. No. 00124–04–9) is also known as 1, 4-butanedicarboxylic acid or hexane-dioic acid. It is prepared by nitric acid oxidation of cyclohexanol or cyclohexanone or a mixture of the two.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 11, which is incorporated by reference (copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408), and the following additional specifications:

(1) The adipic acid is converted to its corresponding amide. The amide is purified by recrystallization from water or aqueous ethanol. The melting range of the amide is 219° to 220° C.

(2) The adipic acid is converted to its corresponding *bis-p-p*-bromophenacyl ester. The ester is purified by recrystallization from ethanol. The melting range of the ester is 153° to 154° C.

(c) The ingredient is used as a flavoring agent as defined in § 170.3(o)(12) of this chapter; leavening agent as defined in § 170.3(o)(17) of this chapter; and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient is used in foods at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in maximum levels, as served, of 0.05 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.005 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; 5.0 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.45 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter; 0.3 percent for fats and oil as defined in § 170.3(n)(12) of this chapter; 0.0004 percent for frozen dairy desserts as defined in § 170.3(n)(20) of this chapter; 0.55 percent for gelatin and puddings as defined in § 170.3(n)(22) of this chapter; 0.1 percent for gravies as defined in § 170.3(n)(24) of this chapter; 0.3 percent for meat products as defined in § 170.3(n)(29) of this chapter; 1.3 percent for snack foods as defined in § 170.3(n)(37) of this chapter; and 0.02 percent or less for all other food categories.

(e) Prior sanctions for adipic acid different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective July 26, 1982.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on May 27, 1982, and is on file at the Office of the Federal Register.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–17041 Filed 6–24–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 77N–0042]

GRAS Status of Propylene Glycol and Propylene Glycol Monostearate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Adminstration (FDA) is affirming that propylene glycol is generally recognized as safe (GRAS) as a direct human food ingredient. However, FDA is withdrawing the proposed GRAS affirmation of propylene glycol monostearate as a direct food ingredient because this substance is already subject to a food additive regulation. The safety of propylene glycol and propylene glycol monostearate has been evaluated under the agency's comprehensive review of substances considered to be GRAS or subject to a prior sanction.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 17, 1977 (42 FR 30865), FDA published a proposal to affirm that propylene glycol and propylene glycol monostearate are GRAS for use as direct human food ingredients, and that propylene glycol is also GRAS as an indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review on propylene glycol and derivatives, reports of the teratogenic and mutagenic screening tests for propylene glycol, and the report of the Select Committee on GRAS Substances (the Select Committee) on propylene glycol and propylene glycol monostearate are available for public review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents have also been made available for public purchase from the National Technical Information Service (NTIS) as indicated in the proposal. In addition, a mutagenic study on propylene glycol, which was not listed in the proposal, is available for public review in the Dockets Management Branch (address above), and may be purchased from NTIS (order No. PB 257–868/AS, price code A03, price $4.50). This study did not indicate that the public health would be adversely affected by the use of propylene glycol as a GRAS food ingredient.

In addition to proposing to affirm the GRAS status of propylene glycol and propylene glycol monostearate, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient use for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of propylene glycol and propylene glycol monostearate recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Parts 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for propylene glycol or propylene glycol monostearate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of propylene glycol under conditions different from those set forth in this regulation has been waived.

Fifteen comments were received in response to the agency's proposal and supporting information on propylene glycol and propylene glycol monostearate. A summary of the comments and the agency's responses follows:

1. Two comments asked whether a contradiction exists between the GRAS affirmation for propylene glycol monostearate and the existing regulation, § 172.856 (21 CFR 172.856), on propylene glycol mono- and diesters of fats and fatty acids. Several comments were also received concerning methods of manufacture and usage of propylene glycol monostearate.

Because of the existing food additive regulation (21 CFR 172.856) for propylene glycol monostearate, the agency agrees that GRAS affirmation for this ingredient would create a redundancy and could also cause confusion. Consequently, the agency is withdrawing the proposal to affirm propylene glycol monostearate as GRAS. The current food additive regulation governs the uses of the substance reported during the survey of food manufacturers (conducted by the National Academy of Sciences/National Research Council (NAS/NRC)) and during the comment period on the proposal.

2. Three comments asserted that the proposed maximum level of 16 percent for propylene glycol in seasonings and flavorings was impractical and requested that a higher use level be permitted in this food category. As a comment pointed out, even when the concentration of propylene glycol in a flavoring is 97 percent, the concentration of the substance consumed in the finished food product is less then 2.0 percent.

The agency agrees with the comments and concludes that the use of propylene glycol in flavorings only produces a small amount of the substance in the finished food as served. Processor information available to the agency confirms the comment described above. Consequently, the regulation has been modified to include the current good manufacturing practice (CGMP) maximum level of use of up to 97 percent propylene glycol in seasonings and flavorings. (The regulation has also been modified to include a CGMP maximum level of use of 2.0 percent for all other food categories. This change is discussed below.)

3. Three comments requested that additional food categories and levels of use be provided for propylene glycol. Two requests were for use of propylene glycol at a use level of 5 percent in coconut, and one request was for the use of the substance at a level of 4 percent in nuts and nut products as defined by § 170.3(n)(32) (21 CFR 170.3(n)(32)).

The agency has determined that there are adequate safety data to support the levels of usage for these additional food categories, and that these requests are appropriate. Therefore, the final rule has been modified to include the use of propylene glycol at a CGMP maximum level of use of 5 percent in nuts and nut products, including coconut.

4. Two comments stated that propylene glycol is used as a component of adhesives under § 175.105 (21 CFR 175.105) and requested that the proposed regulation be modified to include the use of propylene glycol in adhesives under § 186.1666 (21 CFR 186.1666).

Because the use of GRAS substances, including propylene glycol, in adhesives is provided for in § 175.105, the listing of propylene glycol in Part 186 for use in adhesives is unnecessary.

Consistent with its traditional practice, FDA proposed originally to establish separate regulations for propylene glycol in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA will not promulgate § 186.1666 as originally proposed. The indirect uses of propylene glycol proposed for inclusion in § 186.1666 are authorized under § 184.1666 (21 CFR 184.1666) and § 184.1(a).

In the case of propylene glycol, FDA finds that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, no specific purity specifications are necessary for indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with the agency's current regulations, elsewhere in this issue of the Federal Register the agency is publishing a proposal to amend its

procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Additional information from the NAS/NRC industry survey regarding the current good manufacturing practice maximum levels of use of propylene glycol has been made available to the agency since the publication of the June 17, 1977 proposal to affirm propylene glycol as GRAS. This new information indicates that the maximum CGMP reported level of use of propylene glycol has been increased to 1.5 percent in baked goods and in fats and oils and 2.5 percent in frozen dairy products. The proposed CGMP maximum level of use of propylene glycol in baked goods, fats and oils, and frozen dairy products in the proposed regulation was 1.0, 0.08, and 0.8 percent, respectively. Because FDA has stated that the GRAS affirmations will reflect the conditions of use that currently exist or that are reasonably foreseeable (39 FR 34194, 34195; September 23, 1974), the final regulation has been revised to reflect this new usage information. The final regulation as revised states that under current good manufacturing practice the maximum levels of use of propylene glycol in frozen dairy products is 2.5 percent and in "all other food categories" is 2.0 percent (see the agency's response to comment 2 above concerning flavorings). The baked goods and fats and oils food categories have been eliminated because they are now under "all other food categories."

Because the use of propylene glycol as a color was reported by the NAS/NRC industry survey, the proposed regulation listed the technical functional effect of the ingredient as a color and coloring adjunct, as defined in § 170.3(o)(4) (21 CFR 170.3(o)(4)). The agency has determined, however, that the listing of GRAS ingredients for direct use in food as colorants is inappropriate because the evaluation of ingredients for direct color use is properly the subject of color additive regulations. Accordingly, FDA has removed the listing of propylene glycol for use as a color and coloring adjunct from the final regulation. The use of propylene glycol as a color diluent is permitted under the existing color additive regulation (21 CFR 73.1(a)), which provides for the use of GRAS ingredients as diluents in color additive mixtures for food use exempt from certification. However, the GRAS affirmation proposal did not list a technical functional effect that would cover this use. To accommodate this use, the final rule has been modified to include use of the ingredient in food as a processing aid as defined by § 170.3(o)(24).

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Propylene glycol" from the list of substances.

§ 182.1666 [Removed]

b. By removing § 182.1666 *Propylene glycol.*

§ 182.4666 [Removed]

c. By removing § 182.4666 *Propylene glycol.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1666, to read as follows:

§ 184.1666 Propylene glycol.

(a) Propylene glycol ($C_3H_8O_2$, CAS Reg. No. 57–55–6) is known as 1,2-propanediol. It does not occur in nature. Propylene glycol is manufactured by treating propylene with chlorinated water to form the chlorohydrin which is converted to the glycol by treatment with sodium carbonate solution. It is also prepared by heating glycerol with sodium hydroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 255, which is incorporated by reference. Copies may be obtained from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418. It is also available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter; antioxidant as defined in § 170.3(o)(3) of this chapter; dough strengthener as defined in § 170.3(o)(6) of this chapter; emulsifier as defined in § 170.3(o)(8) of this chapter; flavor agent as defined in § 170.3(o)(12) of this chapter; formulation aid as defined in § 170.3(o)(14) of this chapter; humectant as defined in § 170.3(o)(16) of this chapter; processing aid as defined in § 170.3(o)(24) of this chapter; solvent and vehicle as defined in § 170.3(o)(27) of this chapter; stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; surface-active agent as defined in § 170.3(o)(29) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in maximum levels, as served, of 5 percent for alcoholic beverages, as defined in § 170.3(n)(2) of this chapter; 24 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter; 2.5 percent for frozen dairy products as defined in § 170.3(n)(20) of this chapter; 97 percent for seasonings and flavorings as defined in § 170.3(n)(26) of this chapter; 5 percent for nuts and nut products as defined in § 170.3(n)(32) of this chapter; and 2.0 percent for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date: This regulation is effective on July 26, 1982.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 31, 1982, and is on file at the Office of the Federal Register.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 7, 1982.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 82-17062 Filed 6-24-82; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 78N-0300]

GRAS Status of Acetic Acid, Ammonium Acetate, Sodium Acetate, and Sodium Diacetate

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that acetic acid, sodium acetate, and sodium diacetate are generally recognized as safe (GRAS) as direct human food ingredients. It is also not affirming the GRAS status of ammonium acetate because there is no usage information concerning this substance. The safety of these ingredients has been evaluated under the comprehensive safety review being conducted by the agency.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 3, 1979 (44 FR 19430), FDA published a proposal to affirm that acetic acid, sodium acetate, and sodium diacetate are GRAS for use as direct human food ingredients. Additionally, FDA proposed that ammonium acetate be removed from GRAS status because there is no information that it is currently being used in food. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review of acetic acid, sodium acetate, sodium diacetate, and ammonium acetate, reports of the mutagenic and teratogenic tests for each ingredient, and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of acetic acid, sodium acetate, and sodium diacetate and to remove ammonium acetate from GRAS status, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of acetic acid, sodium acetate, sodium diacetate, or ammonium acetate recognized by issuance of appropriate regulations under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for acetic acid, sodium acetate, sodium diacetate, or ammonium acetate were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of these substances under conditions different from those set forth in this final rule has been waived.

Five comments responded to the proposal. A summary of the comments and the agency's response follows.

1. One comment from a food manufacturer requested that the GRAS affirmation regulation for sodium diacetate include a provision for its use as an antimicrobial agent because it has long been used for this technical effect.

Although this comment is correct with respect to this use of sodium diacetate, it is unnecessary to change the final rule because the use of this substance as an antimicrobial agent was proposed in the April 3, 1979 document.

2. Three comments from food industry trade associations requested increases in some of the use levels that were proposed as the maximum levels, as served, which represent current good manufacturing practice (CGMP). Specifically, one trade association requested an increase in the maximum use level, as served, for acetic acid from 0.015 percent to 0.8 percent in the food category "cheeses" and from 0.6 percent to 0.8 percent in the food category "dairy product analogs". The comment reported that these higher levels are required to adjust properly the pH level in the manufacture of cheeses or cheese analogs and to produce products with desirable characteristics. Two other trade associations reported that they had recently surveyed their members to determine current usage levels of acetic acid, ammonium acetate, sodium acetate, or sodium diacetate. They found that, in addition to the levels proposed, sodium acetate is used at a maximum level, as served, of 0.15 percent in hard candy, and acetic acid is used at a maximum level, as served, of 0.5 percent in chewing gum.

FDA recognizes that the 1971 National Academy of Sciences/National Research Council (NAS/NRC) survey data were not comprehensive and, in fact, probably represented only 60 percent of food ingredient users in the U.S. The additional uses and use levels reported in the above comments do not change significantly the estimated daily consumption for these substances. Furthermore, acetates are common constituents of plant and animal tissues and are normal metabolic intermediates that are produced in relatively large quantities during the digestion and metabolism of foods. The agency has concluded that there are adequate margins of safety to affirm as GRAS the newly reported uses and use levels for these food ingredients. Consequently, they are being included in those parts of the final rule that denotes uses and use levels that the agency currently considers to represent current good manufacturing practice.

3. One comment received from a trade association expressed concern that a statement in the preamble to the April 3, 1979 proposed rule on acetic acid (i.e., "Acetic acid is most widely known in the form of vinegar, a dilute aqueous solution.") would be interpreted to indicate that dilute acetic acid and vinegar are identical and could further be interpreted to change FDA's past policy against the substitution of acetic acid for vinegar in food products as expressed in FDA Compliance Policy Guide No. 7120.11 and FDA Trade Correspondence No. 50 (February 12, 1940).

FDA agrees with the comment and agrees that the above-quoted statement in the proposal could be interpreted erroneously. Diluted acetic acid is not vinegar. When acetic acid is used as an ingredient in food, it should be declared by its name, "acetic acid" or "diluted acetic acid." Furthermore, the agency considers it misleading if the labeling of a food in which acetic acid is used implies or suggests that the food contains or was prepared with vinegar. Acetic acid should not be substituted for

vinegar in pickled foods, which consumers customarily expect to be prepared with vinegar.

While responses to the comments were being prepared, FDA received a letter requesting permission to use acetic acid in a boiler water additive intended to be used in boilers producing steam that would come into contact with food products. FDA has often informally granted such requests for other GRAS substances, and FDA responded affirmatively to this request. Because GRAS substances are not ordinarily included in the food additive regulation for boiler water additives, the final GRAS regulation for acetic acid has been amended to indicate that this substance is also affirmed as GRAS for use in boiler water additives complying with § 173.310 (21 CFR 173.310).

The agency proposed, in the April 3, 1979 Federal Register, to remove ammonium acetate from GRAS status, which had been declared in an opinion letter, unless evidence of use was submitted as comments to that proposal. FDA has not received any information on specifications, manufacturing process, or usage of ammonium acetate in response to the proposal. A determination of safety, as defined for the GRAS review, includes knowledge of the probable consumption of the substance and of any substance formed in or on food because of its use. Therefore, if there are no data on conditions of use, probable consumption, manufacturing procedure, or specifications, the agency cannot affirm the substance as GRAS. FDA consequently cannot affirm the GRAS status of ammonium acetate. Future FDA approval of this substance may be sought through the GRAS or food additive petition procedures as outlined in § 170.35 or § 171.1 (21 CFR 171.1) for any new use of ammonium acetate. Alternatively, independent GRAS determinations may be made in accordance with § 170.30 and § 184.1 (21 CFR 170.30 and 184.1) for uses of this substance consistent with available safety data.

Consistent with its traditional practice, FDA proposed originally to establish separate regulations in Parts 184 and 186 for acetic acid and sodium acetate to govern their direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose detailed purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 those substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA will not promulgate §§ 186.1005 and 186.1721 as originally proposed. The indirect uses of acetic acid and sodium acetate proposed for inclusion in §§ 186.1005 and 186.1721 are authorized under §§ 184.1(a), 184.1005, and 184.1721.

In the case of acetic acid and sodium acetate, FDA finds that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, no specific purity specifications are necessary for indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with the agency's current regulations, elsewhere in this issue of the Federal Register the agency is publishing a proposal to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

a. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entries for "Acetic acid" and "Sodium acetate."

§ 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Acetic acid."

§ 182.1005 [Removed]

c. By removing § 182.1005 *Acetic acid.*

§ 182.1721 [Removed]

d. By removing § 182.1721 *Sodium acetate.*

§ 182.6754 [Removed]

e. By removing § 182.6754 *Sodium diacetate.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1005, to read as follows:

§ 184.1005 Acetic acid.

(a) Acetic acid ($C_2H_4O_2$, CAS Reg. No. 64–19–7) is known as ethanoic acid. It occurs naturally in plant and animal tissues. It is produced by fermentation of carbohydrates or by organic synthesis. The principal synthetic methods currently employed are oxidation of acetaldehyde derived from ethylene, liquid phase oxidation of butane, and reaction of carbon monoxide with methanol derived from natural gas.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 8, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) The ingredient is used as a curing and pickling agent as defined in § 170.3(o)(5) of this chapter; flavor enhancer as defined in § 170.3(o)(11) of this chapter; flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; as a solvent and vehicle as defined in § 170.3(o)(27) of this chapter; and as a

boiler water additive complying with § 173.310 of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level as served, of 0.25 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.8 percent for cheeses as defined in § 170.3(n)(5) of this chapter and dairy product analogs as defined in § 170.3(n)(10) of this chapter; 0.5 percent for chewing gum as defined in § 170.3(n)(6) of this chapter; 9.0 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.5 percent for fats and oils as defined in § 170.3(n)(12) of this chapter; 3.0 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter; 0.6 percent for meat products as defined in § 170.3(n)(29) of this chapter; and 0.15 percent or less for all other food categories. The ingredient may also be used in boiler water additives at levels not to exceed current good manufacturing practice.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1721, to read as follows:

§ 184.1721 Sodium acetate.

(a) Sodium acetate ($C_2H_3O_2Na$, CAS Reg. No. 127–09–3 or $C_2H_3O_2Na.3H_2O$, CAS Reg. No. 6131–90–4) is the sodium salt of acetic acid and occurs naturally in plant and animal tissues. Sodium acetate may occur in either the anhydrous or trihydrated form. It is produced synthetically by the neutralization of acetic acid with sodium carbonate or by treating calcium acetate with sodium sulfate and sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 272, 273 which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; and as a pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.007 percent for breakfast cereals as defined in § 170.3(n)(4) of this chapter; 0.5 percent for fats and oils as defined in § 170.3(n)(12) of this chapter; 0.6 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter and snack foods as defined in § 170.3(n)(37) of this chapter; 0.15 percent for hard candy as defined in § 170.3(n)(25) of this chapter; 0.12 percent for jams and jellies as defined in § 170.3(n)(28) of this chapter and meat products as defined in § 170.3(n)(29) of this chapter; 0.2 percent for soft candy as defined in § 170.3(n)(38) of this chapter; 0.05 percent for soups and soup mixes as defined in § 170.3(n)(40) of this chapter and sweet sauces as defined in § 170.3(n)(43) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

c. By adding new § 184.1754, to read as follows:

§ 184.1754 Sodium diacetate.

(a) Sodium diacetate ($C_4H_7O_4Na.xH_2O$, CAS Reg. No. 126–96–5) is a molecular compound of acetic acid, sodium acetate, and water of hydration. The technical grade is prepared synthetically by reacting sodium carbonate with acetic acid. Special grades are produced by reacting anhydrous sodium acetate and acetic acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 284, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) The ingredient is used as an antimicrobial agent as defined in § 170.3(o)(2) of this chapter; flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; and pH control agent as defined in § 170.3(o)(23) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, 0.4 percent for baked goods as defined in § 170.3(n)(1) of this chapter; 0.1 percent for fats and oils as defined in § 170.3(n)(12) of this chapter, meat products as defined in § 170.3(n)(29) of this chapter and soft candy as defined in § 170.3(n)(38) of this chapter; 0.25 percent for gravies and sauces as defined in § 170.3(n)(24) of this chapter; and 0.05 percent for snack foods as defined in § 170.3(n)(37) of this chapter and soups and soup mixes as defined in § 170.3(n)(40) of this chapter.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective July 26, 1982.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 31, 1982 and is on file at the Office of the Federal Register.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: June 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17043 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 182 and 184

[Docket No. 77N-0041]

GRAS Status of Stannous Chloride (Anhydrous and Dihydrated)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that stannous chloride (anhydrous and dihydrated) is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by FDA.

EFFECTIVE DATE: July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Thompson, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 14, 1978 (43 FR 6242), FDA published a proposal to affirm that stannous chloride is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, reports of the mutagenic and teratogenic tests, and the report of the Select Committee on GRAS Subetances (the Select Committee) on stannous chloride are available for public review in the Dockets Management Branch (HFA–305), Food and Drug

Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of stannous chloride, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for the substance, other than for the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of stannous chloride recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for stannous chloride were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of stannous chloride under conditions different from those set forth in this regulation has been waived.

One comment was received in response to the FDA proposal on stannous chloride. The comment stated that because the specifications of the Food Chemicals Codex, 2d Ed. (1972), pertain only to dihydrated stannous chloride, FDA should clarify whether the GRAS status of anhydrous stannous chloride is being affirmed. The comment also submitted a manufacturing method for anhydrous stannous chloride different from that in the proposal.

FDA has considered this comment and agrees that clarification is necessary. Because the available information supports the affirmation of both anhydrous and dihydrated stannous chloride, FDA has revised the final rule accordingly and has included applicable specifications for both forms. These specifications have been developed and approved by the Committee on Specifications, Food Chemicals Codex, of the Committee on Food Protection, National Research Council, National Academy of Sciences. They have been included in the Food Chemicals Codex, 3d Ed. (1981). The agency has also considered the manufacturing method that was submitted by the comment. That method has been approved and is included in this final regulation.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFRA 5.10), Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.3845 [Removed]

1. Part 182 is amended by removing § 182.3845 *Stannous chloride.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1845, to read as follows:

§184.1845 Stannous chloride (anhydrous and dihydrated).

(a) Stannous chloride is anhydrous or contains two molecules of water of hydration. Anhydrous stannous chloride ($SnCl_2$, CAS Reg. No. 7772–99–8) is the chloride salt of metallic tin. It is prepared by reacting molten tin with either chlorine or gaseous tin tetrachloride. Dihydrated stannous chloride ($SnCl_2 \cdot 2H_2O$, CAS Reg. No. 10025–69–1) is the chloride salt of metallic tin that contains two molecules of water. It is prepared from granulated tin suspended in water and hydrochloric acid or chlorine.

(b) Both forms of the ingredient meet the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 312, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with § 184.(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.0015 percent or less; calculated as tin, for all food categories.

(e) Prior sanctions for this ingredient different from those uses established in this section do not exist or have been waived.

Effective date. This regulation shall be effective July 26, 1982.

Note.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 31, 1982, and is on file at the Office of the Federal Register. (Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–17045 Filed 6–24–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 184 and 186

[Docket No. 79N-0174]

GRAS Substances Affirmed for Both Direct and Indirect Uses; Procedure for Listing

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing an amendment to avoid the duplicate listing of affirmed generally recognized as safe (GRAS) substances. The listing of indirect uses would be discontinued when the same ingredient is listed for direct use. This amendment would also clarify FDA's requirements concerning the purity of GRAS substances used as indirect food ingredients.

DATE: Comments by August 24, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Human food ingredients classified as GRAS for their intended use are listed in Part 182 (21 CFR Part 182). These GRAS ingredients may be direct or indirect food substances or both. Indirect food substances are those that are not added intentionally to food to accomplish a purpose in the food but that nevertheless become (or are reasonably expected to become) components of food as a result of their use in some phase of the food manufacturing, packaging, or other related processes (generally as a result of migration from food-contract materials). Indirect food substances that were considered GRAS at the time the Food Additives Amendment was enacted in 1958 are listed in §§ 182.70 and 182.90 (21 CFR 182.70 and 182.90).

FDA is now conducting a comprehensive safety review of all GRAS substances. When appropriate, these substances are affirmed as GRAS in Part 184 (21 CFR Part 184) or Part 186 (21 CFR Part 186) and removed from Part 182. Part 184 lists direct substances, and Part 186 lists indirect substances. In the past, if a substance was listed in Part 182 for both direct and indirect uses, it was included in both Part 184 and Part 186 when its GRAS status was affirmed. This practice has led to redundancy in FDA's regulations because substances listed in Part 184 are authorized for indirect use even when not listed in Part 186. Section 184.1(a) (21 CFR 184.1(a)) presently states: "Ingredients affirmed as GRAS in this section may also be used as components of articles that contact food, subject to any limitations prescribed in Parts 174, 175, 176, 177, 178, or § 179.45 of this chapter or in Part 186 of this chapter." To avoid needless duplication in its regulations, FDA has decided to discontinue listing in Part 186 those substances that are authorized for direct uses in Part 184. The proposal set forth in this document would amend §§ 184.1(a) and 186.1(a) to reflect this decision and would also remove from Part 186 those indirect ingredients already authorized for indirect use in Part 184. In addition, the agency has used the term "indirect food ingredients" in place of the term "components of articles that contact food" in amended §§184.1(a) and 186.1(a) to make it clear that it intends these sections to cover ingredients that may indirectly become a component of food.

FDA also has reconsidered whether purity criteria are necessary for ingredients affirmed as GRAS for indirect use. In the past, the agency normally promulgated purity specifications for these ingredients as part of the Part 186 regulations affirming their GRAS status. FDA has determined, however, that as a general rule there no longer is a need to promulgate such specifications. This conclusion is based on the fact that indirect uses generally result in extremely low levels of consumer exposure to the substance and correspondingly low levels of exposure to any impurities that may be present in it. If purity specifications are necessary in a particular case based on safety considerations, FDA will promulgate a regulation establishing such specifications in Part 186. For example, purity specifications are needed for caprylic acid (§ 186.1025 (21 CFR 186.1025)) because it is expected to become a component of food in greater amounts than most other indirect food ingredients. In most cases, however, the safety of substances that are affirmed as GRAS for indirect uses is adequately assured if these substances are of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)), and if they are used in accordance with current good manufacturing practice.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses by both large and small businesses of the substances covered by this proposal. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the proposal will not result in a major rule as defined by that Order.

List of Subjects

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

21 CFR Part 186

Food ingredients, Generally recognized as safe (GRAS) food ingredients, Indirect food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), it is proposed that Parts 184 and 186 be amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. Part 184 is amended in § 184.1 by revising paragraph (a) to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe (GRAS).

(a) The direct human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed. The regulations in this part shall sufficiently describe each ingredient to identify the characteristics of the ingredient that has been affirmed as GRAS and to differentiate it from other possible versions of the ingredient that have not been affirmed as GRAS. Ingredients affirmed as GRAS in this part may also be used as indirect human food ingredients, subject to any limitations prescribed in Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter or in Part 186

of this chapter. The purity specifications in this part do not apply when the ingredient is used in indirect applications. However, when used in indirect applications, the ingredient must be of a purity suitable for its intended use in accordance with § 170.30(h)(1) of this chapter.

* * * * *

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 186 is amended:

a. In § 186.1 by revising the section heading and paragraph (a) to read as follows:

§ 186.1 Substances added indirectly to human food affirmed as generally recognized as safe (GRAS).

(a) The indirect human food ingredients listed in this part have been reviewed by the Food and Drug Administration and determined to be generally recognized as safe (GRAS) for the purposes and under the conditions prescribed, providing they comply with the purity specifications listed in this part or, in the absence of purity specifications, are of a purity suitable for their intended use in accordance with § 170.30(h)(1) of this chapter. Certain ingredients listed in this part may also be used in food-contact surfaces in accordance with Parts 174, 175, 176, 177, 178 or § 179.45 of this chapter. Ingredients affirmed as GRAS for direct use in Part 184 of this chapter may be used as indirect food ingredients in accordance with § 184.1(a) of this chapter.

* * * * *

§ 186.1275 [Amended]

b. In § 186.1275 *Dextrans* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

§§ 186.1330, 186.1339, 186.1343, 186.1807 [Removed]

c. By removing § 186.1330 *Acacia (gum arabic)*, § 186.1339 *Guar gum (technical grade)*, § 186.1343 *Locust (carob) bean gum*, and § 186.1807 *Sodium thiosulfate*.

§ 186.1839 [Amended]

d. In § 186.1839 *Sorbose* by removing paragraph (b) and redesignating paragraphs (c), (d), and (e) as (b), (c), and (d), respectively.

Interested persons may, on or before August 24, 1982 submit to the Dockets Management Branch (HFA–305) (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 19, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Dated: May 19, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-17044 Filed 6-24-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 77N-0132]

GRAS Status of Calcium Oxide and Calcium Hydroxide

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is tentatively affirming calcium oxide and calcium hydroxide as generally recognized as safe (GRAS) as direct human food ingredients. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review conducted by the agency. This tentative final rule also would remove calcium oxide and calcium hydroxide from 21 CFR Part 182, which lists substances generally recognized as safe.

DATE: Comments on the revisions made to the proposed regulation and issued as part of this tentative final rule by August 24, 1982.

ADDRESS: Written comments may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 16, 1977 (42 FR 41299), FDA published a proposal to affirm that calcium oxide and calcium hydroxide are GRAS for use as direct human food ingredients, and that calcium hydroxide is GRAS for use as an indirect human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review of calcium oxide and calcium hydroxide, the teratogenic and mutagenic evaluations of calcium oxide, and the report of the Select Committee on GRAS Substances (the Select Committee) are available for public review in the Dockets Management Branch (HFA–305) (address above). Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of calcium oxide and calcium hydroxide, FDA gave public notice that it was unaware of any prior-sanctioned food ingredient uses for these substances, other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions, so that the safety of the prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of calcium oxide and calcium hydroxide recognized by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184, 186), as appropriate.

FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for calcium oxide or calcium hydroxide were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for a use of these substances under conditions different from those set forth in this tentative final rule has been waived.

This tentative final rule also would remove calcium hydroxide from the GRAS list, Part 182 (21 CFR Part 182), in §§ 182.90 and 182.1205 and removes calcium oxide from §§ 182.1210 and 182.8210 (21 CFR 182.90, 182.1205, 182.1210, 182.8210) as required by § 182.1(d) (21 CFR 182.1(d)). When the proposal for affirmation of GRAS status of calcium oxide and calcium hydroxide in Parts 184 and 186 was published, it did not specifically refer to the removal of calcium hydroxide from §§ 182.90 and 182.1205 and the removal of calcium oxide from § 182.1210. In the judgment of FDA, the omission of a statement of intent to remove these GRAS listings does not significantly alter the pending rule. Because these substances are being affirmed as GRAS, however, it is conceivable that the removal of the

above-mentioned sections of Part 182 and the addition of sections to Part 184 (which contain specific definitions of current good manufacturing practice (CGMP)) may have the effect of omitting some current uses of calcium oxide and calcium hydroxide that were not evaluated by FDA because of this omission from the proposal. To afford interested persons the opportunity to respond to the removal of the listings for these substances in Part 182, this tentative final regulation is being issued under § 10.40(f)(6)(21 CFR 10.40(f)(6)). FDA will review any comments relevant to the removal of listings for these substances in §§ 182.90, 182.1205, and 182.1210 that are received within the 60-day comment period and will issue in the Federal Register either an announcement that this tentative final rule has become final and the full text of the final rule or an announcement of modification to the final rule made on the basis of the new comments and the full text of the final rule.

The proposal also did not address the dietary supplement use of calcium oxide. Information regarding the dietary supplement uses of GRAS ingredients including calcium oxide was not requested in the National Academy of Sciences/National Research Council (NAS/NRC) survey of food manufacturers. Consequently, the agency has insufficient data to evaluate this use. On the other hand, the agency has no information to suggest that continued use of calcium oxide as a dietary supplement would pose a hazard to the public health. In order to address this problem, the agency published a final rule in the Federal Register of September 5, 1980 (45 FR 58837), reorganizing the listing for GRAS ingredients used as nutrient and dietary supplements. In accordance with that publication, nutrient uses of calcium oxide are listed under § 182.8210 and dietary supplement uses are listed under § 182.5210 (21 CFR 182.5210). Under this tenative final rule, dietary supplement uses of calcium oxide would continue to be authorized under § 182.5210; however, nutrient uses of calcium oxide affirmed as GRAS would be listed in Part 184.

Three comments were submitted in response to the original proposal on calcium oxide and calcium hydroxide. A summary of the comments and the agency's responses follows:

1. One comment agreed with the safety evaluation of the Select Committee. The comment stated that extensive literature searches on calcium oxide and calcium hydroxide had revealed no information linking lime to adverse health effects. Also, the comment notified the agency of a study conducted in August 1972, which indicates that chemical granular quicklime is neither a corrosive substance nor a primary irritant as defined by the Department of Transportation in 49 CFR 173.240. This study supports the action proposed by FDA regarding human food use of calcium oxide and calcium hydroxide.

2. The second comment, from a food manufacturer, requested that the proposed levels of usage of calcium oxide in six food categories be raised. The food manufacturer stated that calcium oxide is currently being used as a pH control agent, an anticaking agent, and a nutrient supplement in the manufacture of certain whey products. These whey products are subsequently used in the manufacture of various foods. To accommodate the resulting higher levels of calcium oxide in the finished foods, the comment requested increased levels of calcium oxide in the six designated food categories affected by the addition of these whey products. The requested maximum use levels of calcium oxide in the respective food categories, calculated on the basis of concentration in the finished food, are as follows:

	Percent
Baked foods and baking mixes	0.10
Gelatins, puddings, and fillings	0.13
Soft candies	0.57
Confections and frosting	0.38
Frozen dairy desserts	0.27
Processed vegetables	0.02

This comment also expressed concern that the phrase "maximum level, as served" could be interpreted to mean the amount of the substance detectable in a final food product as consumed, rather than the amount that is theoretically present in a finished food product based on the amount known to be added. The comment suggested that the agency clarify the phrase "maximum level, as served" to make it less ambiguous. Finally, the comment suggested that the use of calcium oxide in foods be limited only by the requirement that such use not exceed current good manufacturing practices because individual usage levels of these ingredients may vary from firm to firm, and because there appears to be no reason to question the safety of this ingredient when used in functional quantities.

FDA has compared the NAS/NRC survey data with the above-requested usage levels and concludes that the higher levels requested in the comment are realistic, are within established safety guidelines, and do not change significantly the estimated total consumption of calcium oxide on which the proposal to affirm the safety of this substance was based. The requested usage levels in the various food categories have, therefore, been incorporated into the final rule, rounded to the next highest single significant number, for calcium oxide. Although the usage level of calcium oxide in milk products is 0.075 percent, higher levels of calcium oxide are permitted in whey that is used as an ingredient in other food product formulations, as long as the "as served" levels of calcium oxide in the finished foods are in compliance with levels associated with the respective food categories identified in Part 184.

Regarding formal clarification of the phrase "maximum level, as served," FDA recognizes that compliance with specific use levels cannot always be ensured through attempted detection and quantitation of each added ingredient that may be in the finished food. Instead, FDA interprets "maximum level, as served" as the level of an ingredient potentially occurring in a finished food product, as calculated on the basis of the amount of the ingredient added. Current good manufacturing practice (CGMP) maximum levels of use for GRAS ingredients are not specific limits on use but are intended to provide guidelines to users on CGMP maximum levels of use of food ingredients that have been evaluated as safe and affirmed as GRAS by FDA. Because GRAS affirmations under § 184.1(b)(1) (21 CFR 184.1(b)(1)) make clear that present and also reasonably expected higher levels of use may be considered GRAS, an independent GRAS determination by users be made in accordance with § 170.30 (21 CFR 170.30) and § 184.1 for reasonably expected higher levels of use of GRAS ingredients consistent with available safety data on such ingredients. However, FDA cautions users that significant deviations from stated CGMP maximum levels of use may not be GRAS, and in such cases, the user must assume the responsibility for determining that such intended uses are GRAS. Otherwide, FDA approval for the new use may be sought through the GRAS or food additive petition procedures outlined in § 170.35 or § 171.1 (21 CFR 171.1).

3. A third comment, submitted on behalf of a food manufacturer, requested an increase in the proposed usage level of calcium hydroxide for the condiments and relishes food category. The

comment reported that ongoing research has demonstrated the effectiveness of calcium hydroxide as a buffering agent and as a firming agent in pickles, when used at levels not to exceed 0.4 percent by weight in the finished food.

Although calcium hydroxide is not presently used as a buffering agent or firming agent in the commerical preparation of pickles, FDA recognizes that food consumed in high volume from some other food categories, such as coffee and tea (1 percent) and pastas (0.9 percent), have higher proposed CGMP maximum levels of usage of calcium hydroxide than that requested by this comment for condiments and relishes. Furthermore, the proposed use in pickles is consistent with the conclusion on the Select Committee that there is no basis to suspect a public health hazard when calcium oxide or calcium hydroxide is used at current levels or levels that might reasonably be expected in the future. The estimated total consumption of calcium hydroxide on which its safety has been evaluated will not change appreciably by virtue of its expanded usage in condiments and relishes. Therefore, FDA concludes that adequate justification exists to incorporate the requested usage level for calcium hydroxide into this tentative final rule. The CGMP maximum level of use of calcium hydroxide in condiments and relishes as defined in 21 CFR 170.3(n)(8) is raised to 0.4 percent in this tentative final rule.

In the past, when a substance has been listed in Part 182 as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without there being a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus unless safety considerations make it necessary to impose detailed purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not reproposing a separate listing in Part 186 for the indirect uses of calcium hydroxide. The indirect uses of calcium hydroxide proposed for inclusion in § 186.1205 are authorized under § 184.1205 (21 CFR 184.1205) and § 184.1(a).

In the case of calcium hydroxide, FDA finds that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, no specific purity specifications are necessary for indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, elsewhere in this issue of the **Federal Register**, the agency is publishing a proposal to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this tentative final rule, and the agency has determined that the tentative final rule is not a major rule as defined by the Order.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 would be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended:

§ 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Calcium hydroxide."

§ 182.1205 [Removed]

b. By removing § 182.1205 *Calcium hydroxide.*

§ 182.1210 [Removed]

c. By removing § 182.1210 *Calcium oxide.*

§ 182.8210 [Removed]

d. By removing § 182.8210 *Calcium oxide.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended:

a. By adding new § 184.1205, to read as follows:

§ 184.1205 Calcium hydroxide.

(a) Calcium hydroxide ($Ca(OH)_2$, CAS Reg. No. 1305–62–0) is also known as slaked lime or calcium hydrate. It is produced by the hydration of lime.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 52, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter; flavor enhancer as defined in § 170.3(o)(11) of this chapter; flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; formulation aid as defined in § 170.3(o)(14) of this chapter; nutrient supplement as defined in § 170.3(o)(20) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and processing aid as defined in § 170.3(o)(24) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of: 0.01 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter; 1 percent for coffee and tea as defined in § 170.3(n)(7) of this chapter; 0.4 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.45 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter; 0.9 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter; 0.5 percent in milk products as defined in § 170.3(n)(31) of this chapter; 0.75 percent for plant protein products as defined in § 170.3(n)(33) of this chapter; 0.9 percent for snack foods as defined in § 170.3(n)(37) of this chapter; 0.004 percent for soft candies as defined in § 170.3(n)(38) of this chapter; 0.2 percent for soups and soup mixes as

defined in § 170.3(n)(40) of this chapter; and 0.001 percent for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

b. By adding new § 184.1210, to read as follows:

§ 184.1210 Calcium oxide.

(a) Calcium oxide (CaO, CAS Reg. No. 1305–78–8) is also known as lime, quick lime, burnt lime, or calx. It is produced from calcium carbonate, limestone, or oyster shells by calcination at temperatures of 1700–2450° F.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 55, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, D.C. 20408.

(c) The ingredient is used as an anticaking and free-flow agent as defined in § 170.3(o)(1) of this chapter; firming agent as defined in § 170.3(o)(10) of this chapter; nutrient supplement as defined in § 170.3(o)(20) of this chapter; pH control agent as defined in § 170.3(o)(23) of this chapter; and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in food at levels not to exceed current good manufacturing practice in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of: 0.1 percent for baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; 0.03 percent for nonalcoholic beverages and beverage bases as defined in § 170.3(n)(1) of this chapter; 0.3 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter; 0.3 percent in frozen dairy desserts as defined in § 170.3(n)(20) of this chapter; 0.15 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; 0.06 percent for grain products and pastas as defined in § 170.3(n)(23) of this chapter; 0.075 percent for milk products as defined in § 170.3(n)(31) of this chapter; 0.02 percent for processed vegetables as defined in § 170.3(n)(36) of this chapter; 0.4 percent for soft candies as defined in § 170.3(n)(38) of this chapter; and 0.01 percent for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Interested persons may on or before August 24, 1982, file with the Dockets Management Branch (address above), written comments (preferably two copies, except that individuals may submit one copy) regarding this tentative final rule. Comments may accompanied by a memorandum or brief in support thereof. Comments are to be identified with docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 7, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17046 Filed 6-24-82; 8:45 am]

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federal register

Friday
June 25, 1982

Part VI

Department of Health and Human Services

Public Health Service

Project Grants Provisions

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 51a, 51d, and 51f

Project Grants Provisions

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) revised Title V of the Social Security Act (Act) to establish the Maternal and Child Health Services Block Grant. Section 502(a) of the Act, as amended, provides that 15 percent of the appropriation for Title V for Fiscal Year 1982 shall be retained by the Secretary for the purpose of carrying out, through grants, special projects of regional and national significance, maternal and child health research and training, genetic disease testing, counseling and information and hemophilia diagnostic and treatment centers. These programs were previously supported under sections 503(2) and 504(2), 511 and 512 of the Act and sections 1101 and 1131 of the Public Health Service Act.

The Secretary of Health and Human Services is amending the regulations previously issued under the authorities described in the preceding sentence to make those regulations applicable to grants for the same purposes awarded under the new section 502(a) authority.

EFFECTIVE DATE: The amendments made by this document are effective on June 25, 1982.

FOR FURTHER INFORMATION CONTACT: Vince Hutchins, M.D., Associate Bureau Director, Office for Maternal and Child Health, Bureau of Community Health Services, 5600 Fishers Lane, Room 7–39, Rockville, Maryland 20857, (301) 443–2170.

SUPPLEMENTARY INFORMATION:

I. General

As noted above, Pub. L. 97–35 revised Title V of the Act to establish the Maternal and Child Health Services Block Grant. For Fiscal Year 1982, 15 percent of the funds appropriated for Title V are to be retained for the award of grants for the purposes specified above. For subsequent fiscal years, the amount to be retained for the award of these grants is to be between 10 and 15 percent of the funds appropriated for Title V. The 15 percent set aside level for FY 1982 is $52,128,000.

The Secretary intends to develop and publish a concise regulation governing projects to be funded under section 502(a). Until that can be accomplished, however, the Secretary has decided that funds awarded for the project grants specified under section 502(a) should be governed by the regulations issued under the former categorical authorities. Thus, for example, hemophilia diagnostic and treatment centers funded under section 502(a) will be governed by the regulations at 42 CFR Part 51d, Subpart A, which were issued under the authority of section 1131 of the Public Health Service Act. Accordingly, the Department is amending those regulations to include references to section 502(a) as part of the statement of the authority under which they are issued. The Secretary realizes that there are some repetitive and unnecessary provisions in the existing regulations. These sections will be deleted when the new regulations are published.

II. Limited Funding

Because of the limited funds available for grants under section 502(a) in Fiscal Year 1982 many previously funded projects will not receive continuation funding, and few, if any, new projects will be funded under section 502(a).

The Secretary intends to allocate from the funds available under section 502(a) amounts for each category of projects authorized (i.e., a specified portion will be available for maternal and child health training projects, a specified portion will be available for genetic diseases testing and counseling projects, etc.). Applicants competing for funds within each category will be evaluated on the basis of the present regulatory criteria for deciding which applicants to fund. See 42 CFR 51a.206(a), 51a.406(a), 51d.107(a), and 51f.108. In addition, those sections are amended to provide that funds will be awarded to applicants which will, in the Secretary's judgment, best promote the purposes of Title V of the Social Security Act, as amended by Pub. L. 97–35, rather than the purposes of the former categorical statutes.

III. Rulemaking Procedures

Because this document simply continues in effect existing regulations, with the addition of a reference to section 502(a) of the Social Security Act in their statements of authority and applicability, the Secretary views these amendments as being only technical in nature and has determined that public participation in rulemaking is unnecessary and that an impact analysis is not required under the Regulatory Flexibility Act, Pub. L. 96–354, or Executive Order 12291.

IV. List of Subjects in 42 CFR Parts 51a, 51d, and 51f[1]

Colleges and universities, Grant programs—health, Handicapped, Infants and children, Maternal and child health, Sudden infant death syndrome, Supplemental security income (SSI), Blood diseases, Genetic diseases, Health care, Health facilities.

Dated: April 26, 1982.

E. N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 7, 1982.

Richard S. Schweiker,

Secretary.

Title 42 of the Code of Federal Regulations is amended as follows:

PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

Subpart B [Amended]

1. 42 CFR Part 51a, Subpart B, is amended by adding to the "authority" statement, before the period, the following:

* * *; sec. 502(a), Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a))

2. 42 CFR 51a.201 is revised to read as follows:

§ 51a.201 Applicability.

The regulations of this subpart apply to grants to State agencies for projects of regional or national significance which may contribute to the advancement of maternal and child health or crippled children's services. For grants to States that do not participate in the Maternal and Child Health Block Grant, as authorized by Title V of the Social Security Act (as amended by Pub. L. 97–35), the grants are awarded under sections 503(2) and 504(2) of the Social Security Act as in effect before the enactment of Pub. L. 97–35. For other States, the grants are awarded under section 502(a) of that Act (as amended by Public Law 97–35).

§ 51a.206 [Amended]

3. 42 CFR 51a.206(a) is revised by replacing the words "sections 503(2) and 504(2) of the Act" with the words "Title V of the Act, as amended by Public Law 97–35,".

Subpart D [Amended]

4. 42 CFR Part 51a, Subpart D, is amended by adding to the "Authority"

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[1] The Public Health Service is providing this list in compliance with 1 CFR 18.20. That regulation requires agencies to include a list of index terms for each CFR part affected in Rules and Proposed Rules documents published in the Federal Register, beginning April 1, 1982.

statement, before the period, the following:

* * *; sec. 502(a), Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a))

5. 42 CFR 51a.401 is revised to read as follows:

§ 51a.401 Applicability.

The regulations of this subpart apply to grants to public or nonprofit private institutions of higher learning for special projects of regional or national significance which may contribute to the advancement of maternal and child health or of services for crippled children and/or for training personnel for health care and related services for mothers and crippled children. For grants to institutions in States that do not participate in the Maternal and Child Health Block Grant, as authorized by Title V of the Social Security Act (as amended by Pub. L. 97–35), the grants are awarded under sections 503(2), 504(2) and 511 of the Social Security Act as in effect before the enactment of Public Law 97–35. For institutions in other States, the grants are awarded under section 502(a) of that Act (as amended by Pub. L. 97–35).

§ 51a.406 [Amended]

6. 42 CFR 51a.406(a) is revised by replacing the words "sections 503(2), 504(2), or 511 of the Act" with the words "Title V of the Act, as amended by Public Law 97–35,".

PART 51d—GRANTS FOR SERVICE PROJECTS FOR GENETIC AND OTHER DISEASES

Subpart A [Amended]

7. 42 CFR Part 51d, Subpart A, is amended by adding to the "authority" statement, before the period, the following:

* * *; sec. 502(a) of the Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a)).

8. 42 CFR 51d.101 is revised to read as follows:

§ 51d.101 Applicability.

The regulations of this subpart apply to grants to public and nonprofit private entities for projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. For grants to entities in States that do not participate in the Maternal and Child Health Block Grant, as authorized by Title V of the Social Security Act (as amended by Public Law 97–35), the grants are awarded under section 1131 of the Public Health Service Act (42 U.S.C. 300c–21) as in effect before the enactment of Public Law 97–35. For entities in other States, the grants are awarded under section 502(a) of the Social Security Act (as amended by Public Law 97–35).

§ 51d.102 [Amended]

9. 42 CFR 51d.102(a) is revised to read as follows:

* * * * *

(a) Except for references to the Social Security Act and except as set forth in § 51d.101, "Act" means the Public Health Service Act as in effect before the enactment of Public Law 97–35.

* * * * *

§ 51d.107 [Amended]

10. 42 CFR 51d.107(a) is revised by replacing the material preceding paragraph (a)(1) with the following:

(a) Within the limits of funds available, the Secretary may award grants to applicants which will, in his judgment, best promote the purposes of Title V of the Social Security Act, as amended by Pub. L. 97–35, and which submit approvable applications.

* * * * *

PART 51f—PROJECT GRANTS FOR GENETIC DISEASES TESTING AND COUNSELING PROGRAMS

11. 42 CFR Part 51f is amended by adding to the "Authority" statement, before the period, the following:

* * *; sec. 502(a) of the Social Security Act, as amended, 95 Stat. 819–20 (42 U.S.C. 702(a)).

12. 42 CFR 51f.101 is revised to read as follows:

§ 51f.101 To whom do these regulations apply?

The regulations of this part apply to grants for projects to plan, establish, and operate voluntary genetic diseases testing and counseling programs. For grants to entities in States that do not participate in the Maternal and Child Health Block Grant, as authorized by Title V of the Social Security Act (as amended by Pub. L. 97–35), the grants are awarded under section 1101(c) of the Public Health Service Act (42 U.S.C. 300b(a)(1)) as in effect before the enactment of Pub. L. 97–35. For entities in other States, the grants are awarded under section 502(a) of the Social Security Act (as amended by Pub. L. 97–35).

§ 51f.102 [Amended]

13. 42 CFR 51f.102 is amended by revising the definition of "Act" to read as follows:

* * * * *

Except for references to the Social Security Act and except as set forth in § 51f.101, "Act" means the Public Health Service Act as in effect before the enactment of Pub. L. 97–35.

* * * * *

§ 51f.108 [Amended]

14. 42 CFR 51f.108(a) is amended by replacing the words "section 1101(a)(1) of the Act" with the words "Title V of the Social Security Act, as amended by Pub. L. 97–35,".

[FR Doc. 82-17198 Filed 6-24-82; 8:45 am]
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Friday
June 25, 1982

Part VII

Department of the Treasury

Comptroller of the Currency

Fiduciary Powers of National Banks and Collective Investment Funds

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 9

[Docket No. 82-10]

Fiduciary Powers of National Banks and Collective Investment Funds

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is taking final action with respect to certain proposed amendments to 12 CFR Part 9 ("Part 9"), its regulation governing the exercise of fiduciary powers and the management of collective investment funds by national banks. These amendments are intended, in a number of respects, to liberalize and make less burdensome the requirements of Part 9.

The Office is adopting amendments which (i) delete the definition of the term "equity security" from Part 9; (ii) require a national bank which exercises investment discretion with respect to customer accounts to adopt and follow written policies and procedures intended to ensure that its brokerage placement practices, including the use of brokerage commissions to purchase research and other services, comply with applicable law; (iii) specify a three-year retention period for required trust department records, unless applicable law prescribes a different period; (iv) require a national bank to adopt and follow written policies and procedures generally intended to ensure that the maximum return available for "trust-quality," short-term investments be obtained on trust funds awaiting investment or distribution; and (v) describe the conditions under which trust powers can be revoked. A proposal to revise the definition of the term "trust department" has not been adopted.

In addition, the Office is adopting four proposals that affect collective investment funds. These amendments (i) require valuation of fund assets at market value, or fair value determined in good faith by fund trustees in certain circumstances; (ii) permit a one-year prior notice requirement for withdrawals from a collective investment fund of employee benefit plan assets, if such fund invests in real estate or other illiquid assets; (iii) permit a fund's liquidity level to be determined on the basis of anticipated needs of the fund, rather than a specified percentage of fund assets; and (iv) permit the valuation on a cost basis of short-term investment funds if certain conditions are satisfied.

In a related document published in this issue of the **Federal Register**, the Office is giving consideration to further action relating to Part 9 and seeks the views of the public regarding such possible action.

EFFECTIVE DATE: The amendments are effective July 26, 1982.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, Deputy Comptroller for Specialized Examinations, Telephone: (202) 447-0447 or Richard L. Galin, Attorney, Securities & Corporate Practices Division, Telephone: (202) 447-1954, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Special Studies

The adopted amendments will not have sufficient economic effect to constitute "major rules" for the purposes of Executive Order 12291 (46 FR 13193). In addition, because notice of proposed rulemaking was published in the **Federal Register** prior to January 1, 1981, the provisions of the Regulatory Flexibility Act do not apply. In any event, the Office believes that the amendments will not impose significant compliance burdens, nor have a significant impact on a substantial number of small businesses.

Issuance of Final Rules

On October 29, 1980, the Office proposed for comment in the **Federal Register** (45 FR 71571) certain amendments to Part 9. These proposals included certain new rules, as well as amendments to existing rules, regarding the exercise of trust powers and the operation of collective investment funds by national banks. In response to the proposals, the Office received over 200 letters of comment, including letters from banks, their counsel and other interested members of the public. As discussed below, in taking final action, the Office has given careful consideration to the views expressed by the commentators and, in a number of instances, incorporated the suggestions of commentators in the final rules.

1. *Definition of "equity security".* The Office is adopting its proposal to delete the definition of "equity security" set forth in § 9.1(b) (12 CFR 9.1(b)). That term no longer appears in Part 9 and commentators generally supported its deletion.

2. *Definition of "trust department".* The Office proposed to amend the definition of "trust department" in 12 CFR 9.1(k) to include expressly any person to whom a bank assigns or delegates the performance of its fiduciary duties, regardless of whether such person is an officer, employee or other affiliated person of the bank, or a person who is not affiliated with the bank. The intent of the proposal was to clarify the long-standing position of the Office that if a bank causes a fiduciary undertaking (*e.g.*, the management of an agency account) which it has assumed, and is responsible for, to be performed by another person, such bank, together with the person actually performing such undertaking, is subject to Part 9.

Some commentators suggested that the proposal might give rise to varying and unintended interpretations as to the scope of the Office's authority regarding delegated fiduciary powers and, therefore, could result in confusion. In this regard, the Office has statutory authority to examine and enforce banking laws with respect to non-bank employees and organizations. Federal law (12 U.S.C. 481) directs the Office to examine both affiliates (as defined in 12 U.S.C. 221a) and agents of national banks. In addition the Office is empowered (12 U.S.C. 1865) to examine any off-premises performance of bank services (as defined in 12 U.S.C. 1861(b)), which, in the Office's view, includes trust services. Under 12 U.S.C. 1818(b)(1), the Office's enforcement powers extend to, among other persons, "any . . . agent, or other person participating in the conduct of the affairs" of a national bank.

In light of the suggestions of the commentators, which the Office believes have merit, and the foregoing examination and enforcement authority, the Office is of the view that it is unnecessary to amend Part 9 in order to enforce its provisions with respect to either third-parties performing fiduciary services on behalf of national banks or banks assigning fiduciary duties to third parties. Accordingly, the Office is not adopting the proposed amendment.

3. *Brokerage placement practices.* As proposed, § 9.5 generally would have required a national bank to prepare and make available to customers a detailed disclosure statement for each account over which it exercises "investment discretion." As provided in 12 CFR 12.2(c), a bank is deemed to exercise investment discretion with respect to an account if, (i) directly or indirectly, the bank is authorized to determine what securities or other property shall be purchased or sold by or for the account, or (ii) the bank actually makes investment decisions, even though some other person may have ultimate responsibility for such decisions.

Many persons who commented on the proposal were critical of its detailed disclosure provisions. In particular, the commentators questioned whether the proposed statistical disclosures were useful to a customer in selecting an investment manager, especially in evaluating the potential conflicts of interest presented by an investment manager using account brokerage commissions to pay for services and products. In addition, several commentators argued that the "safe-harbor" provisions, described below, of section 28(e) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78bb(e)) adequately address regulatory concerns about possible breaches of fiduciary duty by investment managers, including banks which use account commissions to purchase research and other services. In that connection, it was suggested by some commentators that the Office's trust examination process provides an adequate means to supervise bank compliance with federal and state law applicable to brokerage placement practices of banks.

On the other hand, several commentators indicated that a rule requiring general, as opposed to detailed, disclosures by a bank concerning its brokerage placement practices could be an appropriate way to address the potential conflicts of interest inherent in the use of account commissions to purchase research and other services. In this regard, as an alternative to the specific disclosures which would have been required by proposed section 9.5, it was suggested that the Office could require general narrative disclosures similar to those provided by registered investment advisers to prospective and existing advisory clients pursuant to Rule 205–3 (17 CFR 275.205–3) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–201 *et seq.*).

On the basis of the comments, the Office has determined not to adopt the rule proposal. Instead, it is adopting a new § 9.5 (12 CFR 9.5) which requires that each national bank exercising investment discretion, as defined in 12 CFR 12.2(c), adopt and follow written policies and procedures to ensure that its brokerage placement practices, including the use of brokerage commissions to purchase research and other services, comply with applicable law. The new requirement adopted today should enhance this Office's continuing efforts to ensure compliance with the law applicable to the brokerage placement practices of national banks.

The policies and procedures required by the new rule should address, among other relevant matters, (i) the selection of persons to effect securities transactions and the evaluation of the reasonableness of brokerage commissions paid to such persons; (ii) the acquisition of products or services, including research services, in return for commissions paid for effecting securities transactions for accounts; (iii) the allocation of research or other services among accounts, including the use of such services for the benefit of accounts which did not generate the commissions paid for the services; and (iv) the need, in appropriate instances, to make disclosures to prospective and existing customers concerning such policies and procedures.

In adopting written policies and procedures intended to prevent breaches of fiduciary duty relating to the use of account commissions, banks should be aware of, among other things, the conditions which must be satisfied in order for the "safe harbor" of section 28(e) to be available. That section generally provides that no person who exercises investment discretion with respect to an account shall be deemed to have acted unlawfully or to have breached a fiduciary duty solely by reason of having caused the account to pay a commission in excess of the commission another broker or dealer would have charged for effecting the same transaction. To be eligible for this "safe harbor," however, the person exercising investment discretion must determine in good faith that the commission is reasonable in relation to the value of the brokerage and research services provided by the executing broker or dealer, viewed in terms of either the particular transaction or the person's overall responsibilities with respect to the accounts as to which the person exercises investment discretion.

As a general matter, whether a fiduciary's receipt of particular products or services is protected by section 28(e) will depend on the particular facts and circumstances. Such a determination, of course, requires an inquiry as to whether the particular products and services constitute "brokerage and research services" within the meaning of section 28(e)(3) of the Exchange Act (15 U.S.C. 78bb(e)(3)), whether the services are "provided" by a broker or dealer, their manner of use by the fiduciary, and the factors providing the basis for the fiduciary's good faith determination required by section 28(e). In this regard, the fiduciary is generally in the best position to determine whether the conditions of section 28(e) have been satisfied.

In the absence of section 28(e)'s "safe harbor," national banks are reminded that applicable law may, in certain circumstances, require them to obtain the informed consent of customers concerning their brokerage placement practices. For example, as this Office stated in Trust Banking Circular No. 17, if a bank chooses to purchase products or services and pay for them with brokerage commissions arising from securities transactions for trust accounts, the bank must either (i) avail itself of the safe-harbor provisions of section 28(e); *or* (ii) make accurate and complete disclosure of the bank's brokerage placement policies and practices to prospective trust customers, or, with respect to existing trust accounts generating brokerage commissions, to the persons with rights of termination or the vested beneficiaries of irrevocable trusts, *and* obtain such persons' consent.

In addition to adopting the rule discussed above, the Office is seeking comment as to whether it should propose for comment a disclosure rule modified from the initial proposal regarding a bank's brokerage placement practices. Among other things, comments are sought as to the nature of appropriate disclosures. For example, the proposal could provide for limited narrative, as opposed to detailed statistical, disclosures concerning a bank's brokerage placement practices. Such general disclosures could include, as an illustration, a statement as to whether the bank may pay a broker or dealer an amount of commission in excess of that which another broker or dealer might charge for effecting the same transaction in recognition of the value of (i) brokerage and/or (ii) research services provided.

Comments are also sought concerning the persons to whom disclosure should be furnished, when such disclosure should be furnished, and the appropriate disclosure form (*e.g.*, a separate brochure or an addendum to the trust instrument). In addition, comments are requested as to whether a disclosure rule should apply to all national banks which exercise investment discretion or only to those which do not come within the safe harbor of Section 28(e).

4. *Record retention requirement.* Department of the Treasury Directive 80–23 directed all of its Bureaus, including this Office, to comply with a request made by the Office of the Federal Register to establish specific retention periods for all recordkeeping required of the public. In response to the directive, the Office proposed an amendment to § 9.8 (12 CFR 9.8) which

provided that a national bank would not be required to retain the records required by Part 9 for a period in excess of four years from the termination of an account, or of litigation relating to such account, unless applicable federal or state law specifically prescribed a longer period. Under the pre-existing rule, which contained no specific retention period, the Office recommended that banks be guided by local law, including state statutes of limitations, and advice of counsel in establishing a retention policy for trust department records. The majority of comments received on the proposal supported the adoption of a limited retention period.

The Office has decided to adopt, as suggested by several commentators, a three-year record retention requirement. A three-year retention period is also specified in 12 CFR Part 12, the Office's regulation concerning recordkeeping and confirmation requirements for securities transactions effected by national banks. The Office notes, however, that safe and sound banking practice requires bank fiduciaries to consider the possible need, in certain circumstances, for retaining particular records beyond a specified statutory or regulatory period. For example, prudent practice might require retention of a trust account's records until expiration of a statute of limitations, which does not require record preservation, if a suit subject to that statute is likely to ensue. To make clear that the Office is not sanctioning imprudent record destruction, the adopted rule addresses only record retention requirements for purposes of examination by the Office.

5. *Funds awaiting investment or distribution.* The Office has determined not to adopt the specific requirements contained in the proposal to amend § 9.10(a) (12 CFR 9.10(a)) regarding funds awaiting investment or distribution. As proposed, such funds could remain deposited in the bank after 60 days only if: (i) specifically authorized in advance by the instrument creating the relationship, or by prior court order or local law; (ii) prior consent was obtained from the party having power to terminate the account or, if there was no such party, the holders of all vested beneficial interests in the account after full disclosure of all relevant facts, including the availability and approximate rate of return of instruments outside the bank; or (iii) the bank included in the file of each such account a written justification, updated at least every 30 days, specifying in detail why the funds were properly designated as awaiting investment or distribution. After 365 days such funds could remain deposited in the bank only if conditions (i) or (ii) above were met.

Many commentators suggested that the specific requirements were, among other things, inflexible and unduly restricted the exercise of a bank's fiduciary discretion. Although the Office remains of the view that the substance of many of the requirements contained in the proposal reflects sound fiduciary practice, it agrees that banks should not be unnecessarily hampered in the administration of trust accounts. Accordingly, the Office is adopting, as a revision to existing paragraph (a) of § 9.10, a requirement that national banks which exercise fiduciary powers adopt and follow written policies and procedures to ensure that the maximum rate of return available for trust-quality, short-term investments be obtained on funds awaiting investment or distribution, consistent with the requirements of the governing instrument and local law. Such policies and procedures should address, among other relevant factors, the cost of making the investment, the anticipated liquidity requirements of each account, requirements of local law, and the anticipated return which may be obtained during the period cash will remain uninvested or undistributed.

The revised § 9.10(a) retains the current requirement that funds held by a bank awaiting investment or distribution shall not be so held any longer than is reasonable for the proper management of the account. In addition, there has been no change in the existing provision, contained in paragraph (b) of the section (12 CFR 9.10(b)) that funds awaiting investment or distribution may, unless prohibited by the instrument creating the trust or local law, be deposited in the commercial, savings, or other department of the bank, provided that the bank sets aside qualifying securities as collateral to the extent that such deposits are not insured by the Federal Deposit Insurance Corporation.

Some commentators criticized the proposed revision to § 9.10(a) on the grounds that a system to "sweep" uninvested cash into income-producing media on a daily basis would be extremely costly and require extensive time to institute. The Office questions the validity of such criticism. Many banks have established, or are considering the establishment of, "sweep" programs. It appears that the cost of implementing such programs is not necessarily prohibitive; indeed, many banks, in response to competitive pressures, are already providing daily investing of cash balances of pension funds. The Office also has been advised that certain money market funds can provide banks with a daily investment service for individual accounts.

6. *Revocation of fiduciary powers.* The Office proposed to add a new paragraph (b) to § 9.17 (12 CFR 9.17) describing conditions under which trust powers could be revoked by the Office. It was intended to reflect the authority granted the Office under Section 704 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96–221). A number of commentators suggested that the rule should be modified to contain (i) specific guidelines concerning the exercise of this authority and (ii) definitions of certain terms in the proposal.

After giving due consideration to the comments, the Office has determined to adopt the amendment as proposed. Although the Office is sensitive to the concerns expressed by the commentators, it has decided that the Office's need for flexibility in exercising this authority outweighs any possible benefits derived from having more specific standards in the rule. The rule as adopted provides this necessary flexibility. Moreover, the Office notes that any revocation of fiduciary powers will be subject to the procedural requirements of 12 CFR Part 19, which sets forth requirements governing the conduct of formal administrative proceedings brought by the Office under statutory authority.

7. *Collective investment funds.* Four amendments to Section 9.18 (12 CFR 9.18), which relates to collective investment funds, were proposed. Three have been adopted with certain modifications suggested by commentators. One has been adopted as proposed.

a. *Valuation of fund assets.* The Office proposed to amend § 9.18(b)(1) (12 CFR 9.18(b)(1)) insofar as it relates to the valuation of collective investment fund assets. The Office's long-standing position had been that such assets must be valued at market value, or fair value as determined in good faith by the fund trustees. The proposed amendment was intended to codify this position by requiring that fund plans specify "the basis and method of valuing at market value." Several commentators pointed out, however, that, since the proposed amendment referred only to market value, valuation of certain assets such as real estate or mineral interests could be unduly costly or otherwise difficult to accomplish. The Office did not intend such a result and, accordingly, has provided in the final rule that a "fair value" determined in good faith by the

fund trustees may be used in cases where "market value" is not readily ascertainable.

b. *Real estate funds.* Another proposal was to amend § 9.18(b)(4) (12 CFR 9.18(b)(4)) to codify the Office's position that a prior notice period in excess of 90 days is permissible for withdrawals from real estate funds for employee benefit accounts. In Opinion 9.5960, the Office permitted a prior notice period of up to one year provided that no more than ten percent of any participant's assets could be invested in the fund. Although the commentators generally favored adoption of a rule formally authorizing funds requiring a one-year prior notice period for withdrawals, many suggested that the 10 percent limit should be liberalized. Some supported a 20 or 25 percent limit. Others noted that employee benefit plans are already governed by the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, as amended ("ERISA"). They questioned whether, in light of ERISA's comprehensive regulatory scheme, it was necessary or appropriate for the Office to impose specific investment limitations. The Office finds these comments to be persuasive. Therefore, the final rule provides that a prior notice period of up to one year for withdrawals is permitted and no separate investment limitation based upon a participant's account assets is imposed.

c. *Liquidity of fund assets.* The Office proposed to amend § 9.18(b)(9)(iii) (12 CFR 9.18(b)(9)(iii)) to reduce the percentage of a fund's assets which must consist of cash or readily marketable investments from 40 percent to 20 percent. Virtually all of the commentators who addressed this proposal favored a liberalized liquidity requirement, but many suggested that the requirement be less than 20 percent or that the Office merely require maintenance of a liquidity level that is adequate to meet anticipated cash needs of the fund. The Office is persuaded by the suggestions made by the commentators that banks should have increased flexibility to establish an appropriate liquidity level for a fund. Accordingly, in lieu of a liquidity requirement expressed as a fixed percentage of fund assets, the final rule contains a more liberal requirement which enables a bank to maintain in cash and readily marketable investments only such percentage of a fund's assets as shall be necessary to provide adequately for the liquidity needs of the fund and to prevent inequities among participants.

d. *Short-term investment funds.* A further proposal was to add a new subparagraph (b)(15) to § 9.18 (12 CFR 9.18(b)(15)) to codify Opinion 9.5900 of the Office, issued pursuant to 12 CFR 9.18(c)(5). This would authorize national banks to create short-term investment funds ("STIFs") whose assets are valued on a cost, rather than market value, basis provided certain conditions are met. These conditions currently include the liquidity requirements that (i) 40 percent of the fund's assets be composed of cash, demand obligations, and assets that will mature on the fund's next business day and (ii) at least 80 percent of the assets be composed of debt instruments with a maturity of 91 days or less. The Office proposed to liberalize the first liquidity requirement for STIFs by lowering it from 40 percent to 20 percent.

The commentators generally supported codification of STIF authorization and liberalization of STIF liquidity requirements; however, many favored further liberalization of requirements for the operation of these funds. The Office's experience indicates that a minimum next-day liquidity requirement of 20 percent and a 91-day maturity restriction are necessary for proper STIF operation, particularly for banks having relatively small trust departments. Further, valuation on a cost, rather than market value, basis may raise certain issues of equitable treatment for all fund participants and thus should be elected only after careful consideration of the effects of this method on the interests of all participants and the possible necessity, if it is elected, to disclose these effects to current or potential fund beneficiaries. Accordingly, the Office, has decided to adopt the amendment as proposed. As noted below, however, the Office is requesting additional public comments concerning its collective investment fund rules generally. Suggestions as to the further liberalization of STIF requirements will be considered in connection with such comments.

List of Subjects in 12 CFR Part 9

Fiduciary powers, National banks.

Adoption of Amendments

PART 9—FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

For the reasons set forth in the preamble, 12 CFR Part 9 is amended as follows:

1. The authority citation for Part 9 is revised to read as follows: Sec. 1, Pub. L. 87–722, 76 Stat. 668, as amended (12 U.S.C. 92a); R.S. 5240, as amended (12 U.S.C. 481), unless otherwise noted.

§ 9.1 [Amended]

2. 12 CFR 9.1 is amended by removing paragraph (b) and redesignating paragraphs (c)–(m) as (b)–(l) respectively.

3. 12 CFR 9.5 is added, to read as follows:

§ 9.5 Adoption of policies and procedures with respect to brokerage placement practices.

Each national bank exercising investment discretion (as defined in 12 CFR 12.2(c)) with respect to an account shall adopt and follow written policies and procedures intended to ensure that its brokerage placement practices comply with all applicable laws and regulations. Among other relevant matters, such written policies and procedures should address, where appropriate, (i) the selection of persons to effect securities transactions and the evaluation of the reasonableness of any brokerage commissions paid to such persons (including the factors considered in these determinations); (ii) any acquisition of services or products, including research services, in return for brokerage commissions; (iii) the allocation of research or other services among accounts, including those which did not generate commissions to pay for such research or other services; and (iv) the need, in appropriate instances, to make disclosures concerning such policies and procedures to prospective and existing customers.

4. 12 CFR 9.8 is amended by adding a new paragraph (c), to read as follows:

§ 9.8 Books and records.

* * * * *

(c) Solely for purposes of examination by the Comptroller of the Currency, a national bank shall retain the records required by this Part for a period of 3 years from the later of the termination of the fiduciary account relationship to which the records relate or of litigation relating to such account, unless applicable law specifically prescribes a different period.

5. 12 CFR 9.10 is amended by revising paragraph (a) to read as follows:

§ 9.10 Funds awaiting investment or distribution.

(a) Funds held by a national bank in a fiduciary capacity which are awaiting investment or distribution shall not be held uninvested or undistributed any longer than is reasonable for the proper management of the account. Each national bank exercising fiduciary powers shall adopt and follow written policies and procedures intended to ensure that the maximum rate of return available for trust-quality, short-term

investments is obtained upon funds so held, consistent with the requirements of the governing instrument and local law. Such policies and procedures shall take into consideration all relevant factors, including but not limited to the anticipated return that could be obtained while the cash remains uninvested or undistributed, the cost of investing such funds, and the anticipated need for the funds.

* * * * *

6. 12 CFR 9.17 is revised to read as follows:

§ 9.17 Surrender or revocation of fiduciary powers.

(a) Any national bank which has been granted the right to exercise fiduciary powers and which desires to surrender such right shall file with the Comptroller of the Currency a certified copy of the resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Comptroller shall make an investigation and if satisfied that the bank has been discharged from all fiduciary duties which it has undertaken, shall issue a certificate to such bank certifying that it is no longer authorized to exercise fiduciary powers.

(b) If, in the opinion of the Comptroller, a national bank is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise its fiduciary powers, or otherwise fails or has failed to comply with any of the requirements set forth in 12 U.S.C. 92a, the Comptroller may, in accordance with the provisions of that section, revoke the fiduciary powers granted to the bank.

7. In 12 CFR 9.18, paragraph (b)(1) is revised to read as follows:

§ 9.18 Collective investment.

* * * * *

(b) * * *

(1) Each collective investment fund shall be established and maintained in accordance with a written plan (referred to herein as the Plan) which shall be approved by a resolution of the bank's board of directors and filed with the Comptroller of the Currency. The Plan shall contain appropriate provisions not inconsistent with the rules and regulations of the Comptroller of the Currency as to the manner in which the fund is to be operated, including provisions relating to the investment powers and a general statement of the investment policy of the bank with respect to the fund; the allocation of income, profits and losses; the terms and conditions governing the admission or withdrawal of participations in the fund; the auditing of accounts of the bank with respect to the fund; the basis and method of valuing assets in the fund, setting forth specific criteria for each type of asset; the minimum frequency for valuation of assets of the fund; the period following each such valuation date during which the valuation may be made (which period in usual circumstances should not exceed 10 business days); the basis upon which the fund may be terminated; and such other matters as may be necessary to define clearly the rights of participants in the fund. Except as otherwise provided in paragraph (b)(15) of this section, fund assets shall be valued at market value unless such value is not readily ascertainable, in which case a fair value determined in good faith by the fund trustees may be used. A copy of the Plan shall be available at the principal office of the bank for inspection during all banking hours, and upon request a copy of the Plan shall be furnished to any person.

* * * * *

8. In 12 CFR 9.18, paragraph (b)(4) is revised to read as follows:

§ 9.18 Collective investment.

* * * * *

(b) * * *

(4) Not less frequently than once during each period of 3 months, a bank administering a collective investment fund shall determine the value of the assets in the fund as of the date set for the valuation of assets. No participation shall be admitted to or withdrawn from the fund except (i) on the basis of such valuation and (ii) as of such valuation date. No participation shall be admitted to or withdrawn from the fund unless a written request for or notice of intention of taking such action shall have been entered on or before the valuation date in the fiduciary records of the bank and approved in such manner as the board of directors shall prescribe. No requests or notices may be cancelled or countermanded after the valuation date. If a fund described in paragraph (a)(2) of this section is to be invested in real estate or other assets which are not readily marketable, the bank may require a prior notice period, not to exceed 1 year, for withdrawals.

* * * * *

9. In 12 CFR 9.18, paragraph (b)(9)(iii) is revised to read as follows:

§ 9.18 Collective investment.

* * * * *

(b) * * *

(9) * * *

(iii) A bank administering a collective investment fund shall maintain, in cash and readily marketable investments, such percentage of the assets of the fund as is necessary to provide adequately for the liquidity needs of the fund and to prevent inequities among fund participants.

* * * * *

10. 12 CFR 9.18(b) is amended by adding a new subparagraph (15), to read as follows:

§ 9.18 Collective investment.

* * * * *

(b) * * *

(15) Short-term investment funds established under paragraph (a) of this section may be operated on a cost, rather than market value, basis for purposes of admissions and withdrawals, if the plan of operation satisfies the following conditions:

(i) Investments must be limited to bonds, notes or other evidences of indebtedness which are payable on demand (including variable amount notes) or which have a maturity date not exceeding 91 days from the date of purchase. However, 20 percent of the value of the fund may be invested in longer term obligations;

(ii) The difference between the cost and anticipated principal receipt on maturity must be accrued on a straight-line basis;

(iii) Assets of the fund must be held until maturity under usual circumstances; and

(iv) After effecting admissions and withdrawals, not less than 20 percent of the value of the remaining assets of the fund must be composed of cash, demand obligations and assets that will mature on the fund's next business day.

Dated: May 18, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-17242 Filed 6-24-82; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 9

[Docket No. 82-12]

Fiduciary Powers of National Banks and Collective Investment Funds

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency is giving consideration to amendments of Part 9, governing the exercise of fiduciary powers and the management of collective investment funds by national banks, and seeks the views of the public regarding such possible action.

DATE: Written comments must be received on or before September 23, 1982.

ADDRESS: Comments should be sent to Docket No. 82-12, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, S.W., Washington D.C. 20219, Attention: Marie Giblin. Telephone (202) 447-1800. Comments will be available for inspection and photocopying.

FOR FURTHER INFORMATION CONTACT: Dean E. Miller, Deputy Comptroller for Trust and Securities, Telephone: (202) 447-0447 or Richard Galin, Attorney, Securities and Corporate Practices Division, Telephone: (202) 447-1954. Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Request for Comments

On a related action, the Office of the Comptroller of the Currency is publishing amendments to Part 9 today. These amendments are based upon comments received in response to a Notice of Proposed Rulemaking which was published on October 29, 1980 [46 FR 71571]. In addition to comments on the specific proposals published at that time, the Office received suggestions as to other amendments which might be made to Part 9 and, particularly, to the collective investment fund requirements. For example, one commentator recommended an amendment to permit the operation of guaranteed insurance contract funds, similar to products being marketed by insurance companies. Others favored removal of restrictions which are predicated upon laws that are primarily enforced by other agencies. Among these were recommendations for amendments to permit (i) establishment of commingled agency accounts; (ii) commingling of Keogh trusts with corporate employee benefit funds; (iii) establishment of common trust funds for individual retirement accounts; (iv) advertising of common trust funds; and (v) commingling of charitable trusts with employee benefit trusts.

As a general matter, the Office believes that the suggestions made by the commentators can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. Such a review will focus on, among other things, changes which have occurred in the delivery of fiduciary services, including relevant technological changes, and the extent to which the Office's trust regulations should reflect such changes. The Office will also consider the need to eliminate requirements which impose unwarranted burdens on bank trust departments. As an initial step in this review, the Office requests comments from the public as to the desirability and feasibility of a comprehensive review of its trust regulations, including specific matters which should be addressed.

List of Subjects in 12 CFR Part 9

Fiduciary powers, National banks.

Dated: June 18, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82-17243 Filed 6-24-82; 8:45 am]

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Part VIII

Information Security Oversight Office

National Security Information

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2001

[Directive No. 1]

National Security Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Implementing Directive; final rule.

SUMMARY: The Information Security Oversight Office is publishing this Directive (final rule) pursuant to section 5.2(b)(1) of Executive Order 12356, relating to national security information. The National Security Council approved this Directive on June 22, 1982. The Executive order prescribes a uniform information security system; it also establishes a monitoring system to enhance its effectiveness. This Directive sets forth guidance to agencies on original and derivative classification, downgrading, declassification, and safeguarding of national security information.

EFFECTIVE DATE: August 1, 1982.

FOR FURTHER INFORMATION CONTACT:
Steven Garfinkel, Director, ISOO.
Telephone: 202–535–7251.

SUPPLEMENTARY INFORMATION: This Directive is issued pursuant to the provisions of section 5.2(b)(1) of Executive Order 12356. The purpose of the Directive is to assist in implementing the Order; users of the Directive shall refer concurrently to that Order for guidance.

List of Subjects in 32 CFR Part 2001

Archives and records, Authority delegations, Classified information, Executive orders, Freedom of information, Information, Intelligence, National defense, National security information, Presidential documents, Security information, Security measures.

Title 32 of the Code of Federal Regulations, Part 2001, is revised to read as follows:

PART 2001—NATIONAL SECURITY INFORMATION

Subpart A—Original Classification

Sec.
2001.1 Classification levels.
2001.2 Classification authority.
2001.3 Classification categories.
2001.4 Duration of classification.
2001.5 Identification and markings.
2001.6 Limitations on classification.

Subpart B—Derivative Classification

2001.20 Use of derivative classification.
2001.21 Classification guides.
2001.22 Derivative identification and markings.

Subpart C—Declassification and Downgrading

2001.30 Listing declassification and downgrading authorities.
2001.31 Systematic review for declassification.
2001.32 Mandatory review for declassification.
2001.33 Assistance to the Department of State.
2001.34 FOIA and Privacy Act requests.

Subpart D—Safeguarding

2001.40 General.
2001.41 Standards for security equipment.
2001.42 Accountability.
2001.43 Storage.
2001.44 Transmittal.
2001.45 Special access programs.
2001.46 Reproduction controls.
2001.47 Loss or possible compromise.
2001.48 Disposition and destruction.
2001.49 Responsibilities of holders.
2001.50 Emergency planning.
2001.51 Emergency authority.

Subpart E—Implementation and Review

2001.60 Agency regulations.
2001.61 Security education.
2001.62 Oversight.

Subpart F—General Provisions

2001.70 Definitions.
2001.71 Publication and effective date.

Authority: Section 5.2(b)(1), E.O. 12356, 47 FR 14874, April 6, 1982.

Subpart A—Original Classification

§ 2001.1 Classification levels.

(a) *Limitations [1.1(b)].*[1] Markings other than "Top Secret," "Secret," and "Confidential," such as "For Official Use Only" or "Limited Official Use," shall not be used to identify national security information. No other term or phrase shall be used in conjunction with these markings, such as "Secret Sensitive" or "Agency Confidential," to identify national security information. The terms "Top Secret," "Secret," and "Confidential" should not be used to identify nonclassified executive branch information.

(b) *Reasonable doubt [1.1(c)].* (1) When there is reasonable doubt about the need to classify information, the information shall be safeguarded as if it were "Confidential" information in accordance with Subpart D, pending the determination about its classification. Upon the determination of a need for classification, the information that is classified shall be marked as provided in § 2001.5.

(2) When there is reasonable doubt about the appropriate classification level, the information shall be safeguarded at the higher level in accordance with Subpart D, pending the determination about its classification level. Upon the determination of its classification level, the information shall be marked as provided in § 2001.5.

[1] Bracketed references pertain to related sections of Executive Order 12356.

§ 2001.2 Classification authority.

(a) *Requests for original classification authority [1.2 and 5.2(b)(5)].* A request for original classification authority pursuant to section 1.2 of Executive Order 12356 (hereinafter "the Order") shall include a complete justification for the level of classification authority sought, a description of the information that will require original classification, and the anticipated frequency of original classification actions.

(b) *Listing classification authorities [1.2].* Agencies shall maintain a current listing of officials delegated original classification authority by name, position, or other identifier. If possible, this listing shall be unclassified.

(c) *Exceptional cases [1.2(e)].* Information described in section 1.2(e) of the Order shall be protected as provided in § 2001.1(b).

§ 2001.3 Classification categories.

(a) *Classification in context of related information [1.3(b)].* Certain information which would otherwise be unclassified may require classification when combined or associated with other unclassified or classified information. Classification on this basis shall be supported by a written explanation that, at a minimum, shall be maintained with the file or referenced on the record copy of the information.

(b) *Unofficial publication or disclosure [1.3(d)].* Following an inadvertent or unauthorized publication or disclosure of information identical or similar to information that has been classified in accordance with the Order or predecessor orders, the agency of primary interest shall determine the degree of damage to the national security, the need for continued classification, and, in coordination with the agency in which the disclosure occurred, what action must be taken to prevent similar occurrences.

§ 2001.4 Duration of classification.

(a) *Information not marked for declassification [1.4].* Information classified under predecessor orders that is not subject to automatic declassification shall remain classified until reviewed for declassification.

(b) *Authority to extend automatic declassification determinations [1.4(b)].* The authority to extend the

classification of information subject to automatic declassification under predecessor orders is limited to those officials who have classification authority over the information and are designated in writing to have original classification authority at the level of the information to remain classified. Any decision to extend this classification on other than a document-by-document basis shall be reported to the Director of the Information Security Oversight Office.

§ 2001.5 Identification and markings [1.5(a), 1.5(b) and 1.5(c)].

A uniform information security system requires that standard markings be applied to national security information. Except in extraordinary circumstances as provided in section 1.5(a) of the Order, or as indicated herein, the marking of paper documents created after the effective date of the Order shall not deviate from the following prescribed formats. These markings shall also be affixed to material other than paper documents, or the originator shall provide holders or recipients of the information with written instructions for protecting the information.

(a) *Classification level.* The markings "Top Secret," "Secret," and "Confidential" are used to indicate: that information requires protection as national security information under the Order; the highest level of classification contained in a document; and the classification level of each page and, in abbreviated form, each portion of a document.

(1) *Overall marking.* The highest level of classification of information in a document shall be marked in such a way as to distinguish it clearly from the informational text. These markings shall appear at the top and bottom of the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any).

(2) *Page marking.* Each interior page of a classified document shall be marked at the top and bottom either according to the highest classification of the content of the page, including the designation "Unclassified" when it is applicable, or with the highest overall classification of the document.

(3) *Portion marking.* Agency heads may waive the portion marking requirement for specified classes of documents or information only upon a written determination that: (i) There will be minimal circulation of the specified documents or information and minimal potential usage of these documents or information as a source for derivative classification determinations; or (ii) there is some other basis to conclude that the potential benefits of portion marking are clearly outweighed by the increased administrative burdens. Unless the portion marking requirement has been waived as authorized, each portion of a document, including subjects and titles, shall be marked by placing a parenthetical designation immediately preceding or following the text to which it applies. The symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for Unclassified shall be used for this purpose. If the application of parenthetical designations is not practicable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification, and the information that is not classified. If all portions of a document are classified at the same level, this fact may be indicated by a statement to that effect. If a subject or title requires classification, an unclassified identifier may be applied to facilitate reference.

(b) *Classification authority.* If the original classifier is other than the signer or approver of the document, the identity shall be shown as follows:

"CLASSIFIED BY (identification of original classification authority)"

(c) *Agency and office of origin.* If the identity of the originating agency and office is not apparent on the face of a document, it shall be placed below the "CLASSIFIED BY" line.

(d) *Declassification and downgrading instructions.* Declassification and, as applicable, downgrading instructions shall be shown as follows:

(1) For information to be declassified automatically on a specific date:

"DECLASSIFY ON: (date)"

(2) For information to be declassified automatically upon occurrence of a specific event:

"DECLASSIFY ON: (description of event)"

(3) For information not to be declassified automatically:

"DECLASSIFY ON: ORIGINATING AGENCY'S DETERMINATION REQUIRED or 'OADR' "

(4) For information to be downgraded automatically on a specific date or upon occurrence of a specific event:

"DOWNGRADE TO (classification level) ON (date or description of event)"

(e) *Special markings.*—(1) *Transmittal documents [1.5(c)].* A transmittal document shall indicate on its face the highest classification of any information transmitted by it. It shall also include the following or similar instruction:

(i) For an unclassified transmittal document:

"UNCLASSIFIED WHEN CLASSIFIED ENCLOSURE IS REMOVED"

(ii) For a classified transmittal document:

"UPON REMOVAL OF ATTACHMENTS THIS DOCUMENT IS (classification level of the transmittal document standing alone)"

(2) *"Restricted Data" and "Formerly Restricted Data" [6.2(a)].* "Restricted Data" and "Formerly Restricted Data" shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended.

(3) *Intelligence sources or methods [1.5(c)].* Documents that contain information relating to intelligence sources or methods shall include the following marking unless otherwise proscribed by the Director of Central Intelligence:

"WARNING NOTICE—INTELLIGENCE SOURCES OR METHODS INVOLVED"

(4) *Foreign government information [1.5(c)].* Documents that contain foreign government information shall include either the marking "FOREIGN GOVERNMENT INFORMATION," or a marking that otherwise indicates that the information is foreign government information. If the fact that information is foreign government information must be concealed, the marking shall not be used and the document shall be marked as if it were wholly of U.S. origin.

(5) *Computer output [1.5(c)].* Documents that are generated as computer output may be marked automatically by systems software. If automatic marking is not practicable, such documents must be marked manually.

(6) *Agency prescribed markings [1.5(c), 4.2(a), and 5.3(c)].* Officials delegated original classification authority by the President may prescribe additional markings to control reproduction and dissemination, including markings required for special access programs authorized by section 4.2(a) of the Order.

(f) *Electrically transmitted information (messages) [1.5(c)].* National security information that is transmitted electrically shall be marked as follows:

(1) The highest level of classification shall appear before the first line of text;

(2) A "CLASSIFIED BY" line is not required;

(3) The duration of classification shall appear as follows:

(i) For information to be declassified automatically on a specific date:

"DECL: (date)"

(ii) For information to be declassified upon occurrence of a specific event:

"DECL: (description of event)"

(iii) For information not to be automatically declassified which requires the originating agency's determination (see also § 2001.5(d)(3)):

"DECL: OADR"

(iv) For information to be automatically downgraded:

"DNG (abbreviation of classification level to which the information is to be downgraded and date or description of event on which downgrading is to occur)"

(4) Portion marking shall be as prescribed in § 2001.5(a)(3);

(5) Special markings as prescribed in § 2001.5(e) (2), (3), and (4) shall appear after the marking for the highest level of classification. These include:

(i) "Restricted Data" and "Formerly Restricted Data" shall be marked in accordance with regulations issued under the Atomic Energy Act of 1954, as amended;

(ii) Information concerning intelligence sources or methods: "WNINTEL," unless prescribed by the Director of Central Intelligence;

(iii) Foreign government information: "FGI," or a marking that otherwise indicates that the information is foreign government information. If the fact that information is foreign government information must be concealed, the marking shall not be used and the message shall be marked as if it were wholly of U.S. origin.

(6) Paper copies of electrically transmitted messages shall be marked as provided in § 2001.5(a) (1) and (2).

(g) *Changes in classification markings [1.4(b) and 4.1(b)].* When a change is made in the duration of classified information, all holders of record shall be promptly notified. If practicable, holders of record shall also be notified of a change in the level of classification. Holders shall alter the markings to conform to the change, citing the authority for it. If the remarking of large quantities of information is unduly burdensome, the holder may attach a change of classification notice to the storage unit in lieu of the marking action otherwise required. Items withdrawn from the collection for purposes other than transfer for storage shall be marked promptly in accordance with the change notice.

§ 2001.6 Limitations on classification [1.6(c)].

Before reclassifying information as provided in section 1.6(c) of the Order, the authorized official shall consider the following factors, which shall be addressed in the report to the Director of the Information Security Oversight Office:

(a) The elapsed time following disclosure;

(b) The nature and extent of disclosure;

(c) The ability to bring the fact of reclassification to the attention of persons to whom the information was disclosed;

(d) The ability to prevent further disclosure; and

(e) The ability to retrieve the information voluntarily from persons not authorized access in its reclassified state.

Subpart B—Derivative Classification

§ 2001.20 Use of derivative classification [2.1].

The application of derivative classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form information that is already classified, and of those who apply markings in accordance with instructions from an authorized original classifier or in accordance with an authorized classification guide. If a person who applies derivative classification markings believes that the paraphrasing, restating, or summarizing of classified information has changed the level of or removed the basis for classification, that person must consult for a determination an appropriate official of the originating agency or office of origin who has the authority to upgrade, downgrade, or declassify the information.

§ 2001.21 Classification guides.

(a) *General [2.2(a)].* Classification guides shall, at a minimum:

(1) Identify or categorize the elements of information to be protected;

(2) State which classification level applies to each element or category of information; and

(3) Prescribe declassification instructions for each element or category of information in terms of (i) a period of time, (ii) the occurrence of an event, or (iii) a notation that the information shall not be declassified automatically without the approval of the originating agency.

(b) *Requirement for review [2.2(a)].* Classification guides shall be reviewed at least every two years and updated as necessary. Each agency shall maintain a list of its classification guides in current use.

(c) *Waivers [2.2(c)].* An authorized official's decision to waive the requirement to issue classification guides for specific classes of documents or information should be based, at a minimum, on an evaluation of the following factors:

(1) The ability to segregate and describe the elements of information;

(2) The practicality of producing or disseminating the guide because of the nature of the information;

(3) The anticipated usage of the guide as a basis for derivative classification; and

(4) The availability of alternative sources for derivatively classifying the information in a uniform manner.

§ 2001.22 Derivative identification and markings [1.5(c) and 2.1(b)].

Documents classified derivatively on the basis of source documents or classification guides shall bear all markings prescribed in § 2001.5(a) through (e) as are applicable. Information for these markings shall be taken from the source document or instructions in the appropriate classification guide.

(a) *Classification authority.* The authority for classification shall be shown as follows:

"CLASSIFIED BY (description of source document or classification guide)"

If a document is classified on the basis of more than one source document or classification guide, the authority for classification shall be shown as follows:

"CLASSIFIED BY MULTIPLE SOURCES"

In these cases the derivative classifier shall maintain the identification of each source with the file or record copy of the derivatively classified document. A document derivatively classified on the basis of a source document that is marked "CLASSIFIED BY MULTIPLE SOURCES" shall cite the source document in its "CLASSIFIED BY" line rather than the term "MULTIPLE SOURCES."

(b) *Declassification and downgrading instructions.* Dates or events for automatic declassification or downgrading, or the notation "ORIGINATING AGENCY'S DETERMINATION REQUIRED" to indicate that the document is not to be declassified automatically, shall be carried forward from the source document, or as directed by a classification guide, and shown on a "DECLASSIFY ON" line as follows:

"DECLASSIFY ON: (date; description of event; or "ORIGINATING AGENCY'S DETERMINATION REQUIRED" (OADR))"

Subpart C—Declassification and Downgrading

§ 2001.30 Listing declassification and downgrading authorities [3.1(b)].

Agencies shall maintain a current listing of officials delegated declassification or downgrading authority by name, position, or other identifier. If possible, this listing shall be unclassified.

§ 2001.31 Systematic review for declassification [3.3].

(a) *Permanent records.* Systematic review is applicable only to those classified records and presidential papers or records that the Archivist of the United States, acting under the Federal Records Act, has determined to be of sufficient historical or other value to warrant permanent retention.

(b) *Non-permanent records.* Non-permanent classified records shall be disposed of in accordance with schedules approved by the Administrator of General Services under the Records Disposal Act. These schedules shall provide for the continued retention of records subject to an ongoing mandatory review for declassification request.

(c) *Responsibilities.* (1) In meeting responsibilities assigned by section 3.3(a) of the Order, the Archivist shall:

(i) Establish procedures, in consultation with the Director of the Information Security Oversight Office, for the systematic declassification review of permanent classified records accessioned into the National Archives and classified presidential papers or records under the Archivist's control;

(ii) Conduct systematic declassification reviews in accordance with guidelines provided by the head of the agency that originated the information; or, with respect to foreign government information, in accordance with guidelines provided by the head of the agency having declassification jurisdiction over the information, or, if no guidelines have been provided, in accordance with the general guidelines provided by the Director of the Information Security Oversight Office after coordination with the agencies having declassification authority over the information; or, with respect to presidential papers or records, in accordance with guidelines developed by the Archivist and approved by the National Security Council;

(iii) Conduct systematic declassification reviews of accessioned records and presidential papers or records as they become 30 years old, except for file series concerning intelligence activities (including special activities), or intelligence sources or methods created after 1945, and information concerning cryptology created after 1945;

(iv) Conduct systematic declassification reviews of accessioned records and presidential papers or records in file series concerning intelligence activities (including special activities), or intelligence sources or methods created after 1945 and cryptology records created after 1945 as they become fifty years old;

(v) Establish systematic review priorities for accessioned records and presidential papers or records based on the degree of researcher interest and the potential for declassifying a significant portion of the information;

(vi) Re-review for declassification accessioned records and presidential papers or records upon the determination that the followup review will be productive, both in terms of researcher interest and the potential for declassifying a significant portion of the information.

(2) The Archivist may review for declassification, with the concurrence of the originating agency, accessioned records and presidential papers or records, prior to the timeframes established in paragraphs (c)(1) (iii) and (iv) of this section.

(3) Officials delegated original classification authority by the President under the Order or predecessor orders shall:

(i) Within six months of the effective date of the Order issue guidelines for systematic declassification review and, if applicable, for downgrading. These guidelines shall be developed in consultation with the Archivist and the Director of the Information Security Oversight Office and be designed to assist the Archivist in the conduct of systematic reviews;

(ii) Designate experienced personnel to provide timely assistance to the Archivist in the systematic review process;

(iii) Review and update guidelines for systematic declassification review and downgrading at least every five years unless earlier review is requested by the Archivist.

(4) Within six months of the effective date of the Order the Director of the Information Security Oversight Office shall issue, in consultation with the Archivist and the agencies having declassification authority over the information, general guidelines for the systematic declassification review of foreign government information. Also within six months, agency heads may issue, in consultation with the Archivist and the Director of the Information Security Oversight Office, specific systematic declassification review guidelines for foreign government information over which the agency head has declassification authority. These guidelines shall be reviewed and updated every five years unless earlier review is requested by the Archivist.

(d) *Special procedures.* All agency heads shall be bound by the special procedures for systematic review of classified cryptologic records and classified records pertaining to intelligence activities (including special activities), or intelligence sources or methods issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

§ 2001.32 Mandatory review for declassification [3.4].

(a) *U.S. originated information.* (1) Each agency head shall publish in the Federal Register the identity of the person(s) or office(s) to which mandatory declassification review requests may be addressed.

(2) *Processing.* (i) *Requests for classified records in the custody of the originating agency.* A valid mandatory declassification review request need not identify the requested information by date or title of the responsive records, but must be of sufficient particularity to allow agency personnel to locate the records containing the information sought with a reasonable amount of effort. Agency responses to mandatory declassification review requests shall be governed by the amount of search and review time required to process the request. In responding to mandatory declassification review requests, agencies shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the request. Agencies shall make a final determination within one year from the date of receipt except in unusual circumstances. When information cannot be declassified in its entirety, agencies will make reasonable efforts to release, consistent with other applicable law, those declassified portions of the requested information that constitute a coherent segment. Upon the denial of an initial request, the agency shall also notify the requester of the right of an administrative appeal, which must be filed within 60 days of receipt of the denial.

(ii) *Requests for classified records in the custody of an agency other than the originating agency.* When an agency receives a mandatory declassification review request for records in its

possession that were originated by another agency, it shall forward the request to that agency. The forwarding agency shall include a copy of the records requested together with its recommendations for action. Upon receipt, the originating agency shall process the request in accordance with § 2001.32(a)(2)(i). Upon request, the originating agency shall communicate its declassification determination to the referring agency.

(iii) *Appeals of denials of mandatory declassification review requests.* The agency appellate authority shall normally make a determination within 30 working days following the receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify the requester in writing of the final determination and of the reasons for any denial.

(b) *Foreign government information.* Except as provided in this paragraph, agency heads shall process mandatory declassification review requests for classified records containing foreign government information in accordance with § 2001.32(a). The agency that initially received or classified the foreign government information shall be responsible for making a declassification determination after consultation with concerned agencies. If the agency receiving the request is not the agency that received or classified the foreign government information, it shall refer the request to the appropriate agency for action. Consultation with the foreign originator through appropriate channels may be necessary prior to final action on the request.

(c) *Cryptologic and intelligence information.* Mandatory declassification review requests for cryptologic information and information concerning intelligence activities (including special activities) or intelligence sources or methods shall be processed solely in accordance with special procedures issued by the Secretary of Defense and the Director of Central Intelligence, respectively.

(d) *Fees.* In responding to mandatory declassification review requests for classified records, agency heads may charge fees in accordance with section 483a of title 31, United States Code. The schedules of fees published in the Federal Register by agencies in implementation of Executive Order 12065 shall remain in effect until they are revised.

§ 2001.33 Assistance to the Department of State [3.3(b)].

Heads of agencies should assist the Department of State in its preparation of the *Foreign Relations of the United States* (FRUS) series by facilitating access to appropriate classified material in their custody and by expediting declassification review of documents proposed for inclusion in the FRUS.

§ 2001.34 FOIA and Privacy Act requests [3.4].

Agency heads shall process requests for declassification that are submitted under the provisions of the Freedom of Information Act, as amended, or the Privacy Act of 1974, in accordance with the provisions of those Acts.

Subpart D—Safeguarding

§ 2001.40 General [4.1].

Information classified pursuant to this Order or predecessor orders shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification. For information in special access programs established under the provisions of section 4.2 of the Order, the safeguarding requirements of Subpart D may be modified by the agency head responsible for creating the special access program as long as the modified requirements provide appropriate protection for the information.

§ 2001.41 Standards for security equipment [4.1(b) and 5.1(b)].

The Administrator of General Services shall, in coordination with agencies originating classified information, establish and publish uniform standards, specifications, and supply schedules for security equipment designed to provide secure storage for and to destroy classified information. Any agency may establish more stringent standards for its own use. Whenever new security equipment is procured, it shall be in conformance with the standards and specifications referred to above and shall, to the maximum extent practicable, be of the type available through the Federal Supply System.

§ 2001.42 Accountability [4.1(b)].

(a) *Top Secret.* Top Secret control officials shall be designated to receive, transmit, and maintain current access and accountability records for Top Secret information. An inventory of Top Secret documents shall be made at least annually. Agency heads may waive the requirement for an annual inventory of storage systems containing large volumes of Top Secret information upon a determination that the safeguarding of this information is not jeopardized by the inventory waiver. Waivers shall be in writing and be available for review by the Information Security Oversight Office.

(b) *Secret and Confidential.* Agency heads shall prescribe accountability or control requirements for Secret and Confidential information.

§ 2001.43 Storage [4.1(b)].

Classified information shall be stored only in facilities or under conditions designed to prevent unauthorized persons from gaining access to it.

(a) *Minimum requirements for physical barriers.* (1) *Top Secret.* Top Secret information shall be stored in a GSA-approved security container with an approved, built-in, three-position, dial-type changeable combination lock; in a vault protected by an alarm system and response force; or in other types of storage facilities that meet the standards for Top Secret established under the provisions of § 2001.41. In addition, heads of agencies shall prescribe those supplementary controls deemed necessary to restrict unauthorized access to areas in which such information is stored.

(2) *Secret and Confidential.* Secret and Confidential information shall be stored in a manner and under the conditions prescribed for Top Secret information, or in a container, vault, or alarmed area that meets the standards for Secret or Confidential information established under the provisions of § 2001.41. Secret and Confidential information may also be stored in a safe-type filing cabinet having a built-in, three-position, dial-type changeable combination lock, or a steel filing cabinet equipped with a steel lock bar secured by a GSA-approved three-position changeable combination padlock. Heads of agencies shall prescribe supplementary controls for storage of Secret information in cabinets equipped with a steel lock bar. Access to bulky Secret and Confidential material in weapons storage areas, strong rooms, closed areas or similar facilities shall be controlled in accordance with requirements established by the appropriate agency head. At a minimum, such requirements shall prescribe the use of key-operated, high-security padlocks approved by the General Services Administration.

(b) *Combinations.* (1) *Equipment in service.* Combinations to dial-type locks shall be changed only by persons having an appropriate security clearance, and shall be changed whenever such equipment is placed in use; whenever a person knowing the combination no

longer requires access to it; whenever a combination has been subjected to possible compromise; whenever the equipment is taken out of service; or at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest level of classified information that is protected by the lock.

(2) *Equipment out of service.* When security equipment is taken out of service it shall be inspected to ensure that no classified information remains, and the built-in combination lock shall be reset to the standard combination 50–25–50. Combination padlocks shall be reset to the standard combination 10–20–30.

(c) *Keys.* Heads of agencies shall establish administrative procedures for the control and accountability of keys and locks whenever key-operated, high-security padlocks are utilized. The level of protection provided such keys shall be equivalent to that afforded the classified information being protected by the padlock.

§ 2001.44 Transmittal [4.1(b)].

(a) *Preparation and receipting.* Classified information to be transmitted outside of a facility shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and addresses of both sender and addressee. The outer cover shall be sealed and addressed with no identification of the classification of its contents. A receipt shall be attached to or enclosed in the inner cover, except that Confidential information shall require a receipt only if the sender deems it necessary. The receipt shall identify the sender, the addressee, and the document, but shall contain no classified information. It shall be immediately signed by the recipient and returned to the sender. Any of these wrapping and receipting requirements may be waived by agency heads if conditions provide at least equivalent protection to prevent access by unauthorized persons.

(b) *Transmittal of Top Secret.* The transmittal of Top Secret information outside of a facility shall be by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system authorized for the purpose, or over authorized secure communications circuits.

(c) *Transmittal of Secret.* The transmittal of Secret information shall be effected in the following manner:

(1) *The 50 States, the District of Columbia, and Puerto Rico.* Secret information may be transmitted within and between the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information, by the U.S. Postal Service registered mail, or by protective services provided by U.S. air or surface commercial carriers under such conditions as may be prescribed by the head of the agency concerned.

(2) *Other areas.* Secret information may be transmitted from, to, or within areas other than those specified in § 2001.44(c)(1) by one of the means established for Top Secret information, or by U.S. registered mail through Military Postal Service facilities provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system. Transmittal outside such areas may also be accomplished under escort of appropriately cleared personnel aboard U.S. Government and U.S. Government contract vehicles or aircraft, ships of the United States Navy, civil service manned U.S. Naval ships, and ships of U.S. registry. Operators of vehicles, captains or masters of vessels, and pilots of aircraft who are U.S. citizens and who are appropriately cleared may be designated as escorts.

(d) *Transmittal of Confidential.* Confidential information shall be transmitted within and between the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and U.S. territories or possessions by one of the means established for higher classifications, or by the U.S. Postal Service certified, first class, or express mail service when prescribed by an agency head. Outside these areas, Confidential information shall be transmitted only as is authorized for higher classifications.

(e) *Hand carrying of classified information.* Agency regulations shall prescribe procedures and appropriate restrictions concerning the escort or hand carrying of classified information, including the hand carrying of classsified information on commercial carriers.

§ 2001.45 Special access programs [1.2(a) and 4.2(a)].

Agency heads designated pursuant to section 1.2(a) of the Order may create or continue a special access program if:

(a) Normal management and safeguarding procedures do not limit access sufficiently; and

(b) the number of persons with access is limited to the minimum necessary to meet the objective of providing extra protection for the information.

§ 2001.46 Reproduction controls [4.1(b)].

(a) Top Secret documents, except for the controlled initial distribution of information processed or received electrically, shall not be reproduced without the consent of the originator.

(b) Unless restricted by the originating agency, Secret and Confidential documents may be reproduced to the extent required by operational needs.

(c) Reproduced copies of classified documents shall be subject to the same accountability and controls as the original documents.

(d) Paragraphs (a) and (b) of this section shall not restrict the reproduction of documents to facilitate review for declassification.

§ 2001.47 Loss or possible compromise [4.1(b)].

Any person who has knowledge of the loss or possible compromise of classified information shall immediately report the circumstances to an official designated for this purpose by the person's agency or organization. The agency that originated the information shall be notified of the loss or possible compromise so that a damage assessment may be conducted and appropriate measures taken to negate or minimize any adverse effect of the compromise. The agency under whose cognizance the loss or possible compromise occurred shall initiate an inquiry to (a) determine cause, (b) place responsibility, and (c) take corrective measures and appropriate administrative, disciplinary, or legal action.

§ 2001.48 Disposition and destruction [4.1(b)].

Classified information no longer needed in current working files or for reference or record purposes shall be processed for appropriate disposition in accordance with the provisions of chapters 21 and 33 of title 44, United States Code, which govern disposition of Federal records. Classified information approved for destruction shall be destroyed in accordance with procedures and methods prescribed by the head of the agency. The method of destruction must preclude recognition or reconstruction of the classified information or material.

§ 2001.49 Responsibilities of holders [4.1(b)].

Any person having access to and possession of classified information is responsible for: (a) Protecting it from persons not authorized access to it, to include securing it in approved equipment or facilities whenever it is not under the direct supervision of

authorized persons; and (b) meeting accountability requirements prescribed by the head of the agency.

§ 2001.50 Emergency planning [4.1(b)].

Agencies shall develop plans for the protection, removal, or destruction of classified material in case of fire, natural disaster, civil disturbance, or enemy action. These plans shall include the disposition of classified information located in foreign countries.

§ 2001.51 Emergency authority [4.1(b)].

Those officials delegated original classification authority by the President may prescribe by regulation special provisions for the dissemination, transmittal, destruction, and safeguarding of national security information during combat or other emergency situations which pose an imminent threat to national security information.

Subpart E—Implementation and Review

§ 2001.60 Agency regulations [5.3(b)].

Each head of an agency shall issue regulations in accordance with 5 U.S.C. 552(a) to implement the Order and 32 CFR Part 2001 no later than December 31, 1982. Those portions that affect members of the public shall include, at a minimum, information relating to the agency's mandatory declassification review program and instructions for submitting suggestions or complaints regarding the agency's information security program.

§ 2001.61 Security education [5.3(a)].

Each agency that creates or handles national security information is required under the Order to establish a security education program. The program established shall be sufficient to familiarize all necessary personnel with the provisions of the Order and its implementing directives and regulations and to impress upon them their individual security responsibilities. The program shall also provide for initial, refresher, and termination briefings.

§ 2001.62 Oversight [5.3(a)].

Agency heads shall require that periodic formal reviews be made to ensure compliance with the provisions of the Order and ISOO directives.

Subpart F—General Provisions

§ 2001.70 Definitions [6.1].

(a) *Original classification authority.* The authority vested in an executive branch official to make an initial determination that information requires protection against unauthorized disclosure in the interest of national security.

(b) *Classification guide.* A document issued by an authorized original classifier that prescribes the level of classification and appropriate declassification instructions for specified information to be classified on a derivative basis.

(c) *Originating agency.* The agency responsible for the initial determination that particular information is classified.

(d) *Multiple sources.* The term used to indicate that a document is derivatively classified when it contains classified information derived from more than one source.

(e) *Portion.* A segment of a document for purposes of expressing a unified theme; ordinarily a paragraph.

(f) *Special access program.* Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know."

(g) *Intelligence activity.* An activity that an agency within the Intelligence Community is authorized to conduct pursuant to Executive Order 12333.

(h) *Special activity.* An activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which is not intended to influence United States political processes, public opinion, policies, or media and does not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *Unauthorized disclosure.* A communication or physical transfer of classified information to an unauthorized recipient.

§ 2001.71 Publication and effective date [6.2(e)].

Part 2001 shall be published in the **Federal Register**. It shall become effective August 1, 1982.

Steven Garfinkel,

Director, Information Security Oversight Office.

June 23, 1982.

[FR Doc. 82-17296 Filed 6-23-82; 10:37 am]

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Federal Register

Vol. 47, No. 123

Friday, June 25, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24
27537-27842.....25

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
January 29, 1859 (Revoked by PLO 6260).....26131
January 29, 1867 (Revoked in part by PLO 6287).....27292
July 2, 1875 (Revoked by PLO 6270).....27285
July 27, 1875 (Revoked by PLO 6271).....27285
May 8, 1889 (Revoked by PLO 6257).....26130
May 28, 1889 (Revoked in part by PLO 6255).....26129
April 1, 1895 (See PLO 6260).....26131
April 30, 1896 (See PLO 6260).....26131
August 16, 1911 (Revoked in part by PLO 6280).....27287
February 5, 1912 (Revoked in part by PLO 6283).....27290
July 3, 1913 (Revoked in part by PLO 6280).....27287
December 11, 1914 (Revoked in part by PLO 6280).....27287
November 10, 1917 (Revoked in part by PLO 6259).....26130
February 25, 1919 (Revoked in part by PLO 6282).....27289
November 26, 1921 (Revoked in part by PLO 6274).....27286
November 21, 1923 (Revoked in part by PLO 6266).....26133
June 8, 1926 (Revoked in part by PLO 6252).....26133
April 17, 1926 (Revoked in part by PLO 6284).....27290
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4364 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
December 22, 1927 (Revoked by PLO 6263).....26132
April 23, 1929 (Revoked by PLO 6263).....26132
12367.....26119

Proclamations:
1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805
4949.....27537

5 CFR

307.....27539
316.....27539
1260.....26369
1261.....26369

Proposed Rules:
340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101, 27539
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
226.....27540
272.....27544
273.....27544
277.....25496
301.....23682, 23683, 26121
371.....25001, 27234
411.....27058
439.....27059
724.....27546
725.....27547
726.....27548
760.....24689
905.....25935
906.....24137, 25113, 26122, 27234
910.....24251, 25319, 26370, 27548
916.....23913
917.....23913
923.....23684

979.....24109
981.....25001
1032.....25113
1040.....26370
1106.....25505
1701.....24251
1900.....24539
2900.....25319

Proposed Rules:

26.....26637
52.....25366
54.....23725
235.....25368
272.....24968, 26639, 26840, 27038
273.....24968, 26639, 26840, 27036
278.....26639, 27035
932.....26394
1001.....27080
1006.....27342
1011.....26656
1012.....27342
1013.....27342
1033.....27342
1036.....27342
1040.....27342
1046.....26656
1065.....26840
1071.....26665
1073.....26665
1098.....26656
1104.....26665
1106.....26665
1124.....27342
1125.....27342
1126.....26665
1132.....26665
1133.....27342
1134.....27299, 27342
1135.....27342
1136.....27299, 27342
1137.....27299, 27342
1139.....27342
1200.....23733, 24338
1701.....25371, 26841, 27565
1807.....27366
1872.....27366
1901.....27366
1910.....27366
1940.....27366
1941.....27366
1943.....27366
1944.....27366
1945.....27366
1962.....27366
1990.....27366

8 CFR

100.....25002, 27549

Proposed Rules:

214.....24596, 27565
248.....24596, 27565

9 CFR

92.....24540
317.....26371
318.....26371
319.....26371

Proposed Rules:

166.....26841
318.....23941
381.....23941

10 CFR

30.....27060
40.....27060
70.....27060
456.....27752
508.....25729, 26615

Proposed Rules:

50.....27371
430.....26143
456.....26148, 27803
485.....25535
501.....25153

12 CFR

9.....27828,
217.....24252, 27244
303.....25733
546.....26807
563.....26807
563b.....24252
611.....27060
614.....27060
701.....23685, 26808
707.....26808
708.....26808
745.....26808

Proposed Rules:

Ch. VII.....23747, 26842
9.....27833
29.....23944, 26157
202.....23738, 23741, 25019
350.....23743
614.....25535
701.....23750
721.....23751

13 CFR

122.....24110

14 CFR

39.....25114, 25115, 27244–27248
71.....25506, 25507, 26615, 27249, 27252
73.....26123
75.....26615, 27252, 27253
91.....25116, 25508
95.....27253
97.....25510
298.....25935
323.....26809
382.....25936

Proposed Rules:

21.....24596
39.....23691–23698, 24138, 24541
71.....23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373 27374
75.....24597
91.....26112, 26158
97.....23703
183.....27472
202.....25019
203.....25019
204.....25019
208.....25019
211.....25019
212.....25019
213.....25019
215.....25019
231.....23949
250.....24689
294.....25019
298.....23949, 25019
323.....27061
398.....24506

15 CFR

376.....25118, 27250
379.....25118, 27250
385.....25118, 27250
806.....23705
930.....27062
970.....24948

16 CFR

13.....24113, 25118

Proposed Rules:

Ch. II.....24034
13.....25157
436.....25372
455.....24542
1025.....25512
1632.....25159

17 CFR

3.....27550
140.....24113, 26810
145.....27550
200.....26818, 26820
201.....26818
202.....26820
203.....26820
210.....25120
211.....23915, 23916
229.....25126
230.....26818
231.....25120
239.....25126, 26818
240.....23919, 26161
249.....25120, 26818
259.....26818
260.....26818
269.....26818
274.....26818
279.....26818

Proposed Rules:

21.....23951
201.....25372
230.....25372
240.....24338, 25372, 26161
250.....25372
260.....25372
270.....25372
275.....25372

18 CFR

1.....24691
3.....24691
157.....24254
271.....25132, 25133
282.....24117
284.....24254
375.....24524, 24691

Proposed Rules:

1.....24691, 27375
3.....27375
271.....23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274.....24726
284.....24726
375.....24726, 27375
381.....24726, 27375

19 CFR

10.....27260
18.....27260
114.....27260
143.....27260
148.....24117
210.....25134

Proposed Rules:

134.....24344
177.....25975

20 CFR

416.....24274

Proposed Rules:

404.....23954, 25376
651.....23754
654.....23754

21 CFR

5.....23705, 25733, 26822
12.....25733, 26375
13.....26375
14.....26375
15.....26375
16.....26375
20.....24277
74.....24278, 27551
80.....24691
81.....24278, 24285, 27551
82.....24278, 27551
137.....24692
146.....24286
172.....26823, 27808
177.....24288
178.....26824
182.....27806–27815
184.....27806–27815
193.....25950, 25951, 27062
436.....23707, 27551
440.....23711
442.....23707
444.....23707, 25320
448.....23707
449.....23707
450.....23707
510.....26375, 26376
520.....25320, 25734, 26376, 26377
524.....26377
544.....24290
548.....24693
556.....25320
558.....23712, 24694, 24695, 26378, 26379, 26825
561.....25952–25954, 27063, 27064
573.....24292
610.....24696, 27552
630.....24696, 27552
801.....26982
1308.....26616

Proposed Rules:

101.....25379, 26580
105.....26580
155.....26843
172.....26843
182.....27818
184.....27817, 27818
186.....27817
201.....24735
680.....27566

22 CFR

41.....24293
514.....24119

23 CFR

625.....25268

Proposed Rules:
655 25541

24 CFR

Proposed Rules:
203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:
250 23755

26 CFR

1 25139
6a 24701
26a 24127

Proposed Rules:
1 ..... 24112, 24737, 25026, 25666, 26854

27 CFR

9 ..... 24293, 24295, 25517
18 ..... 23920, 25003
240 ..... 23920, 25003

Proposed Rules:
9 24344
240 26399

28 CFR

2 ..... 25735, 25736
549 27218
552 27219

Proposed Rules:
2 27567

29 CFR

5 ..... 24296, 24297
6 24702
40 24702
580 24702
697 26825
1601 ..... 24542, 24703
1910 ..... 25323, 26557
1952 ..... 25323, 25327

Proposed Rules:
1904 24346
1910 ..... 24751, 26560

30 CFR

250 ..... 24751, 25330
251 25330
730 26356
731 26356
732 26356
733 26356
736 26356
906 25332
913 ..... 23858, 23886
920 25955
943 24130
944 26827

Proposed Rules:
Ch. VII 26405
211 26856
221 26856
226 25252
231 ..... 24128, 26856
250 26856
270 ..... 24129, 26856
700 ..... 25092, 27688
701 ..... 24954, 25092, 25486, 26592, 26754, 27688–27734
731 27744
732 27744
736 25278
740 25092
741 25092
742 25092
743 25092
744 25092
745 25092
746 25092
760 25278
761 25278
762 25278
764 25278
765 25278
769 25278
770 27694
771 27694
773 27694
775 27694
778 27694
779 27712
780 ..... 27712, 27734
782 27694
783 27712
784 ..... 27712, 27734
785 ..... 25486, 27688
786 27694
787 27694
788 27694
795 27744
816 ..... 24954, 26592, 26754, 26760, 27688, 27712, 27734
817 ..... 24954, 26592, 26754, 26760, 27688, 27712, 27734
822 25486
826 26760
827 27688
906 25979
910 25981
913 25164
914 ..... 26406, 26857
916 ..... 23766, 26165
922 26779
925 ..... 23767, 26164
931 23898
934 26769
935 26406
936 27383
937 26786
938 25383
942 25165
947 26794
951 25029

31 CFR

209 24131
408 27552
535 25003

Proposed Rules:
51 25029
53 25543
55 25543
81 25543
90 25543
92 25543
93 25543
120 25543
121 25543
122 25543
127 25543

32 CFR

242b 24297
505 27262
536 26616
706 ..... 24131, 24132
763 27753
806b 26617
1665 24542
2001 27836

Proposed Rules:
293 26857
1656 24599
1660 24599

33 CFR

1 25519
3 27263
100 ..... 25139–25142, 27264
117 ..... 24543, 24544, 26125–26127, 27265
127 25519
137 27478
150 27478
157 24547
162 27265
175 24548

Proposed Rules:
110 26165
126 26166
154 26166
156 26166
161 26166
167 26167

34 CFR

642 24938
643 24938
644 24938
645 24938
646 24938

36 CFR

7 2429
50 ..... 24299, 24302
800 24306
811 25520

Proposed Rules:
1 24143
2 24143
3 24143
4 24143
5 24143
6 24143
7 24143
9 23768
12 24143
219 24348

37 CFR

201 25004

38 CFR

3 24549

Proposed Rules:
1 23954
21 24603

39 CFR

111 ..... 25957, 27266
233 26831
3001 23712
3002 25523

40 CFR

1 25006
51 27554
52 ..... 23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26386, 26618–26623, 26832, 26833, 27065–27073, 27267, 27554
60 25524
61 24703
62 25335
81 ..... 25016, 27267
122 ..... 24918, 27520
123 27273
125 ..... 24918, 25963, 27075
162 23928
180 ..... 23931–23935, 25017, 25741, 25957–25963
256 26835
264 27520
265 27520
401 24534
420 24554
710 27075
712 26992
723 24306
762 ..... 23713, 23717
763 25145

Proposed Rules:
Ch. I 25743, 26859
4 24755
30 26564
50 26407
52 ..... 23773, 23778, 24755 25745
60 26750
62 26169
81 24755
122 ..... 24144, 25548, 27516
123 ..... 23955, 25546, 26170
124 ..... 24921, 25548
125 ..... 24921, 25961
141 24756
158 26171
162 25030
180 ..... 23955, 23957, 24804, 25031, 25032, 25748–25750, 25961
264 27516
425 23958
440 25662
704 27206
712 26992
761 ..... 24976, 25555
790 24348

41 CFR

Ch. I 25018
Ch. 9 26390
Ch. 18 ..... 27274, 27283
7-1 25964
7-6 25964
7-7 25964
7-30 25964
8-2 26127
8-4 25525
8-75 25525

Proposed Rules:
9 23780
101-8 25337
101-41 24357

42 CFR

51a 27824
51d 27824
51f 27824
435 27076
436 27076

Proposed Rules:
405 27084

43 CFR

2 26390
4 26390
2650 26390
3300 25967

Public Land Orders:
548 (Revoked in part by PLO 6252) 24133
619 (Revoked by PLO 6256) 26129
648 (Revoked in part by PLO 6272) 27285
651 (Revoked in part by PLO 6275) 27286
1409 (Revoked by PLO 6254) 23935
1461 (Revoked by PLO 6261) 26131
4395 (See PLO 6287) 27292
4913 (Revoked by PLO 6276) 27287
5345 (Amended PLO 6253) 24133
5791 (Corrected by PLO 6264) 26132
5976 (Corrected by PLO 6281) 27288
6200 (Corrected by PLO 6265) 26133
6252 24133
6253 24133
6254 23935
6255 26129
6256 26129
6257 26130
6258 26130
6259 26130
6260 26131
6261 26131
6262 26132
6263 26132
6264 26132
6265 26133
6266 26133
6267 27283
6268 27283
6269 27284
6270 27285
6271 27285
6272 27285
6273 27285
6274 27286
6275 27286
6276 ..... 27078, 27287
6277 27079
6279 27079
6280 27287
6281 27288
6282 27289
6283 27290
6284 27290
6285 27290
6286 27291
6287 27292

Proposed Rules:
Subtitle A 25384
Subtitle B 25384
4 27066
3140 25720
3830 24144

44 CFR

64 ..... 25018, 25145, 25146, 26133
65 ..... 23718, 23719
67 ..... 23720, 24321

Proposed Rules:
67 ..... 23780-23785, 24357

45 CFR

302 24716
303 24716
304 24716
305 24716
306 24716
1611 25148

Proposed Rules:
2 26860
97 26104

46 CFR

Ch. II 25530
42 25148
50 24554
66 27490
67 27490
68 27490
69 27490
71 24554
91 24554
107 24554
153 27293
169 24554
510 ..... 24555, 25530
536 25532

Proposed Rules:
Ch. I 26667
7 24604
25 25166
26 25166
35 25166
58 25166
78 25166
97 25166
111 25166
112 25166
162 25166
196 25166
502 24377

47 CFR

1 26393
2 ..... 24557, 25342
13 25972
22 24557
64 27293
67 24720
73 ..... 24572-24580, 25342-25346, 26624, 26836, 26838
74 ..... 24580, 24723
81 23722
87 23722
90 ..... 23722, 24581, 26631

Proposed Rules:
1 27384
Ch. I 24612, 25033, 26668, 27087
2 ..... 25033, 25982
21 25033
73 ..... 24144, 24613, 26408, 26861-26868, 27385, 27572
74 25033
90 26677
94 25033

48 CFR

Proposed Rules:
19 25034
53 25679

49 CFR

1 24581
171 24582
172 24582
173 ..... 24582, 26633
175 24582
215 27293
385 26135
512 24587
571 ..... 25149, 26138
575 ..... 24593, 25930, 26139
1033 ..... 23723, 24332, 25347, 27581
1039 26634
1090 26634
1110 24594
1125 25973
1136 26142
1201 26634
1300 26634

Proposed Rules:
172 24157
173 ..... 24157, 25167, 26172
178 ..... 25167, 26172
192 25555
396 26172
571 ..... 25169, 26174
1032 26409
1039 27573
1102 25035
1248 26870

50 CFR

17 27295
26 25150
91 26635
285 ..... 25350, 26393
371 24723
611 ..... 23936, 25018
661 ..... 24134, 24136
672 23936
674 24724

Proposed Rules:
17 26878
20 25922
602 27228

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing June 24, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 6132/Pub. L. 97–199 To amend section 5590 of the Revised Statutes to provide for adjusting the rate of interest paid on funds of the Smithsonian Institution deposited with the Treasury of the United States as a permanent loan. (June 22, 1982; 96 Stat. 121) Price: $1.75.

H.R. 4/Pub. L. 97–200 Intelligence Identities Protection Act of 1982 (June 23, 1982; 96 Stat. 122) Price: $1.75.



New Publication

List of CFR Sections Affected

(1964 through 1972)

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Vol. 47 No. 124
Pages 27843-28066

federal register

Monday
June 28, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Air Traffic Control
Federal Aviation Administration

Asbestos
Consumer Product Safety Commission

Authority Delegations (Government Agencies)
Federal Reserve System

Aviation Safety
Federal Aviation Administration

Fisheries
National Oceanic and Atmospheric Administration

Grant Programs—Health
Public Health Service

Hazardous Materials Transportation
Research and Special Programs Administration, Transportation Department

Inventions and Patents
Patent and Trademark Office

Maritime Carriers
Federal Maritime Commission

Mobil Homes
Federal Housing Commissioner—Office of Assistant Secretary for Housing

Natural Gas
Federal Energy Regulatory Commission

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Nursing Homes
Veterans Administration

Plastic and Plastic Products
Consumer Product Safety Commission

Radio
Federal Communications Commission

Rent Subsidies
Housing and Urban Development Department

Trademarks
Patent and Trademark Office

Contents

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

The President
EXECUTIVE ORDERS
27843 Drug abuse policy functions (EO 12368)

Executive Agencies

Agriculture Department
See Animal and Plant Health Inspection Service; Commodity Credit Corporation.

Air Force Department
NOTICES
Meetings:
27885 Scientific Advisory Board

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
27879 Swine health protection; treatment of garbage used as feed

Civil Aeronautics Board
NOTICES
27880 Certificates of public convenience and necessity and foreign air carrier permits; weekly applications
Committees; establishment, renewals, terminations, etc.:
27881 CAB-Industry Advisory Committee on Aviation Mobilization
Hearings, etc.:
27881 Aeroamerica fitness investigation
27879 American World Airways fitness investigation
27880 Atlanta Express Airline Corp.
27881 Mail rates; intra-Hawaii service

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
27881 Connecticut
27881 West Virginia

Coast Guard
RULES
Security zones:
27858 Juan De Fuca Strait and Hood Canal, Wash.; correction
PROPOSED RULES
Ports and waterways safety:
27870 Traffic separation schemes; correction

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration; Patent and Trademark Office.

Commodity Credit Corporation
NOTICES
Meetings:
27879 Study Committee to Study Alternative Methods of Establishing Premiums and Discounts for Upland Cotton Loan Program

Commodity Futures Trading Commission
NOTICES
Futures contracts, proposed; availability:
27884 New Orleans Commodity Exchange; corn
28003 Meetings; Sunshine Act

Conservation and Renewable Energy Office
NOTICES
Consumer products; petitions for waiver of test procedures:
27957 Arkla Industries, Inc.; furnaces

Consumer Product Safety Commission
RULES
27853 Architectural glazing materials; modulus of elasticity, hardness, and indoor aging tests for plastic glazing materials; partial revocation
PROPOSED RULES
27867 Hair dryers containing asbestos; withdrawn
NOTICES
Complaints issued:
27884 Robertshaw Controls Co.

Defense Department
See Air Force Department.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
27889 Brunswick Pulp & Paper Co.
27888 Sierra Pacific Power Co.

Education Department
NOTICES
27885 Accrediting agencies and associations, nationally recognized; list; correction
Grant applications and proposals, closing dates:
27886 Special programs staff and leadership personnel training program
27885 Privacy Act; systems of records

Energy Department
See also Conservation and Renewable Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICE
International atomic energy agreements; civil uses; subsequent arrangements:
27960 Canada
27960 International Atomic Energy Agency

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
27870 Indiana
27871 Kentucky
27873 North Carolina
27874 Tennessee

NOTICES
Toxic and hazardous substances control:
27960 Premanufacture notification requirements; test marketing exemption approvals

Federal Aviation Administration
RULES
Airworthiness directives:
27845 Hamilton; final rule and request for comments
27846 Piper
27847 Pratt & Whitney
27848 Schweizer
27850 Control zones
27851 Standard instrument approach procedures
27849, 27850 Transition areas (2 documents)
PROPOSED RULES
Air traffic operating and flight rules:
27866 Air traffic control system; interim operations plan; extension of time
Airworthiness standards:
27866 Transport category rotorcraft, certification; draft advisory circular; extension of time and rescheduled meeting
NOTICES
Meetings:
27999 Aeronautics Radio Technical Commission

Federal Communications Commission
RULES
Radio broadcasting:
27861 Daytime-only class II stations on U.S. I-A clear channels
PROPOSED RULES
Frequency allocations and radio treaty matters:
27875 Fixed services; sharing by government and nongovernment users on co-equal and co-primary basis; extension of time
NOTICES
Hearings, etc.:
27961 Pac-West Telecomm, Inc., et al.
Meetings:
27962 Marine Services Radio Technical Commission

Federal Deposit Insurance Corporation
NOTICES
28003 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
27857 Incremental pricing; acquisition cost thresholds
NOTICES
Hearings, etc.:
27928 American Hydro Power Co.
27956 Arkansas Electric Cooperative Corp. et al.
27956 Bibb County, Ga.
27890 Carolina Power & Light Co.
27891 Cereghino, David
27891 Columbia Gas Transmission Corp.
27928 Columbus, Ohio
27893 Commonwealth Edison Co.
27928 Consolidated Gas Supply Corp.
27893 Delmarva Power & Light Co.
27891 Dover, N.H.
27892, 27893 Energenics Systems Inc. (2 documents)
27894, 27929 Goldenwest Power (2 documents)
27930, 27931 Homestake Consulting & Investments, Inc. (9 documents)
27931 Indiana Municipal Power Agency
27894 Iroquois Manufacturing Co., Inc.
27895 Kansas City Power & Light Co.
27931 Kansas-Nebraska Natural Gas Co., Inc.
27897 Ketchikan Public Utilities et al.
27897 Leech Lake Reservation Business Committee
27898 Mason County Public Utility District No. 1
27898 McDowell Forest Products, Inc.
27899 McMurtrey, Lawrence J., et al.
27900 Modesto Irrigation District
27932 Montana-Dakota Utilities Co.
27900 New Hampshire Hydro Associates
27932 Nueces Co.
27902 Pacific Power & Light Co.
27902 Pioneer Production Corp.
27933 Portland, Oreg.
27902 Resource Investment, Inc.
27901 Rome, New York
27933 South Yuba Water District
27902 Springfield Utility Board
27933 Tennessee Gas Pipeline Co.
27934 Texas Eastern Transmission Corp.
27934 Transwestern Pipeline Co.
27903 Virginia Electric & Power Co.
27904 Washington Water Power Co.
27904 West Slope Power Co.
27904, 27905 Western Hydro Electric Inc. (2 documents)
27934 Yensen, Robert Maynard
28003 Meetings; Sunshine Act
Natural Gas Policy Act:
27906-27918, 27936-27949 Jurisdictional agency determinations (4 documents)

Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
27890 Cargill, Inc.
27932 Koppers Co., Inc.; correction

Federal Home Loan Bank Board
NOTICES
Applications, etc.:
27962 Standard Savings Association
28004 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
Mortgage and loan insurance programs:
27867 Mobile home loans; increased maximum loan limits

Federal Maritime Commission
RULES
Carriers and related activities; interpretations and policy statements:
27861 Wage and price programs; terminated
PROPOSED RULES
27875 Shipping in foreign trade of United States; actions to adjust or meet unfavorable conditions; Guatemala
NOTICES
Freight forwarder licenses:
27962 J. M. Altieri, Inc.
27963 Unicorn Shipping Co.
27962 Valtor Import & Export Inc. et al.

Federal Mediation and Conciliation Service
NOTICES
Committees; establishment, renewals, terminations, etc.:
27963 Arbitration Services Advisory Committee

Federal Mine Safety and Health Review Commission
NOTICES
28004 Meetings; Sunshine Act

Federal Railroad Administration
NOTICES
Petitions for exemptions, etc.:
28000 Louisiana Southern Railway Co.

Federal Reserve System
RULES
Authority delegations:
27845 Board members acting in absence of quorum; "sunset" provision removed
NOTICES
Applications, etc.:
27967 American Security Bancshares, Inc., et al.
27963 AmSouth Bancorporation et al.
27966 Princeton Bank Holding Co. et al.
27968 Seafirst Corp.
27963 United Banks of Colorado, Inc., et al.
Bank holding companies; proposed de novo nonbank activities:
27964 Bank of New York Co., Inc., et al.
27966 Manufacturers Hanover Corp. et al.

Fish and Wildlife Service
NOTICES
27976 Endangered and threatened species permit applications

General Services Administration
RULES
Procurement:
27859 Small and small disadvantaged business concerns; subcontracting; temporary; extension of time
27860 Women's business enterprises; subcontracting; temporary; extension of time

Health and Human Services Department
See Health Care Financing Administration; Human Development Services Office; Public Health Service.

Health Care Financing Administration
NOTICES
Drugs, limitations on payment or reimbursement; maximum allowable cost:
27968 Acetaminophen w/codeine, etc.

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
27959 Cases filed
27958 Decisions and orders

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing.
PROPOSED RULES
Low income housing:
27869 Housing assistance payments program (Section 8); existing housing; elimination of higher fair market rents (FMRs) for recently completed housing

Human Development Services Office
NOTICES
Grant applications and proposals; closing dates:
27973 Historically black colleges and universities initiative

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
27977 Privacy Act; systems of records

Internal Revenue Service
NOTICES
Authority delegations:
28000 Chief, Collection Branch, Compliance Division; filing of tax liens

International Trade Administration
NOTICES
Antidumping:
27851 Sheet pilings from Canada

Interstate Commerce Commission
NOTICES
Motor carriers:
27983, 27984 Permanent authority applications (2 documents)
27988 Temporary authority applications
Rail carriers:
27982 Cost recovery procedures; approval of railroad cost index

Justice Department
NOTICES
27994 Privacy Act; systems of records

Land Management Bureau
NOTICES
27975 Agency forms submitted to OMB for review
Environmental statements; availability, etc.:
27975 Pinyon Planning Unit, Beaver County et al., Utah; grazing management program
27975 Salt Wells-Pilot Butte area, Rock Springs District, Wyo.; proposed grazing management

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations:
28018 Gulf of Mexico; proposed oil and gas lease sale
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
27976 McMoRan Offshore Exploration Co.

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
27862 Gulf of Alaska, Bering Sea, and Aleutian Islands groundfish; foreign and domestic

NOTICES
Marine mammal permit applications, etc.:
27883 LGL Alaska Research Associates, Inc.
27883 National Zoological Park

National Science Foundation
NOTICES
Meetings:
27996 National Medal of Science, President's Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
27998 Duquesne Light Co. et al.
27996 Niagara Mohawk Power Corp.
27997 Omaha Public Power District
27997 Philadelphia Electric Co. et al.
27997 Portland General Electric Co. et al.
Meetings:
27998 Reactor Safeguards Advisory Committee
28005 Meetings; Sunshine Act
27996 Regulatory guides; issuance and availability
Reports; availability, etc.:
27998 Clinch River Breeder Reactor Plant, Oak Ridge, Tenn.; site suitability report

Patent and Trademark Office
PROPOSED RULES
Patent cases:
28042 Fees; revision
Trademark cases:
28063 Fees; revision

Public Health Service
RULES
Grants:
27860 Hospitals and medical facilities, construction and modernization; reinstatement of notification requirements for transfer of facilities or termination of services

Research and Special Programs Administration, Transportation Department
PROPOSED RULES
Hazardous materials:
27876 Cargo tanks, MC–306; design, maintenance, and testing; advance notice

Surface Mining Reclamation and Enforcement Office
NOTICES
Environmental statements; availability, etc.:
27976 Tennessee abandoned mine land reclamation plan; seven projects

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See also Internal Revenue Service.
NOTICES
Notes, Treasury:
28001 H-1986 series
Senior Executive Service:
28000 Bonus awards schedule

Veterans Administration
RULES
Medical benefits:
27858 State home facilities; construction grants; interim rule and request for comments
NOTICES
Meetings:
28001 Cooperative Studies Evaluation Committee

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12133 (Revoked by EO 12368)..... 27843
12368..... 27843

12 CFR
265..... 27845

14 CFR
39 (4 documents)..... 27845–27848
71 (3 documents)..... 27849, 27850
97..... 27851
Proposed Rules:
29..... 27866
91..... 27866

16 CFR
1201..... 27853
Proposed Rules:
1145..... 27867

18 CFR
282..... 27857

24 CFR
Proposed Rules:
201..... 27867
882..... 27869

33 CFR
127..... 27858
Proposed Rules:
167..... 27870

37 CFR
Proposed Rules:
1..... 28042
2..... 28063
3..... 28042
4..... 28063

38 CFR
17..... 27858

40 CFR
Proposed Rules:
52 (4 documents)..... 27870–27874

41 CFR
Ch. 1 (2 documents)..... 27859, 27860

42 CFR
53..... 27860

46 CFR
530..... 27861
548..... 27861
Proposed Rules:
507..... 27875

47 CFR
73..... 27861
Proposed Rules:
2..... 27875

49 CFR
Proposed Rules:
173..... 27876
177..... 27876
178..... 27876

50 CFR
611..... 27862
672..... 27862

V
4
7
/
1
2
4
J
E
2
8
8
2
UMI

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

Presidential Documents

Title 3—

The President

Executive Order 12368 of June 24, 1982

Drug Abuse Policy Functions

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 202 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended (21 U.S.C. 1112), and in order to clarify the performance of drug abuse policy functions within the Executive Office of the President, it is hereby ordered as follows:

Section 1. The Office of Policy Development has been assigned to assist the President in the performance of the drug abuse policy functions contained in Section 201 of Title II of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended (21 U.S.C. 1111). Within the Office of Policy Development, the Director of the Drug Abuse Policy Office shall be primarily responsible for assisting the President in the performance of those functions.

Sec. 2. The Director of the Drug Abuse Policy Office is designated to direct all the activities under Title II of that Act, in accord with Section 202 (21 U.S.C. 1112). In particular, he shall be primarily responsible for assisting the President in formulating policy for, and in coordinating and overseeing, international as well as domestic drug abuse functions by all Executive agencies.

Sec. 3. The Director of the Drug Abuse Policy Office shall be directly responsible for the activities of a drug policy staff within the Office of Policy Development.

Sec. 4. Executive Order No. 12133 of May 9, 1979, is revoked.

Ronald Reagan

THE WHITE HOUSE,
June 24, 1982.

[FR Doc. 82-17524
Filed 6-24-82; 3:38 pm]
Billing code 3195-01-M

Editorial Note: The President's remarks of June 24, 1982, on drug abuse policy functions are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 25).

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Rules and Regulations

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0410]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendment to final rule.

SUMMARY: This rule change provides a technical amendment removing the "sunset" provision contained in the final sentence of 12 CFR 265.1a(c) providing for the expiration on June 30, 1982, of the delegation of authority contained in § 265.1a(c). This action will continue the delegation of authority by the Board of Governors to any three Board members designated by the Chairman to act on certain matters in the absence of a quorum of the Board when delay would be inconsistent with the public interest.

EFFECTIVE DATE: June 4, 1982.

FOR FURTHER INFORMATION CONTACT: Robert E. Mannion, Deputy General Counsel, 202/452-3274, or Sara A. Kelsey, Senior Attorney, 202/452-3236, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: From time to time, the Board is required to act upon various matters where a delay in Board action would not be consistent with the public interest. In order to provide for those times that a quorum of the Board may not be available in person to act upon such a matter, 12 CFR 265.1a(c) provides for the delegation of authority by the Board of Governors to any three Board members designated by the Chairman. This delegation of authority, added effective August 2, 1978, originally contained a "sunset" provision to terminate the authority on June 30, 1980, so that the Board could evaluate its utility for a trial period. This "sunset" provision was advanced to June 30, 1982, effective May 19, 1980. Based upon its experience since 1978, the Board has determined that this delegation of authority is an effective means of acting promptly on matters to avoid delay that would be inconsistent with the public interest and therefore should be continued. This amendment removes the "sunset" provision contained in the final sentence of 12 CFR 265.1a(c) and thereby permits continuation of this delegation of authority.

The provisions of 5 U.S.C. 553 relating to notice and public participation and deferred effective date are not followed in connection with the adoption of this amendment because the change involved herein is technical in nature and does not constitute a substantive rule subject to the requirements of such section. The amendment is effective immediately.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies); Banks, banking; Federal reserve system.

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

§ 265.1a [Amended]

Pursuant to its authority under section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.1a(c) by removing the final sentence of that section which provides: "This delegation of authority shall terminate June 30, 1982."

By order of the Board of Governors of the Federal Reserve System, June 21, 1982.

William W. Wiles,
Secretary of the Board.

[FR Doc. 82-17486 Filed 6-25-82; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-21; Amdt. 39-4409]

Airworthiness Directives; Hamilton Standard Hydromatic Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: This amendment amends an existing airworthiness directive (AD) 81-13-06 applicable to Hamilton Standard Hydromatic Propellers. It is needed because the FAA has determined that the AD should not apply to propellers which have steel blades or to propellers which have an integral oil control system that is separate and distinct from the engine oil system. This amendment also allows credit for propeller blades in storage that are preserved in accordance with Hamilton Standard service instructions and allows for repair of blades found with minor corrosion. This amendment revises the applicability statement and provides additional details on the inspection requirements.

DATES: Effective—July 1, 1982. Compliance Schedule—As provided in body of AD. Comments on the rule must be received on or before August 2, 1982.

ADDRESSES: The applicable technical manuals may be obtained from: Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096.

A copy of the applicable service instructions is contained in the FAA New England Region; Aircraft Certification Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

Submit comments to Martin Buckman, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7330.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4133, AD 81-13-06, which requires an 18-month repetitive inspection of the blade shank for corrosion. After issuing this amendment, the FAA has determined that the AD should not apply to propellers which have steel blades or to propellers which have an integral oil

control system that is separate and distinct from the engine oil system; that credit should be allowed for propeller blades in storage that are preserved in accordance with Hamilton Standard service instructions; that blades found with minor corrosion can be repaired; that the applicability statement requires revision; and that additional details on the inspection are needed.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which was not preceded by notice and public procedure, comments are invited on the rule.

When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Propellers, Engines, Aircraft, Air transportation, Air safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-4133, AD 81-13-06, to read as follows:

Hamilton Standard.—Applies to Hamilton Standard Hydromatic (noncounterweighted) propellers with aluminum blades that use engine oil for pitch control (does not apply to propellers with integral oil control or to propellers with steel blades) of the following types: 22D30, 22D40, 23D40, 23E50, 23E60, 24D50, 24E60, 33D50, 33E60, 34D50, 34D51, 34E60, 43D50, 43D51, 43E60, and 43H60, as installed on various reciprocating engine powered aircraft such as, but not limited to: Beech D17 and D18, Boeing 377 series, Canadair Model 4 and CL-215, Curtiss-Wright C-46, DeHavilland DHC-2, DHC-3, and DHC-4, General Dynamics (Convair) T-29, 240, 340, and 440 series, Gulfstream American (Grumman) G-12A, G-164, F4U, S-2F, TBM, and W-2F series, Lockheed L-10, L-12, 049, 749, 1049, and 1649 series, Martin 202 and 404 series, McDonnell Douglas B-26, DC-3, DC-4, DC-6, and DC-7 series, North American AT-6, B-25, P-51, SNJ-5, T-6, and T-28.

Compliance is required as indicated, unless already accomplished.

To prevent propeller blade failure due to corrosion and fatigue, accomplish the following repetitive actions:

(a) Propeller blades in service. Within the next 90 days after the effective date of this AD or within 18 months since last inspection, whichever occurs later, remove blades and visually inspect for evidence of corrosion in the blade fillet and shank area, particularly under the teflon friction reduction strip and the resin corrosion barrier, in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B dated March 1, 1980, or FAA approved equivalent. Reinspect blades every 18 months thereafter. Propellers previously inspected in accordance with the original AD 81-13-06 shall have credit for this inspection regardless of whether or not the teflon strip and corrosion barrier were removed.

(b) Assembled propellers in storage. Remove blades and visually inspect for evidence of corrosion in the blade fillet and shank area, particularly under the teflon friction reduction strip and the resin corrosion barrier in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B dated March 1, 1980, or FAA approved equivalent, prior to installation or prior to exceeding 18 months combined storage plus time installed. Propellers previously inspected in accordance with the original AD shall have credit for this inspection regardless of whether or not the teflon strip and corrosion barrier were removed.

(c) Disassembled propeller blades in storage. Propeller blades preserved in accordance with Hamilton Standard Overhaul Manual No. 130B dated March 1, 1980, shall not have calendar time accumulating while in storage if preservation remains intact. Propeller blades not preserved in accordance with Hamilton Standard Overhaul Manual No. 130B must be inspected for evidence of corrosion in the blade fillet and shank area, particularly under the teflon friction reduction strip and the resin corrosion barrier, prior to assembling to a propeller being prepared for return to service or prior to exceeding 18 months combined storage plus time installed.

(d) Blades showing evidence of corrosion in the fillet or shank area must be replaced with an airworthy blade or repaired in accordance with Hamilton Standard Aluminum Blade Overhaul Manual No. 130B dated March 1, 1980, or FAA approved equivalent.

(e) Upon request of an operator, the Chief, Aircraft Certification Division, ANE-100, FAA, New England Region, may adjust the compliance time specified in this AD provided such requests are made through an FAA maintenance inspector and the request contains substantiating data to justify the request for that operator. Previous adjustments to the compliance time of the original AD made by the Chief, Chicago Aircraft Certification Office, ACE-115C, are valid and apply to this revised AD.

(f) For purposes of this AD, an FAA approved equivalent must be approved by the Chief, Aircraft Certification Division, ANE-100, FAA, New England Region.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the inspection required by this AD.

This amendment becomes effective July 1, 1982.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on June 16, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-17161 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-CE-6-AD; Amdt. 39-4408]

Airworthiness Directives; Piper Models PA-28R-200, -201 and -201T, PA-28RT-201 and -201T Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, Revision of Existing Airworthiness Directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 82-06-11, applicable to certain Piper Models PA-28R-200, -201 and -201T, PA-28RT-201 and -201T airplanes. The revision requires compliance with Piper Service Bulletin No. 724A, dated April 20, 1982. PART II of the revised service bulletin exempts actuators manufactured by Syncro Devices. Consequently, AD 82-06-11 must be revised to make it applicable only to affected airplanes on which these actuators are installed.

EFFECTIVE DATE: June 16, 1982. Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Service Bulletin No. 724A, dated April 20, 1982, applicable to this AD, may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania

17745. A copy of the Service Bulletin is also contained in the rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:
W. H. Trammell, Systems and Equipment Section, ACE-130A, Aircraft Certification Field Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404) 763-7781, concerning the technical content of this AD.

SUPPLEMENTARY INFORMATION:
Amendment 39-4349 (47 FR 12152, 12153), AD 82-06-11, applicable to certain Piper Models PA-28R-200, -201 and -201T, PA-28RT-201 and -201T airplanes requires that the nose landing gear be inspected for cracks, rigged and modified in accordance with Piper Service Bulletin No. 724 dated October 20, 1981. Subsequently, the FAA and the manufacturer determined that some affected airplanes were equipped with Syncro Devices actuators. Since these actuators should have been exempted from the modifications prescribed by PART II of this service bulletin, the manufacturer issued Piper Service Bulletin No. 724A dated April 20, 1982, to correct this discrepancy. Therefore, AD 82-06-11 is being amended to specify compliance with the revised service bulletin.

Since this amendment is both clarifying and relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 82-06-11, Amendment 39-4349 (47 FR 12152, 12153), § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows: Restate paragraph A) to read as follows:

"A) Within the next 100 hours time-in-service after the effective date of this AD, inspect, rig and modify the nose landing gear in accordance with Piper Service Bulletin No. 724A, dated April 20, 1982, Parts I and II as applicable, except dye penetrant must be used for detection of cracks."

This amendment becomes effective on June 16, 1982.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation regulations (14 CFR 11.89)).

Note.—The FAA has determined that this amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves inspection and maintenance procedures applicable to only a few aircraft owned by small entities.

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review only by the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on June 16, 1982.

John E. Shaw,
Acting Director, Central Region.

[FR Doc. 82-17162 Filed 6-25-82; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 78-NE-09 Amdt. 39-4407]

Airworthiness Directives; Pratt & Whitney JT8D-9, -9A, -11, -15, -17, and -17R Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment provides an alternate means of compliance to an existing Airworthiness Directive (AD 78-17-02) which requires eddy current inspection for cracks of certain JT8D front hub blade slots. The alternate inspection provides an ultrasonic inspection procedure for installed hubs. This procedure has been developed to permit inspections of hubs when the engine is installed in the aircraft.

DATES: Effective date—June 28, 1982. Comments on the rule must be received on or before August 28, 1982. Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable alert service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. Send comments on the rule to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket No. 78-NE-09, 12 New England Executive Park, Burlington, Massachusetts 01803.

Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

Copies of the service bulletins are contained in the Rules Docket, Federal Aviation Administration, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:
W. Locke Easton, Transport Engine Section (ANE-141), Engine Certification Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A final rule to amend Part 39 of the Federal Aviation Regulations to include revisions to the initial and repetitive eddy current inspection requirements for certain engine models became effective on March 4, 1982. The original AD, effective on September 20, 1978, required initial inspection at 13,000 cycles and a repetitive eddy current inspection interval of 6,000 cycles of all affected models. In the original assessment of blade slot cracking, rotor speed differences between engine models were not considered significant enough to require individual inspection intervals for each model. Field experience did not support original assumptions, and it was necessary to revise the eddy current inspection intervals specified in the original AD. An optional on-wing ultrasonic inspection procedure has been developed to permit inspections of installed hubs. The purpose of this procedure is to provide an alternative to the initial eddy current inspection and the repetitive eddy current inspection.

Request for Comments on the Rule

This action is in the form of a final rule, which provides an alternate means of compliance to an existing AD and does not adversely affect any person and, therefore, was not preceded by notice and public procedure. Comments, however, are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are

specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, and Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising AD 78–17–02 to read as follows:

Pratt & Whitney Aircraft.—Applies to Pratt & Whitney Aircraft JT8D–9, –9A, –11, –15, –17, and –17R turbofan engine models.

Compliance required as indicated, unless already accomplished.

To detect cracks in compressor front hubs, P/Ns 594301, 791801, 640601, 743301, 750101, and 749801, except those listed in Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 5, dated June 15, 1982, or later FAA approved revision, which could result in fracture of the retention lugs and release of first stage fan blades, accomplish the following:

(A) Inspect front compressor front hubs for cracks in the blade slots in accordance with Pratt & Whitney Aircraft Alert Service Bulletin No. 4841, Revision 5, dated June 15, 1982, or later FAA approved revision, or equivalent means approved by the Chief, Engine Certification Branch, New England Region, and in accordance with limits specified in Paragraphs (B) and (C). Remove cracked compressor front hubs prior to further flight.

(B) Hubs not previously inspected shall be inspected within 1,000 cycles from the effective date of this AD or before reaching the initial inspection limits specified in Column I of Paragraph (D), whichever occurs later, except do not exceed 13,000 total cycles. Repeat inspections at intervals listed in Column II or Column III, Paragraph (D), thereafter.

(C) Hubs which have been previously inspected shall be reinspected within 1,000 cycles after the effective date of this AD or before reaching the initial inspection limit specified in Column I, Paragraph (D), or before reaching the repetitive inspection limits specified in Column II or Column III of Paragraph (D), whichever comes later, but not to exceed 6,000 cycles since last inspection. Repeat inspections at intervals listed in Column II or Column III, Paragraph (D), thereafter.

Model	Column		
	I [1]	II [2]	III [3]
JT8D–9, 9A	13,000	6,000	2,000
JT8D–11	10,500	6,000	2,000
JT8D–15	9,500	5,000	1,500
JT8D–17	9,500	5,000	1,500
JT8D–17R	9,000	5,000	1,500

[1] Initial inspection limit (cycles).
[2] Eddy current repetitive inspection limit (cycles).
[3] On-wing ultrasonic repetitive inspection limit (cycles).

NOTE.—If the initial inspection or repetitive inspection is achieved by the on-wing ultrasonic inspection, the Column III limits in paragraph (D) apply. If, however, the initial inspection or repetitive inspection is achieved by an eddy current inspection on an uninstalled engine, the Column II inspection limits of paragraph (D) would apply.

(E) Upon request of the operator, an FAA maintenance inspector, subject to the approval of the Chief, Engine Certification Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(F) For hubs that have been installed in more than one engine model, the inspection schedule for the engine model with the highest rating in which it has operated is applicable.

Because this amendment merely provides an alternative means of compliance to an existing AD and does not adversely affect any person, notice and public procedure hereon are unnecessary and contrary to public interest and the agency finds that good cause exists for making the rule effective in less than 30 days.

This amendment becomes effective June 28, 1982.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

This amendment revises Amendment 39–4334 (AD78–17–02), effective March 4, 1982.

Note.—The FAA has determined that this regulation is not considered to be major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final evaluation has been prepared by this regulation and has been placed in the docket. A copy of it may be obtained for contacting the person identified under caption "FOR FURTHER INFORMATION CONTACT."

Issued in Burlington, Massachusetts, on June 16, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82–17167 Filed 6–25–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 82–CE–20–AD; Amdt. 39–4110]

Airworthiness Directives; Schweizer (Gulfstream American-Grumman) Models G–164B, G–164C and G–164D Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Schweizer (Gulfstream American-Grumman) Models G–164B, G–164C and G–164D airplanes, which supersedes AD 80–17–06. It requires repetitive inspection of the aileron bellcrank to detect elongation of the aileron cable attachment holes and modification of this bellcrank to correct any unsatisfactory conditions found. This action is necessary because progressive elongation of these holes may eventually result in failure of the cable attachment, loss of aileron control and an accident.

EFFECTIVE DATE: July 5, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Gulfstream American AG–CAT Service Bulletin No. 75, Revision "A", dated January 25, 1980, may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902, or may be examined at the FAA New York Aircraft Certification Office, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. A copy of this Service Bulletin is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Al Maila, Airframe Section, ANE–172, New York Aircraft Certification Office, FAA Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone (212) 995–2875.

SUPPLEMENTARY INFORMATION: This amendment supersedes Amendment 39–3882 (44 FR 11034), AD 80–17–06, which currently requires a one-time inspection of the aileron bellcrank on Schweizer (Gulfstream American-Grumman) Model G–164B, G–164C and G–164D airplanes for elongation of the aileron cable attach holes and, if necessary, modification or replacement of this part. Subsequent to the issuance of AD 80–17–06, the FAA has determined that repetitive inspections of the unmodified aileron bellcrank assembly are required until the assembly has been modified in accordance with Part B of AG–CAT Service Bulletin No. 75, Revision "A", dated January 25, 1980. In addition, there is a continuing need for compliance with Part D of the revised Service Bulletin on those airplanes modified in accordance with the original Service Bulletin to confirm that the installation of the A1450–281 bushings is satisfactory and correct those that are not. This action is necessary to preclude failure of the aileron cable attachment to the aileron bellcrank. The FAA has also determined that compliance with the modification described in the revised Service Bulletin establishes an aileron bellcrank configuration that is not susceptible to excessive wear at the aileron control cable attachment and removes the need

for repetitive inspections of the bellcrank.

Since the condition described herein is likely to exist on other airplanes of the same type design, an AD is being issued superseding AD 80-17-06, applicable to certain Schweizer (Gulfstream American-Grumman) Models G-164B, G-164C and G-164D airplanes. It requires initial and repetitive inspections of unmodified aileron bellcranks until P/N A1450-282 bushings are installed in the aileron cable attach holes per Gulfstream American AG-CAT Service Bulletin No. 75 (Rev. "A") Parts B and C. In addition, it requires inspection, and if necessary, replacement of aileron bellcranks incorporating P/N A1450-281 bushings per Part D of Service Bulletin No. 75, Revision "A", dated January 25, 1980.

Since the FAA has determined that there is an immediate need for this amendment to correct an unsafe condition, notice and public procedure hereon are considered impractical and contrary to the public interest and good cause exists for making the amendment effective in less than 30 days after publication in the **Federal Register.**

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Schweizer (Gulfstream American-Grumman).—Applies to Models G-164B (S/N 1B thru 656B), G-164C (S/N 1C thru 44C), and G-164D (S/N 1D thru 16D) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished.

To detect elongation of the aileron cable attach holes and to eliminate the possibility of P/N A1450-281 bushings becoming dislodged from the aileron bellcrank, accomplish the following:

(a) Within 25 hours time-in-service after the effective date of this AD and every 12 months thereafter, on airplanes *not modified* in accordance with Gulfstream American Service Bulletin No. 75 (either original issuance or Revision "A" dated January 25, 1980), visually inspect the aileron bellcrank for elongation of the aileron cable attach holes per Part A of the revised service bulletin. If excessive elongation is found, prior to further flight, modify or replace the aileron bellcrank in accordance with Parts B and C of the revised service bulletin.

(b) Within 25 hours time-in-service after the effective date of this AD, on airplanes that *have been modified* in accordance with the original issue of Gulfstream American AG-CAT Service Bulletin No. 75, visually inspect the aileron bellcranks and if the bushings are loose or have less than .230 inch edge distance, replace the aileron bellcrank in accordance with Part D of Revision "A" of the Service Bulletin dated January 25, 1980.

(c) The repetitive inspections required by paragraph (a) of this AD may be discontinued upon accomplishing the modification described in Parts B and C of Gulfstream American AG-CAT Service Bulletin No. 75, Revision "A", dated January 25, 1980.

(d) Upon request, with substantiating data submitted through and FAA Maintenance Inspector, the compliance times specified in this AD may be adjusted by the Chief, New York Aircraft Certification Office, FAA, JFK International Airport, Jamaica, New York 11430.

(e) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent method of compliance with this AD may be used if approved by the Chief, New York Aircraft Certification Office, FAA, JFK International Airport, Jamaica, New York 11430.

This amendment supersedes Amendment 39-3882 (44 FR 11034) AD 80-17-06, effective August 15, 1980.

This amendment becomes effective on July 5, 1982.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Section 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation involves an emergency regulation which is not considered to be major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that the rule will not have a significant economic impact on a substantial number of smaller entities under the criteria of the Regulatory Flexibility Act since it involves inspection and modification of only a few aircraft owned by small entities. If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket; otherwise, an evaluation is not required. A copy of it, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "**ADDRESSES.**"

This is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Missouri, on June 16, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-17169 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 81-AAL-13]

Alteration of Transition Area, Galena, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Galena, Alaska, transition area by expanding the 1,200-foot above ground level (AGL) portion and designating an additional 5,500-foot mean sea level (MSL) portion to the southeast. The proposed action would provide for more efficient air traffic control services by allowing greater flexibility in the use of radar vector procedures and would designate required controlled airspace for aircraft departing and arriving Galena on the recently designated extension of High Altitude Jet Route J-133 southeast of Galena.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: John G. Costello, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, Alaska 99513, telephone (907) 271-5902.

SUPPLEMENTARY INFORMATION:

History

On April 12, 1982, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (47 FR 15601) stating that the Federal Aviation Administration proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Galena, Alaska, transition area by expanding the 1,200-foot AGL portion and designating an additional 5,500-foot MSL portion to the southeast. Expansion of the 1,200-foot transition area will provide more efficient air traffic control services at Galena and the 5,500-foot MSL extension will provide controlled airspace for aircraft operating on Jet Route J-133 southeast of Galena. Interested persons were invited to participate in this rulemaking process by submitting written comments on the proposal to FAA. No objections were received to the NPRM. The NPRM stated that the 5,500-foot MSL transition area extension would be based on the 140° True (117°M) radial of the Galena VORTAC. Subsequent flight check of Jet Route J-133 disclosed that the Galena VORTAC radial would be 137° True (114°M). Therefore, this rule designates the 5,500-foot MSL transition area on radial 137° in lieu of 140°. This minor

change does not require additional notice. Section 71.161 was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations expands the 1,200-foot AGL transition area and designates a 5,500-foot MSL transition area to the southeast. These changes will provide more efficient air traffic control services in the Galena terminal area.

List of Subject in 14 CFR Part 71

Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3 dated January 29, 1982, is amended, effective 0901 GMT, September 2, 1982, as follows:

Galena, AK

By revising the description to read as follows:

Delete all after "700 feet above the surface within a 19-mile radius of the Galena VORTAC;" and substitute therefor, "That airspace extending upward from 1,200 feet above the surface within a 40-mile radius of the Galena VORTAC; and that airspace extending upward from 5,500 feet MSL within 5 miles each side of the Galena VORTAC 137° radial extending from the 40-mile radius area to 59 miles SE of the VORTAC, thence widening to 9 miles each side of the 137° radial at 110 miles SE of the VORTAC."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Anchorage, Alaska, on June 14, 1982.

Robert L. Faith,

Director.

[FR Doc. 82-17157 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWP-10]

Alteration of Control Zone, Fullerton, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the Fullerton, California, Control Zone by increasing the lateral dimensions of the control zone extension to the east. The Control Zone extension is necessary to provide controlled airspace for Instrument Flight Rule (IFR) operations.

EFFECTIVE DATE: July 8, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; Telephone (213) 536-6182.

SUPPLEMENTARY INFORMATION:

History

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to increase the control zone extension to provide controlled airspace for IFR operations. This amendment represents a change in the technical description of the control zone and imposes no greater constraint on the public than presently exists.

Under the circumstances presented, this change is minor in nature and will not impose any additional burden and would further enhance safety. Therefore, I find notice and public procedure under 5 U.S.C. 533 is impractical and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 71

Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the administrator, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC-70-3 dated January 29, 1982, is amended, effective 0901 G.m.t., July 8, 1982, as follows:

§ 71.171 Fullerton, California

Following * * * longitude 117°58'45"W.) and with * * * change 2.5 miles to read 3 miles and 5.5 miles to read 7 miles.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510, Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1955(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, Calif., on June 11, 1982.

R. L. Devereaux,

Acting Director, Western-Pacific Region.

[FR Doc. 82-17163 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-NE-03]

Amendment to Description of the Auburn, Maine, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the description of the Auburn, Maine 700-foot transition area so as to provide additional controlled airspace for aircraft executing the VOR/DME Runway 22 original standard instrument approach procedure (SIAP) serving Auburn-Lewiston Municipal Airport, Auburn-Lewiston, Maine.

EFFECTIVE DATE: August 5, 1982.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

SUPPLEMENTARY INFORMATION:

History

On Monday, March 15, 1982, a notice of proposed rulemaking was published in the **Federal Register** (47 FR 11038) stating that the FAA proposed to amend the description of the Auburn, Maine 700-foot transition area so as to provide additional controlled airspace for aircraft executing the VOR/DME Runway 22 original Standard Instrument Approach Procedure serving Auburn-Lewiston Municipal Airport, Auburn, Maine. Interested persons were invited to participate in this rulemaking process

by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the Auburn, Maine 700-foot transition area as follows:

Auburn, Maine

Add after northeast of the NDB on line five: "And within 2.5 miles each side of the Augusta, Maine VORTAC (251° magnetic) (234° true) radial extending from the 5-mile radius area to 23 miles southwest of the VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Mass., on June 16, 1982.

John B. Roach,

Acting Director, New England Region.

[FR Doc. 82-17159 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23142; Amdt. No. 1219]

Standard Instrument Approach Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR–VOR/DME SIAPs identified as follows:

** * * Effective September 2, 1982*

Marshfield, MA—Marshfield, VOR–A, Amdt. 3
Massena, NY—Richards Field, VOR Rwy 27, Amdt. 2

** * * Effective August 5, 1982*

Blythe, CA—Blythe, VOR–A, Amdt. 4
Blythe, CA—Blythe, VOR/DME Rwy 26, Amdt. 3
Jacksonville, FL—Craig Muni, VOR Rwy 13, Amdt. 3, cancelled
Jacksonville, FL—Craig Muni, VOR Rwy 31, Amdt. 3, cancelled
Jacksonville, FL—Jacksonville Intl, VOR Rwy 31, Amdt. 4, cancelled
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR or TACAN Rwy 4, Amdt. 15
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR Rwy 9, Amdt. 9
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR Rwy 13, Amdt. 11
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), VOR or TACAN Rwy 22, Amdt. 8
Bogalusa, LA—George R. Carr Memorial Air Fld, VOR/DME–A, Amdt. 1
Lansing, MI—Capital City, VOR Rwy 9, Amdt. 19
Lansing, MI—Capital City, VOR Rwy 24, Amdt. 5
Indianola, MS—Indianola Muni, VOR/DME–A, Amdt. 6
Indianola, MS—Indianola Muni, VOR/DME–B, Amdt. 1
Bethpage, NY—Grumman Bethpage, VOR or TACAN–A, Amdt. 8, cancelled
Montauk, NY—Montauk, VOR Rwy 6, Original
Ashtabula, OH—Ashtabula County, VOR Rwy 8, Amdt. 5
Ashtabula, OH—Ashtabula County, VOR/DME Rwy 26, Amdt. 4
Wapakoneta, OH—Neil Armstrong, VOR–A, Amdt. 2
Oklahoma City, OK—Will Rogers World, VOR Rwy 12, Amdt. 20
Baker, OR—Baker Muni, VOR Rwy 12, Original
Baker, OR—Baker Muni, VOR/DME Rwy 12, Amdt. 9
Baker, OR—Baker Muni, VOR–A, Amdt. 1, cancelled
DuBois, PA—DuBois-Jefferson Co., VOR/DME Rwy 7, Amdt. 2
College Station, TX—Easterwood Field, VOR or TACAN Rwy 10, Amdt. 14
College Station, TX—Easterwood Field, VOR Rwy 28, Amdt. 6
Petersburg, VA—Petersburg Muni, VOR Rwy 23, Amdt. 2
Charleston, WV—Kanawha, VOR–A, Amdt. 11
Milwaukee, WI—Lawrence J. Timmerman, VOR Rwy 4L, Amdt. 5
Milwaukee, WI—Lawrence J. Timmerman, VOR Rwy 15L, Amdt. 10

** * * Effective July 8, 1982*

Saginaw, MI—Tri-City, VOR Rwy 5, Amdt. 13
Saginaw, MI—Tri-City, VOR Rwy 14, Amdt. 12
Saginaw, MI—Tri-City, VOR Rwy 23, Amdt. 13
Saginaw, MI—Tri-City, VOR Rwy 32, Amdt. 8

** * * Effective June 16, 1982*

Rockingham, NC—Rockingham-Hamlet, VOR/DME–A, Amdt. 5

** * * Effective June 11, 1982*

Chino, CA—Chino, VOR–B, Amdt. 1

** * * Effective June 7, 1982*

Grass Valley, CA—Nevada County Air Park, VOR–A, Amdt. 2
Elizabethtown, KY—Ben Floyd Field, VOR–A, Amdt. 5, cancelled

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

** * * Effective August 5, 1982*

Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC Rwy 13, Amdt. 8
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), LOC BC Rwy 22, Amdt. 3
Greer, SC—Greenville-Spartanburg, LOC Rwy 21, Amdt. 3, cancelled
College Station, TX—Easterwood Field, LOC BC Rwy 16, Original

** * * Effective July 22, 1982*

Norman, OK—Max Westheimer, LOC Rwy 3, Original

** * * Effective June 10, 1982*

Akron, OH—Akron-Canton Regional, LOC BC Rwy 19, Original, cancelled

** * * Effective June 4, 1982*

Billings, MT—Billings-Logan Intl, LOC BC Rwy 27R, Amdt. 6

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective September 2, 1982*

Charlottesville, VA—Charlottesville-Albemarle, NDB Rwy 3, Amdt. 11

** * * Effective August 5, 1982*

Fort Wayne, IN—Fort Wayne Muni (Baer Fld), NDB Rwy 31, Amdt. 18
Portland, IN—Portland Municipal, NDB Rwy 27, Amdt. 5
Rayville, LA—Rayville Muni, NDB Rwy 36, Original
Bellaire, MI—Antrim County, NDB Rwy 2, Amdt. 6
Lansing, MI—Capital City, NDB Rwy 27L, Amdt. 20
Clarksdale, MS—Fletcher Field, NDB Rwy 18, Amdt. 5
Clarksdale, MS—Fletcher Field, NDB Rwy 36, Amdt. 5
Indianola, MS—Indianola Muni, NDB Rwy 17, Amdt. 2
Indianola, MS—Indianola Muni, NDB Rwy 35, Amdt. 2
Mountain View, MO—Mountain View, NDB Rwy 27, Amdt. 1
Omaha, NE—Millard, NDB Rwy 12, Amdt. 7
Las Cruces, NM—Las Cruces-Crawford, NDB–A, Amdt. 1
Bethpage, NY—Grumman Bethpage, NDB Rwy 33, Amdt. 6, cancelled
Painesville, OH—Casement, NDB–B, Amdt. 6
College Station, TX—Easterwood Field, NDB Rwy 34, Amdt. 5
Graham, TX—Graham Muni, NDB Rwy 17, Amdt. 2
Olney, TX—Olney Muni, NDB Rwy 17, Amdt. 2
Petersburg, VA—Petersburg Muni, NDB Rwy 5, Amdt. 3

** * * Effective July 22, 1982*

Norman, OK—Max Westheimer, NDB Rwy 3, Amdt. 3.

** * * Effective July 8, 1982*

Saginaw, MI—Tri-City, NDB Rwy 5, Amdt. 7

** * * Effective June 16, 1982*

Rockingham, NC—Rockingham-Hamlet, NDB Rwy 31, Amdt. 2

** * * Effective June 10, 1982*

Houston, TX—Arcola-Houston, NDB Rwy 10, Amdt. 2

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective September 2, 1982*

Charlottesville, VA—Charlottesville-Albemarle, ILS Rwy 3, Amdt. 7

** * * Effective August 5, 1982*

Denver, CO—Stapleton Intl, ILS Rwy 26L, Amdt. 42
Macon, GA—Lewis B. Wilson, ILS Rwy 5, Amdt. 22
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS Rwy 4, Amdt. 7
Fort Wayne, IN—Fort Wayne Muni (Baer Fld), ILS Rwy 31, Amdt. 21
Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 5
Lansing, MI—Capital City, ILS Rwy 9R, Amdt. 5
Lansing, MI—Capital City, ILS Rwy 27L, Amdt. 21
Tulsa, OK—Tulsa Intl, ILS Rwy 17R, Amdt. 2
Greer, SC—Greenville-Spartanburg, ILS Rwy 21, Original
College Station, TX—Easterwood Field, ILS Rwy 34, Amdt. 5

** * * Effective July 8, 1982*

Saginaw, MI—Tri-City, ILS Rwy 5, Amdt. 9
Saginaw, MI—Tri-City, ILS Rwy 23, Original
Portland, OR—Portland Intl, ILS Rwy 10R, Amdt. 26

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective August 5, 1982*

Fort Wayne, IN—Fort Wayne Muni (Baer Fld), RADAR–1, Amdt. 17
Lansing, MI—Capital City, RADAR–1, Amdt. 9
Las Vegas, NV—McCarran Intl, RADAR–1, Amdt. 11
Pittsburgh, PA—Greater Pittsburgh Int'l, RADAR–1, Amdt. 21

** * * Effective July 8, 1982*

Saginaw, MI—Tri-City, RADAR–1, Amdt. 7

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective September 2, 1982*

Massena, NY—Richards Field, RNAV Rwy 5, Amdt. 3
Massena, NY—Richards Field, RNAV Rwy 23, Amdt. 4

** * * Effective August 5, 1982*

Jacksonville, FL—Craig Muni, RNAV Rwy 31, Amdt. 4, cancelled
Jacksonville, FL—Jacksonville Intl, RNAV Rwy 13, Amdt. 4, cancelled
Lafayette, LA—Lafayette Regional, RNAV Rwy 3, Original
Lafayette, LA—Lafayette Regional, RNAV Rwy 10, Original
Omaha, NE—Millard, RNAV Rwy 12, Amdt. 4
Ashtabula, OH—Ashtabula County, RNAV Rwy 26, Amdt. 4
Wapakoneta, OH—Neil Armstrong, RNAV Rwy 26, Amdt. 1

** * * Effective July 22, 1982*

Norman, OK—Max Westheimer, RNAV Rwy 3, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on June 18, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc. 82-17169 Filed 6-25-82; 8:45 am]
BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Safety Standard for Architectural Glazing Materials; Partial Revocation of Standard Concerning Modulus of Elasticity Test, Hardness Test, and Indoor Aging Test for Plastic Glazing Materials

AGENCY: Consumer Product Safety Commission.

ACTION: Partial revocation of rule.

SUMMARY: The Consumer Product Safety Commission partially revokes the Safety Standard for Architectural Glazing Materials by eliminating requirements for a modulus of elasticity test and a hardness test applicable to all plastic glazing materials; and for an indoor aging test applicable to plastic glazing materials for indoor use. The Commission has determined that these requirements are not reasonably necessary to reduce or eliminate any unreasonable risk of injury associated with the use of plastic glazing materials. This partial revocation of the standard has the effect of removing plastic glazing materials from the coverage of the architectural glazing standard. This partial revocation does not affect any other type of glazing material subject to the standard.

DATE: The partial revocation will become effective on July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Wade Anderson, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Public Affairs, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (202) 634-7780.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1977, the Consumer Product Safety Commission issued the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) to eliminate or reduce unreasonable risks of injury associated with breakage of architectural glazing materials by accidental human impact. (*1*) [1] The standard became effective on July 6, 1977.

As issued in 1977, the standard was applicable to all types of glazing materials used in the architectural products within the standard's coverage, including tempered glass, laminated glass, annealed glass, and plastics.

The standard prescribes an impact test to assure that glazing materials used in certain architectural products either will not break when impacted with a specified energy, or will break with characteristics which are less likely to present an unreasonable risk of injury. As an alternative to the impact requirements, the standard contains provisions which pass plastic glazing materials if they meet the requirements for modulus of elasticity (flexibility) and hardness set forth in § 1201.4(e)(1)(iii) of the standard. (*1*)

The standard also prescribes an indoor aging test, applicable only to plastics intended for indoor use, to assure that those materials retain their ability to pass the impact test or alternative requirements for modulus of elasticity and hardness after exposure to temperature and humidity. (*1*)

When the standard was issued in 1977, it also contained an accelerated environmental durability test for plastic glazing materials intended for outdoor exposure. This test was intended to ensure that plastic glazing materials, after simulation of exposure to outdoor conditions, would retain a portion of their original impact strength, as measured by a device commonly called a "Charpy impact testing machine." (*1*)

However, on October 6, 1980, the Commission took final action to partially revoke the architectural glazing standard by eliminating the accelerated environmental durability test for plastic glazing materials intended for outdoor exposure. (*2*) The Commission took this action because it had concluded that the accelerated environmental durability test for plastics was not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with plastic glazing materials. The partial revocation became effective on April 6, 1981.

Thereafter, an association of manufacturers of plastic glazing materials brought an action for judicial review of the partial revocation of the standard eliminating the accelerated environmental durability test. This action, *Plastic Safety Glazing Committee et al. v. CPSC* (No. 80-3795), is now pending before the United States Court of Appeals for the Sixth Circuit.

Petition

On March 11, 1981, the Plastic Safety Glazing Committee (PSGC) petitioned the Commission to revoke the remaining requirements of the architectural glazing standard applicable to plastics. (*3, 4, 5, 6, 10*) On March 17, 1981, the Court of Appeals for the Sixth Circuit granted PSGC's motion to delay further consideration of the action for judicial review of the partial revocation deleting the accelerated environmental durability test for plastics to allow the Commission time to act on PSGC's petition. (*7*)

In that petition, PSGC asserted that the remaining requirements applicable to plastic glazing materials are not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with plastics. The petition stated that the modulus of elasticity and hardness requirements are not

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street NW., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

performance tests related to safety of plastic glazing materials, but are instead a definition of plastic by reference to its flexibility and softness. The petition also asserted that the indoor aging test has no relation to safety, citing a portion of the record of the proceeding which led to the issuance of the architectural glazing standard. (6)

Another concern expressed by PSGC's petition is that by retaining the modulus of elasticity and hardness tests, and the indoor aging test for plastic glazing materials, the Commission's standard preempts state and local building code provisions which require either an accelerated environmental durability test or an actual outdoor weathering test for plastic glazing materials intended for outdoor exposure. The petition asserted weathering requirements for plastics are safety related. (6)

The petition was referred to the Commission's technical staff for reevaluation. In a briefing package to the Commission, the staff expressed agreement with the assertion in the petition that the remaining requirements of the standard applicable to plastics are not related to elimination or reduction of injuries. (9)

The staff briefing package included a technical analysis of the three tests (16), and a review of injury information related to plastic glazing materials. (12) The staff briefing package is described in greater detail in a **Federal Register** notice published on December 14, 1981 (46 FR 60830, and 60831). (23)

After consideration of the petition and the staff briefing package, the Commission preliminarily determined that the modulus of elasticity test, the hardness test, and the indoor aging test for plastic glazing materials were not reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with plastic glazing materials, and voted to propose a partial revocation of the architectural glazing standard to delete those tests.

Proposed Partial Revocation

In the **Federal Register** of December 14, 1981 (46 FR 60830) the Commission published a proposal to partially revoke the standard by removing the three tests applicable to plastic glazing materials. (23)

In response to the proposed partial revocation, the Commission received three written comments. (24, 25, 26) The notice proposing the partial revocation stated that the Commission would conduct a public hearing to receive oral presentations of data, views, and arguments on the proposal, as required by section 9(h) of the Consumer Product Safety Act (15 U.S.C. 2061) as amended by the Consumer Product Safety Amendments of 1981 (Pub. L. 97-35; 95 Stat. 703, 752). However, the Commission received no request for opportunity to make an oral presentation, and for that reason, did not conduct a public hearing on the proposal.

All three written comments received in response to the proposal favored revocation of the three tests in the standard applicable to plastics. The only issue raised by the comments was an appropriate effective date for issuance of the revocation on a final basis.

All comments addressed to the issue of an appropriate effective date were concerned with this topic because once the partial revocation issued below becomes effective, the architectural glazing standard will no longer be applicable to any plastic glazing material. Consequently, after the effective date of the partial revocation, the preemptive provisions of section 26 of the CPSA (15 U.S.C. 2075) will no longer prohibit any state or local government from enacting or enforcing any requirement for plastic glazing materials.

The notice of proposed rulemaking stated that the Commission was considering establishment of an effective date for any final revocation which might be issued ranging from the date of publication to a date 180 days after publication of notice of final revocation in the **Federal Register**.

A comment from the Plastic Safety Glazing Committee (PSGC) urged the Commission to establish an effective date for the final revocation which is retroactive to July 28, 1981, the date on which the Commission voted to propose the partial revocation of the standard to eliminate the tests applicable to plastics. (26)

The Commission declines to make the effective date of this partial revocation retroactive to July 28, 1981. The request for a retroactive effective date is outside the scope of the proposal, which stated that the Commission was considering an effective date ranging from the date of publication of a final revocation to 180 days thereafter. The Commission observes that section 24 of the CPSA (15 U.S.C. 2073) gives any interested person the right to bring a private action for enforcement of the architectural glazing standard, including the tests for plastic glazing materials as long as they remain a part of the standard. If the Commission established retroactive effective date for this partial revocation, rights of action established by section 24 which may have arisen after July 28, 1981, could be terminated, and the notice of the proposed revocation would not have given parties claiming such rights notice of that possibility.

As an alternative to an effective date retroactive to July 28, 1981, PSGC requested that the final revocation become effective upon publication. (26)

PSGC states that issuing the final revocation with an immediate effective date would have the desirable effect of eliminating preemption of certain state and local requirements by the commission's standard which continues as long as that standard contains any requirements for plastic glazing materials.

Throughout this proceeding, PSGC has taken the position that accelerated environmental durability tests, such as the one removed from the architectural glazing standard by an earlier partial revocation, are related to safety. Section 26(a) of the CPSA (15 U.S.C. 2075(a)) provides that when a consumer product safety standard is applicable to a product, states and localities may not enforce any requirements intended to address the same risk of injury as the Federal standard unless the state or local requirements are identical to those of the consumer product safety standard.

PSGC asserts that the preemption of state and local requirements for environmental durability of plastic glazing materials by the architectural glazing standard deprives the public of needed protection from risks of injury associated with plastic glazing materials which do not meet those requirements. Additionally, PSGC states that plastic glazing materials which do not meet requirements for environmental durability can be advertised as meeting the requirements of the Commission's standard, and expresses the view that deception of the public may result.

PSGC also states that an immediate effective date would have no disruptive effect in the marketplace. (26)

A comment from E. I. duPont de Nemours & Company (DuPont) also recommends issuance of the final revocation with an immediate effective date. That comment expresses agreement with PSGC's position that environmental durability requirements for plastics are needed to eliminate or reduce risks of injury associated with plastic glazing materials. The comment from DuPont also agrees with PSGC's assertion that an immediate effective date for the final revocation of the remaining requirements applicable to plastics from the Commission's standard would cause no disruption in the marketplace. (24)

After consideration of all matters set forth in these comments, the

Commission declines to issue the final revocation with an immediate effective date because it does not agree with the assertions in those comments that environmental durability requirements for plastic glazing materials are safety related.

The only basis for revocation of a consumer product safety standard, or any part of such a standard, set forth in section 9(h) of the Consumer Product Safety Act (15 U.S.C. 2058(h)) is a determination by the Commission that it is "not reasonably necessary to eliminate or reduce an unreasonable risk of injury" associated with a consumer product. Thus, the earlier partial revocation of that part of the standard which prescribed an accelerated environmental durability test for plastic glazing materials was based solely on the grounds that the test in question was not safety related. In that proceeding, the Commission also considered information about the effects of outdoor exposure on plastic glazing materials, and concluded that those effects are not related to safety. See 45 FR 66002, at 66005, under the heading "2. *Effects of weathering.*" (*2*)

Thus, the earlier partial revocation of that part of the standard which prescribed an accelerated environmental durability test was based solely on the grounds that the test in question was not safety related. Nothing contained in the comments from PSGC or DuPont causes the Commission to reverse its position with regard to that test, or the effects of weathering on plastic glazing materials. (*27*)

Since the Commission continues to hold the position that environmental durability tests of plastic glazing materials are not safety related, it does not believe that avoidance of preemption of such requirements in state or local laws or building codes justifies issuance of a final revocation of the remaining requirements applicable to plastics with an immediate effective date. For the same reason, the Commission does not believe that any deception of the public is likely to result from claims that plastic glazing materials comply with the architectural glazing standard, even in those cases where plastics do not meet an environmental durability test prescribed by state or local law.

A comment from Dow Chemical U.S.A. (Dow) urges the Commission to establish an effective date 180 days after issuance of the partial revocation on a final basis. This comment states that establishment of such an effective date would allow state and local governments time to make their requirements for plastic glazing materials "reflect the Commission's most recent rulings." This comment states that at the present time, those state and local requirements contain a "bewildering array of inconsistencies." (*25*)

Although state and local requirements for plastic glazing materials, currently preempted by the Commission's architectural glazing standard, may vary from one jurisdiction to another, the Commission has information indicating that most jurisdictions which would enforce such requirements (once the preemptive effect of the Commission's standard is removed) currently reference the American National Standards Institute (ANSI) Standard Z–97.1 in their building codes or safety glazing legislation. It is the understanding of the Commission that the three major associations of building officials included provisions applicable to plastic glazing materials in their model building codes which were consistent with the requirements of ANSI Standard Z–97.1.

Recently, however, ANSI and the three associations which publish model building codes are reported to be considering revisions to their requirements for plastic glazing materials. At this time, the revisions being considered by ANSI differ from those under consideration by the three groups which publish model building codes. (*27*)

Eventually, the revised requirements adopted for plastic glazing materials by ANSI and the three model building code organizations may be uniform. However, until that time there is a greater potential for different jurisdictions to adopt inconsistent requirements in their building codes or safety glazing legislation. (*27*)

The Commission has determined that preemption of state and local regulations is not a compelling reason to adopt an effective date that is 180 days after issuance of the partial revocation on a final basis. Additionally, the Commission does not believe that significantly greater uniformity is likely to be achieved among state and local requirements for plastic glazing materials within the 180 day period requested in the comment from Dow. (*27*)

For this reason, the Commission declines to delay the effective date of the partial revocation for 180 days.

Establishment of Effective Date

After consideration of the comments and all other information available concerning an appropriate effective date, the Commission concludes that an effective date which is 30 days following publication of this partial revocation will be adequate for manufacturers and users of plastic glazing materials to familiarize themselves with any state or local requirements which may be applicable to those products once the tests in the Commission's standard are no longer in force. Accordingly, the partial revocation of the architectural glazing standard issued below shall be effective on July 28, 1982.

Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposal on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the proposal, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

In the proposal of December 14, 1981, the Commission observed that the partial revocation will remove some existing requirements applicable to manufacturers of plastic glazing materials, and will not by itself, impose any new requirements or other obligations on any person or firm. Although the Commission expressed its awareness of the possibility that revocation of the requirements in the standard applicable to plastics would enable state and local governments to enforce their own requirements for plastic glazing materials, the proposal stated that the Commission was not then able to predict the specific requirements which state or local governments might adopt. (*23*)

Because the proposed partial revocation would impose no obligation on any person or firm, the Commission certified in that proposal that it will not have a significant economic impact on a substantial number of small businesses, and for that reason, did not make an initial regulatory flexibility analysis of the proposed partial revocation. (*23*)

The comment from PSGC expressed that organization's agreement with the conclusion of the Commission that the partial revocation will not have a significant adverse economic impact on a substantial number of small businesses. (*26*)

Section 604 of the RFA requires the Commission to prepare a final regulatory flexibility analysis only in those cases where it promulgates a final rule after being required by section 603

of that act to prepare an initial regulatory flexibility analysis.

Since the Commission certified at the time of the proposal that no initial regulatory flexibility analysis was required by the RFA, it has not prepared a final regulatory flexibility analysis of the partial revocation issued below.

Environmental Considerations

As stated in the preamble to the proposed partial revocation, the Commission's environmental review procedures state at 16 CFR 1021.5(c)(1) that issuance, amendment or revocation of a consumer product safety standard normally has little or no potential for affecting the human environment. (*23*)

The Commission does not foresee any special or unusual circumstances surrounding the partial revocation issued below. For this reason, preparation of an environmental impact statement is not required.

Federal Register Index Terms

In accordance with provisions of 1 CFR 18.20(b), the Commission publishes the following list of **Federal Register** index terms applicable to the partial revocation issued below:

List of Subjects in 16 CFR Part 1201

Consumer protection, Glass and mirrors, Plastic and plastic products.

Conclusion

As noted above, provisions of section 9(h) of the CPSA (15 U.S.C. 2058(h)) authorize the Commission to revoke a consumer product safety rule only when it determines that the rule is "not reasonably necessary to eliminate or reduce an unreasonable risk of injury" associated with a consumer product.

After considering the public comments and all other available information that is relevant, the Commission concludes that requirements in the architectural glazing standard for a modulus of elasticity test, a hardness test, and an indoor aging test for plastic glazing materials are not "reasonably necessary" to eliminate any unreasonable risk of injury associated with plastic glazing materials for the following reasons.

None of these tests can be used to predict whether an item of plastic will break or not break if impacted at a specified energy. None of these tests can be used to predict breakage characteristics which may result from impacting an item of plastic glazing material at a specified energy. Consequently, none of these tests can be used to predict whether an item of plastic glazing material is likely to break from human impact; or if breakage occurs, whether injuries to consumers are likely to result.

Therefore, in accordance with section 9(h) of the Consumer Product Safety Act, as amended by the Consumer Product Safety Amendments of 1981 (15 U.S.C. 2058(h)), and the Administrative Procedure Act (5 U.S.C. 553), the Commission eliminates the requirements for a modulus of elasticity test, a hardness test, and an indoor aging test for plastic glazing materials, by making the following changes to Part 1201 of Title 16 of the Code of Federal Regulations:

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

1. In 16 CFR 1201.1(b), the first sentence is revised to read as follows:

§ 1201.1 Scope, application and findings.

* * * * *

(b) *Application.* This part 1201 shall apply to glazing materials, as that term is defined in § 1201.2(a)(11), for use in the architectural products listed in paragraph (a) of this section; and to those architectural products listed in paragraph (a) of this section if they are made with, or incorporate glazing materials as that term is defined in § 1201.2(a)(11).* * *

* * * * *

2. In 16 CFR 1201.1(d), the following footnote 1 is added;

(d) *Findings* [1]—The degree and nature of the risk of injury the rule is designed to eliminate or reduce. * * *

[1] The Commission's findings apply to the architectural glazing standard as issued at 42 FR 1426, on January 6, 1977. Since that date, the Commission has revoked portions of the standard which prescribed requirements for "glazed panels" (45 FR 57383, August 28, 1980); an accelerated environmental durability test for plastic glazing materials intended for outdoor exposure (45 FR 66002, October 6, 1980); and a modulus of elasticity test, a hardness test, and an indoor aging test applicable to plastic glazing materials ([insert F.R. citation and date of publication]). However, the findings have not been revised and they are therefore, not fully applicable to the remaining requirements of the standard.

3. In 16 CFR 1201.2 paragraph (a)(11) is revised to read as follows:

§ 1201.2 Definitions.

* * * * *

(a) * * *

(11) "Glazing material" means glass, including annealed glass, organic coated glass, tempered glass, laminated glass, wired glass; or combinations thereof where these are used:

(i) In openings through the architectural products listed in § 1201.1(a), or

(ii) As the architectural products themselves, e.g. unframed doors.

* * * * *

4. In 16 CFR 1201.2 paragraph (a)(23) is removed and reserved.

5. In 16 CFR 1201.3(b), a second sentence is added, to read as follows:

§ 1201.3 General requirements.

* * * * *

(b) * * * Any material not listed in the definition of "glazing material" in § 1201.2(a)(11) is not subject to this Part 1201.

6. In 16 CFR 1201.4(a)(2), Table 1, "Accelerated Tests," is revised to read as follows:

§ 1201.4 Test procedures.

(a) Types of tests. * * *

(2) Accelerated environmental durability tests. * * *

TABLE 1.—ACCELERATED TEST (APPLICABLE PARAGRAPHS)

Glazing materials	Specimen	Test equipment	Exposure	Criteria for passing
Laminated glass	§ 1201.4(c)(1) and (c)(3)(i)	§ 1201.4(b)(3)(i)	§ 1201.4(d)(2)(i)	§ 1201.4(e)(2)(i).
Organic coated glass	§1201.4(c)(1) and (c)(3)(ii)(B)	§ 1201.4(b)(3)(ii)	§ 1201.4(d)(2)(ii)(B)	§ 1201.4(e)(2)(ii)(B).
Tempered glass	Exempt			
Wired glass	Exempt			
Annealed glass	Exempt			

* * * * *

7. In 16 CFR 1201.4(a)(2), the second sentence is revised to read, as follows:

(a) * * *

(2) * * * However, tempered glass, wired glass, and annealed glass are not required to be subjected to the accelerated environmental durability tests.

* * * * *

8. In 16 CFR 1201.4 paragraph (b)(3)(iii) is removed and reserved.

10. In 16 CFR 1201.4 paragraph (d)(2)(iii) is removed and reserved.

11. In 16 CFR 1201.4 paragraphs (e)(1)(iii) and (e)(2)(ii)(C) are removed and reserved.

(Sec. 9(h), Consumer Product Safety Act, as amended by the Consumer Product Safety Amendments of 1981 (Pub. L. 92-673, as amended by Pub. L. 97-35, 15 U.S.C. 2057(h)) and 5 U.S.C. 553)

Dated: June 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. **Federal Register** notice, "Safety Standard for Architectural Glazing Materials—Establishment of Standard," published by Consumer Product Safety Commission; 23 pages; January 6, 1977, (42 FR 1428).

2. **Federal Register** notice, "Safety Standard for Architectural Glazing Materials; Partial Revocation of Standard Concerning Accelerated Environmental Durability Testing of Plastic Glazing Materials," published by Consumer Product Safety Commission; 6 pages; October 6, 1980 (45 F.R. 66002).

3. "Petition to Amend Standard" from Plastic Safety Glazing Committee to Consumer Product Safety Commission; 3 pages; February 19, 1981.

4. Letter from Stephen Lemberg, Assistant General Counsel, to Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, concerning submission of February 19, 1981; 3 pages; March 2, 1981.

5. Letter from Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, to Stephen Lemberg, Assistant General Counsel, concerning submission of February 19, 1981; 2 pages; March 4, 1981.

6. "Supplement to Petition for Partial Revocation and/or Technical Correction of Architectural Glazing Standard," with attachment, from Plastic Safety Glazing Committee to Consumer Product Safety Commission; 37 pages; March 11, 1981.

7. Letter from Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, to Allen F. Brauninger, OGC, concerning judicial action pending in U.S. Court of Appeals for the Sixth Circuit, with attachments; 4 pages; April 15, 1981.

8. Letter from Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, to Margaret A. Freeston, Acting General Counsel, requesting reinstatement of accelerated environmental durability test for plastics or stay of enforcement of remaining requirements applicable to plastics; 4 pages; April 20, 1981.

9. Staff briefing package, including transmittal memorandum, from Office of Program Management to Commission concerning petition from Plastic Safety Glazing Committee; 9 pages; June 30, 1981.

The tabs are listed separately below. (TAB A is omitted. The same documents are listed above as items 3 and 6.)

10. TAB B, memorandum from Allen F. Brauninger, OGC, to Richard A. Gross, Executive Director, concerning petition from Plastic Safety Glazing Committee, with attached meeting log; 5 pages; March 25, 1981.

11. TAB C, chronology of events related to petition; 1 page; June 30, 1981.

12. TAB D, memorandum from Paula Present, HIEA, to Harry Cohen, OPM, concerning plastic glazing petition, with attachment; 3 pages; May 6, 1981.

13. TAB E, memorandum from Charles Smith, HICP, to Harry Cohen, OPM, concerning plastic glazing petition; 2 pages; May 13, 1981.

14. TAB F, memorandum from Charles Willis, ESES, to Joseph Z. Fandey, ESEM, concerning plastic glazing petition; 2 pages; May 14, 1981.

15. TAB G, memorandum from Paul Galvydis, CARM, to Harry Cohen, OPM concerning plastic glazing petition; 1 page; May 14, 1981.

16. Memorandum from Charles L. Willis, ESES, to Allen F. Brauninger, OGC, concerning requirements applicable to plastics; 2 pages; July 7, 1981.

17. Ballot vote sheet and attachment, from Allen F. Brauninger to Commission; 2 pages; July 9, 1981.

18. Letter from Margaret A. Freeston, Acting General Counsel to Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, concerning request for reinstatement of accelerated environmental durability test or stay of enforcement of remaining requirements for plastics; 5 pages; July 10, 1981.

19. Transcript of staff briefing to Commission on petition from Plastic Safety Glazing Committee; 16 pages; July 16, 1981.

20. Letter from Margaret A. Freeston, Acting General Counsel, to Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, concerning judicial review action pending before U.S. Court of Appeals for the Sixth Circuit; 2 pages; July 21, 1981.

21. Letter from Sadye E. Dunn, Secretary, to Eric F. Stoer, Counsel for Plastic Safety Glazing Committee, concerning Commission action on petition for revocation of remaining requirements applicable to plastics; 1 page; July 28, 1981.

22. Minutes of Commission meeting of August 7, 1981; 2 pages; August 11, 1981.

23. **Federal Register** notice, "Safety Standard for Architectural Glazing Materials; Proposed Partial Revocation Concerning Modulus of Elasticity Test, Hardness Test, and Indoor Aging Test for Plastic Glazing Materials," published by the Consumer Product Safety Commission; 5 pages; December 14, 1981 (46 FR 60830).

24. Comment on proposed partial revocation of architectural glazing standard from E. I. du Pont de Nemours & Company; 2 pages; January 27, 1982.

25. Comment on proposed partial revocation of architectural glazing standard from Dow Chemical, U.S.A.; 1 page; February 10, 1982.

26. Comment on proposed partial revocation of architectural glazing standard from Plastic Safety Glazing Committee; 16 pages; February 12, 1982.

27. Memorandum from Charles Smith, ECCP, to Ronald L. Medford, EX-P, concerning analysis of comments on effective date for partial revocation of provisions for plastic glazing materials; 3 pages; April 15, 1982.

[FR Doc. 82-17337 Filed 6-25-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION:

Issued: June 22, 1982.

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978, Docket No. RM79-14.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of July 1982 is issued by the publication of a price table for the applicable month.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	January	February	March	April	May	June	July	August	September	October	November	December
Calendar Year 1980												
Incremental pricing threshold	$1.762	$1.736	$1.780	$1.782	$1.776	$1.790	$1.804	$1.819	$1.834	$1.849	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.428	2.453	2.478	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130% of No. 2 fuel oil in New York City threshold	7.170	7.260	7.410	7.110	7.360	8.040	7.840	7.380	7.400	7.400	7.450	7.560
Calendar Year 1981												
Incremental pricing threshold	1.891	1.905	1.925	1.942	1.954	1.967	1.980	1.990	2.000	2.010	2.025	2.041
NGPA section 102 threshold	2.667	2.688	2.729	2.761	2.787	2.813	2.840	2.863	2.886	2.909	2.940	2.971
NGPA section 109 threshold	1.957	1.975	1.995	2.011	2.024	2.037	2.050	2.060	2.070	2.080	2.096	2.112
130% of No. 2 fuel oil in New York City threshold	7.610	7.760	8.260	9.010	8.510	9.430	9.360	9.260	8.860	8.700	8.930	8.990
Calendar Year 1982												
Incremental pricing threshold	2.057	2.071	2.085	2.099	2.106	2.113	2.120					
NGPA section 102 threshold	3.003	3.303	3.063	3.093	3.112	3.132	3.152					
NGPA section 109 threshold	2.128	2.143	2.158	2.173	2.180	2.187	2.194					
130% of No. 2 fuel oil in New York City threshold	9.180	9.340	9.470	8.340	9.250	8.000	8.170					

[FR Doc. 82-17288 Filed 6-25-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 127

[CGD 13-82-03]

Security Zone—Strait of Juan de Fuca and Hood Canal, Washington

Correction

In FR Doc. 82-15899, appearing at page 25519, in the issue of Monday, June 14, 1982, make the following change:

On page 25520, in the first column, in § 127.1309(a) the fifth line, change the SSBN number now reading "SSBN 721" to read "SSBN 726".

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Grants to States for Construction of State Home Facilities

AGENCY: Veterans Administration.

ACTION: Interim regulation.

SUMMARY: This revision of a regulation changes from 2½ to 4 beds per thousand veteran population the maximum number of beds which may be necessary based on sufficient justification to provide adequate nursing home care to veterans residing in each State. This regulation implements section 5034(1), title 38, United States Code as amended by Pub. L. 96-330 which now requires the Administrator of Veterans Affairs to prescribe the number of beds required. Prior to enactment of Pub. L. 96-330, the number of beds was prescribed by law.

This revision also implements section 5035(b)(4) which provides that an application for Federal assistance for construction of State home facilities shall not result in more than the number of nursing home beds prescribed by the Administrator of Veterans Affairs. It is anticipated that this change will meet the needs of smaller States which were hindered in their plans for construction of additional nursing home beds by the 2½ bed limitation.

DATES: Comments must be received on or before July 28, 1982.

This revision is effective October 1, 1981.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed regulation to: Administrator of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until August 11, 1982.

FOR FURTHER INFORMATION CONTACT: Rita Frampton, (202) 389-3854.

SUPPLEMENTARY INFORMATION: The agency has determined that this amendment to the regulations is nonmajor in accordance with the requirements of Executive Order 12291, Federal Regulation, because it will not have a significant or large effect on the economy. The Administrator hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will regulate only States planning construction of nursing home care beds at State Veterans Homes. It will therefore have no significant impact on small entities (i.e., small business, small private and nonprofit organizations, and small governmental jurisdictions.)

The Catalog of Federal Domestic Assistance Number is 64.005.

These regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The substantive changes implement statutory changes. Publication for advance notice and comment would not be in the public interest as it would delay implementation of a statute that

allows for increased care to veterans. Nevertheless, since public comment is desirable on the subject, these regulations are being published as interim regulations, thereby allowing the statute to be implemented, but also allowing the public to participate in the rulemaking process. These regulations may be amended based on comments received, and if so, will be printed herein as final regulations.

Approved: June 10, 1982.

Robert P. Nimmo,

Administrator.

List of Subjects in 38 CFR Part 17

Grant programs, Nursing homes, Veterans.

PART 17—UNITED STATES COAST GUARD GENERAL GIFT FUND

38 CFR, Part 17 is amended by revising §§ 17.171(a) and 17.173(c)(3) and Appendix A as follows:

1. In § 17.171, the title and paragraph (a) are revised to read as follows:

§ 17.171 Maximum number of nursing home beds for veterans by State.

(a) For purposes of the regulations concerning grants to States for construction of State home facilities, Appendix A prescribes the maximum number of beds which may be necessary to provide adequate nursing home care to veterans residing in each State. When the beds to be constructed in a State will result in more than 2½ beds per thousand veterans, the State shall provide sufficient justification for the Administrator to determine that the additional beds are required in that State. In making this determination, the Administrator shall consider the following factors: (1) Demographic characteristics of the State's veteran population, (2) availability, suitability and cost of alternative nursing home beds to meet the needs of veterans in that State, (3) waiting lists for existing State nursing home facilities and (4) any other criteria which the Administrator shall deem appropriate to provide adequate nursing home care. (Pub. L. 88–450, sec. 4(a) as amended by Pub. L. 89–311, sec. 7(b); Pub. L. 93–82, sec. 403(d); Pub. L. 94–581, sec. 206(b); Pub. L. 96–330, sec. 404; 38 U.S.C. 5034(a))

* * * * *

2. Section 17.173 is amended by revising paragraph (c)(3) to read as follows:

§ 17.173 Applications with respect to projects.

* * * * *

(c) The Administrator will approve any such application if the Administrator finds that there are sufficient funds available to make the grant requested with respect to such project and that:

* * * * *

(3) The construction of such project, together with other projects under construction, and other facilities will not exceed the bed limitation prescribed in Appendix A to § 17.171 and satisfactory justification has been provided as required in § 17.171(a). (Pub. L. 88–450, sec. 4(a) as amended by Pub. L. 93–82, sec. 403(e); Pub. L. 96–330, sec. 404; 38 U.S.C. 5034(1), 5035(b))

* * * * *

3. Appendix A is revised to read as follows:

Appendix A (See §17.171)

State Home Facilities for Furnishing Nursing Home Care

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to veterans residing in each State not to exceed four beds per thousand veteran population is established as follows:

State	Veteran population [1]	No. of beds
Alabama	422,000	1,688
Alaska	39,000	156
Arizona	347,000	1,388
Arkansas	277,000	1,108
California	3,348,000	13,392
Colorado	382,000	1,528
Connecticut	463,000	1,852
Delaware	78,000	312
District of Columbia	96,000	384
Florida	1,397,000	5,588
Georgia	641,000	2,564
Hawaii	92,000	368
Idaho	105,000	420
Illinois	1,519,000	6,076
Indiana	725,000	2,900
Iowa	378,000	1,512
Kansas	311,000	1,244
Kentucky	412,000	1,648
Louisiana	447,000	1,788
Maine	156,000	624
Maryland	629,000	2,516
Massachusetts	871,000	3,484
Michigan	1,180,000	4,720
Minnesota	560,000	2,240
Mississippi	240,000	960
Missouri	708,000	2,832
Montana	98,000	392
Nebraska	203,000	812
Nevada	97,000	388
New Hampshire	125,000	500
New Jersey	1,102,000	4,408
New Mexico	137,000	548
New York	2,422,000	9,688
North Carolina	618,000	2,472
North Dakota	58,000	232
Ohio	1,463,000	5,852
Oklahoma	417,000	1,668
Oregon	393,000	1,572
Pennsylvania	1,729,000	6,916
Rhode Island	150,000	600
South Carolina	337,000	1,348
South Dakota	72,000	288
Tennessee	541,000	2,164
Texas	1,673,000	6,692
Utah	155,000	620
Vermont	64,000	256
Virginia	664,000	2,656
Washington	617,000	2,468
West Virginia	233,000	932
Wisconsin	593,000	2,372
Wyoming	45,000	180

[1] Estimate as of September 30, 1981. Source: Office of Reports and Statistics, Veterans Administration. (Based on last available Bureau of the Census data.)

[FR Doc. 82-17308 Filed 6-25-82; 8:45 am]

BILLING CODE 8320-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 50, Supp. 3]

Federal Procurement; Temporary Regulations; Subcontracting Under Federal Contracts

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the effective period of FPR Temporary Regulation 50 and Supplements 1 and 2 to June 1, 1984. This extension is necessary to continue the current requirements for subcontracting with small and small disadvantaged business concerns. The effect will be to continue the present assistance program regarding the award of subcontracts to small and small disadvantaged business concerns.

DATES: Effective date June 1, 1982, expiration date June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (202–523–4755).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, this temporary regulation is listed in the appendix at the end of the chapter.

Dated: June 18, 1982.

Ray Kline,

Acting Administrator of General Services.

June 18, 1982.

Federal Procurement Regulations, Temporary Regulation 50, Supplement 3

To: Heads of Federal agencies

Subject: Subcontracting under Federal contracts

1. *Purpose.* This supplement extends the effective period of FPR Temporary Regulation 50.

2. *Effective date.* This supplement is effective June 1, 1982.

3. *Expiration date.* This supplement expires on June 1, 1984.

4. *Explanation of changes.* The expiration dates in paragraph 3 of FPR Temporary

Regulation 50 and Supplements 1 and 2 are revised to June 1, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-17386 Filed 6-25-82; 8:45 am]

BILLING CODE 6820-61-M

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41 CFR Ch. 1

[FPR Temp. Reg. 54, Supp. 1]

Federal Procurement; Temporary Regulations; Women's Business Enterprise Program

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the effective period of FPR Temporary Regulation 54 to June 1, 1984. This extension is necessary to continue the current requirement regarding subcontracting with women-owned business concerns. The effect will be to continue the present program regarding the award of subcontracts to women-owned business concerns.

DATES: Effective date June 1, 1982, expiration date June 1, 1984.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (202-523-4755).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, this temporary regulation is listed in the appendix at the end of the chapter.

Dated: June 18, 1982.

Ray Kline,

Acting Administrator of General Services.

June 18, 1982.

Federal Procurement Regulations, Temporary Regulation 54, Supplement 1

To: Heads of Federal agencies

Subject: Women's Business Enterprise Program.

1. *Purpose.* This supplement extends the effective period of FPR Temporary Regulation 54.

2. *Effective date.* This supplement is effective June 1, 1982.

3. *Expiration date.* This supplement expires on June 1, 1984.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPR Temporary Regulation 54 is revised to June 1, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 82-17384 Filed 6-25-82; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 53

Grants, Loans and Loan Guarantees for Construction and Modernization of Hospitals and Medical Facilities

AGENCY: Public Health Service, HHS.

ACTION: Reinstatement of rule.

SUMMARY: This rule amends Title 42 of the Code of Federal Regulations by reinstating the provision at § 53.134 concerning notification of the Department of the transfer of a medical facility assisted under Title VI of the Public Health Service Act (the Hill-Burton Act) or termination of services provided in the facility. The provision was incorrectly deleted in a rule published on August 6, 1979, 44 FR 45946.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Moss, Director, Division of Facilities Financing, Bureau of Health Facilities, Center Building, Room 5-44, 3700 East-West Highway Hyattsville, Maryland 20782, (301) 436-7755.

SUPPLEMENTARY INFORMATION: The statutory authority to make grants and loans and to guarantee loans for the construction and modernization of hospitals and medical facilities under Title VI of the Public Health Service Act, 42 U.S.C. 291 *et seq.*, has expired (except for actions already underway pursuant to the court approved "Remedial Action Plan" and orders in *NANHC* v. *Harris*, U.S. District Court for the District of Columbia, Civil Action 74-52). Except for (1) the provision relating to the requirement that the State agency make prompt written notification of any change in status of an assisted facility to the Secretary (§ 53.134), (2) the provisions relating to the Secretary's authority to waive recovery rights (§§ 53.135 and 53.154), and (3) the provisions relating to uncompensated care and community service obligations (§§ 53.111-113), the regulations of Part 53 were determined to be obsolete and were deleted by a rule, 44 FR 45946, on August 6, 1979. At that time, the provision requiring that the State agency notify the Secretary of changes in facility status (§ 53.134) was inadvertently deleted also. Because the notice required by that provision is still necessary to administer section 609 of the Act, it is being reinstated. Furthermore, since administration of section 609 is the basis of this provision, as well as the basis of § 53.135, a citation to it is being added to the statement of authority paragraph for this Part. A general reference to section 623 has been added to the statement of authority because it contains authority for waiver of recovery payments made under loan guarantees under this Part, the subject of § 53.154.

Public comment on the reinstatement of § 53.134 is unnecessary since it was previously provided when the rule was promulgated. The related adjustments to the statement of authority entail no change in rules or policy and, accordingly, public comment on these adjustments in not necessary.

List of Subjects in 42 CFR Part 53

Grant Programs—health, Health facilities, Public health.

Dated: May 26, 1982.

Edward N. Brandt, Jr.,

Assistant Secretary for Health.

Approved: June 7, 1982.

Richard S. Schweiker,

Secretary.

PART 53—GRANTS, LOANS AND LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

42 CFR Part 53 is amended by correcting the citations of authority following the listing of Subparts as follows:

Authority: Sections 215, 603, 609, 623 of the Public Health Service Act as amended, 58 Stat. 690, 78 Stat. 451 and 456, 84 Stat. 346, (42 U.S.C. 216, 291c, 291i, 291j-3).

42 CFR Part 53 is amended by reinstating § 53.134 with minor clarifying revisions in Subpart M as follows:

§ 53.134 Notice of change of status of facility.

The State agency shall promptly notify the Secretary in writing if, at any time within 20 years after completion of construction, any facility which received funds under section 606 of the Act (a) is transferred to any person, agency or organization, (1) not qualified to file an application under the Act or (2) not approved as a transferee by the State agency; or (b) ceases to be a public health center or a public or other nonprofit hospital, outpatient facility, facility for long-term care or rehabilitation facility, as defined in the section 645 of the Act.

[FR Doc. 82-17402 Filed 6-25-82; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 530 and 548

Interpretations and Statement of Policy and Regulations To Implement the Economic Stabilization Act, 1970, as Amended

AGENCY: Federal Maritime Commission.

ACTION: Removal of rules.

SUMMARY: Because the authority underlying the Commission's wage and price guidelines has been repealed, the guidelines themselves are being removed.

DATE: Effective June 28, 1982

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The Commission promulgated Part 548 and Section 530.11 of Title 46 of the Code of Federal Regulations to comply with the wage and price regulatory programs of the Cost of Living Council and the Council on Wage and Price Stability as published in Title 6 of the Code of Federal Regulations. Pursuant to Pub. L. 93-28 and 97-12 (95 Stat. 74 and 97 Stat. 22) and Executive Orders 11788 and 12288 (39 FR 22113 and 46 FR 10136), both Councils have been abolished and their respective wage and price programs terminated. The authority underlying the Commission's regulations has thus been vitiated and the regulations should be removed.

List of Subjects

46 CFR Part 530

Administrative practice and procedure, Maritime carriers.

46 CFR Part 548

Maritime carriers, Reporting requirements.

Therefore, it is ordered, that, pursuant to 5 U.S.C. 553 and section 43, Shipping Act, 1916 (46 U.S.C. 841a); Pub. L. 97-12 (95 Stat. 22); Pub. L. 93-28 (95 Stat. 74); and Executive Orders 11788 and 12288, 39 FR 22113 (1974), 46 FR 10136 (1981), § 530.11 and Part 548 of Title 46 of the Code of Federal Regulations are removed.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-17288 Filed 6-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 82-256]

Daytime-Only Class II Stations on the U.S. Class I-A Clear Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action permits daytime-only stations on the 25 U.S. Class I-A clear channels, where such proposals adhere to current protection requirements and are located within the protected secondary nighttime contour of the existing Class I-A station on the channel.

This action reflects the Commission's desire to authorize new facilities on these frequencies without prejudice to future decisions concerning daytime protection requirements for all Class I stations or preclusion of potential unlimited-time stations.

This action will permit new daytime-only facilities and thus increase the number of broadcast services available to the public.

DATES: Effective June 10, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 254-8572.

List of Subjects Affected in 47 CFR Part 73

Radio.

Memorandum Opinion and Order

Adopted: June 10, 1982.
Released: June 18, 1982.
By the Commission.

In the matter of amendment of Part 73 of the Commission's rules with respect to Daytime-Only Class II Stations on the U.S. Class I-A Clear Channels.

1. By Report and Order, *Clear Channel Broadcasting*, 78 FCC 2d 1345, reconsid. granted in part and denied in part, 83 FCC 2d 216 (1980), *aff'd sub nom. Loyola University* v. *FCC*, No. 80-1824 (D.C. Cir. Jan. 28, 1982), we revised our rules to permit unlimited-time Class II station assignments on the United States' 25 Class I-A clear channels. The assignment of daytime-only stations to these frequencies was at the same time deferred, a decision reflecting (1) a desire to resolve questions concerning daytime protection for all Class I stations in an independent proceeding, and (2) a wish to avoid preclusion of possible unlimited-time operations by new daytime-only facilities. 78 FCC 2d at 1367-68, 83 FCC 2d at 217-18. We are convinced upon further consideration that our ban was unnecessarily broad. There exists, we find, a demand for new daytime-only stations and for power increases by existing daytime stations which can be satisfied, in part at least, in a manner consistent with our underlying objectives. Clearly, to the extent that we can authorize new facilities without prejudice to future action, the public interest dictates that we do so.

2. In examining possible usages of the U.S. Class I-A frequencies, we originally proposed and later declined to reduce the daytime protection of Class I-A stations from their 0.1 mV/m contour to their 0.5 mV/m contour. The necessity of including Class I-B stations (which were not within the scope of the clear channel proceeding) in any final decision, coupled with the fact that daytime contours would not normally be a controlling factor in the placement of new unlimited-time stations, led us to prefer a separate proceeding addressed exclusively to this issue. So long as new daytime-only proposals adhere to existing standards, though, they will not limit our options in this inquiry.

3. As for the preclusion of potential unlimited-time stations, the difference between daytime and nighttime protection requirements for Class I-A stations typically produces a sizeable area in which co-channel daytime-only stations can operate but from which nighttime facilities are prohibited. If a Class II daytime-only station locates its transmitter site inside the protected nighttime contour (the 0.5 mV/m 50% skywave contour) of the existing co-channel Class I-A station, it is unlikely that its operation could involve a significant conflict with any proposal contemplating nighttime use of the frequency for a Class II station. Certainly we would not anticipate numerous or serious problems in such cases. Moreover, while we recognize some limited possibility of precluding unlimited-time Class II stations on adjacent clear channels, we do not on balance find that such preclusions would be sufficiently likely or numerous to justify barring the provision we now make for restricted use of clear channel spectrum space for daytime-only stations.

4. We thus conclude that daytime-only Class II stations whose transmitter sites are located within the 0.5 mV/m 50% skywave contour of co-channel Class I-A clear-channel stations need not prejudice future changes in Class I protection requirements and should not unduly preclude future unlimited-time Class II facilities. Hence, such proposals compromise neither the basis for our

original ban on daytime-only operations nor the considerations underlying our current freeze on applications for unlimited-time operations on the U.S. Class I–A clear channels.[1] We propose therefore to accept for filing applications falling into this category.[2] We emphasize in this context that the exception is a narrow one. Waivers of the standard adopted here are not contemplated, it being our intention instead to revisit the entire area of daytime-only operation on the Class I–A clear channels when experience with unlimited-time facilities on these frequencies renders such an inquiry feasible.

5. We find, pursuant to Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), that it is unnecessary and contrary to the public interest to defer the adoption of this rule amendment until after notice and opportunity for comment. The effect of the amendment we adopt herein is to relieve a restriction which has for many years barred the assignment of additional daytime-only stations to the Class I–A clear channels. In doing so to the partial extent provided for in the rule amendment, we do not reduce the degree of protection to which any licensee or holder of a construction permit, co-channel or adjacent channel, is entitled under existing rules. It being unnecessary in these circumstances to conduct anterior rule making proceedings, it would be contrary to the public interest to do so because of the needless delay that would cause in opening the way for daytime-only facilities, for which there is demand. For similar reasons we invoke Section 553(d)(1) of the Administrative Procedure Act which permits the rule amendment we herein adopt to be given immediate effect as it relieves a restriction.

6. Accordingly, pursuant to authority contained in Sections 4(i), 4(j), 303(c) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j), 303(c) and 307(b), and Sections 553 (b) and (d)(1) of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d)(1), it is ordered, that, effective June 10, 1982, § 73.25(a)(2) of the Commission's rules is amended by adding a new subparagraph (iii) to read as follows:

[1] Public Notice, *Proposals Invited for New AM Stations on Canadian Clear Channels and Filing of Applications on U.S. Clear Channels Suspended*, FCC 82–97, released February 25, 1982.

[2] Such applications must of course comply with all pertinent sections of our rules, including the daytime skywave protection requirements of § 73.187.

PART 73—RADIO BROADCAST SERVICE

§ 73.25 Clear channels; Classes I and II stations.

* * * * *

(a) * * *

(iii) Additional daytime-only class II stations whose transmitter sites are located inside the 0.5mV/m 50% nighttime contour of the respective co-channel Class I–A stations.

* * * * *

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82–17362 Filed 6–25–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 2505–90]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of inseason adjustment.

SUMMARY: This document announces the apportionment of reserve amounts of Alaska groundfish that were eligible in April 1982 for apportionment to the total allowable level of foreign fishing and to the domestic annual harvest, under provisions of the fishery management plans (FMPs) for Groundfish of the Bering Sea and Aleutian Islands Area, and for the Groundfish of the Gulf of Alaska. Apportionment is prescribed by regulations implementing those FMPs. The intended effects of this action are to assure optimum use of groundfish resources and to allow the foreign and domestic fisheries to proceed without interruption to achieve optimum yield.

EFFECTIVE DATES: June 25, 1982 through December 31, 1982.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, 907–586–7221.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OY) for various groundfish are established by the fishery management plan (FMP) for the Goundfish of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. The FMPs were developed under the Magnuson Fishery Conservation and Management Act, and are implemented by rules appearing at 50 CFR 611.92 and 611.93 and 50 CFR Parts 672 and 675. The OYs are apportioned initially to domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Thus, OY=DAH+reserve+TALFF. Further, DAH is divided among domestic annual processing (DAP), joint venture processing (JVP), and domestic nonprocessed fish (DNP). Thus, DAH=DAP+JVP+DNP.

Under 50 CFR 611.92(c) and 672.20(c) the Secretary of Commerce (Secretary) may apportion to DAH any reserve amounts for any Gulf of Alaska groundfish that he determines to be needed to supplement DAH. Such apportionments may be made as soon as practicable after the first day of April, June, and August, and on any other date determined to be necessary. Resultant increases in DAH amounts, if any, are required to be allocated among the three components of DAH. Also, the Secretary may apportion up to 40 percent of each initial Gulf of Alaska reserve to TALFF as soon as practicable after the first day of April and June, and up to 20 percent after the first day of August. This action pertains to the reserve amounts eligible for apportionment in April.

Under 50 CFR 611.93(b) and 675.20(b) the Secretary may apportion to DAH or to TALFF, or may retain in reserve for later apportionment, up to 25 percent of any groundfish reserve in the Bering Sea and Aleutians Islands area. Resultant increases in DAH amounts, if any, are required to be allocated among the three components of DAH. These apportionments are to be made as soon as practicable after February 2, April 2, June 2, and August 2. If, following any of the first three of these dates, the Secretary apportions less than 25 percent of any initial reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent (the add-on), together with any previous add-ons, must be added to the reserve amounts available for apportionment on the next specified date.

All groundfish reserve amounts were retained for the Bering Sea and Aleutian Islands area for the first scheduled date for apportionment on February 2, 1982 (47 FR 7674). Those reserve amounts, together with the reserve amounts available for apportionment in April, are also the subject of this action.

Determination of reserve releases

1. Bering Sea and Aleutian Islands Areas.

United States fishing effort in the Bering Sea and Aleutian Islands management area is currently minimal, but this effort is expected to increase rapidly as seasonal weather conditions improve. During 1981, significant domestic fishing activity began late in the spring and continued into the fall. Because substantial joint venture activity is anticipated during 1982, the scheduled and add-on reserve amounts for all species are retained at this time.

2. Gulf of Alaska

Western Regulatory Area. In the Western Regulatory Area of the Gulf of Alaska, scheduled reserve amounts of Pacific cod and sablefish are being retained at this time, although U.S. fishing has not yet started, for the following reasons. A significant effort by U.S. fishermen to harvest Pacific cod for salt cod production is expected. Furthermore, because of possible expansion in the sablefish fishery in this area, the extent to which U.S. fishermen will harvest the DAH is uncertain at this time.

It is not anticipated that U.S. fishermen will harvest more than the initial DAH specifications for other groundfish species in the Western Regulatory Area. Therefore, 40 percent of the reserves for these species is being apportioned to TALFF (see the Table of Apportionments to TALFF).

Central Regulatory Area. In the Central Regulatory Area of the Gulf of Alaska, U.S. fishermen have delivered substantial amounts of pollock to foreign processing vessels engaged in joint ventures. The current pollock JVP is only 7,940 mt, and will not be sufficient to accommodate the total amount expected to be delivered to foreign processing vessels in 1982. Therefore, the entire pollock reserve amount of 19,040 mt is apportioned to DAH for the pollock JVP.

It is not anticipated that U.S. fishermen will harvest more than the initial DAH specifications for other groundfish species in this area. Therefore, 40 percent of the reserves for these other species is apportioned to TALFF (see the Table of Apportionments to TALFF).

Eastern Regulatory Area. U.S. fishing in the Eastern Regulatory Area of the Gulf of Alaska has been minimal to date. It is not anticipated that U.S. fishermen will harvest more than the initial DAH specifications for groundfish species in this area. Therefore, 40 percent of the reserves for these species is apportioned to TALFF (see the Table of Apportionments to TALFF). A final rule to implement Amendment 10 to the FMP for Groundfish of the Gulf of Alaska became effective on June 1, 1982 (47 FR 23936). That rule reduced the initial reserve amount of Pacific ocean perch from 2,880 mt to 175 mt. Hence, the reserve amount of Pacific ocean perch eligible and hereby apportioned to TALFF is 70 mt.

3. Summary of Reserve Amounts Being Apportioned to TALFF

Initial reserves for groundfish in the Gulf of Alaska being apportioned to TALFF are as follows:

TABLE OF APPORTIONMENTS TO TALFF

	Western	Central	Eastern	Gulf-wide
Pollock	4,560		1,335	
Pacific ocean perch	218	632	70	
Pacific cod		2,683	792	
Sablefish		304	[1]566	
Atka mackerel	374	1,667	255	
Flounders	832	1,176	572	
Other rockfish				608
Thornyhead rockfish				300
Squid				400
Other species				1,296
Subtotal [2]	5,982	6,462	3,605	2,604

[1] Yakutat District.
[2] Total 18,733.

Response to public comments

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), the data upon which these determinations are based were made available for public inspection. In addition, those provisions afford the public an opportunity to comment upon the apportionment of reserve amounts. One comment was received.

Comment: Reserves of Pacific cod and sablefish are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Response: Uncertainties about the adequacy of DAH due to the expanding U.S. fishery in the Bering Sea and Aleutian Islands area make retention of reserves of all species in this area, including Pacific cod and sablefish, necessary at this time.

Uncertainties about the extent to which a projected U.S. salt-cod fishery will expand in the Western Regulatory area of the Gulf of Alaska necessitates retention of Pacific cod reserves in that area. However, 40 percent of the initial reserves of Pacific cod are apportioned to TALFF in the Central and Eastern Regulatory areas.

Because of possible expansion in the sablefish fishery in the Western Regulatory area of the Gulf of Alaska, the extent to which U.S. fishermen will harvest the DAH for sablefish is not certain at this time; therefore, sablefish reserves in that area are retained. However, those retained amounts are subject to subsequent apportionment if no expansion occurs. In addition, 40 percent of the initial reserves of sablefish are apportioned to TALFF in the Central and Eastern Regulatory areas in the Gulf of Alaska.

Classification

This action is taken under the authority of 50 CFR 611.92(c), 611.93(b) 672.20(c), and 675.20(b), and is taken in compliance with Executive Order 12291.

In view of the prior notice provided in the underlying regulations regarding the dates after which apportionment of reserves is to occur, together with the need to avoid disruption of United States and foreign fisheries and the obligation to afford a reasonable opportunity to achieve optimum yield, the Secretary has determined that to delay the effectiveness of this rule would be impracticable, unnecessary, and contrary to the public interest.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

50 CFR Part 672

Fish, Fisheries, Reporting requirements.

Dated: June 16, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 611 and 672 are amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

§ 611.20 Appendix 1 [Amended]

2. In § 611.20, Appendix 1, the entry designated E (Gulf of Alaska groundfish fishery) for Alaska fisheries is revised to read as follows:

* * * * *

APPENDIX 1.—INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP+DNP

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
E. Gulf of Alaska groundfish fishery:									
Pollock	701	Western[2]	57,000	5,775	25	5,750		8,840	44,385
		Central[2]	95,200	32,960	5,360	26,980		0	62,840
		Eastern[2]	16,600	2,215	695	1,520		1,992	12,393
		Total	168,800	40,350				8,832	119,618
Pacific cod	702	Western	16,560	1,880	240	1,040	600	3,312	11,368
		Central	33,540	6,050	3,480	1,370	1,200	4,025	23,465
		Eastern	9,900	2,070	280	890	1,200	1,188	6,642
		Total	60,000	10,000				8,525	41,475
Flounders	120	Western	10,400	700	100	600		1,248	8,452
		Central	14,700	1,120	300	820		1,764	11,816
		Eastern	8,400	1,360	900	460		1,008	6,032
		Total	33,500	3,180				4,020	26,300
Pacific ocean perch[4]	780	Western	2,700	345	25	320		324	2,031
		Central	7,900	1,255	295	960		948	5,697
		Eastern	875	500	300	200		105	270
		Total	11,475	2,100				1,377	7,998
Other rockfish[3]	840	Total	7,600	900	700	200		912	5,788
Sablefish[1]	703	Western	2,100	270	100	170		420	1,410
		Central	3,800	1,220	1,000	220		456	2,124
		Yakutat District[2]	3,400	1,360	1,180	200		852	1,188
		Southeast Outside District[2]	3,000	2,910	2,820	90		0	90
		Total	12,300	5,760				1,728	4,792
Atka mackerel	207	Western	4,678	280	0	280		562	3,836
		Central	20,836	1,080	0	1,080		2,500	17,256
		Eastern	3,186	700	0	700		382	2,104
		Total	28,700	2,070				3,444	23,186
Squid	800	Total	5,000	150	0	150		600	4,250
Other species[5]	400	Total	16,200	1,720	300	620	800	1,944	12,536
Thornyhead rockfish	740	Total	3,750	6	6	6		450	3,294

[1] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[2] See Figure 1 of § 611.92(a) for description of regulatory areas and districts.
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 4 above and *Sebastolobus* (thornyhead rockfish).
[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

PART 672—NORTHERN ANCHOVY FISHERY

3. The authority citation for Part 672 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 672.20, Table 1 is revised to read as follows:

§ 672.20 Optimum yield.

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP+DNP

Species	Species code	Area	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
Gulf of Alaska groundfish fishery:									
Pollock	701	Western[1]	57,000	5,775	25	5,750		8,840	44,385
		Central[1]	95,200	32,360	5,360	26,980		0	62,840
		Eastern[1]	16,600	2,215	695	1,520		1,992	12,393
		Total	168,800	40,350				8,832	119,618
Pacific cod	702	Western	16,560	1,880	240	1,040	600	3,312	11,368
		Central	33,540	6,050	3,480	1,370	1,200	4,025	23,465
		Eastern	9,900	2,070	280	890	1,200	1,188	6,642
		Total	60,000	10,000				8,525	41,475
Flounders	120	Western	10,400	700	100	600		1,248	8,452
		Central	14,700	1,120	300	820		1,764	11,816

TABLE 1.—INITIAL (AS OF JANUARY 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), DOMESTIC NONPROCESSED (DNP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS. OY=DAH+RESERVE+TALFF; DAH=DAP+JVP+DNP—Continued

Species	Species code	Areas	OY	DAH	DAP	JVP	DNP	Reserve	TALFF
		Eastern	8,400	1,380	900	480		1,028	6,032
		Total	33,500	3,160				4,020	26,300
Pacific ocean perch[2]	780	Western	2,700	345	25	320		324	2,031
		Central	7,900	1,255	256	900		948	5,697
		Eastern	875	500	300	200		105	270
		Total	11,475	2,100				1,377	7,998
Other rockfish[3]	549	Total	7,600	900	700	200		912	5,788
Sable fish[4]	703	Western	2,100	270	100	170		420	1,410
		Central	3,800	1,220	1,000	220		456	2,124
		Yakutat District[1]	3,400	1,380	1,180	200		852	1,168
		Southeast Outside District[1]	3,000	2,910	2,820	90		0	90
		Total	12,300	5,780				1,728	4,792
Atka mackerel	207	Western	4,678	780	0	250		852	3,826
		Central	20,838	1,080	0	1,080		2,508	17,256
		Eastern	3,188	750	0	700		182	2,104
		Total	28,700	2,070				3,444	23,186
Squid	509	Total	5,000	150	0	150		600	4,250
Other species[5]	400	Total	18,200	1,720	350	620	800	1,944	12,536
Thornyhead rockfish	749	Total	3,750	6	6	0		450	3,294

[1] See Figure 1 of 5611.92(a) for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote [2] above and *Sebastolobus* (thornyhead rockfish).
[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[5] The "category other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

[FR Doc. 82-17237 Filed 6-25-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

Advisory Circular for Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Date change, draft Advisory Circular AC 29–X.

SUMMARY: A draft Advisory Circular on Transport Category Rotorcraft Certification was published in part and notice of availability of the additional technical guidance material was given (47 FR 11034; May 17, 1982). This notice changes dates in the original notice of draft.

DATE: Commenters must identify the file with number AC 29–X and comments must be received on or before September 17, 1982.

ADDRESS: Send all comments on the draft Advisory Circular to: Federal Aviation Administration, Attn: Helicopter Policy and Procedures Staff (ASW–110), P.O. Box 1689, Fort Worth, TX 76101.

FOR FURTHER INFORMATION CONTACT:
Mr. John Swihart, Aerospace Engineer, Helicopter Policy and Procedures Staff (ASW–110), Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101. Commercial telephone (817) 624–4911, extension 502, or FTS 736–9502.

SUPPLEMENTARY INFORMATION: The Helicopter Association International has requested additional time to review and comment on draft Advisory Circular 29–X. In response, the FAA has rescheduled the date for the public meeting to August 19, 1982, and the closing date for comments to September 17, 1982. The location remains unchanged.

Issued in Fort Worth, Texas, on June 16, 1982.

F. E. Whitfield,
Acting Director, Southwest Region.

[FR Doc. 82-17150 Filed 6-25-82; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 22050; Notice No. 82–8]

Special Federal Aviation Regulation No. 44–3; Air Traffic Control System; Interim Operations Plan

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 82–8 (47 FR 26112; June 16, 1982) and (47 FR 26160; June 17, 1982). That notice proposed to amend Special Federal Aviation Regulation (SFAR) No. 44–3 to establish certain procedures for the operation of the National Air Traffic Control (ATC) System, including procedures to be used in the allocation of additional system capacity as it becomes available, to provide for the safe and efficient operation of the air traffic control system.

The notice proposed several alternative allocation procedures to be used by the FAA to distribute slots among the carriers so as to provide for more efficient movement of air carrier traffic. It also requested comments on continuation of the existing SFAR 44–3 slot allocation procedure.

On June 22, 1982, the Air Transport Association of America (ATA) petitioned for an extension of the comment period until July 15, 1982. Also on June 22, the Regional Airline Association (RAA) requested a 2-week extension of the comment period.

The FAA has determined that, based on the ATA and RAA desire to develop and provide substantive input to the proposed regulation, it would be in the public interest to extend the comment period to allow the public more time to undertake a thorough review of this proposal.

DATE: Comments on Notice No. 82–8 must be received on or before July 15, 1982.

ADDRESSES: Mail comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 22050, Washington, D.C. 20591, or deliver them to: Room 915G, 800 Independence Avenue, SW., Washington, D.C.

Comments may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:
Donald R. Segner, Associate Administrator for Policy and International Aviation, 202–426–3030, or
Edward P. Faberman, Deputy Chief Counsel, 202–426–3775
Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impacts that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 22050." The postcard will be dated, time-stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11–2, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On June 15, 1982, the FAA issued Notice No. 82–8 which requested public comments on proposed changes to SFAR 44–3. Several alternative proposals were presented. One suggestion would be to divide the additional slots at controlled airports in a 70 percent—30 percent proportion. Under this proposal, the slots would be distributed in three phases: first at a New Entrant Random Lottery; then at an Impacted Incumbent Ranked Drawing; and finally at a General Random Lottery. Comments were also invited concerning proposed alternatives. Comments on the NPRM had to be submitted on or before June 28, 1982.

On June 22, the ATA submitted a petition to extend from June 29 to July 15 the date by which comments on the NPRM must be received. In support of its petition, ATA states that additional time is necessary to attempt to reach a consensus on a replacement proposal. ATA states that because many of the individuals necessary to take part in this effort are currently involved in other related events, additional time is, therefore, necessary to file comments acceptable to a significant segment of the entire industry. ATA's comments were filed on behalf of 13 carriers. They advised that United Airlines objects to the request.

On June 22, the RAA requested an extension of 2 weeks in the comment period to permit regional carriers to consider adequately and to offer comments regarding future slot allocation policies.

Extension of Comment Period

In consideration of the ATA and RAA petitions, the FAA concludes that extending the comment period until July 15 would serve the public interest. This minor extension will not affect the agency's ability to implement any new mechanism in a timely manner.

Accordingly, the comment period for Notice No. 82–8 is extended and will close on July 15, 1982.

List of Subjects in 14 CFR Part 91

Air traffic control.

(Secs. 307 (a) and (c), and 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1348 (a) and (c), 1354(a), and 1421(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. Section 1655(c)))

Issued in Washington, D.C., on June 23, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-17458 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1145

Hair Dryers Containing Asbestos; Withdrawal of Proposed Rule to Regulate Under the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: In 1979 the Commission proposed a rule to use the procedures available under the consumer Product Safety Act, rather than those of the Federal Hazardous Substances Act, should regulatory action against hair dryers containing asbestos become necessary. Since the Commission now believes that no such regulatory action will be necessary, it is withdrawing the proposed rule.

DATE: The withdrawal is effective on July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6980.

SUPPLEMENTARY INFORMATION: During 1979 the Commission began investigating a risk of injury associated with the inhalation of respirable asbestos fibers emitted in the airflow of hair dryers containing asbestos. If regulation of that risk proved necessary, the Commission preliminarily believed that the Consumer Product Safety Act would provide a more expeditious way of eliminating or reducing it than would the Federal Hazardous Substances Act. The Commission therefore proposed a rule, in accordance with the applicable statutory requirement (15 U.S.C. 2079(d)), finding that it would be "in the public interest" to regulate the hair dryer asbestos risk under the Consumer Product Safety Act. 44 FR 28628 (May 17, 1979).

After the Commission proposed the rule in May 1979, all of the affected manufacturers, importers, and private labelers acted voluntarily to recall the hair dryers containing respirable asbestos fibers. The Commission approved corrective action plans for all of those companies, and the public was notified of the recall on television, in newpapers, and by signs in stores. Consumers returned nearly two million of the hair dryers.

The Commission now believes that regulation of the risk will not be necessary. If regulation unexpectedly became necessary, the Commission could again propose a rule like the one proposed in May 1979.

The Commission hereby withdraws the proposed rule (16 CFR 1145.7) to regulate hair dryers containing asbestos under the Consumer Product Safety Act.

(Sec. 30(d), Pub. L. 92–573, 86 Stat. 1231, as amended, 90 Stat. 519, 92 Stat. 3742 (15 U.S.C. 2079(d))

List of Subjects in 16 CFR Part 1145

Consumer protection, cancer, asbestos.

Dated: June 23, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-17484 Filed 6-25-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R–82–880]

Property Improvement and Mobile Home Loans

AGENCY: Department of Housing and Urban Development (HUD) Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Proposed rule.

SUMMARY: Section 338 of the Omnibus Budget Reconciliation Act of 1981 amended the National Housing Act to permit special loan limits for manufactured (mobile) homes and lots located in high cost area designations. This rule would increase the maximum loan limits by varying amounts up to $7,500 for single and multisection homes

purchased in combination with a suitably developed lot in certain designated areas. The increased limits would also cover the purchase of individual lots in high cost areas.

DATE: Comments due: August 27, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh St., S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address. The proposed rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Department of Housing and Urban Development, Room 9160, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755–6680. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This rule would increase maximum loan amounts for the purchase of manufactured (mobile) homes and lots in combination that are to be located in high cost areas. The increased loan limits would cover the purchase of individual lots in high cost areas. This rule is needed because the basic loan limits restrict the number of loans that can be made in high cost areas of the country. The use of the basic loan limits in those areas results in downpayments that are prohibitive to most prospective purchasers.

To comply with the intent of the authorizing legislation, it was necessary for the Department to establish which market areas are eligible for the increased loan limits. These designations are the product of a departmental review and analysis of developed lot costs covering both national and local housing markets.

The primary data source employed by HUD in the development of area-wide loan limits under this subpart was HUD's own FHA homes reports, for FHA insured home sales under Sections 203(b) and 245. In 1980, the survey covered about 170,000 home purchase transactions, broken down by state and Standard Metropolitan Statistical Areas (SMSAs). In the absence of a centralized, national source of data on lot costs associated with manufactured homes, the FHA homes report series represents the best available source on lot cost information.

For those market areas with an average lot cost per square foot equal to or greater than 110 percent to 129 percent of the U.S. average, an upward adjustment equivalent to one-third of the maximum increase allowable was assigned. For market areas with average lot costs per square foot between 130 and 149 percent of the U.S. average, an upward adjustment equivalent to two-thirds of the maximum increase allowable was assigned. Finally, market areas with average lot costs per square foot equal to or greater than 150 percent of the U.S. average received the maximum increase in loan limits.

The selection of three incremental adjustments, equal to $2,500, $5,000 and $7,500, is intended to ensure significant dollar differences and to simplify, as much as possible, the administration of area-wide limits. These amounts would be in addition to the present basic loan limits of $35,000 and $47,500 for single and multi-section homes respectively.

Where HUD area-wide determinations do not accurately reflect local market area conditions, interested parties may appeal jurisdictional limits by submitting to HUD documented evidence in support of increased limits. Such documentation should include per square foot developed lot costs for recent sales transactions involving manufactured or single family homes in the market area. A minimum of 100 home sales transactions must be included in the appeal submission. For each transaction, the lot cost per square foot should be identified, along with the property address, and identification of the lot as within a mobile home park, a recorded or unrecorded subdivision, a planned-unit development (PUD), etc. Finally, adjustments to area-wide loan limits will be reviewed only for SMSA, non-SMSA counties and non-SMSA statewide areas. This information should be submitted to the Office of the Rules Docket Clerk at the address listed above.

This rule does not constitute a "major rule" as that term is defined in § 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1967, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address.

Pursuant to Section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semi-Annual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

The Catalog of Federal Domestic Assistance program number is 14.162, Mortgage Insurance—Combination and Manufactured (Mobile) Home Lot Loans (F).

List of Subjects in 24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Mobile homes, Manufactured homes and lots.

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly the Department proposes to amend 24 CFR Part 201 by adding a new section to read as follows:

§ 201.1504b Maximum loan amounts for high cost areas.

The maximum loan amounts specified in 201.1504 are increased to amounts set forth by geographical areas in Appendix A of this part. These increased loan amounts are needed to meet higher costs of land acquisition, site development and construction of permanent foundations.

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 2 of the National Housing Act 12 U.S.C. 1703)

Dated: May 24, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Schedule of Title I Area-Wide One To Two Or More Module Loan Limits

For any market area (SMSA, county or part of a county) not listed below, the maximum loan limits set forth in § 201.1504 shall apply."

Market area designation	Local jurisdictions	One module	Two or more	Lot only
New York, NY-NJ SMSA.	Bronx County, NY; Kings County, NY; New York County, NY; Putnam County, NY; Queens County, NY; Richmond County, NY; Rockland County, NY; Westchester County, NY; Bergen County, NY.	$42,500	$55,000	$20,000
Patterson-Clifton-Passaic, NY SMSA.	Passaic County, NJ.	37,500	50,000	15,000
New Brunswick-Perth Amboy-Sayreville, NJ SMSA.	Middlesex County, NJ.	37,500	50,000	15,000
Trenton, NJ SMSA.	Mercer County, NJ	37,500	50,000	15,000
Baltimore, MD SMSA.	Baltimore City, MD; Anne Arundel County, MD; Baltimore County, MD; Carroll County, MD; Harford County, MD; Howard County, MD.	37,500	50,000	15,000
Washington, DC-MD-VA SMSA.	District of Columbia; Charles County, MD; Montgomery County, MD; Prince Georges County, MD; Alexandria City, VA; Fairfax City, VA; Falls Church City, VA; Manassas City, VA; Manassas Park City, VA; Arlington County, VA; Fairfax County, VA; Loudoun County, VA; Prince William County, VA.	40,000	52,000	17,500
Miami, FL SMSA.	Dade County, FL	37,500	50,000	15,000
West Palm Beach-Boca Raton, FL SMSA.	Palm Beach County, FL.	40,000	52,500	17,500
Ft. Lauderdale-Hollywood, FL SMSA.	Broward County, FL.	40,000	52,500	17,500
Tampa-St Petersburg, FL SMSA.	Hillsborough County, FL; Pasco County, FL; Pinellas County, FL.	37,500	50,000	15,000
Sarasota, FL SMSA.	Sarasota County, FL.	37,500	50,000	15,000
New Orleans, LA SMSA.	Jefferson Parish, LA; Orleans Parish, LA; St. Bernard Parish, LA; St. Tammany Parish, LA.	40,000	52,500	17,500
Shreveport, LA SMSA.	Bossier Parish, LA; Caddo Parish, LA; Webster Parish, LA.	40,000	52,500	17,500
Chicago, IL SMSA.	Cook County, IL; DuPage County, IL; Kane County, IL; Lake County, IL; McHenry County, IL; Will County, IL.	37,500	50,000	15,000
Phoenix, AZ SMSA.	Maricopa County, AZ.	40,000	52,500	17,500
Las Vegas, NV SMSA.	Clark County, NV	40,000	52,500	17,500
Reno, NV SMSA.	Washoe County, NV.	40,000	52,500	17,500
Los Angeles-Long Beach, CA SMSA.	Los Angeles, CA	42,500	55,000	20,000
Anaheim-Santa Ana-Garden Grove, CA SMSA.	Orange County, CA.	42,500	55,000	20,000
Oxnard-Simi Valley-Ventura, CA SMSA.	Ventura County, CA.	42,500	55,000	20,000
San Diego, CA SMSA.	San Diego County, CA.	42,500	55,000	20,000
Riverside-San Bernardino-Ontario, CA SMSA.	Riverside County, CA; San Bernardino County, CA.	37,500	50,000	15,000
Modesto, CA SMSA.	Stanislaus County, CA.	40,000	52,500	17,500
San Francisco, Oakland, CA SMSA.	Alameda County, CA; Contra Costa County, CA; Marin County, CA; San Francisco County, CA; San Mateo County, CA.	42,500	55,000	20,000
San Jose, CA SMSA.	Santa Clara County, CA.	42,500	55,000	20,000
Santa Barbara-Santa Maria-Lompoc, CA SMSA.	Santa Barbara County, CA.	42,500	55,000	20,000
Santa Rosa, CA SMSA.	Sonoma County, CA.	42,500	55,000	20,000
Vallejo-Fairfield-Napa, CA SMSA.	Napa County, CA; Solano County, CA.	40,000	52,500	17,500

[FR Doc. 82-17235 Filed 6-25-82; 8:45 am]
BILLING CODE 4210-27-M

24 CFR Part 882

[Docket No. R-82-988]

Section 8 Housing Assistance Payments Program—Existing Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: HUD is proposing to delete Section 882.120 of the Section 8 Existing Housing Program regulation to eliminate the authority to use higher Fair Market Rents (FMRs) for recently completed housing. The elimination of higher FMRs for recently completed housing is necessary to contain costs for the Section 8 Existing Housing Program.

DATE: Comment due date: August 27, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection during regular business hours at the above address. This rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: J. William Taybron, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-5433. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: During the early 1970's the housing industry experienced a tremendous increase in the construction of rental housing which resulted in a high vacancy rate in recently completed rental housing. In order for Section 8 Existing Housing Program participants to take advantage of these recently completed housing units and to make these units available to families participating in the program, the Section 8 Existing Housing Program

regulation permitted Public Housing Agencies to approve gross rents up to 75 percent of the Section 8 New Construction FMRs for units which were completed no more than six years prior to the date of the leasing of the unit.

There is no indication that families currently participating in the Section 8 Existing Housing Program are experiencing serious difficulties in locating and renting units that fall within the FMR limitations for the Section 8 Existing Housing Program. Because separate FMRs for recently completed housing are no longer considered necessary or appropriate, and in the interest of cost savings, HUD is proposing to eliminate the provision allowing higher rents for recently completed housing.

Applicability

As of the effective date of the final rule no additional units would be placed under lease using the recently completed FMRs. For families occupying units under lease using the recently completed FMRs, the Gross Rent would not be reduced so long as the family remains in occupancy. Lease renewals for these units would be permitted pursuant to § 882.107 of the Section 8 Existing Housing Program regulation and contract rent adjustments would be permitted pursuant to § 882.108 until the family moves or the Gross Rent is within the Section 8 Existing Housing FMR limitation.

NEPA

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This rule was not listed in the Department's Semi-Annual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.156 (Lower Income Housing Assistance Program).

The legislative review provisions of Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o) have been met.

List of Subjects in 24 CFR Part 882

Grant programs, Housing and community development, Housing, Mobile homes, Rent subsidies.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

Accordingly, the Secretary proposes to amend 24 CFR Part 882 as follows:

1. In the Table of Contents, by revising § 882.120 to read:

§ 882.102 [Reserved]

2. In § 882.102, by removing the term Recently Completed Housing and the cross-reference to § 882.120.

3. By revising § 882.120 to read:

§ 882.120 [Reserved]

§ 882.204 [Amended]

4. In § 882.204(a)(1), by removing the phrase "and whether authorization for the use of Recently Completed Housing is desired (See Section 882.120)".

(United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) as amended; Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: May 24, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-17236 Filed 6-25-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[CGD 81-080]

Traffic Separation Scheme

Correction

In FR Doc. 82-16409, appearing at page 26167, in the issue for Thursday, June 17, 1982 make the following corrections:

(1) On page 26167, first column, line six under the heading "summary", the word "lands" should be corrected to read "lanes".

(2) On page 26169, first column, paragraph six, line two, the word "areas" should be changed to "area".

(3) On page 26169, third column, first table, change the third entry in the latitude column, "29°08'03.0"N" to "29°09'03.0"N".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2154-1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking; extension of the comment period.

SUMMARY: On May 14, 1982 (47 FR 20824) EPA proposed rulemaking on Indiana's Volatile Organic Compounds regulations, which are part of the State's control strategy for attainment of the ozone standard. Public comments were due by June 14, 1982. Indiana requested a 30-day extension of the public comment period. Indiana wishes to obtain the concurrence of the Indiana Air Pollution Control Board at the Board's July meeting prior to submitting its comments. EPA, therefore, is extending the public comment period until July 14, 1982.

DATE: Comments on the ozone revision to the Indiana State Implementation Plan (SIP) and on EPA's proposed action must be received by July 14, 1982.

ADDRESSES: Comments on the SIP revision and on EPA's proposed action should be addressed to Gary Gulezian, Chief, Regulatory Analysis Section, EPA, Region V (5AP-11), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, (312) 886-6034.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide Hydrocarbons.

Dated: June 14, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-17359 Filed 6-25-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2121-3]

Approval and Promulgation of State Implementation Plans; Kentucky; Proposed State Regulation for Implementation of Emission Trading and Generic Procedures

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes to approve Kentucky's request to revise its State Implementation Plan (SIP) to include an emissions trading and generic regulation. The Kentucky Department for Natural Resources and Environmental Protection (DNREP) developed the regulation in response to EPA's Bubble Policy (44 FR 71779; December 11, 1979), and subsequent guidance which recommended that States develop such regulations. The Kentucky regulations will allow industry to use the most economically feasible means to achieve compliance with State and Federal regulations. The process of implementing the regulation is explained in the Supplemental Information section below.

DATE: To be considered, comments must be received on or before July 28, 1982.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA, Region IV's Air Program Branch (see EPA, Region IV address below). Copies of the materials submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2, Fort Boone Plaza, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Programs Branch at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The Commonwealth of Kentucky's Department for Natural Resources and Environmental Protection (DNREP) has submitted to EPA a proposed State regulation which would (1) establish procedures for creating, holding, transferring, and using emission reduction credits (ERCs), i.e., emissions trading, and (2) establish conditions under which some emission trading plans can be developed and implemented at the State level without EPA approval, i.e., generic rule procedures.

Kentucky developed regulation 401 KAR 51:055, Controlled Trading, according to EPA's Emissions Trading Policy. The EPA policy was developed over a period of two years, and was officially proposed in the **Federal Register** on April 7, 1982 (45 FR 15076). The April 7, 1982 policy statement replaced EPA's original Bubble Policy (44 FR 71779; December 11, 1979). The Kentucky regulations are acceptable as written, except as noted herein. EPA is proposing to approve 401 KAR 51:055 with the understanding that the State will adopt a final regulation reflecting the changes required by the EPA comments in this notice, and make other changes that may be required as a result of comments received during the State and EPA comment periods.

Kentucky regulation 401 KAR 51:055 applies to sources that emit the following pollutants: particulate matter, sulfur dioxide (SO_2), volatile organic compounds (VOC), carbon monoxide (CO), nitrogen oxides (NO_x), lead (Pb), fluoride (F), total reduced sulfur (TRS), and sulfuric acid mist. The regulation applies to these sources in the following manner:

Procedure For Creating ERCs

1. Application for ERC's. The source may apply for an ERC for emission reductions that have occurred or are scheduled to occur. The actual ERC will be registered by the Kentucky DNREP only after the reduction has taken place.

2. Creation of ERC's. Before an ERC is created the source owner or operator must obtain a revised operating permit which includes specific quantifiable and enforceable emission limits reflecting the reduced emissions.

3. Confirmation of ERC's. To confirm emission reductions the Kentucky DNREP may require source tests, continuous monitors, or any other means of calculation approved by the DNREP.

4. ERC Requirements in Nonattainment Areas without Conditionally or Fully Approved SIP's.

All sources with potential emissions greater than 100 tons per year (TPY) must use a level of control which represents Reasonably Available Control Technology (RACT). If two sources are involved, and their combined potential emissions exceed 100 TPY, then RACT emission levels must be used as the basis for calculating the ERC.

Banking and Transferring ERCs

1. Banking ERCs. When an ERC is registered by the DNREP, it may be used at that time or held (banked) for future use or transfer. If the ERC is not used within five (5) years from its registration, control of the ERC will revert to the DNREP.

2. Transferring ERCs. After registration by the DNREP, ERC ownership may be transferred as permitted by the laws of Kentucky. The transfer of ownership is not effective until the DNREP is notified in writing, confirms the receipt of notice, and notes the transfer in the DNREP register for that purpose.

Use of ERCs

1. Registered ERCs may be used in accordance with 401 KAR 51:055 to establish alternative emission limits (bubbles), to offset increased emissions from new or modified sources, or to use "netting" to decrease the burden of new source review.

2. Before an ERC is used the source owner or operator must obtain a revised operating permit which includes the applicable emission limits.

3. ERCs may be used only in transactions where emissions exchanged are in the same criteria pollutant category. Hazardous and nonhazardous emissions may be exchanged only if the hazardous emissions decrease.

4. ERCs will not be used to allow a new or modified source to exceed the standards of performance in 40 CFR Part 60, or those standards defined by lowest achievable emission rate (LAER) or best available control technology (BACT).

5. ERCs representing VOCs or NO_x will be used only in the county in which the ERCs were created.

Air Quality Modeling (AQM) Requirements

1. AQM Not Required.

a. AQM is not required when ERCs representing particulate matter or SO_2 are used if the following conditions are met:

(1) The affected facilities are within 250 meters of each other.

(2) The affected emission points are of similar stack height, and any increase in emissions occur at the stack having the taller effective stack height, and any decrease in emissions occur at the stack having the lower effective stack height.

b. AQM is not required when ERCs representing VOC or NO_x are used.

2. Limited AQM Required.

Limited AQM will be necessary in cases where ERCs are used and:

a. Total emissions do not increase; and

b. The trade does not have a significant impact on air quality.

3. Full Scale Diffusion Modelling.

If scenarios 1 and 2 immediately above do not apply, then use of the EFCs will require diffusion modelling considering all sources in the impacted area. The modelling must show that the use of the ERC will not:

a. Create a new violation of the ambient air quality standards;

b. Interfere with reasonable further progress (RFP); or

c. Create a violation of a prevention of significant deterioration (PSD) increment.

Alternative Emission Standards (Bubbles)

1. Bubble Proposal. The owner of a source of the owner of two (2) or more sources may propose alternative emission standards for sources included in a bubble.

2. Total Allowable Emissions.

a. Total allowable emissions from bubbles excluded from the SIP revision process may not exceed the arithmetic sum of the baseline level of emissions.

b. Total allowable emissions from bubbles approved using the SIP revision process may exceed the sum of the baseline level of emissions.

3. The DNREP will incorporate alternative emission standards into operating permits for the affected sources.

4. Only sources which are in compliance with all applicable DNREP regulations may apply for alternative emission limits. Sources may commit to a schedule for complying with bubble standards in lieu of previous applicable standards.

Public Participation

The DNREP will provide public notification and opportunity for public comment on all applications for use of ERCs.

SIP Exemption Conditions

1. The DNREP will approve use of an ERC without using the formal SIP review process if:

a. The transaction involves VOC or NO_x;

b. Total actual emissions do not increase; and

c. All other requirements of 401 KAR 51:065 are met.

2. The DNREP will approve use of an ERC involving stack emissions without using the formal SIP review process if:

a. The proposal complies with all requirements of 401 KAR 51:055;

b. Total emissions do not increase;

c. Affected sources are included in the SIP emission inventory;

d. The proposal is exempted from modelling requirements as indicates under Air Quality Modelling (AQM) Requirements, Part 1, above; or the proposal involves sources whose combined total potential to emit is less than 100 TPY.

3. The DNREP will approve the use of an ERC involving fugitive emissions without using the formal SIP review process if:

a. Total actual emissions do not increase;

b. All applicable requirements of 401 KAR 51:055 are met;

c. Fugitive process emissions are traded against similar source emissions; and

d. Stack emissions are traded against fugitive emissions that can be reasonably represented by a stack emission dispersion pattern.

This concludes a brief description of the Kentucky's proposed regulation 401 KAR 51:055. EPA's review of the proposed regulation indicates that the following changes should be made before Kentucky officially adopts the regulation.

The preface to the regulation should be changed as follows:

1. The preface should refer to EPA's Bubble Policy of December 11, 1979 (44 FR 71779), and EPA's Emissions Trading Policy Statement of April 7, 1982 (47 FR 15076). The preface should cite each policy at least once.

2. Under the "bubbling" explanation in the preface:

a. The third paragraph indicates that EPA's approval of a State's "generic" regulation would then "* * * allow States to approve bubbles without going through the time consuming process of revising the SIP". The statement as written implies that after EPA aproval of a State's generic regulation the State may approve *all* bubbles without going through the SIP revision process. The statement should be revised to make it clear that some bubbles may have to be approved through the SIP revision process.

b. The first paragraph should be amended to indicate that more than one source may be included in a bubble.

The body of the regulation should be changed as follows:

1. Section 10(4) is inconsistent with Section 1. Section 1., Applicability, includes Clean Air Act section 111(d) pollutants fluoride (F), total reduced sulfur (TRS) and sulfuric acid mist; section 10(4) includes only "criteria" pollutants. EPA recommends that Kentucky delete the reference to section 111(d) pollutants. EPA will not take action on emission trades that include section 111(d) pollutants; such trades are not currently authorized by EPA emissions trading policy and raise possible implementation issues which require further examination.

2. Section 10(5) should include provisions that would not allow a source to exceed the National Emission Standards for Hazardous Air Pollutants (NESHAPS) as outlined in 40 CFR Part 61.

3. Section 11(5) is not approvable as written. The DNREP may choose to delete this section. If retained, section 11(5) should, at a minimum:

a. Specify the models (by name) that will be used in a given situation or the criteria for selecting the models;

b. Specify procedures for selecting input data; and

c. Require that the change in emissions after the trade does not have the potential to exceed the significance levels given in Appendix B to 401 KAR 51:055.

4. Section 14, Public Participation, should be revised to include use of bubbles where ERCs are not involved.

5. Section 16(3) (a) through (e) should be supported by the modelling information recommended in 3 above. A subsection (f) should be added to section 16(3), which explicitly indicates that open dust trades will not be exempt from the SIP revision process.

Action. Based on the foregoing, EPA is proposing to approve Kentucky regulation 401 KAR 51:055, Controlled Trading. This proposal to approve the regulation is based upon the understanding that Kentucky will make the necessary changes suggested above, and consider all comments received during the State and EPA comment periods.

Under 5. U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is "Major". It has been submitted

to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410)).

Dated: April 27, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-17359 Filed 6-25-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2110-6]

Approval and Promulgation of Implementation Plans; North Carolina: Revised SO_2 Emission Limits

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve, with specified exceptions, a revised sulfur dioxide (SO_2) emission limit for lightweight aggregate processes and other fuel burning installations in North Carolina. The North Carolina State Implementation Plan (SIP) approved in 1972 specified an SO_2 limit of 1.6 pounds per million British thermal units (#/MBTU) of heat input. North Carolina submitted revisions to the SIP on March 22, 1977, and additional information on January 11, 1982, relaxing the limit to 2.3 #/MBTU for all but 24 of the affected sources. These 24 sources will continue to be subject to the applicable 1.6 #/MBTU SO_2 limit. This change will have only a minor effect on ambient air quality and will not cause any violation of the SO_2 National Ambient Air Quality Standards (NAAQS). You are invited to submit written comments on EPA's proposal to approve these revisions in the North Carolina SIP.

DATE: Your comments must be received on or before July 28, 1982.

ADDRESSES: You may send comments to Raymond S. Gregory of EPA Region IV's Air Programs Branch (see EPA Region IV address below). You may examine copies of the materials submitted by North Carolina during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Division of Environmental Management, N.C. Dept of Natural Resources and Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Raymond S. Gregory of the EPA Region IV Air Programs Branch at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On March 22, 1977, North Carolina submitted to EPA SIP revisions changing the SO_2 emission limits in regulations 15 NCAC 2D .0511 and .0516. A public hearing was held on these revisions on December 8, 1976. They were made effective as of April 1, 1977, by the North Carolina Environmental Management Commission. The revisions removed the requirement that fuel burning sources of SO_2 reduce their emissions from 2.3 #/MBTU of heat input to 1.6 #/MBTU by July 1, 1980, as required by regulation .0516. In addition, the SO_2 limit for lightweight aggregate processes in regulation .0511 was relaxed from 1.6 to 2.3 #/MBTU.

The original requirement that emissions be reduced to 1.6 #/MBTU on July 1, 1980 is not needed, in most cases, to attain or maintain the SO_2 NAAQS. The original requirement was based upon a projection of plentiful amounts of cleaner fuels. The reduction in the availability of cleaner fuels in the late seventies caused North Carolina and other states to review their environmental regulations. Certain emission limits were found to be more stringent than necessary to attain and maintain the NAAQS. The regulations proposed today relax allowable emission limits of this type, but no actual increase in emissions is expected as a result of this action.

After review of the revisions submitted by North Carolina, EPA requested additional information. In response to EPA's request, North Carolina on January 11, 1982, submitted air quality dispersion modeling and related analyses of the impact of SO_2 emissions from the affected sources. The submittal identified 24 sources for which approval of the 2.3 # limit cannot be granted based upon the information submitted. The analyses showed that the NAAQS probably would not be protected if the following 24 sources were allowed to emit at the higher limit:

Source	County
Cannon Mills	Catawba.
Fiber Industries	Cleveland.
Pfizer	Brunswick.
Seymour-Johnson	Wayne.
Texasgulf	Beaufort.
Duke-Allen	Gaston.
Duke-Cliffside	Rutherford/ Cleveland.
Cranston Print Works	Henderson.
American Enka	Buncombe.
Dayco Southern	Haywood.
Olin Corporation	Transylvania.
Appalachian State Univ	Watauga.
Travenol Labs	McDowell.
Abs Waldensian, PSW Plant	Burke.
Valdese Manufacturing	Burke.
Essich General Chemical	Brunswick.
LSS Agrichem	Brunswick.
Hercofina	New Hanover.
Cannon Mills No. 1	Cabarrus.
Liggett & Meyers	Durham.
Burlington	Durham.
Dorothea Dix	Wake.
Reynolds-Whitaker Park	Forsyth.
Fiber Ind	Rowan.

North Carolina indicated in the submittal of additional information that the above-listed sources would be further analyzed. The purpose of the additional analyses will be to determine what emission limit will be necessary to assure maintenance of the NAAQS for sulfur dioxide.

Proposed Action

EPA today proposed to approve revisions to the North Carolina Air Quality Regulations 15 NCAC 2D .0511 and .0516 except for their application to the 24 sources listed above. These sources will continue to be subject to the 1.6#/MMBTU SO_2 standard pending further analysis.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: May 14, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-17360 Filed 6-25-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-4-FRL-2122-8]

Tennessee: Proposed 1979 Plan Revisions; Approval and Promulgation of Implementations Plans

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to conditionally approve the State Implementation Plan (SIP) revision submitted by the State of Tennessee for the Chattanooga-Hamilton County total suspended particulate (TSP) nonattainment area. This action is based on the State's submittal of a control strategy and regulations as required by Part D of Title I of the Clean Air Act (CAA) of 1977. An improvement in the air quality in Chattanooga-Hamilton County is expected from this action. The public is invited to submit written comments.

EFFECTIVE DATES: To be considered, comments must be received on or before July 28, 1982.

ADDRESSES: Written comments should be addressed to James L. Manning of EPA Region IV's Air Planning Section (see EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20406
Environmental Protection Agency, Region IV, Air Planning Section, 345 Courtland Street NE., Atlanta, Georgia 30365
Tennessee Air Pollution Control Division, 150 9th Avenue North, Nashville, Tennessee 37203
Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407.

FOR FURTHER INFORMATION CONTACT: James L. Manning of EPA Region IV's Air Planning Section 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: In the March 3, 1978, Federal Register (43 FR 8962 at 9035), a number of areas within the State of Tennessee were designated as not attaining certain national ambient air quality standards (NAAQS). Included in those areas was the portion of Hamilton County within, approximately, the city limits of Chattanooga which was designated as not attaining the primary ambient standard for total suspended particulates (TSP).

General Discussion

The implementation plan revision developed for this area by Tennessee's Department of Public Health under Part D of Title I of the CAA was submitted for EPA's approval on November 6, 1981. The revision has been reviewed by EPA in light of the CAA of 1977, EPA regulations, and additional guidance.

Section 172(b) of the Clean Air Act contains the minimum requirements for approval of Part D plans for designated nonattainment areas.

The Chattanooga-Hamilton County Air Pollution Control Board adopted these regulatory and non-regulatory SIP revisions following the required public hearings and participation. In preparing the plan, the Chattanooga-Hamilton County Air Pollution Control Bureau (Bureau) prepared an extensive inventory of air pollution sources in and impacting the nonattainment area. Using this data base, the primary source categories were modelled following EPA guidelines to determine their respective contribution to the ambient air concentrations. The Bureau then evaluated this information and proposed an attainment plan which would result in attainment of the TSP primary standard by December 31, 1982. The plan for attainment of the TSP secondary standard will require particulate controls on nontraditional sources, i.e., paved and unpaved roads, and the Bureau proposes to attain this standard by December 31, 1990.

The attainment plan for the primary standard calls for a reduction in ambient TSP concentrations by applying Reasonably Available Control Technology (RACT) to industrial point and process fugitive emission sources. These control measures are primarily in the form of mass and visible emission limits for the following major categories:

Rule:
- 26.2 Asphalt Concrete Plants
- 26.3 Ceramics Plants
- 26.4 Coke Plants
- 26.5 Concrete Batch Plants
- 26.6 Fuel Burning Equipment
- 26.7 Glass Manufacturing Plants
- 26.8 Grain Elevators
- 26.9 Incinerators
- 26.10 Liquid Alum Reactors
- 26.11 Material Handling Sources
- 26.12 Metal Melting Plants
- 26.13 Pharmaceutical Plants
- 26.14 (Reserved)
- 26.15 Rare Earth Plants
- 26.16 Rock Crushing and Quarry Operations
- 26.17 Synthetic Yarn Plants
- 26.18 Woodworking Plants
- 26.19 Dumping of Material from Control Equipment
- 26.20 Visible Emissions from Buildings

The regulations also require certain operation and maintenance activities, such as reluting leaking coke oven doors, to reduce emissions. Malfunctions of process or control equipment are specifically defined, along with procedures to be followed to minimize emissions when malfunctions occur. Reporting of malfunctions is required.

As required in Section 172(b) of the CAA, the plan also requires preconstruction review of proposed new or modified major sources before the issuance of a permit. Through emissions offsets and the application of Lowest Achievable Emission Rate (LAER), the plan provides for reasonable further progress towards attainment of the standard as new sources construct in the area.

For existing sources in and affecting the nonattainment area, the plan provides such options as emissions banking and alternate control plans to allow growth and expansion to occur without jeopardizing progress towards attainment. Each new emission rate established under either option must become part of the SIP in order to be a legally enforceable standard.

The Alternate Control Plan was included in this submittal even though it is not required under Section 172(b). The Plan describes the requirements and procedures for establishing an alternate emission rate. EPA expressed concern to Tennessee that the Plan does not restrict the trading of emissions that pose a significant health hazard against emissions of less harmful pollutants. The State gave EPA assurance that a clarification of policy is being issued by the Chattanooga-Hamilton County Air Pollution Control Bureau that would restrict such a trade. EPA agreed that would adversely resolve the question.

The revision submitted by Tennessee generally satisfies the requirements of Section 172(b) of the CAA except for a few areas which must be revised before EPA can fully approve this plan. The conditions for full approval are as follows:

1. The requirements of 40 CFR 51.18(j)(3)(ii) (b) through (g) and (j)(5) regarding source responsibilities and offset restrictions must be included in the new source review regulations.

2. The following terms must be defined:
   (a) Major modification
   (b) Allowable emissions
   (c) Actual emissions
   (d) Building, structure or facility
   (e) Begin actual construction

(f) Commence (as it applies to construction)

(g) Construction

(h) Reasonable Further Progress

The definitions must be equivalent to EPA's since they will be part new source review program.

3. All limitations and conditions, including permit restrictions, established under the authority of this Plan must be federally enforceable. This condition also requires the phrase "federally enforceable" to be defined in the Plan.

Note.—On February 22, 1982, EPA entered into a settlement agreement with industry petitioners in the Chemical Manufacturers Association litigation. In that agreement, EPA committed to propose regulatory amendments regarding this issue. Conforming amendments to this plan may not be necessary as a result of these proposed new source review regulatory changes. If the time period for adopting changes to this plan expires and EPA is in the process of revising the new source review requirements, but has not finalized the changes, the Administrator could extend the conditional approval date for this condition)

4. Chattanooga's definition of LAER is not consistent with the definition as contained in section 171 of the Clean Air Act. Conforming amendments and clarification of the definition must be submitted.

As previously stated, written comments must be received on or before July 28, 1982. A thirty-day comment period is being used because the SIP submission and the issues involved are not so complex as to warrant a longer comment period. At the close of the comment period, EPA will review all comments and publish a notice of final rulemaking.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Mangement and Budget (OMB) for review.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated April 22, 1982.

John A. Little,

Acting Regional Administrator.

[FR Doc. 82-17357 Filed 6-25-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 507

[General Order 39; Docket No. 82-31]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed removal of Part 507.

SUMMARY: This proposes to remove regulations that were designed to meet or adjust conditions unfavorable to shipping in the United States/Guatemalan trade resulting from a since repealed Guatemalan decree.

DATE: Comments on or before July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On December 8, 1977, the Commission, pursuant to its authority under section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), adopted regulations to offset the discriminatory effects of Guatemalan Decree No. 41-71 on United States foreign commerce (Docket No. 77-22). These regulations are set forth in Part 507 of Title 46 of the Code of Federal Regulations and were published in the **Federal Register** at 42 FR 62914. On January 18, 1978 the Commission suspended these regulations in response to the proposed repeal of Guatemalan Decree No. 41-71 (43 FR 3361). Because Decree No. 41-71 now appears to have been repealed by Guatemalan Decree No. 28-77, there is no longer any need for the regulations contained in Part 507.

List of Subjects in 46 CFR Part 507

Guatemala, Maritime carriers, Reporting requirements.

PART 507—[REMOVED]

Therefore it is proposed that, pursuant to 5 U.S.C. 553 and section 43, Shipping Act, 1916 (46 U.S.C. 841(a)) and section 19(1)(b), Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)), Part 507 of Title 46 of the Code of Federal Regulations be removed.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-17360 Filed 6-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 82-243]

Allocation of a Certain MHz Band to the Government and the Non-Government for Fixed Service Usage; Order Extending Time for Filing Comments and Replies

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Federal Communications Commission extends the comment period for the Notice of Proposed Rulemaking in Gen. Docket No. 82-243, concerning the allocation of a certain MHz band for fixed service usage. This action is in response to requests for an extension the Commission received from Motorola, Inc. and M/A-COM, Incorporated. The extension is being granted to provide additional time for the preparation of more thorough and comprehensive comments.

DATES: Comments must be submitted on or before August 20, 1982.

Reply comments must be submitted on or before September 17, 1982.

FOR FURTHER INFORMATION CONTACT: Melvin Murray, Office of Science and Technology, Spectrum Management Division, Spectrum Utilization Branch, Washington, D.C. 20554, (202) 653-8168; Room 7312.

In the matter of amendment of Part 2 of the Commission's rules to provide for an allocation of 6 MHz to the government and the non-government for fixed service usage Gen. Docket No. 82-243 (5-28-82; 47 FR 23491).

Order Extending Time for Filing Comments

Adopted: June 21, 1982.

Released: June 22, 1982.

1. On June 17, 1982, Motorola, Inc. and M/A-COM, Incorporated, pursuant to § 1.46 of the Commission's rules and regulations, 47 CFR 1.46, each filed a request to extend the time for filing comments in the above-captioned matter. Comment deadlines on the Notice of Proposed Rulemaking released by the Commission on May 10, 1982, were listed as June 24, 1982 for comments and July 9, 1982 for reply comments.

2. In its brief, Motorola requested an extension of six months for the comment period. It indicates that "a six-month extension would allow time for at least

a minimum evaluation of land mobile fixed service requirements, spectrum alternatives and spectrum management factors."

3. Motorola cites several on-going Commission rulemaking proceedings concerning the growth and future needs of the land mobile services. An evaluation of the findings from these, Motorola indicates, would enable it to provide comment on the instant proceeding.

4. It states that an evaluation of the needs of land mobile services for fixed operations in the 900 MHz band is desirable. Also, it needs additional time to consider spectrum management issues and responsibilities, technical compatibility, interference protection, eligibility, coordination methods, and procedures.

5. Further, Motorola cites the loss of 6 MHz paired spectrum if the proposal is adopted. It claims additional time would permit evaluation of other options which might avoid this problem. It also would like to analyze other bands above and below 800–900 MHz which might be able to satisfy NTIA's requirements.

6. Motorola, purports that a six-month extension "would not appear to have any significant detrimental impact on satisfying the federal government's expressed need for a fixed allocation. The NTIA requirement appears not to contain urgent or defense-related uses, nor is there equipment available in the proposed bands for immediate, wide spread system implementation."

7. M/A–COM has requested an extension of one month for filing comments. It claims it did not acquire a copy of the ERRATUM in this docket until June 15, 1982. While the Notice specified 932–935 MHz and 938–941 MHz as the bands proposed for allocation, the ERRATUM amended the proposed bands to 899–902 MHz and 938–941 MHz. It claims this is a significant change requiring additional time to analyze the technical specifications that would be appropriate for this new service.

8. Further, MA/–COM seeks to acquire technical comment from its subsidiary company, Microwave Communications Limited ("MCL") located in the United Kingdom. MCL produces multi-channel telephony equipment in the 900 MHz region for use in the United Kingdom and other European countries. It contends that an extension of time would permit the preparation of more thorough and comprehensive comments by MA/–COM and its UK subsidiary enabling the Commission to compile a more complete record. M/A–COM indicates that technical standards compatible with equipment now in production in foreign countries may well be the most expeditious way to meet the needs delineated in the *Notice*.

9. The Commission desires to develop the fullest record practicable in this proceeding that will enable it to structure policy and rules to govern the service being proposed. While each of Motorola's arguments is persuasive and the information that could be supplied may be beneficial for consideration, we, of course, must balance this request with our obligation to not unduly delay action on the instant proceeding. The Commission is convinced that a shorter extension would be appropriate and would allow M/A–COM, as well as other, to develop more thorough and comprehensive comments. In conclusion, we believe that granting an eight week extension for filing comments and an additional four weeks beyond that time for filing reply comments to be fair and reasonable.

10. Therefore, it is ordered, pursuant to § 0.241(d) of the Commission's rules and regulations, that the dates for filing comments and reply comments in this proceeding are extended from June 24, 1982 and July 9, 1982, respectively. Comments must now be filed on or before August 20, 1982; reply comments must now be filed on or before September 17, 1982.

Federal Communications Commission.

Robert S. Powers,

Deputy Chief Scientist.

[FR Doc. 82-17361 Filed 6-25-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173, 177, and 178

[Docket No. HM–183, Advance Notice No. 82–5]

Design, Maintenance, and Testing of MC–306 Cargo Tanks

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This publication invites comments on the feasibility of reducing the risk of unintentional release of liquid hazardous materials from MC–306 type cargo tanks in overturn accidents. The MC–306 type cargo tank is the major highway transport vehicle used for the movement of flammable and combustible liquids. The MC–306 type cargo tank category includes, for the purposes of this ANPRM, MC–300, MC–301, MC–302, MC–303 and MC–305 cargo tanks. Two reports prepared by Dynamic Science, Inc., Phoenix, Arizona, under contract to DOT, have shown that MC–306 type cargo tanks when used to transport flammable liquids, will release a substantial amount of product and present a significant fire risk when involved in overturn accidents. The Materials Transportation Bureau (MTB) and the Bureau of Motor Carrier Safety (BMCS), Federal Highway Administration, are examining the adequacy of existing regulations and the advisability of making regulatory changes on MC–306 type cargo tanks.

DATE: Comments must be received on or before October 20, 1982.

ADDRESS: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, DC. Office hours are 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: J. J. Fulnecky, Chief, Hazardous Materials Branch, Bureau of Motor Carrier Safety, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, (202)–426–0033 or 426–0034.

SUPPLEMENTARY INFORMATION: The MC–306 type cargo tank is the major highway transport vehicle used for the movement of flammable and combustible liquids. The MC–306 type cargo tank category includes MC–300, MC–301, MC–302, MC–303, and MC–305 cargo tanks. Statistics indicate that when this type cargo tank is in an accident, a high incidence of product leakage occurs in an overturn situation.

In a 1975 BMCS analysis of incident and accident reports resulted in a decision to formalize a "Tank Integrity Program." The program's main objective was to determine how cargo tank incident causation could be identified and mitigated. A two-phase program was undertaken to accomplish this objective. Phase I of the program called for a review of existing research and a thorough analysis of multi-source accident bases. The Phase II effort was to provide for crash testing of cargo tanks and was to be predicated on Phase I results.

A contract to perform Phase I was awarded to Dynamic Science, Inc., Phoenix, Arizona. The contractor

reviewed existing research and accident data, conducted field investigations and evaluated current specifications. The results of this review were inconclusive because the existing accident data were not sufficiently comprehensive. Accordingly, the contract was modified to have the contractor conduct tests to determine if the current tank designs provided adequate protection to prevent leakage of cargo in overturn situations. Three tests were performed to complete this task: (1) A static vertical guard loading test; (2) a static horizontal pipe loading test; and (3) a tipover test. These tests were conducted using MC–305 and MC–306 cargo tanks.

The static vertical guard loading test was conducted on a 1971 MC–306 cargo tank. Major leaks developed at all hatch cover vent/check valves, at one hatch cover seal, and at one discharge vent valve when the vehicle was rotated upside down with only 10 percent of the full load in the tank. After sealing these leaks, the actual vertical roof loading test was conducted at two times its load weight with no subsequent leakage or damage to the tank structure.

Static horizontal pipe loading tests were conducted on both a 1971 MC–306 and a 1966 MC–305 cargo tank. The pipe elbows failed at the shear section, as designed. A hairline crack developed at a weld on the MC–306 cargo tank resulting in a slight cargo leakage. The valves located upstream of the shear section on the MC–305 cargo tank were unseated and resulted in a major cargo release.

Tipover tests were also conducted on both the MC–305 and MC–306 cargo tanks. There was considerable damage to the MC–305 cargo tank shell but no leakage from it. All of the dome covers leaked, however, and some leaks approached a rate of 15 gallons per minute. The partitions between compartments appeared to have broken, thereby permitting mixing of compartment contents. Major damage occurred on the right front corner of the MC–306 cargo tank shell. A 4-inch weld split along the front bulkhead-to-shell-seam. This permitted cargo leakage at the rate of 60 gallons per minute. Leakage would have occurred from the vents and valves, if these openings had not been deliberately sealed. The compartment partitions also broke through in this test.

The results of the tipover tests indicate a need to improve the Specification MC–306 cargo tank standards to reduce the likelihood of leakage in overturn accidents. Particular attention must be given to leakage from valves, vents, and manhole covers.

For a more detailed description of testing procedures, results and recommendations, see "Analysis of Cargo Tank Integrity in Rollovers" (contract number DOT–FH–11–9193). This document is available to the public through the National Technical Information Service (NTIS), NTIS Accession No. PB 279506.

The results of the Phase I testing indicated that while there are certain integrity problems with the cargo tank shell, the primary source of product leakage was from cargo tank openings. It was determined that the problem of product leakage from cargo tank openings was an area which warranted immediate attention. Consequently, Phase II, which was to be primarily aimed at testing cargo tank integrity, was postponed and the effort was focused on the cargo tank opening problem.

The contract to perform Phase II was awarded to Dynamic Science, Inc., Phoenix, Arizona, in October 1978. The contract had four objectives: (1) To assess present maintenance practices and requalification requirements as they affect a cargo tank's continuing product retention capability; (2) to assess existing specifications for manhole covers, fill covers, and other product retention items and identify specific items which represent potential leakage points in overturn accidents; (3) develop test procedures and engineering drawings for a simulator capable of testing manhole covers and other product retention devices in overturn situations; and (4) develop enginering recommendations to improve cargo tank product retention capabilities that can be incorporated into the cargo tank specification and qualification requirements of the Department of Transportation.

In order to assess carrier maintenance practices, a survey of 10 geographically separated carriers was performed. The survey included both large and small operations of five common and five private carriers. The basic findings of the survey were: (1) very little maintenance is done on critical components such as manholes, high capacity vents and breather vents; (2) scheduled maintenance frequency was an extreme variable; (3) structural maintenance was reported to be the most difficult, but components provided the most maintenance problems; (4) manholes, valve operators, adapters, and internal valves were identified as the tank components that required the most attention, repair, and replacement effort; and (5) shop inspection and repair systems were formally established and well supported by internal files which revealed that most maintenance is directed to power units and cargo tank running gear.

The carrier survey revealed that those components requiring the most maintenance effort had little maintenance performed on them. Field and laboratory testing was used to identify those cargo tank components that would be involved in preventing leakage in overturn accidents. Sixty-one cargo tanks with a total of 187 compartments were tested. The tanks were pneumatically tested to satisfy the requirements of 49 CFR 177.824 except that the test pressure was limited to one (1) psi to prevent damage to the tank structure. The tests were performed with the internal valves open and then with the internal valves closed. These tests identified leaks for all compartment system components except breather vents which were made inoperative in the manner required by 49 CFR 177.824(d)(1)(ii) when pressure tests are required. The primary sources of leakage were the manhole assembly, internal valve, high capacity vent, liquid level sensor, weld and shell cracks, vapor recovery shroud, cleanout opening and discharge outlet, adapter and manifold. Approximately 80% of the total leaks had top sources and 20% had bottom sources. The majority of the leaks in the manhole assembly were in the filler cover, fusible plug and dome cover.

Since breather vents were rendered inoperative during the field tests, no performance data could be obtained. Breather vents are usually located in the manhole filler cover which has been identified as a primary leakage source in overturn accidents. It was, therefore, necessary to test them under representative overturn conditions in order to accomplish a complete cargo tank compartment evaluation. A total of 119 breather vents of 16 different types were tested. The average leakage through the vent device was determined to be a steady stream of between ¼ to ½ inch in diameter.

The field and laboratory testing provided data which indicated the sources from which leakage could be expected in cargo tank overturns. The static testing performed did not reveal the forces that accompany or induce leakage. Dynamic test data were necessary to determine the impact environment which produces leakage. To obtain the dynamic test data, a cargo tank compartment overturn simulator was designed and constructed. The simulator is capable of providing repeatable 90° and 180° tests without

sustaining structural deformation. Two series of tests were performed using the overturn simulator.

The first series of tests were performed in the 90° overturn mode. The tests showed that significant leakage occurred on initial impact. Generally, test fluid was released on impact through the pressure actuated vent in the filler assembly. In liquid spray form, the test fluid covered an area approximately 15 feet to either side and above the simulator and 15–18 feet ahead of the manhole cover. For this series of tests, the average peak pressure at the manhole on impact was 15.6 psig.

The second test series consisted of both 90° and 180° overturns and included a fire test. The test results for this test series were identical to those of the first test series for all manhole assemblies with pressure actuated vents in the filler cover. The fire test was in a 90° overturn simulation with gasoline as the test fluid. On impact, the gasoline formed the spray pattern described above and ignition occurred at 838 milliseconds after impact. The resulting fireball had a maximum height of 21.1 feet, a maximum depth of 11.8 feet and a maximum width of 20.6 feet. Average temperatures recorded during the four seconds after impact were 1217°F at the manhole and 325°F fifteen feet in front of the manhole.

A meeting was held on Febrruary 19–21, 1980, to brief industry representatives on program results and obtain their input on possible regulatory changes which would cover the production and repair of cargo tanks and maintenance and operation of cargo tanks. The twenty-five people attending this meeting represented cargo tank and tank component manufacturers, carriers, repair agencies and trade organizations. In general, there was concurrence in changes that would result in overall safety and uniform practices. There was mostly nonconcurrence of changes that would require new designs or increased technical performance characteristics.

For more detailed information on Phase II results and recommendations see "Cost-Effective Methods of Reducing Leakage Occurring in Overturns of Liquid Carrying Cargo Tanks" and "Reducing Leakage Occurring in Overturns of Liquid Carrying Cargo Tanks" (Contract number DOT–FH–11–9494). These documents are available to the public through the National Technical Information Service (NTIS), NTIS Nos. PB 82–199936 and PB 82–198243, respectively.

Comments are solicited concerning the views, findings and recommendations of the contractor in the reports on Phases I and II cited above.

In view of the foregoing discussion on MC–306 type cargo tanks, comments are solicited on the following questions:

1. What design performance changes in manhole closures and venting devices are necessary to achieve the overturn integrity now required for MC–306 type cargo tanks?

2. Can the existing MC–306 type cargo tank fleet be retrofitted with improved manhole assemblies (manhole closure with or without PAV) without requiring changes in conventional 16 and 20 inch openings in compartment structures? If yes, please provide an estimate of the cost of installation per compartment.

3. It is possible to remove pressure-actuated venting (PAV) from manhole fill covers?

4. Would a requirement for visual inspection prior to each loading applicable to manhole closures, vents, valves and piping improve the cargo retention capability of MC–306 type cargo tanks?

5. Should 49 CFR 177.824 be revised to require that MC–306 type cargo tanks be pressure (pneumatic or hydrostatic) tested? if so, at what intervals?

6. Please provide an estimate of the cost of visual inspection and a pressure test (pneumatic and hydrostatic) on a MC–306 type tank.

7. Are the skills required to test, inspect, and verify the intergrity of these cargo tanks within the capabilities of currently employed carrier maintenance personnel?

8. What methods are presently used by cargo tank manufacturers to ensure that component parts are in compliance with the applicable DOT regulations?

9. Should the scope of this Docket be expanded to address the design and construction of the MC–306 cargo tank in its entirety?

On September 15, 1982, the Hazardous Materials Advisory Council (HMAC) will conduct a meeting in St. Louis concerning the matters raised under this docket. The MTB and BMCS have agreed to participate fully in the meeting to discuss various aspects of the ANPRM and to respond to questions. Also a representative of Dynamic Sciences, Inc. will review and discuss the contract reports mentioned above. A transcript of the meeting will be placed in the public docket. Persons interested in attending the meeting should contact HMAC, Suite 908, 1100 17th Street, N.W., Washington, D.C. 20036, (202) 223–1271, for futher details.

List of Subjects

49 CFR Part 173

Harzardous materials transportation, Packaging and containers, Cargo tanks.

49 CFR Part 177

Hazardous materials transportation, Packaging and containers, Cargo tanks.

49 CFR Part 178

Hazardous materials transportation, Packaging and containers, Cargo tanks.

Issued in Washington, D.C., on June 18, 1982.

Alan L. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82–17338 Filed 6–25–82; 8:45 am]

BILLING CODE 4910–60–M

Notices

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 82-052]

Environmental Assessment to the Proposed Rule on Swine Health Protection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment of the detergents and disinfectants to be used under proposed 9 CFR Part 166, which would regulate the feeding of garbage to swine. This assessment indicates that use of these detergents and disinfectants will not cause any significant local, regional, or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI) it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

ADDRESS: A copy of this Environmental Assessment is available of examination during regular business hours (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) at the Swine and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: R. D. Good, Staff Veterinarian, Swine and Poultry Diseases Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8487.

SUPPLEMENTARY INFORMATION: The Environmental Assessment addresses the benefits and impacts of the use of detergents and disinfectants in connection with the licensed treatment of garbage to be fed to swine. Routine uses of these microbial disease destroying chemicals by industry and projected uses involving African Swine Fever (ASF) and other highly contagious foreign animal diseases is discussed. It has been determined by analysis of the severely restricted locations and ways in which these chemical compounds are used that there is no significant environmental impact. The assessment indicates that the use of these chemicals in accordance with the proposed regulations will have a minimal impact on the environment, as use of these detergents and disinfectants would be confined to premises licensed to heat treat garbage to be fed to swine. No endangered species of fish, wildlife, or plants, or any unique or rare resource would be affected by the use of the detergents and disinfectants as prescribed by the regulations in proposed 9 CFR Part 166. It has therefore been further determined that no environmental impact statement is required for the use of these disease destroying chemicals in this preventive disease program.

Done at Washington, D.C., this 22nd day of June 1982.

Floyd E. Smith,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-17386 Filed 6-25-82; 8:45 am]

BILLING CODE 3410-34-M

Commodity Credit Corporation

Study Committee To Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program; Meeting

Pursuant to the provisions of Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following committee meeting.

Name: Study Committee To Study Alternative Methods of Establishing Premiums and Discounts for the Upland Cotton Loan Program.

Date: September 1 and 2, 1982.

Place: U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 4960 South Building, Washington, D.C. 20250.

Time: 9 a.m.-4 p.m.

Purpose: To consider methods of establishing premiums and discounts for grade, staple and micronaire for 1983 and subsequent crops of upland cotton that will represent true relative market values and reflect actual market demand for upland cotton produced in the United States. The committee shall submit the results of the study to the Secretary at the earliest practicable date together with recommendations as the committee considers appropriate.

Agenda: The agenda will include consideration of methods of establishing premiums and discounts for the 1983 and subsequent crops.

The meeting will be open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before the meeting to the Chairman unless their participation is otherwise requested by the Committee Chairman. Written statements should be sent to Charles V. Cunningham, Acting Deputy Director, Analysis Division, ASCS, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013, telephone (202) 447-7954.

Signed at Washington, D.C. on June 23, 1982.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 82-17454 Filed 6-25-82; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

[Docket 40771]

American World Airways Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., June 22, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-17377 Filed 6-25-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Permits filed under Subpart Q of the Board's procedural regulations (see, 14 CFR 302.1701 et seq.). Week ended: June 18, 1982.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
June 14, 1982	40787	Hapag-Lloyd Fluggesellschaft mbH (Hapag-Lloyd Flug), c/o John M. Kriz, Windels, Marx, Davies & Ives, 51 West 51 Street, New York, New York 10019. Application of Hapag-Lloyd Flug pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit authorizing applicant to engage in charter foreign air transportation with respect to persons (and their accompanying baggage) and/or property, separately or in combination, between, *inter alia* points in the United States and points in the Federal Republic of Germany. Answers may be filed by July 12, 1982.
June 14, 1982	40788	Air Panama Internacional, S. A., c/o Dennis N. Barnes, 1600 M Street, N.W., Washington, D.C. 20036. Application of Air Panama Internacional, S. A. pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations for renewal of its foreign air carrier permit, most recently issued pursuant to Order 77-6-81 (Served June 16, 1977), authorizing it to engage in: a. Scheduled foreign air transportation of persons, property, and mail over the following routes: (1) Between a point or points in the Republic of Panama and the coterminal points Miami, Florida and New York, New York. (2) Between a point or points in the Republic of Panama, the intermediate point Mexico City, Mexico and the terminal point Los Angeles, California. b. On-route and off-route charter foreign air transportation of persons and property pursuant to Part 212 of the Board's Economic Regulations. Answers may be filed by July 12, 1982.
June 17, 1982	40791	Dominion Intercontinental Airlines, Inc., c/o Harry A. Bowen, Bowen & Atkin, Suite 350, 2020 K Street, N.W., Washington, D.C. 20006. Application of Dominion Intercontinental Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for permanent authority to engage in air transportation of persons, property, and mail a follows: a. Between any point in any State of the United States, or the District of Columbia, or any territory or possession of the United States, and a point or points in: Dominican Republic, Puerto Rico, Haiti, Jamaica, Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala, St. Thomas, St. Croix, Antigua, St. Maarten, Guadeloupe, Martinique, Barbados, Trinidad, Curacao, Aruba, Brazil, Argentina and Mexico. Conforming Applications, motions to modify scope, and Answers may be filed by July 15, 1982.
June 18, 1982	40795	Wien Air Alaska, Inc., c/o Ronald D. Eastman, Cadwalader, Wickersham & Taft, 1333 New Hampshire Ave., N.W. Suite 700, Washington, D.C. 20036. Application of Wien Air Alaska, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for cancellation of its certificate of public convenience and necessity for Route 126-F. That certificate authorizes Wien to provide foreign air transportation to Old Crow and Whitehorse, Yukon Territory, Canada. Answers may be filed by June 25, 1982.
June 18, 1982	40798	Four Seas Airlines, Inc., c/o Stephen A. Alterman, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036. Application of Four Seas Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment to its certificate of public convenience and necessity to engage in charter air transportation between any point in any state of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any state of the United States, or the District of Columbia, or any territory or possession of the United States. Requests that this certificate be amended to delete the September 22, 1982, termination date and thereby to leave Four Seas with an unrestricted certificate. Conforming Applications, motions to modify scope, and Answers may be filed by July 16, 1982.
June 18, 1982	40799	Four Seas Airlines, Inc., c/o Stephen A. Alterman, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036. Application of Four Seas Airlines, Inc. requests an amendment of its certificate of public convenience and necessity to engage in foreign charter air transportation pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, between the United States and certain enumerated countries. Requests that this certificate be amended to delete the September 22, 1982, termination date and thereby to leave Four Seas with an unrestricted certificate. Conforming Applications, motions to modify scope, and Answers may be filed by July 16, 1982.
June 18, 1982	40802	Aero West Airlines, Inc., c/o David P. Cimo, 12075 E. 45th Avenue, #503, Denver, Colorado 80239. Corrected Application of Aero West Airlines, Inc. pursuant to Order 82-5-86, providing additional information. Conforming Applications, motion to modify scope and Answers may be filed by July 16, 1982.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 82-17375 Filed 6-25-82; 8:45 am]
BILLING CODE 6320-01-M

[Order 82-6-120; Docket 40756]

Atlanta Express Airline Corp.; Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of June, 1982.

By application filed June 7, 1982, Atlanta Express Airline Corporation (ATLX) requests an exemption from the notice requirement of Order 79-1-111, January 18, 1979, to the extent necessary to permit it to participate immediately in the mandatory joint fare system.[1]

In support of its application, ATLX states, *inter alia*, that (1) it commenced scheduled passenger service as a commuter carrier on May 15, 1982, after receiving fitness approval from us and the Federal Aviation Administration; (2) it published a tariff effective May 8, 1982, containing its joint fare construction factors for use under the mandatory joint fare system;[2] (3) it had now taken all of the steps necessary to become a participant in the mandatory joint fare system; (4) on June 4, it was informally advised by Board staff that Ordering Paragraph No. 7 of Order 79-1-111 required it to give 90-days notice to the Board and all certificated carriers of its participation in the mandatory Joint Fare program; (5) it immediately gave notice (Docket 34188, June 4, 1982), and seeks exemption relief to advance the effectiveness of its notice to enable it to participate immediately in the mandatory joint fare system; (6) the public interest is best served by waiving the 90-day notice requirement and permitting it to participate in the mandatory joint fare system now; (7) the beneficiary of this waiver is the interline passenger on ATLX's system who will immediately reap the benefit of lower joint fares for interline trips rather than being compelled to wait 90 days for those benefits; (8) should it be denied this request it will be deprived of the

[1] ATLX further requests that we act on this application under Rule 410 without awaiting answers. In view of the fact that the time for answers has passed, we will dismiss the request as moot.

[2] Rule No. 165 of C.A.B. No. 352.

equitable division of joint fares which we, with Congressional approval, have mandated for all certificated and commuter carriers; (9) such a denial would place ATLX at a competitive disadvantage *vis-a-vis* other carriers offering joint fares in ATLX's markets; and (10) it can perceive no harm to other cognizable interest in giving it immediate access to a system which both Congress and we have decided should be open to commuters.

Waiver of the 90-day notice requirement in this case should not represent an undue burden on carrier management and has the potential to benefit the public. Therefore, we find that the request is consistent with the public interest, and should be approved.

Accordingly, pursuant to 14 CFR 298.11 of our regulations and sections 204, 403, and 404 of the Federal Aviation Act of 1958, as amended:

1. We exempt Atlanta Express Airline Corporation from the Notice Requirement of Order 79–1–111 and dismiss its request for waiver of Rule 410;

2. We shall serve a copy of this order upon all certificated air carriers; and

3. We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–17374 Filed 6–25–82; 8:45 am]

BILLING CODE 6320–01–M

CAB-Industry Advisory Committee on Aviation Mobilization; Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776, U.S.C. App) the Chairman of the Civil Aeronautics Board has renewed the CAB-Industry Advisory Committee on Aviation Mobilization for an additional period of two years ending June 30, 1984.

The Committee's charter is unchanged. A copy has been filed with the Library of Congress, pursuant to section 9(c) of the Act.

Dated at Washington, D.C., June 22, 1982.

Joseph F. Laufer,

Chairman, CAB Industry Advisory Committee on Aviation Mobilization.

[FR Doc. 82–17376 Filed 6–25–82; 8:45 am]

BILLING CODE 6320–01–M

Intra-Hawaii Service; Order Concerning Mail Rates

Order 82–6–117, June 21, 1982, Docket 40751, establishes increased intra-Hawaii service mail rates for the period July 1 through December 31, 1982.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–17376 Filed 6–25–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket No. 40639]

Aeroamerica Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on July 8, 1982, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Domestic Aviation will circulate its material on or before June 23, 1982, and the other parties on or before July 1, 1982. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., June 22, 1982.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 82–17379 Filed 6–25–82; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on August 16, 1982, at the Connecticut AFL–CIO Conference Room, 9 Washington Avenue, Hamden, Connecticut, 06518. The purpose of this meeting will be to review the revised draft of the report on *Governmental Response to Racially and Religiously Motivated Violence and Vandalism* and discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Richard M. Brown, 151 Farmington Avenue, Hartford, Connecticut 06156, (203) 273–6389 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts, 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D C., June 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–17452 Filed 6–25–82; 8:45 am]

BILLING CODE 6335–01–M

West Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the West Virginia Advisory Committee to the Commission will convene at 12:30 p.m. and will end at 3:30 p.m., on July 22, 1982, at the Heart-O-Town Holiday Inn, Washington and Broad Streets, in the Commissioners Room, Charleston, West Virginia, 25301. The purpose of this meeting is to discuss activities for the remainder of Fiscal Year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Donald L. Pitts, 416 South Fayette, Beckley, West Virginia, 25801, (304) 242–5309 or the Mid-Atlantic Regional Office, 2120 L Street, NW., Room 510, Washington, D C., 20037, (202) 254–6670.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D C., June 23, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–17453 Filed 6–25–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Sheet Pilings From Canada; Antidumping Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

[3] All Members concurred.

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We have preliminarily determined that there is a reasonable basis to believe that sheet pilings from Canada are being, or are likely to be, sold in the United States at less than fair value. Therefore, we have directed the U.S. Customs Service to suspend the liquidation of all entries of this merchandise. A cash deposit or bond in an amount equal to the estimated dumping margin, applicable to each manufacturer investigated, will be required at the time of each entry, or withdrawal from warehouse, for consumption in the United States. We are notifying the United States International Trade Commission of this determination.

If the investigation proceeds normally, we will make our final determination not later than September 7, 1982.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Hudak, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230 or (202) 377–3530.

SUPPLEMENTARY INFORMATION: On November 24, 1981, the Department of Commerce published a notice (46 FR 57586–57587) announcing that, on the basis of information developed under the "Trigger Price Mechanism" (TPM) for steel mill products, we were self-initiating an antidumping investigation to determine whether imports of sheet pilings from Canada are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the "Act"). The TPM was a monitoring device used by the Department of Commerce to determine those basic steel mill products most likely to be sold at less than fair value in the United States. In accordance with section 731(b) of the Act, we notified the U.S. International Trade Commission (ITC) of our action.

On January 6, 1982, the ITC found that there is a reasonable indication that imports of sheet pilings from Canada are materially injuring, or threatening to materially injure, a U.S. industry. The ITC published its determination in the Federal Register on January 20, 1982.

On April 16, 1982, the Department published a notice announcing that the preliminary determination was being postponed from May 3, 1982, to no later than June 22, 1982 (47 FR 16366).

Scope of the Investigation

For purposes of this investigation the term "sheet piling" covers sheet piling of iron or steel currently provided for in items 609.9600 and 609.9800 of the *Tariff Schedules of the United States Annotated.* Sheet pilings are shapes having interlocking joints on both edges to permit being driven, side by side, to form a continuous wall.

We investigated sheet piling sales made by Acier Casteel, Inc. and by Brockhouse Canada Limited during the period June 1, 1981 through November 30, 1981. We know of no other Canadian producers of sheet piling.

Methodology of Fair Value Comparisons

To calculate fair value, we compared the United States price with the foreign market value.

United States Price

Both Canadian producers sold sheet piling directly to unrelated U.S. importers. Since prices to the unrelated United States importers were agreed to before the sheet piling was imported into the United States, we used purchase price as provided in section 772(b) of the Act as the United States price for both firms investigated. We calculated purchase prices on the basis of ex-factory prices to unrelated U.S. importers. We made deductions, where applicable, for rebates, shipping, and Customs duty and brokerage charges. We also made deductions for shipping charges absorbed by Acier Casteel, Inc.

Foreign Market Value

There were sufficient sales in the home market to allow us to use home market price as defined in section 773(a)(1)(A) of the Act to determine foreign market value.

We calculated home market prices on the basis of ex-factory prices to unrelated home market customers. Where appropriate, we deducted rebates and shipping charges. We made deductions for shipping charges absorbed by Acier Casteel.

Acier Casteel claimed an adjustment to foreign market value for differences in physical characteristics of the merchandise for higher raw material costs. Hot-rolled coils purchased for use in the production of sheet piling for the Canadian market carried an extra charge for "sulphide shape control." This extra was purchased by Acier Casteel to alleviate a problem with cracking in the piling interlock. The sulphide shape control entails the addition of certain chemicals which ensure that the sulphide inclusions in the steel take the proper shape and composition when the steel is solidifying and during subsequent hot-rolling. This allows the steel to flow and reduces cracking in the piling interlock, thus resulting in a physical difference in the merchandise. We verified the amounts claimed and allowed the adjustment for raw material costs.

Acier Casteel made an additional claim for differences in physical merchandise based on differences in production costs. This claim consists of the following elements: (1) Costs for tension and bend tests incurred on home market piling and performed by an independent testing laboratory, (2) production line downtime and increased scrappage resulting from the requirement that tension test sample cuts be taken on the finished product, and (3) slower production line operating speeds due to greater hardness of home market piling.

The costs associated with items 1 and 2 above do not qualify as an adjustment for differences in physical characteristics in accordance with 19 CFR 353.16 because testing costs are not allowable adjustments for differences in physical characteristics. Even if we were to consider these costs as a circumstance of sale adjustment no adjustment would be made based upon information presently available.

We have also disallowed the claim for costs associated with item 3 as a difference in physical merchandise. We were not able to verify that Acier Casteel incurred slower production line operating speeds on home market production, nor were we able to verify that there is a difference in hardness between U.S. and Canadian piling.

Acier Casteel claimed a circumstance of sale adjustment for technical services provided in the home market. This claim consists of fixed costs such as salaries for salesmen and support staff and variable costs incurred while visiting specific customers. Acier Casteel requested an allocation of the fixed costs to all home market sales during the period of investigation and they attempted to relate the variable costs to specific sales. This claim was disallowed because these costs are not technical expenses. They are general selling expenses incurred in gaining market acceptability for sheet piling and are not specifically related to the particular sales under consideration, as required by 19 CFR 353.15(a).

Brockhouse Canada, Limited, requested an adjustment for Canadian marketing and administration costs. This claim was composed of an allocation of the total cost of the salesman's salaries, costs associated with production of sheet piling

brochures, and the cost of sheet piling advertisements in Canadain construction and yachting publications.

We disallowed the adjustment for salesmen's salaries because these are general selling expenses, and do not bear a direct relationship to specific sales under consideration in accordance with 19 CFR 353.15(a). We disallowed the cost of producing the sheet piling brochures because the brochures are available for distribution in both the U.S. and Canada. We allowed the advertising expense adjustment because the advertisements were placed in Canadian publications directed at end users and as such represent an assumption by the seller of a purchaser's costs, in accordance with 19 CFR 353.15(a).

Verification

We verified, to the extent possible, all information used in making this preliminary determination. We were granted access to the books and records of both Canadian manufacturers investigated. We used standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents containing revelevant information.

Preliminary Results of Investigation

We made fair value comparisons on 91 percent of the total sales to the United States made by the two manufacturers under investigation. We found margins on 72 percent of the sales. The margins ranged from .01 to 5.4 percent. The overall weighted average margin on all sales compared is 1.9 percent. On a firm by firm basis, the results for the purposes of this determination are as follows:

Manufacturers	Percent of sales compared	Percent of comparisons with dumping margins	Percent weighted average margin on all sales compared
Acier Casteel, Inc.	86	70	2.07
Brockhouse Canada, Ltd.	100	14	.7

Suspension of Liquidation

In accordance with section 733(d) (1) and (2) of the Act, we are directing the U.S. Customs Service to suspend the liquidation of all entries of sheet piling from Canada, which are entered into the United States, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. As of that date, a cash deposit or bond must be posted for all entries of sheet piling, from Canada in the amount of the weighted average margin of the FOB price for the firms investigated. The weighted average margin for Acier Casteel is 2.07 percent. The weighted average margin for Brockhouse Canada, Limited is .7 percent.

ITC Notification

We are notifying the U.S. International Trade Commission of this action. We will allow the ITC access to all privileged and confidential information in our files, provided it conforms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

If requested, we will hold a public hearing to afford interested parties an opportunity to comment orally on this preliminary determination. If requested, this hearing will be scheduled for 10:00 a.m. on July 20, 1982, U.S. Department of Commerce, Room 3104, 14th Street and Constitution Avenue, N.W., Wasington, D.C. 20230.

Any request for a hearing must be submitted within 10 days of this notice's publication to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the same address shown above. They should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, if a hearing is requested, prehearing briefs must be submitted to the Deputy Assistant Secretary by July 13, 1982. Oral presentations will be limited to the issues raised in the briefs. Any written views shoud be filed in accordance with (19 CFR 353.46(a)), at the above address, in at least ten copies, on or before July 28, 1982.

This determination is published in accordance with § 353.39, Commerce Regulations (19 CFR 353.39).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 22, 1982.

[FR Doc. 82-17435 Filed 6-25-82; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[No. 317 (P6C)]

Modification of Permit

On May 17, 1982 Notice was published in the **Federal Register** (47 FR 21118) that the National Zoological Park, Smithsonian Institution requested a modification to Permit No. 317 issued on February 13, 1981, as modified on August 12, 1981 (46 FR 41545). Notice is hereby given that Permit No. 317 is modified as follows:

Section A–2 is changed to read as follows:

"2. Specimen material from up to 100 gray seals (*Halichoerus grypus*) which are taken by the Government of the United Kingdom may be imported."

Section B–1 is changed to read as follows:

"1. The authorized activities shall be conducted by the means and for the purposes set forth in the application and documents submitted in the modification."

This modification is effective June 28, 1982.

The permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: June 21, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-17444 Filed 6-25-82; 8:45 am]
BILLING CODE 3510-22-M

Issuance of Permit To Take Endangered Species

On May 11, 1982, Notice was published in the **Federal Register** (47 FR 20175), that an application had been filed with the National Marine Fisheries Service by LGL Alaska Research Associates, Inc., P.O. Box 80607, Fairbanks, Alaska 99708 for a Scientific Research and Scientific Purposes Permit to take up to 525 gray whales by harassment.

Notice is hereby given that on June 22, 1982, the National Marine Fisheries Service issued a Scientific Research and Scientific Purposes Permit as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), to LGL Alaska Research Associates, Inc., subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: June 22, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species National Marine Fisheries Service.

[FR Doc. 82-17446 Filed 6-25-82; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

New Orleans Commodity Exchange; Corn Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The New Orleans Commodity Exchange ("NOCE") has applied for designation as a contract market in corn. The Commodity Futures Trading Commission (the "Commission") has determined that the terms and conditions of the proposed futures contract are of major economic significance and that, accordingly, making the proposed contracts available for public inspection and comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before August 27, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the NOCE corn futures contract.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION: A copy of the terms and conditions of the NOCE proposed corn futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the NOCE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for inspection of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the NOCE in support of its application, should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by August 27, 1982. Such comment letters will be publicly available except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on June 23, 1981.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-17447 Filed 6-25-82; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 82-3]

Robertshaw Controls Co., a Corporation; Publication of Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Consumer Product Safety Act.

SUMMARY: Under Provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR Part 1025, 45 FR 29206), the Consumer Product Safety Commission must publish in the Federal Register Complaints which it issues under the Consumer Product Safety Act. Printed below is a Complaint in the matter of Robertshaw Controls Company, a corporation.

SUPPLEMENTARY INFORMATION:

Nature of Proceedings

1. This is an Adjudicative Proceeding under the Consumer Product Safety Commission ("Commission") Rules of Practice for Adjudicative Proceedings, 16 CFR 1025, for the assessment of a civil penalty against Robertshaw Controls Company ("Robertshaw" or "Respondent") in the sum of five hundred thousand dollars ($500,000) pursuant to section 20 of the Consumer Product Safety Act ("the Act" or "CPSA"), 15 U.S.C. 2051, 2069.

Respondent

2. Robertshaw is a Delaware corporation with executive offices located at 1701 Byrd Avenue, Richmond, Virginia 23261.

3. The Respondent is a manufacturer as the term "manufacturer" is defined in section 3(a)(4) of the CPSA, 15 U.S.C. 2052(a)(4).

Consumer Product

4. During the period from December 1954 through March 1957, Robertshaw manufactured various products including gas water heater controls, identified as the Unitrol 110 and Unitrol 200 (hereinafter referred to, collectively, as "the Unitrol").

5. The Unitrol was distributed in commerce within the meaning of section 3(a)(12) of the CPSA, 15 U.S.C. 2052(a)(12), and is a "consumer product" within the meaning of section 3(a)(1) of the Act, 15 U.S.C. 2052(a)(1).

Defect

6. The defect is present in Unitrol controls installed in water heaters using liquid petroleum gas. When the pilot is extinguished for any reason in such an appliance, the automatic pilot function of the Unitrol can, under certain conditions, fail to operate as intended, by failing to stop the continuing flow of unburned gas to the main burner of the water heater, thereby creating a fire and explosion hazard. The Unitrol, therefore, contains a defect which could create a substantial product hazard within the meaning of section 15(a)(2) of the Act, 15 U.S.C. 2064(a)(2).

7. Approximately 312,500 Unitrols containing the defect were installed on liquid petroleum gas water heaters.

Violation

8. Prior to May 14, 1973, the date the Commission was activated, Robertshaw had knowledge of numerous fatalities and serious injuries caused by the defect in the Unitrol. On or about May 25, 1973, July 5, 1973, February 22, 1974 and March 4, 1974, Robertshaw learned of additional fatalities and serious injuries allegedly caused by the defect in the Unitrol. Therefore, after the effective date of the Commission, the Respondent had obtained information which reasonably supported the conclusion that the Unitrol contained a defect which could create a substantial product hazard.

9. On April 18 and April 19, 1974, pursuant to section 15(b) of the Act, 15 U.S.C. 2064(b)(2), and the Commission's regulations for substantial product hazard notifications, 16 CFR 1115, Robertshaw reported certain information concerning the defect to the Commission, including information that, after May 14, 1973, Robertshaw had been informed of one fatality and one injury possibly connected with the defect in the Unitrol. Such information was incomplete and misled the Commission as to the severity of the hazard, in that Robertshaw did not inform the Commission of all the information required to be reported pursuant to section 15(b) and 16 CFR 1115 including information that, prior to April 18, 1974, there had been approximately 47 deaths and 93 injuries associated with the defect in the Unitrol.

10. After April 19, 1974, the Respondent learned of additional fatalities and serious injuries caused by the defect in the Unitrol, but failed to immediately inform the Commission concerning such additional fatalities and serious injuries pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b)(2).

11. The Commission was not adequately informed concerning the defect until August 19, 1980, when Robertshaw responded to a Commission request to verify a report received from a third party that more deaths and serious injuries had resulted from the defect in the Unitrol than the Commission had previously been led to believe, and to provide other relevant information.

12. By failing to adequately inform the Commission concerning the defect on April 18 and April 19, 1974, and by failing to immediately inform the Commission of all additional fatalities and serious injuries caused by the defect after April 19, 1974, Robertshaw knowingly engaged in acts prohibited under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), and is therefore subject to civil penalties for each and every violation of the Act pursuant to section 20 of the CPSA, 15 U.S.C. 2069.

Relief Sought

Wherefore, the staff of the Consumer Product Safety Commission, after having considered the statutory factors specified in section 20(b) of the Act, 15 U.S.C. 2069(b), believes that the following relief is in the public interest, and requests that such relief be granted after affording interested persons an opportunity for a hearing:

1. That Robertshaw Controls Company be assessed a civil penalty pursuant to section 20(a)(1) of the CPSA, 15 U.S.C. 2069(a)(1), in the amount of five hundred thousand dollars ($500,000), for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

2. That such other and further relief be granted as deemed necessary and proper.

Dated: June 16, 1982.

David Schmeltzer,

Associate Executive Director for Compliance and Administrative Litigation.

List and Summary of Documentary Evidence Supporting the Charges

A list and summary of documentary evidence supporting the charges contained in the Complaint issued in this matter is provided herewith pursuant to section 1025.11 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.11. Complaint Counsel reserves the right to offer additional evidence during the course of the proceeding.

1. Consumer Product Safety Commission "Fact Sheet."

This document records Robertshaw's April 18, 1974, report by telephone to the Commission staff concerning a defect in the Unitrol control.

2. Letter dated April 19, 1974, from Robertshaw to the Commission staff.

This document confirms in writing Robertshaw's April 18, 1974, oral report to the Commission, concerning the defect in the Unitrol.

3. Letter dated May 10, 1974, from Robertshaw to the Commission staff.

This document contains additional information concerning the report filed by Robertshaw on April 18, 1974. This letter together with the correspondence of April 19, 1974, and the information conveyed by telephone on April 18, 1974, purport to represent compliance by Robertshaw with the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b)(2).

4. Letter dated August 19, 1980, from Robertshaw to the Commission staff.

This letter purports to provide full information concerning the defect in the Unitrol including information not provided in the 1974 report. An attachment to this letter is a computer run of liability claims and lawsuits involving persons injured in explosions caused by the defect in the Unitrol.

Dated: June 21, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-17434 Filed 6-25-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 3, 1982.

The USAF Scientific Advisory Board Armament Division Advisory Group will hold a meeting on August 26 and 27 1982 from 8:00 am until 4:30 pm each day at the Armament Division Eglin AFB, Florida, in Building 1, Room 204.

The group will receive classified briefings and participate in classified discussions relating to Air Force Armament Programs for air-to-air and air-to-ground munitions.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-17385 Filed 6-25-82; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

List of Nationally Recognized Accrediting Agencies and Associations

Correction

In FR Doc. 82-15942, appearing at page 25563, in the issue of Monday, June 14, 1982, make the following changes:

1. On page 25565, the first column, the first and second lines should read,

"Osteopathic Medicine

American Osteopathic Association"

2. On page 25565, the first column, the fourth line under the heading Public Health, change "and" to "of".

BILLING CODE 1505-01-M

Privacy Act of 1974; Report of New Routine Uses

AGENCY: Education Department.

ACTION: New routine use amendments to systems of records.

SUMMARY: The Department of Education establishes a new routine use, under the authority of 5 U.S.C. 552a(e)(11), as amended, applicable to most of the Department's student financial assistance systems of records. The new routine use will allow the Department to conduct a matching program consistent with the Office of Management and Budget's Guidelines for the Conduct of Computer Matching Programs and Circular A-108. This matching program will aid in the collection of funds due the Department under student loans and grants. The Department will take comments on the new routine use and, if a change is warranted, will publish any change in the **Federal Register**.

DATES: This routine use shall become effective on July 28, 1982. The Department will consider comments on the new routine use received on or before July 28, 1982.

ADDRESS: Comments should be addressed to Robert F. Raspen, or James DeAguiar, Office of the Inspector General, Department of Education, (Switzer Building, Room 4200, Mail Stop 2411), 400 Maryland Avenue, SW., Washington, D.C. 20202. Comments received will be available for public inspection in Room 4200, Switzer Building, 330 C Street, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Jack L. Billings, Office of Assistant Secretary for Public Affairs, Department of Education, Room 2089, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–8601.

SUPPLEMENTARY INFORMATION: The Department of Education's Office of the Inspector General, in coordination with other Federal agencies, plans to conduct a "matching program" entitled "Federal Employees Receiving Government Assistance" as part of the Department of Education's participation in a President's Council on Integrity and Efficiency project. A "matching program" is a procedure involving the use of a computer to compare a substantial number of records in a Federal system of records with records in one or more other systems of records. Under the Department of Education's matching program, the Department will compare information in the student financial assistance system of records with information contained in other federal systems of records or with non-federal personal records. The goal of this matching program is to reduce the amount of outstanding debt owed to the Department of Education by individuals as a result of their participation in student financial assistance programs.

Since student financial assistance systems of records do not presently contain routine use statements that meet OMB guidelines for computer match operations, a new routine use statement must be added in order to use information generated by the matches. A "routine use" means the disclosure of a record for a purpose which is compatible with the purpose for which the record was collected. The purpose of this proposed routine use is to permit the release of information to verify the identity of the individual, determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, or locate a delinquent or defaulted borrower. The Department of Education has determined that release of information for this purpose is a necessary and proper use of information in these systems of records, and that a specific routine use for transfer of this information is appropriate. Any interested party may submit written comments regarding this proposal. To be considered, comments must be received on or before July 28, 1982.

For a fuller understanding of how this new routine use will affect the systems of records to which it is being added, a review of the full systems notices may be helpful. The Department of Education last published its systems notices in the **Federal Register** on June 2, 1981 at 46 FR 29596–29660 and April 20, 1982 at 47 FR 16828–16836.

Accordingly, the Department of Education proposes to add an additional routine use as indicated in the following systems of records notice.

(Catalog of Federal Domestic Assistance No.—not applicable)

Dated: June 22, 1982.

T. H. Bell,

Secretary of Education.

New Routine Use for Notice of Systems of Records

1. The Department of Education adds a new routine use, to the systems of records listed below.

System Numbers and Names

18–40–0010 Law Enforcement Education System
18–40–0012 Migration & Refugee Assistance Act of 1962—U.S. Loan Program for Cuban Students
18–40–0013 National Defense Direct Student Loan Program—Request for Cancellation of Loan on Ground of Permanent and Total Disability
18–40–0014 Pell Grant Application File
18–40–0015 Pell Grant Student Eligibility Report Sub-System
18–40–0016 Pell Grant Alternate Disbursement System
18–40–0017 Student Financial Assistance Validation File
18–40–0021 Student Financial Assistance Compliance Files
18–40–0022 Student Financial Assistance Complaint Files
18–40–0023 Defaulted Guaranteed Loans Submitted to Justice
18–40–0024 Guaranteed Loan Program—Loan Application File
18–40–0025 NDSL Student Loan Files
18–40–0026 Guaranteed Loan Program—Paid Claims File
18–40–0027 Guaranteed Loan Program—Claims and Collections Master File
18–40–0028 Guaranteed Loan Program—Collection Letters
18–40–0029 Guaranteed Loan Program—Inactive Loan Control Master File
18–40–0030 Guaranteed Loan Program—Loan Control Master File
18–40–0031 Guaranteed Loan Program—Pre-Claims Assistance
18–40–0044 Guaranteed Loan Program—Insurance Claim File
18–40–0045 Student Financial Assistance Collection Files

* * * * *

2. The new routine use, which is added to the systems of records listed above reads as follows:

Routine Uses of Records Maintained in the System Including Categories of Users and the Purposes of Such Uses

* * * * *

Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application or participation in any grant or loan program administered by the Department of Education. Purposes of these disclosures may be to determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit the servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

[FR Doc. 82–17301 Filed 6–25–82; 8:45 am]
BILLING CODE 4000–01–M

Office of Postsecondary Education

Training Program for Special Programs Staff and Leadership Personnel; Application Notice for New Awards for Fiscal Year 1982

Applications are invited for new awards under the Training Program for Special Programs Staff and Leadership Personnel.

Authority for this program is contained in sections 417A and 417F of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d, 1070d–1d)

The Secretary is authorized to make grants under this program to institutions of higher education and other public and private nonprofit institutions and organizations.

The purpose of the grant awards is to improve the operation of the Special Programs for Students from Disadvantaged Backgrounds (Educational Opportunity Centers,

Talent Search, Upward Bound, and Special Services for Disadvantaged Students) by providing training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

Closing Date for Transmittal of Applications: An application for a training grant must be mailed or hand delivered by August 12, 1982.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.103 (Training Program for Special Programs Staff and Leadership Personnel), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commerical carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered mail or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Secretary is accepting applications for one year of funding to support a variety of training projects that respond to the training needs and priorities of the Special Programs staff and leadership personnel. Such training projects may include conferences, internships, seminars, and workshops.

An applicant may submit more than one application for funding under this program, and the Secretary strongly urges that separate applications be submitted for separate proposed training activities.

In the selection of training projects, the Secretary will be influenced by the need for training in various regions of the Nation, including the noncontiguous States and territories, in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by the Special Programs for Students from Disadvantaged Backgrounds.

The applications for new awards will be evaluated competitively under the selection criteria for new awards, 34 CFR 642.31, published in the **Federal Register** on April 23, 1982, 47 FR 17786–17790. In addition, applicants that have been funded within the previous three years to operate a Training Program project for Special Programs staff and leadership personnel will be evaluated on the basis of their prior experience. The prior experience section of the application will be accepted on the basis of the regulations published in the **Federal Register** on June 8, 1982, 47 FR 24938–24945.

Suggested Activities for Fiscal Year 1982: The Secretary encourages applications for the following activities under the Training Program for Special Programs Staff and Leadership Personnel in Fiscal Year 1982:

(1) Regional workshops for new Special Programs project directors (2 years or less in their current positions) to improve their skills in administering a Special Programs project;

(2) Seminars to enhance the skills and knowledge of counselors who counsel adult learners, persons with physical handicaps, and/or veterans;

(3) Short-term seminars or work-shops for experienced project directors in: (a) Institutionalizing project services, (b) developing alternative funding sources, (c) improving project evaluation, and (d) making maximum use of computers to improve instructional and counseling components of Special Programs projects; and

(4) Internships to provide opportunities for persons preparing for employment in Special Programs projects to spend a residency period at a project under the tutelage of an experienced project director.

The Secretary will consider applications for Training Program projects other than in those areas noted above if the applicants addresses other significant training needs in the local area being served by the Special Programs.

Available Funds: There is authorized $960,000 for approximately ten (10) new awards under the Training Program for Special Programs Staff and Leadership Personnel in Fiscal Year 1982. Awards are expected to range in size between $10,000 and $200,000.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by June 28, 1982. Application packages may be obtained by contacting the Division of Student Services, Information Systems and Program Support Branch, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone 202–245–7070.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary suggests that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further suggests that only the information required by the application form be submitted.

Applicable Regulations: Regulations applicable to this program are:

(a) Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations governing the Training Program for Special Program Staff and Leadership Personnel (34 CFR Part 642) which were published in the **Federal Register** on April 23, 1982, 47 FR 17786–17790, and amended on 47 FR 24938, June 8, 1982.

Further Information: For further information contact the Program Development Branch, Division of Student Services, U.S. Department of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: 202–245–2511.

(20 U.S.C. 1070d, 1070d–1d)

(Catalog of Federal Domestic Assistance Number: 84.103, Training Program for Special Program Staff and Leadership Personnel)

Dated: June 22, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-17430 Filed 6-25-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket Nos. ERA-FC-82-018 and ERA-FC-82-019; ERA Case Nos. 52658-2330-01, 02-82]

Acceptance of Certification and Issuance of Proposed Prohibition Orders for Fort Churchill Powerplants 1 and 2, Sierra Power Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Certification and Issuance of Proposed Prohibition Orders for Fort Churchill Powerplants 1 and 2, Sierra Pacific Power Company.

SUMMARY: The Economic Regulatory Administration (ERA) is giving notice of its acceptance of a certificate from Sierra Pacific Power Company (Sierra Pacific) concerning its Fort Churchill powerplants 1 and 2 pursuant to section 301 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA), as amended by section 1021 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35 (OBRA). ERA has reviewed and proposes to concur in Sierra Pacific's certification of March 18, 1982, which addresses the technical capability and financial feasibility of the powerplants to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source. Accordingly, ERA is issuing proposed prohibition orders which, if finalized, will prohibit the use of petroleum or natural gas, or both, in such powerplants in amounts in excess of the minimum amount necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency of such mixture.

DATE: Written comments and requests for a public hearing are due on or before August 12, 1982.

ADDRESS: All comments and requests for a public hearing on individual cases should be directed to the Fuels Conversion Division, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Correspondence should clearly indicate the ERA case number for the case in question.

FOR FURTHER INFORMATION CONTACT:

Jack Vandenberg, Office of Public Information, Department Energy, 12th and Pennsylvania NW., Room 7120, Washington, D.C. 20461, (202) 633-5755

Wayne Peters, Office of Fuels Programs, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Room GA-093, Washington, D.C. 20585, (202) 252-6600

Marya Rowan, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B-178 Washington, D.C. 20585 (202) 252-2967.

SUPPLEMENTARY INFORMATION: On March 18, 1982, Sierra Pacific filed a certification and a request for ERA's issuance of mixtures prohibition orders for its two powerplants, Fort Churchill 1 and 2, in accordance with section 301(c) of FUA and 10 CFR 504.5, 504.6 and 504.8. Upon the submission of a certification by a powerplant's owner or operator as to the technical capability and financial feasibility of the unit to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source, ERA, after its review and concurrence, may issue a mixtures prohibition order. The prohibition order may prohibit the use of petroleum or natural gas as a primary energy source in such powerplant in amounts exceeding the minimum amount necessary to maintain reliability of opearation of the unit consistent with maintaining reasonable fuel efficiency of the mixture. Sierra Pacific certified that the requisite minimum amount of the primary energy source required in thirty (30) percent of the powerplants' respective annual operating hours. ERA has examined the basis for the certification and the documentation submitted for each powerplant and believes that it will be able to concur in such certification which may result in the ultimate issuance of final prohibition orders.

ERA published in the Federal Register on April 21, 1982 (47 FR 17037), its final regulations reflecting the changes to section 301 of FUA made by OBRA. In accordance with 10 CFR 501.52 of the final regulations, the following procedure for the processing of these proposed orders will be followed:

(1) Pursuant to 10 CFRA 501.52(b)(2), ERA is issuing proposed prohibition orders to Fort Churchill 1 and 2. This decision is based on ERA's review of the certification and supporting documents submitted by Sierra Pacific. ERA is hereby publishing its proposed findings as required by section 701(b) of FUA.

(2) In accordance with 10 CFR 501.52(b)(3), the publication of this Notice of Acceptance commences a period of 45 days during which interested persons may submit written comments or request a public hearing. During this period, the recipient of the proposed orders and any other interested person may submit any evidence that they have available relating to the proposed orders, the certification, or the concurrence that ERA must make. A request for an extension of the 45 day period may be granted at ERA's discretion.

(3) If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views, and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501. The hearing may consider, among other matters, the sufficiency of the certification that Sierra Pacific submitted pursuant to section 301 of FUA and 10 CFR 504.5, 504.6 and 504.8.

(4) No final prohibition orders may be issued until any necessary environmental review conducted pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA) has been completed. Upon completion of the NEPA review, and unless ERA determines on the basis of the information contained in the record of the proceeding that the certification fails to meet the requirements of §§ 504.5, 504.6 and 504.8 of the final regulations, ERA will issue final prohibition orders.

PROPOSED PROHIBITION ORDERS: In accordance with section 301 of FUA and 10 CFR 504.5, 504.6 and 504.8, and subject to requests for additional information, ERA hereby proposes to concur in Sierra Pacific's certification and to prohibit the Sierra Pacific powerplants listed in the table below from burning petroleum or natural gas, or both, in amounts in excess of the minimum amount necessary to maintain reliability of operation of the units consistent with maintaining reasonable fuel efficiency of such mixture. The minimum amount of petroleum or natural gas, or both, that may be used in the powerplants is proposed to be thirty (30) percent of each powerplant's respective annual operating hours. The proposed prohibition orders are based on proposed findings by ERA that each of the powerplants (1) has the technical capability to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source while maintaining the ability, from the point of fuel intake, to physically sustain combustion of a given fuel and to maintain heat transfer, and (2) that it is financially feasible to use a mixture of petroleum or natural gas and an alternate fuel as its primary energy source in such powerplants. These proposed findings are based on the certification and supporting documents

submitted by the proposed order recipient.

In the case of the proposed technical capability finding, the two powerplants were originally designed and constructed for the use of coal as a fuel and can be made fully coal capable with some relatively minor modifications. Sierra Pacific proposes to modify the two powerplants to make them fully coal capable, while retaining their natural gas and oil capability to meet contingency requirements. Sierra Pacific may use an actual mixture of natural gas or petroleum and coal or a combination of such fuels used simultaneously or alternately in the powerplants. See Section 103(a)(28) of FUA.

In the case of the proposed financial feasibility finding, the determining factor is the powerplant owner or operator's ability to obtain sufficient capital to finance the conversion. Sierra Pacific has shown satisfactorily that it will have the ability to obtain sufficient capital to finance the conversions, including all necessary land, coal and ash handling equipment, pollution control equipment, and all other necessary conversion expenditures, without violating any legal restrictions on its ability to raise debt or equity capital.

Sierra Pacific certified that it has performed the cost calculations based upon the formula provided in 10 CFR 504.12. The cost calculations formula, which provides a method to measure anticipated economic benefits from contemplated conversions, is one method a proposed order recipient may utilize to support its financial feasibility certification. The calculations revealed that the total and individual unit costs of using a coal and petroleum or natural gas mixture will not exceed the cost of using imported petroleum. Therefore, the economic benefits derived from operation of the converted powerplants using a coal and petroleum or natural gas mixture are anticipated to be much greater than those that would be derived from the continued operation using petroleum or natural gas exclusively.

However, Sierra Pacific's certification as to the financial feasibility finding is conditioned upon two events. One event concerns the satisfactory completion of financing arrangements that are acceptable to both Sierra Pacific and to state regulatory agencies. One financing option Sierra Pacific is considering at this time is the issuance of short-term debt with two-thirds of the projected fuel cost savings to be applied to debt retirement and one-third to be passed through to its customers. Sierra Pacific intends to seek Nevada State legislative authorization of this proposed rate treatment.

Secondly, its financial feasibility certification is expressly conditioned upon ERA's waiver of the § 504.9 requirement that a proposed order receipient will be responsible for the costs of preparing any environmental review documents that may arise from ERA's obligation to comply with NEPA. Under § 504.9(c), whenever the bona fide estimate of the costs associated with NEPA compliance, if borne by the powerplant owner or operator, would make the conversion financially infeasible, ERA may waive the normal environmental requirements imposed upon the owner or operator in § 504.9(a) and (b) and take responsibility for the necessary environmental review itself. Sierra Pacific has asserted in its certification and by letter of May 10, 1982, written in response to ERA's request for additonal information supporting the waiver request, that, because of the Company's current cash flow position, it cannot as a matter of responsible cash flow management, commit itself to an environmental consulting contract incurring approximately $90,000 (plus ancillary expenses) for an Environmental Assessment, particularly as the Company is not assured of being able to recover this outlay unless and until the proposed conversion project is successfully completed. To accomplish the conversion, Sierra Pacific will require exemptions from the Clean Air Act, 42 U.S.C. 7401 *et seq.*, that must be based upon FUA prohibition orders. Without such exemptions the conversion of the Fort Churchill units will be prohibitively expensive and, under § 504.6(f) of the FUA regulations, financially infeasible. ERA has decided to waive the normal requirements of § 504.9 (a) and (b) and assume the costs of any necessary environmental review on the behalf of Sierra Pacific.

Sierra Pacific conditioned its certification to provide that if, within five years of the date of issuance of this order, Sierra Pacific (a) is unable to enter into arrangements for financing the conversion of the Fort Churchill units which are satisfactory to it, (b) fails to receive all necessary regulatory approvals of any proposed arrangements for financing the conversion and of the associated rate treatment for recovery of financing costs, or (c) receives such regulatory approvals, but concludes, in its sole discretion, that such regulatory approvals are unsatisfactory to it, Sierra Pacific shall so notify the Secretary, or such other federal official as may have cognizant authority at the time, in writing, and the prohibitions of this order shall not become effective, so long as such notification is given prior to the effective date of the prohibitions contained in the final order, as permitted under 10 CFR 501.52(d), 504.5(c), and 504.8(c), which effective date would not occur until completion of construction and all other elements of the compliance schedule. Furthermore, the proposed orders, if finalized, will contain and be subject to a prohibition order compliance schedule, as required by 10 CFR 504.5(d) and 501.52(c). While the prohibition orders, if issued, will be final for purposes of judicial review under section 702 of FUA, the prohibitions contained therein will not become effective for purposes of amendment under section 301(d) of FUA, as amended, and 10 CFR 501.52(d) of the regulations until all conditions subsequent listed in the compliance schedule are met. A proposed compliance schedule submitted by Sierra Pacific is contained in the public record of this proceeding.

ERA Case No.	Generating station	Powerplant No.	Megawatt capacity	Location
52658-2330-01-82	Fort Churchill	1	100	Yerington, Nev.
52658-2330-02-82	Fort Churchill	2	105	Yerington, Nev.

The public file containing the record of this proceeding is available for inspection at the Freedom of Information Reading Room, DOE, 1000 Independence Avenue, S.W., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 8:00 a.m.–4:30 p.m., (202) 252-6020.

Issued in Washington, D.C., June 18, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-17294 Filed 6-25-82; 8:15 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-82-017; FC Case No. 55041-0731-01-12]

Proposed Modification of Order Granting Permanent Fuels Mixture Exemption to Brunswick Pulp and Paper Co., Brunswick, Ga.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and Proposed Modification of Order Granting a Permanent Fuels Mixture Exemption to

Brunswick Pulp and Paper Company, Brunswick, Georgia

On December 31, 1980, the Economic Regulatory Administration (ERA) issued an Order granting a permanent exemption to Brunswick Pulp and Paper Company (Brunswick) to permit the use of petroleum in a fuels mixture with hydrogen in a new package boiler (Boiler No. 5) at its Brunswick, Georgia, facility. The Order, published in the Federal Register on January 7, 1981, at 46 FR 1768, exempts the unit from the prohibitions of section 202 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of natural gas or petroleum as a primary energy source by certain new major fuel-burning installations.

ERA granted the permanent exemption to Brunswick to use a fuel mixture of hydrogen gas and not more than 25 percent petroleum (No. 6 oil) in a new boiler having a design heat input rate of 198 million Btu's per hour, under section 501.68 of the final rules in effect at that time (45 FR 38276, June 6, 1980).

By letter dated June 1, 1982, Brunswick requested that ERA modify the subject Order, to permit the use of either natural gas or No. 6 oil in the mixture with hydrogen as the primary energy source for Boiler No. 5 up to a combined total of 25 percent of the total annual Btu heat input of the primary energy sources of the unit. Brunswick states that more than six months after the subject Order was granted for the use of oil in its fuels mixture, Georgia Natural Gas Company established a connection between its natural gas distribution system and Brunswick's plant. Natural gas is now available throughout the plant for both process and non-process uses. Brunswick cites this new availability of natural gas at its plant as a significantly changed circumstance occurring since the issuance of the exemption Order. Brunswick states that granting the modification would permit the use of Boiler No. 5 to be more efficient, less dependent on imported oil, provide greater operational flexibility in connection with other units in the system, and have less impact on the local environment.

Based upon its review of Brunswick's June 1, 1982, request and the record in this matter, ERA, pursuant to 10 CFR 501.101, has commenced a proceeding to modify the above described exemption Order. ERA proposes to find that the subsequent availability of natural gas at the Brunswick plant is a significantly changed material fact and circumstance that warrants a modification of the subject Order as provided in 10 CFR § 501.102(b). ERA accordingly proposes to modify Brunswick's December 31, 1980, Order so as to permit the use of natural gas or No. 6 oil in a mixture with hydrogen as the primary energy source in Boiler No. 5, up to a combined total of 25 percent of the total annual Btu heat input of the primary energy sources of the unit.

This Notice and Proposed Modification will serve as notice of ERA's proposed action to the person upon whom the Order was served in the original proceedings. Any person who was a party to the original proceedings culminating in the Order may file a written response to this Notice within 30 days of its publication in the Federal Register. If ERA receives no response, the proposed modification will become effective, without further action on the part of ERA, 30 days after the date of its publication in the Federal Register.

ADDRESS: All comments should be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA-093, 1000 Independence Avenue S.W., Washington, D.C. 20585. FC Case No. 55041-0731-01-12 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252-6162

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone (202) 252-2967

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, Room 7120, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Telephone (202) 638-8755.

Issued in Washington, D.C. June 18, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Adminstration.

[FR Doc. 82-17289 Filed 6-25-82; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CF82-153-000]

Federal Energy Regulatory Commission

Cargill, Inc., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

June 22, 1982.

On June 1, 1982, Cargill, Inc., 2330 Buoy Avenue, Memphis, Tennessee 38113, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in Memphis, Shelby County, Tennessee. The primary energy source of the facility will be coal. Natural gas will be used as an ignition fuel. The electric power production capacity of the facility will be 20 megawatts. Steam will be discharged from the turbine to process at a rate of 348,000 lbs./hr. Installation of the facility will begin in November 1982. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed on or before July 23, 1982 and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17290 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-547-000]

Carolina Power & Light Co.; Filing

June 18, 1982.

The filing Company submits the following:

Take notice that Carolina Power & Light Company (CP&L) on May 24, 1982, tendered for filing a Contract with the

Town of Louisburg and a Notice of Cancellation for the Service Agreement with North Carolina Municipal Power Agency Number 3 (Power Agency), dated October 28, 1981. The Service Agreement with Power Agency is no longer necessary because services are being provided under the Power Coordination Agreement, dated July 30, 1981, FERC No. 121, that became effective as of April 21, 1982.

The Contract with the Town of Louisburg provides for the delivery of Kerr Project power and deficiency energy in accordance with the Agreement between the Company and The United States of America Department of Energy acting by and through Southeastern Power Administration. The Contract being filed is requested to be made effective April 21, 1982, which was the date of termination of the full requirements Agreement.

In accordance with the provisions of the Commission's Acceptance Order, dated October 30, 1981, of the Power Coordination Agreement between the Company and North Carolina Municipal Power Agency Number 3 the Company filed a list of twenty-one former wholesale municipal customers who became Participants of the Power Agency as of April 21, 1982. The Tariff filings and Rate Schedule filings for the customers are to be cancelled as of midnight, April 21,1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-17300 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5865-000]

David Cereghino; Notice Suspending 120-Day Period for Action on Small Hydro Exemption

June 18, 1982.

Mr. David Cereghino has filed an application for exemption for proposed Cereghino Project No. 5865-000, located on John Day Creek, near Lucille, in Idaho County, Idaho. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and Section 4.101 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to Section 4.105(b)(5)(iv).

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-17316 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-20-000]

Columbia Gas Transmission Corp.; Requested Waiver of Crediting Procedures

June 18, 1982.

Take notice that on January 20, 1982, Columbia Gas Transmission Corporation (Columbia), through a Cost Verification Committee (CVC), requested waiver of the crediting provisions established in Opinion Nos. 101 and 101-A.

In Opinion Nos. 101 and 101-A the Federal Energy Regulatory Commission (FERC) determined that Baltimore Gas and Electric Company (Baltimore) and Washington Gas Light (Washington) should be reimbursed by Columbia for certain costs incurred as a result of the introduction of revaporized liquefied natural gas (LNG) into Baltimore and Washington's systems, and that Columbia, in turn would allocate and recoup those costs *pro rata* from all of its wholesale customers including Baltimore and Washington. In addition, the Opinions required that CVC be established to monitor, verify and screen all LNG conversion costs of Columbia's direct wholesale customers either incurred subsequent to March 31, 1979, or incurred prior to that date but not considered in the Initial Decision in this proceeding.

The CVC recommended that reimbursement be made to Washington in the amount of $261,150 and to Baltimore in the amount of $1,507,864, plus interest to both, up to the date of reimbursement.

Furthermore, the CVC suggested that Columbia employ a one-time crediting procedure to the wholesale customers' bills, in lieu of the procedure established in the Opinions of crediting customers' bills over a 12 month period. In addition, the company and the CVC estimate that the customers will be saved approximately $250,000 in carrying charges through the use of the one-time credit methodology.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 28, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17317 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6296-000]

City of Dover; Application for License (5 MW or Less)

June 21, 1982.

Take notice that the City of Dover (Applicant) filed on May 5, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for construction and operation of a water power project to be known as the Waldron Dam Project No. 6296. The project would be located on the Cocheco River in Strafford County, New Hampshire. Correspondence with the Applicant should be directed to: James M. Rea, East Coast Engineering, P.O. Box 25, Barrington, New Hampshire 03825.

Project Description—The proposed project would consist of: (1) the existing Waldron Dam, a concrete gravity structure with a height of 16 feet and 290 feet long; (2) a reservoir having a surface area of 54 acres, a storage capacity of 236 acre-feet and a normal pool elevation of 108.44 feet (NGVD); (3) a new headgate; (4) a new powerhouse consisting of one generating unit having a capacity of 180 kW; (5) an existing tailrace; (6) a new 12.47-kV transmission line 250 feet long; (7) appurtenant facilities. The dam is owned by the State of New Hampshire Water Resources Board. The Applicant estimates the

annual energy production would be 780,000 kWh and that the total project cost would be $250,000.

Purpose of Project—All project energy would be sold to the Public Service Company of New Hampshire.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing application itself [See 18 CFR 4.33 (a) and (d)] or a notice of intent [See 18 CFR 4.33 (b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in 4.33(c) or 4.101 et. seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 7, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17301 Filed 6–25–82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6326–000]

Energenics Systems Inc.; Application for Preliminary Permit

June 22, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on May 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6326 to be known as the Kanopolis Dam Project near Ellsworth, Kansas located on the Smoky Hill River in Ellsworth County, Kansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, President, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6326 would consist of: (1) an existing conduit; (2) a proposed penstock 7.5 feet in diameter and 225 feet long which will be connected to the existing conduit; (3) a proposed powerhouse at the end of the proposed penstock housing a single generator/turbine with an installed capacity of 1,300 kW; (4) a proposed transmission line less than 4 miles long to be connected with the Central Telephone and Utilities Company; and (5) appurtenant facilities. Applicant estimates the annual energy output to be approximately 5.4 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory

Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17318 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6324-000]

Energenics Systems Inc.; Application for Preliminary Permit

June 22, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on May 12, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6324 to be known as the Earthquake Lake Hydroelectric Project near West Yellowstone, Montana, located on the Madison River in Madison County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Granville J. Smith II, President, Energenics Systems Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 6324 would consist of: (1) an existing spillway; (2) a proposed penstock, connected to the existing spillway, which will be 12 feet in diameter and 4,300 feet long; (3) a proposed powerhouse at the end of the proposed penstock housing a single generator/turbine with an installed capacity of approximately 20 MW; (4) a proposed transmission line 18 miles long interconnecting with the Fall River Electric Company; (5) appurtenant facilities. Applicant estimates the annual energy production to be approximately 115 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Application for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", or "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17319 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-146-000]

Commonwealth Edison Co.; Compliance Filing

June 21, 1982.

The filing Company submits the following:

Take notice that on June 10, 1982, Commonwealth Edison Company filed a refund compliance report pursuant to the Commission's order of May 10, 1982, Denying Application for Rehearing in Part and Granting Application in Part, in Docket Nos. ER82-146-002 and ER82-146-003.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 7, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17302 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-596-000]

Delmarva Power & Light Co.; Filing

June 21, 1982.

The filing Company submits the following:

Take notice that Delmarva Power & Light Company (Delmarva) on June 14, 1982, tendered for filing a Service Agreement dated May 27, 1982, with the Mayor and Council of Berlin, Maryland (Berlin). The Service Agreement provides for generation by Berlin of part of its electric service requirements and for the sale by Delmarva of electric energy at wholesale to Berlin under the applicable Delmarva Resale Service Schedule on file with this Commission or any effective superseding rate

schedule. The Service Agreement supersedes and cancels the agreement for wholesale electric service between Delmarva and Berlin effective on November 1, 1976.

The Service Agreement was entered into at the request of Berlin to give the Town greater flexibility in its "peak-shaving" efforts.

Delmarva requests an effective date of May 27, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served on Berlin, the Maryland Public Service Commission, and each of Delmarva's other resale customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17303 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6349-000]

Goldenwest Power; Application for Preliminary Permit

June 21, 1982.

Take notice that Goldenwest Power (Applicant) filed on May 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6349 to be known as the Mill Creek Project located on Mill Creek, near Los Molinos, in Tehama County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The proposed project would consist of: (1) a 15-foot-high natural fill-and-concrete diversion dam; (2) a 50-foot-long, 108-inch-diameter steel penstock; (3) a powerhouse containing one generating unit rated at 500 kW; and (4) a one-mile-long, 12-kV transmission line. The average annual energy generation is estimated to be 4.6 million kWh.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be done under the preliminary permit is $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 27, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 27, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 26, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17304 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6334-000]

Iroquois Manufacturing Co., Inc.; Application for Preliminary Permit

June 22, 1982.

Take notice that Iroquois Manufacturing Co., Inc. (Applicant) filed on May 14, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6334 to be known as the Iroquois Project located on Patrick Brook in Chittenden County, Hinesburg, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Dale Dawson, President, c/o Iroquois Manufacturing Co., Inc., Hinesburg, Vermont 05461.

Project Description—The proposed project would consist of: (1) an existing earth-fill and concrete dam which is 20-foot-high, 85-foot-wide, and is owned by the Applicant; (2) an existing reservoir with a surface area of 0.1 acre at an elevation of 653-feet NGVD; (3) proposed headworks; (4) a proposed 2-foot-diameter, 500-foot-long penstock; (5) a proposed powerhouse containing one turbine-generator unit with a rated capacity of 75-kW; (6) a proposed tailrace; (7) a proposed 500-foot-long transmission line; and (8) appurtenant

facilities. The average annual generation of 150,000 kWh would be used to operate the Iroquois Manufacturing plant and/or sold to Green Mountain Power Company or Vermont Electric Co-operative.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $11,155.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17320 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-468-000]

Kansas City Power and Light Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Intervention Denying Motions To Reject, Directing Summary Disposition, and Establishing Price Squeeze and Hearing Procedures

Issued: June 18, 1982.

On April 21, 1982, Kansas City Power and Light Company (KCP&L) tendered for filing revised rates for service to 15 wholesale customers.[1] The proposed rates would increase revenues by approximately $978,904 (5.92%) based on the calendar 1981 test year. KCP&L requests an effective date of June 20, 1982, for the revised rates.

Notice of KCP&L's filing was issued on April 29, 1982, with comments due on or before May 18, 1982. On May 13, 1982, Missouri Power & Light Company (MP&L) filed a petition to intervene, noting that the same issues presented in a pending proceeding involving KCP&L's prior wholesale rate filing are involved in the instant docket. MP&L also expresses its intention to raise additional issues concerning KCP&L's demand ratchet and integrated billing, and requests a five month suspension period in order to allow MP&L to obtain approval from the Missouri Public Service Commission to increase its retail rates to cover the amount of the wholesale rate increases from KCP&L. MP&L claims that a minimum suspension period of thirty days is necessary.

On May 18, 1982, the Kansas Electric Power Cooperative, Inc. and its two member-systems served by KCP&L, Coffey County Rural Electric Cooperative Association, Inc., and United Electric Cooperative, Inc. (Cooperatives), filed a petition to intervene, motion to reject, request for maximum suspension, and request to institute price squeeze proceedings. The Cooperatives request rejection of the filing on the grounds that it is patently discriminatory. In support of their request for a five month suspension, the Cooperatives address the following issues: (1) capital structure and rate of return, (2) working capital, (3) rate case expense, (4) allocation of demand costs, (5) revenue credit, (6) construction work in progress, and (7) demand ratchet.

On May 18, 1982, the Kansas and Missouri municipal electric customers (Municipal Customers) filed a protest, petition to intervene, and motion to reject. In support of their pleading, the Muncipal Customers raise the following issues: (1) improper demand allocation, (2) improper pollution control construction work in progress, (3) excessive cash working capital, (4) overstated coal and oil stocks and improper inclusion of prepaid taxes and unamortized rate case expense in rate base, (5) excessive regulatory expense, (6) improper transmission allocation, (7) improper adjustment for the termination of 300 MW sales to Associated Electric Cooperative, (8) excessive rate of return and improper capitalization, and (9) price squeeze.

On June 2, 1982, KCP&L filed an answer to the protests. KCP&L opposes rejection of the filing, opposes a five month suspension on grounds that its cost of service supports an increase greater than that actually requested, and suggests that the price squeeze issue be phased in accordance with the Commission's usual procedure.

Discussion

The Commission finds that participation in this proceeding by the petitioners is in the public interest. Accordingly, the petitions to intervene will be granted.

Having considered the pleadings as well as KCP&L's submittal, we find that the proposed rates should not be summarily rejected inasmuch as the submittal substantially complies with

[1] See Attachment A for customers and rate schedule designations.

the Commission filing requirements. [2] As to the Cooperatives contention that KCP&L's proposed rates are patently discriminatory, we believe the more appropriate course, consistent with that generally taken by the Commission, is to consider these matters on the basis of an evidentiary hearing. Accorgingly, we shall deny the motions to reject, and as to the price squeeze allegations, we shall institute phased proceedings in accordance with Commission policy and practicae established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979).

We note that KCP&L's filing does not comply with section 35.25 of the Commission's regulations and Order No. 144-A in that KCP&L's has failed to normalize all timing differences required therin. Therefore, we shall require KCP&L to file revised rates and cost of service statements, which reflect tax normalization procedures consistent with Order No. 144-A and section 35.25 of the regulations.[3]

The Commission also notes that KCP&L has used tax normalization for the allowance for funds used during construction (AFUDC) without reflecting a corresponding rate base reduction for the accumulated deferred income taxes associated with such normalization. Order Nos. 144 and 144-A require that the rate base of an applicant using tax normalization must be reduced by the amount of accumulated deferred income taxes related to the items for which tax normalization is claimed. Accordingly, consistent with the Commission's order in *United Electric Company*, Docket No. ER81-450-000 (July 2, 1981), KCP&L in refiling its rates will be required to reduce its rate base by the amount of accumulated deferred taxes associated with tax normalization of AFUDC.

Our preliminary review indicates that KCP&L's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing, as modified by summary disposition, and we shall suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82-23-000 (February 26, 1982). As explained there, where our preliminary review suggests that increased rates may be unjust, and unreasonable, but may not be substanially excessive as described in *West Texas*, we shall suspend the rates for one day. Where however, as here, preliminary examination indicates that the rates may be substantially excessive, we shall suspend for the maximum period. Because we find that the proposed rates may yield substantially excessive revenues, we shall suspend the rates for five months, permitting the rates to take effect subject to refund on November 21, 1982.

The Commission orders:

(A) The motions to reject KCP&L's filing are hereby denied.

(B) KCP&L's proposed rates are hereby accepted for filing, as modified by Paragraph (C) below, and are suspended for five months from sixty days after filing to become effective, subject to refund, on November 21, 1982.

(C) Summary disposition is hereby ordered with respect to KCP&L's failure to reflect full tax normalization of all timing differences as required in Order No. 144-A and failure to make a ratae base reduction to correspond with its tax normalization of AFUDC. KCP&L is hereby ordered to file, within thirty (30) days of this order, revised rates and revised cost of service statements consistent with these determinations.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KCP&L's rates.

(E) The petitioners are hereby permitted to intervene in this proceeding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however*, That participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *Provided further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by an order or orders entered by the Commission is this proceeding.

(F) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) The Commission staff shall serve top sheets in this proceeding on or before July 7, 1982.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to stablish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

ATTACHMENT A.—KANSAS CITY POWER & LIGHT CO.

[Docket No. ER82-489-000; Rate Schedule Designations]

Supplement No.	to	Rate schedule No.	Supersedes supplement No.	Other party
	FPC No.			
14		69	13	Colley County REC.
12		73	11	Missouri Power & Light Company.
13		74	12	Missouri Public Service Company.
12		76	11	City of Prescott.
16		77	15	City of Osawatomie.
17		78	16	City of Gamett.
8		79	7	City of Gardner.
9		82	8	City of Pomona.
19		83	18	City of Marshall.
18		84	9	United Electric Cooperative, Inc.
	FERC No.			
15		85	14	City of Baldwin City.
15		86	14	City of Carrollton.
5		87	4	City of Salisbury.
10		90	5	City of Ottawa.
4		91	3	City of Higginsville.

[FR Doc. 82-17321 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[2] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971).

[3] *See Wisconsin Electric Power Company*, Docket No. ER82-347-000 (April 13, 1982).

[Project No. 2911-004]

Ketchikan Public Utilities, Alaska Power Authority; Application for Transfer of License

June 22, 1982.

Take notice that Ketchikan Public Utilities and the Alaska Power Authority (Applicants) filed on May 26, 1982, an application for transfer of the license for the Swan Lake Project No. 2911 from Ketchikan Public Utilities to the Alaska Power Authority. The project is located on Falls Creek near Ketchikan, Alaska. Applicants state that Ketchikan Public Utilities will be given a contract to complete project construction and operate and maintain the project. Correspondence with the Applicants should be directed to: Robert E. Arnold, Ketchikan Public Utilities, P.O. Box 730, Ketchikan, Alaska 99901; and Eric P. Yould, Executive Director, Alaska Power Authority, 334 W. 5th Ave., Anchorage, Alaska 99501.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-17322 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6139-000]

Leech Lake Reservation Business Committee; Application for Preliminary Permit

June 22, 1982.

Take notice that the Leech Lake Reservation Business Committee (Applicant) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6139 to be known as the Lake Winnibigoshish Hydropower Project located on the Mississippi River near the town of Deer River in the Counties of Cass and Itasca, Minnesota. The application is on file with the Commission and is available for pubic inspection. Correspondence with the Applicant should be directed to: Mr. Hartley White, Post Office Box 308, Cass Lake, Minnesota 56633.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineer's dam and reservoir. Project No. 6139 would consist of: (1) a proposed powerhouse and penstock, with the penstock running through the earth dike just beyond the spillway; (2) the proposed installation of one 700 kW generator/turbine and one 300 kW generator/turbine to provide a total installed capacity of 1 MW; (3) a proposed transmission line to run from the powerhouse to a United Power Association line near the site; and (4) appurtenant facilities. The Applicant estimates the annual energy production of the proposed project to be 6.0 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $43,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself, or a notice of intant to file such an application [see: 18 CFR 4.30 et seq. (1981)].

Competing Applications—This application was filed as a competing application to Maintenance Consultants, Inc.'s application for Project No. 5405 filed on September 24, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208

RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17222 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6019-000]

Mason County Public Utility District No. 1; Application for Preliminary Permit [1]

June 18, 1982.

Take notice that Mason County Public Utility District No. 1 (Applicant) filed on February 23, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for Project No. 6019 to be known as the Waketickeh Creek Hydroelectric Project located on the Waketickeh Creek in Mason County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. John Robertson, Manager, Public Utility District No. 1 of Mason County, Route 1, Box 555 Shelton, Washington 98584.

Project Description—The proposed project would consist of: (1) A 50-foot-long, 10 to 15-foot-high diversion structure; (2) a 5,300-foot-long, 2.5-foot-diameter steel penstock; (3) a powerhouse with an installed capacity of 1,200 kW; and (4) a 0.2-mile long, 12-kV transmission line from the powerhouse to an existing transmission line owned by Mason County Public Utility District No. 1.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which it would conduct the technical, environmental and economic studies, and also prepare an FERC license application. The Applicant estimates the cost of undertaking these studies would be $180,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 23, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981)); and Docket No. RM81-15, issued October 26, 1981, 46 FR 55245, November 9 1981.]

[1] This notice supersedes the Notice issued on March 18, 1982.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 23, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 22, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 23, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17306 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6120-000]

McDowell Forest Products, Inc.; Application for License (5 MW or Less)

June 18, 1982.

Take notice that McDowell Forest Products, Inc. (Applicant) filed on March 23, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Camp Creek Power Project No. 6120. The project would be located on Camp Creek near the town of Pulga in Butte County, California. The proposed project would affect United States lands within the Plumas National Forest. Correspondence with the Applicant should be directed to: Mr. Bruce McDowell, McDowell Forest Products, Inc., P.O. Box 131, Taylorsville, California 95983.

Project Description—The proposed project would consist of: (1) A 4-foot-high diversion structure; (2) a 34-inch-diameter intake pipe diverting water from a natural pool of water at the base of a 40-foot-high waterfall; (3) a fish screen; (4) a 34-inch-diameter, 1,200-foot-long penstock; (5) a powerhouse with a total installed capacity of 990 kW; (6) a concrete tailrace; and (7) a 600-foot-long, 12-kV transmission line interconnecting with an existing PG&E transmission line. The Applicant estimates that the average annual output would be 4,776 MWh.

Purpose of Project—The power produced by the proposed project would be sold to the Pacific Gas and Electric Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does

not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 19, 1982, either the competing application itself [see 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 19, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17907 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5792-001]

Lawrence J. McMurtrey and Jay R. Bingham; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 22, 1982.

Take notice that on May 14, 1982, Lawrence J. McMurtrey and Jay R. Bingham filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5792) would be located on Lime Creek near Darrington in Snohomish County, Washington. The proposed project would affect U.S. lands in Mt. Baker National Forest. Correspondence with the Applicant should be directed to: Mr. Lawrence J. McMurtrey, 12122 196th N.E., Redmond, Washington 98052.

Project Description—The proposed project would consist of: (1) a 2.5-foot-high concrete diversion structure; (2) a 6,840-foot-long, 42-inch-diameter steel penstock; (3) a powerhouse with a total installed capacity of 5,000 kW; and (4) a 20-mile-long, 12.5-kV transmission line interconnecting with an existing 12.5-kV transmission line owned and operated by Puget Sound Power and Light Company. The Applicant estimates that the average annual energy output would be 25.122 GWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, the Washington Department of Fisheries, and the Washington Department of Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 9, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing,

Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17324 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6147-000]

Modesto Irrigation District; Application for Exemption of Small Conduit Hydroelectric Facility

June 21, 1982.

Take notice that on March 30, 1982, the Modesto Irrigation District (Applicant) filed an application, under Section 30 of the Federal Power Act (Act) [16 U.S.C. 823(a), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Stone Drop Project (FERC Project No. 6147) would be located on the Modesto Lower Main Canal near the City of Waterford in Stanislaus County, California. Correspondence with the Applicant should be directed to: Mr. A. Leas DeLano, Senior Civil Engineer, Modesto Irrigation District, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) A weir in the existing Modesto Lower Main Canal owned and operated by the Applicant; (2) a 66-inch-diameter, 15-foot-long steel penstock; (3) a powerehouse with a total installed capacity of 500 kW; (4) a 66-inch-diameter, 15-foot-long draft tube discharging the powerhouse effluent into the canal; and (5) a 600-foot-long, 12-kV transmission line interconnecting with an existing transmission line owned by the Applicant. The Applicant estimates that the average annual energy output would be 1,872 MWh.

Purpose of Project—The power produced by the proposed project would increase the existing generating capacity of the Applicant.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 30 of the Act, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17305 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 3342-002]

New Hampshire Hydro Associates; Application for License (5 MW or Less)

June 21, 1982.

Take notice that New Hampshire Hydro Associates (Applicant) filed on February 22, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as Penacook Lower Falls Hydroelectric Project No. 3342. The project would be located on Contoocook River near Concord/Boscawen, in Merrimack County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Richard A. Norman, New Hampshire Hydro Associates, 110 Tremont Street, Boston, Massachusetts 02108.

Project Description—The proposed run-of-the-river project would consist of: (1) Reconstruction of the existing Penacook Lower Falls Dam; (2) a new reservoir with an 8.4-acre surface area, and a usuable storage capacity of 54 acre feet; (3) a proposed concrete, diversion spillway with three 9.5 feet wide by 10.0 feet high timber gates and seven timber stoplog gates; (4) a proposed concrete gravity auxiliary spillway, 316 feet long and a main concrete spillway, gated, and 106 feet long; (5) a proposed forebay, 70 feet long; (6) a proposed concrete powerhouse containing a single generating unit with an installed capacity of 4,110 kW; (7) a proposed tailrace excavated in rock, 700 feet long; (8) existing 34.5-kV transmission lines; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 15.4 GWh. The existing project facilities are owned by Allied Leather.

Purpose of Project—Project energy will be sold to a member utility of the New England Power Pool.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal request for comments will be made.

Comments should be confined to substantive issues relevant to the

issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file coments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 27, 1982, either the competing application itself [See 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17306 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5896-000]

The City of Rome, New York; Application for Peliminary Permit

June 22, 1982.

Take notice that the City of Rome, New York (Applicant) filed on January 19, 1982, an application for preliminary permit [pursuant to the Federal Powder Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5896 to be known as the Taberg Project located on the East Branch of Fish Creek in Oneida County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Frank Clark, City Engineer, City Hall, Rome, New York 13340.

Project Description—The proposed, run-of-the-river project would consist of: (1) the Applicant's existing Kessigner Dam, 240 feet long and 32 feet high, with a 135-foot long spillway; (2) an impoundment covering 5 acres with negligible storage; (3) a new gatehouse and intake structure; (4) a new 30-foot long, 8-foot diameter penstock; (5) a new powerhouse containing turbine/generator units with a capacity of 475 to 575 kW operating under a head of 15–19 feet; (6) a new tailrace; and (7) a new switchyard and new transmission facilities.

The average annual generation of 2.0–2.6 million kWh would be sold to Niagara Mohawk Power Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $39,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17315 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP82-42-000]

State of Oklahoma, Section 102 NGPA Determination, Pioneer Production Corp., Thelma Brown No. 1-21 Well, Okla. Docket No. 8801, J.D. No. 81-31003; Petition To Reopen Final Well Category Determination

June 22, 1982.

On June 7, 1982, Pioneer Production Corporation (Pioneer) filed with the Federal Energy Regulatory Commission (Commission) a petition to reopen a final well category determination for the Thelma Brown No. 1-21 well in Cimarron County, Oklahoma pursuant to the Commission's authority under the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp. IV 1979) (NGPA).

On May 13, 1981, the Commission received an affirmative determination from the Oklahoma Corporation Commission (OCC) that the above-referenced well qualifies as a new onshore well under section 102 of the NGPA. This determination became final on June 27, 1981 pursuant to § 275.202(a) of the Commission's regulations (18 CFR 275.202(a)). OCC made the affirmative section 102 determination based, in part, on Pioneer's statement that there was no marker well within 2.5 miles of the Thelma Brown No. 1-21 well. It has now come to Pioneer's attention that at least one of the wells located within 2.5 miles of the Thelma Brown No. 1-21 well is a marker well. Pioneer states that initial deliveries to Panhandle Eastern Pipe Line Company have not yet occurred.

With respect to the question of refunds arising out of this request for withdrawal of the subject well category determination, notice is hereby given that the question of whether refunds, plus interest as computed under § 154.102(d) of the Commission's regulation, will be required is a matter subject to review and final determination of the Commission.

Any person desiring to be heard or to protest this petition should file July 28, 1982, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a protest or a petition to intervene in accordance with § 1.8 and § 1.10 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered, but will not make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17310 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-62-000]

Pacific Power & Light Co.; Application

June 22, 1982.

Take notice that on June 14, 1982, Pacific Power & Light Company filed an Application pursuant to Section 204 of the Federal Power Act, seeking authority to issue multiple series of its First Mortgage Bonds of at least $25,000,000 per series and that all series will aggregate not more than $200,000,000, via negotiated placement. The bonds would carry fixed or variable interest rates depending on market conditions at the time of issue. The last series would be issued by December 31, 1983.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before July 12, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17309 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5795-000]

Resource Investment, Inc. Suspending 120-Day Period For Action on Small Hydro Exemption

June 18, 1982.

Resource Investment, Inc. has filed an application for exemption for the proposed Project No. 5795, located on the Sand Creek in California. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and Section 4.101 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to insure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to Section 4.105(b)(5)(iv).

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-17325 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6358-000]

Springfield Utility Board; Application for Preliminary Permit

June 22, 1982.

Take notice that Springfield Utility Board (Applicant) filed on May 21, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6358 to be known as the Huckleberry Creek Hydroelectric Project located on Huckleberry Creek, a tributary of the Willamette River, in Lane County, near Westfir, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Steve L. Loveland, Springfield Utility Board, P.O. Box 300, Springfield, Oregon 97477.

Project Description—The proposed project would consist of: (1) a proposed 8-foot-high by 30-foot-long concrete diversion dam; (2) a proposed 3,700-foot-long steel penstock; (3) a proposed powerhouse with generating units having an estimated installed capacity of 10,000 kW and producing an average annual energy output of 48,600 MWh; (4) a proposed 7-mile-long 34.5 kV transmission line to connect to an existing Bonneville Power Administration (BPA) line; (5) approximately ¼-mile of proposed access roads; and (6) appurtenant facilities. The project would be located within the boundaries of the Willamette National Forest. The proposed market for the power is the Applicant's system, BPA, or other utilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $80,000.

Competing Applications—This application was filed as a competing application to Grisdale Hill Company's

application for Project No. 5705 filed on December 1, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 23, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17326 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6335-000]

Virginia Electric & Power Co.; Application for Preliminary Permit

June 22, 1982.

Take notice that Virginia Electric and Power Company (Applicant) filed on May 14, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6335 to be known as the North Anna Water Power Project located on the North Anna River, near Mineral, in Spotsylvania and Louisa Counties, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the applicant should be directed to: Mr. Samuel C. Brown, Jr., Senior Vice President, Virginia Electric and Power Company, P.O. Box 2666, Richmond, Virginia 23261.

Project Description—The proposed project would utilize the existing Virginia Electric and Power Company Lake Anna Dam and Reservoir. The project would consist of : (1) a 82-foot high, 2,000-foot long earth fill gravity dam: (2) an existing reservoir with an area of 13,000 acres and a gross storage of 305,000 acre-feet; (3) a proposed powerhouse with two generating units having an estimated total installed capacity of 3,000 kW and producing an average annual energy output of 7.67 GWh; (4) a proposed ½ mile, 12.0 kV primary transmission line to connect to an existing Rappahannock Electric Cooperative (REC) line; and (5) appurtenant facilities. The proposed market for the power is REC. No new roads are proposed.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $25,000.00.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 27, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filing must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A

copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17237 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-505-000]

Washington Water Power Co.; Filing

June 21, 1982.

The filing company submits the following:

Take notice that on June 4, 1982, the Washington Water Power Company (WWPC) tendered for filing a written report issued by the Bonneville Power Administration (Bonneville) containing their final determination of average system cost for WWPC's Idaho jurisdiction. WWPC states that this filing is required under Exhibit C, Section V(a) of the Residential Purchase and Sale Agreement between WWPC and Bonneville.

WWPC requests that the report be accepted for filing with the Commission and that the average system cost of 14.74 mills per kilowatt-hour contained therein be accepted for sales of energy to Bonneville under the Agreement in the State of Idaho.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 7, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17311 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5861-000]

West Slope Power Co.; Suspending 120-Day Period for Action on Small Hydro Exemption

June 18, 1982.

The West Slope Power Company has filed an application for exemption for the proposed Project No. 5861, located on the Sand and Browns Creeks in California. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and § 4.101 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to insure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 82-17298 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6295-000]

Western Hydro Electric Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 21, 1982.

Take notice that on March 5, 1982, Western Hydro Electric Inc. (Applicant) filed an application, under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6295) would be located on Troublesome Creek in Snohomish County, near Darrington, Washington. Correspondence with the Applicant should be directed to: Mr. Donald J. White, Vice President, Western Hydro Electric Inc., Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) A 5-foot-high by 70-foot-long reinforced concrete diversion structure; (2) an inlet structure; (3) a 10,800-foot-long, 24-inch-diameter penstock; (4) an 8000-foot-long, 12-inch-diameter penstock; and (5) a powerhouse with a proposed rated capacity of 4.85 MW.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Washington Departments of Game and Fisheries are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevent to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 27, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 27, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17312 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6273-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

June 21, 1982.

Take notice that on April 30, 1982, Western Hydro Electric, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project Project No. 6273 would be located on Big Creek, 12 miles southeast of the town of Rockport in Skagit County, Washington.

Correspondence with the Applicant should be directed to: Donald J. White, Vice President, Western Hydro Electric Incorporated, Commercial Security Bank Building, Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project will consist of: (1) a 6 foot-high and 50 foot-long reinforced concrete diversion structure; (2) a 9,000 foot-long pipeline, 48 inches in diameter, running from the diversion structure to the penstock; (3) a 750 foot-long penstock; (4) a proposed powerhouse accommodating one generator/turbine with a total installed capacity of 2,600 kW; (5) a proposed transmission line to be constructed from the powerhouse to a utility grid 7 miles west of the project; and (6) appurtenant facilities. The proposed project will lie entirely within Mount Baker National Forest which is managed by the U.S. Forest Service. The Applicant estimates the average annual energy production to be 11.7 GWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Department of Fisheries, State of Washington, are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before August 6, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 6, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17313 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Volume 672]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 21, 1982.

JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION							
-GOLDKING PRODUCTION COMPANY			RECEIVED: 05/27/82	JA: LA			
8235029	79-2314	1700100000	102-4	JENNINGS HEYWOOD #4	JENNINGS	91.0	MID LOUISIANA GAS
NORTH DAKOTA INDUSTRIAL COMMISSION							
-FLYING J EXPLORATION & PRODUCTION			RECEIVED: 05/27/82	JA: ND			
*8235089	521	3305300000	102-4	BENHOMER KISSEN "A" TR #1 WELL #1	PERSHING FIELD	2.8	AMINOIL USA INC
*8235088	520	3305300000	102-4	J LJAADAL #1	PERSHING FIELD	12.9	AMINOIL USA INC
*8235090	522	3305300000	102-4	LILLIBRIDGE #1	PERSHING FIELD	9.3	AMINOIL USA INC
*8235091	523	3305300661	102-4	LILLIBRIDGE #3	PERSHING FIELD	17.8	AMINOIL USA INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
-GULF OIL CORPORATION			RECEIVED: 05/27/82	JA: NM			
8235031		3002527428	103	ARNOTT-RAMSAY (NCT-E) #11	JALMAT SEVEN RIVERS G	6.0	NORTHERN NATURAL
-HNG OIL COMPANY			RECEIVED: 05/28/82	JA: NM			
8235004		3002500000	102-2	VACA DRAWE "16" STATE #1	WOLFCAMP	189.0	EL PASO NATURAL G
-MESA PETROLEUM CO			RECEIVED: 05/27/82	JA: NM			
8235034		3000561327	102-2	RIC #5	PECOS SLOPE ABO	370.0	
8235033		3000561377	102-2	RIC #6	PECOS SLOPE ABO	60.0	
-VIKING PETROLEUM CORP			RECEIVED: 04/29/82	JA: NM			
8235003		3000500000	107-TF	GRYNBERG 16 STATE #3	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-VIKING PETROLEUM CORP			RECEIVED: 05/24/82	JA: NM			
8235005		3000500000	107-TF	GRYNBERG 16 STATE #1	PECOS SLOPE ABO GAS	0.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION			RECEIVED: 05/24/82	JA: NM			
8235006		3000561329	102-2	CONEJO "RH" STATE #4	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8235008		3000561416	102-2	KING "TF" #1	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
8235007		3000561393	102-2	SPARROW "SP" STATE #1	PECOS SLOPE-ABO GAS	0.0	TRANSWESTERN PIPE
-YATES PETROLEUM CORPORATION			RECEIVED: 05/27/82	JA: NM			
8235030		3001523336	103	MENEFEE "NT" COM #1	EAST EAGLE CREEK ATOK	0.0	TRANSWESTERN PIPE
8235032		3000561488	102-2	ROOK "RK" STATE #4	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION							
-AMERICAN PENN ENERGY INC			RECEIVED: 05/25/82	JA: NY			
8234997	2934	3102916969	103	GREENE UNIT #1 (1523)	EVANS	10.0	NATIONAL FUEL GAS
8234995	2924	3102916902	103	RUSSO UNIT #1 (1522)	EVANS	0.0	NATIONAL FUEL GAS
8234996	2925	3102916903	103	RUSSO UNIT #2 (1529)	EVANS	10.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 05/25/82	JA: NY			
8234998	2976	3112144960	108	EARL J BARBER WN-932	COVINGTON	1.0	GENERAL SYSTEM PU
8234984	2972	3105104186	108	FRANK A & THORNE TYRON WN-851	YORK	1.0	GENERAL SYSTEM PU

VOLUME 672 PAGE 002

JD NO	JA DKT	API NO	D SEC(1) SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234989	2969	3105304648		108		GEORGE W FINEN #2 WN-785	LEBANON	6.0	GENERAL SYSTEM PU
8234982	2968	3105104495		108		IRVING W SMITH ETUX WN-931	YORK	2.0	GENERAL SYSTEM PU
8234986	2973	3105104131		108		IRVING W SMITH WN-834	YORK	3.0	GENERAL SYSTEM PU
8234983	2970	3105104196		108		IRVING W SMITH WN-858	YORK	6.4	GENERAL SYSTEM PU
8234988	2975	3105104089		108		ROBERT L YUNKER ET UX WN-810	LEICESTER	12.0	GENERAL SYSTEM PU
8234987	2974	3105104129		108		VINCENT J YAMONACO WN-819	LEICESTER	3.0	GENERAL SYSTEM PU
8234985	2971	3105104167		108		W JOSEPH WEILAND WN-844	YORK	1.0	GENERAL SYSTEMS P
-CUMBERLAND OIL CORP				RECEIVED:	05/25/82	JA: NY			
8234992	2312	3101315910		107-DV		DOUGLAS FAIRBANKS #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	05/25/82	JA: NY			
8235000	2933	3101314405		108		MEANEY 43137	LAKE SHORE	6.0	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	05/25/82	JA: NY			
8234993	2168	3101315566		107-DV		A KOPTA #4	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234970	2298	3101315813		107-DV		BIG TREE #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234954	2208	3101315929		107-DV		C LATTA #2	CHAUTAUQUA	18.0	COLUMBIA GAS TRAN
8234957	2202	3101315951		107-DV		D AND B #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234958	2216	3101315815		107-DV		D BREADS #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8234949	2218	3101315856		107-DV		D LINDQUIST #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8234976	2295	3101315904		107-DV		E MARTT #1	CLYMER	18.0	COLUMBIA GAS TRAN
8234952	2212	3101314779		107-DV		H COLEMAN #3	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8234965	2305	3101315770		107-DV		H WHITE #1	CLYMER	18.0	COLUMBIA GAS TRAN
8234960	2297	3101315805		107-DV		H WHITE #2	CLYMER	18.0	COLUMBIA GAS TRAN
8234963	2299	3101315806		107-DV		H WHITE #3	CLYMER	18.0	COLUMBIA GAS TRAN
8234956	2206	3101315855		107-DV		J PATTERSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8234974	2222	3101315337		107-DV		J SVENTEK #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234973	2302	3101315990		107-DV		J WILLIAMS #1-A	CHAUTAUQUA	0.0	COLUMBIA GAS TRAN
8234955	2204	3101315788		107-DV		LEGTERS BROS #6	CLYMER	18.0	COLUMBIA GAS TRAN
8234972	2296	3101315907		107-DV		LEGTERS BROTHERS #7	CLYMER	18.0	COLUMBIA GAS TRAN
8234951	2214	3101316354		107-DV		N REED #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234994	2167	3101316228		107-DP		NYS REF AREA #5/WELL #19	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234966	2293	3101315902		107-DV		P GRAVINK #1	CLYMER	18.0	COLUMBIA GAS TRAN
8234977	2294	3101315903		107-DV		P GRAVINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8234969	2303	3101315853		107-DV		P HESLINK #2	CLYMER	18.0	COLUMBIA GAS TRAN
8234968	2304	3101315854		107-DV		P HESLINK #3	CLYMER	18.0	COLUMBIA GAS TRAN
8234953	2210	3101315181		107-DV		R GEER #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8234962	2291	3101315781		107-DV		R NICKERSON #1	CLYMER	18.0	COLUMBIA GAS TRAN
8234967	2292	3101315659		107-DV		R WASSINK #3	WILDCAT	18.0	COLUMBIA GAS TRAN
8234971	2290	3101315998		107-DV		R WASSINK #5	CLYMER	18.0	COLUMBIA GAS TRAN
8234964	2300	3101315557		107-DV		W DURST #1	LAKESHORE	18.0	COLUMBIA GAS TRAN
8234975	2301	3101315952		107-DV		W GILL #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8234948	2220	3101315953		107-DV		W GILL #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
-OILMARK & CO INC				RECEIVED:	05/25/82	JA: NY			
8234999	2963	3101314774		108		POTTER #1	LAKESHORE	14.0	NATIONAL FUEL GAS
-SCG GAS QUEST INC				RECEIVED:	05/25/82	JA: NY			
8234998	2901	3102912807		108		BOWMAN FARMS #1	EDEN-EVANS MEDINA	6.0	NATIONAL FUEL GAS
-SUNRISE RESOURCES INC				RECEIVED:	05/25/82	JA: NY			
8234991	2249	3101316527		107-DV		RICHTER #1	LAKESHORE	20.0	NATIONAL FUEL GAS
-VILLANOVA NATURAL GAS CORP				RECEIVED:	05/25/82	JA: NY			
8234958	2200	3101314807		107-DV		GEO & ELMER BURBULES #1	WESTFIELD-LAKESHORE	15.0	COLUMBIA GAS TRAN
8234981	2239	3101316220		107-DV		STATE REFORESTATION AREA 6 #1		0.0	NATIONAL FUEL GAS
8234959	2245	3101316221		107-DV		STATE REFORESTATION AREA 6 #2	LAKESHORE	6.0	NATIONAL FUEL GAS
8234980	2241	3101316237		107-DV		STATE REFORESTATION AREA 6 #3	STOCKTON	0.0	NATIONAL FUEL GAS
8234979	2237	3101316309		107-DV		STATE REFORESTATION AREA 6 #4	WILDCAT	6.0	NATIONAL FUEL GAS

JD NO	DA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8234978	2235	3101316319		107-DV		STATE REFORESTATION AREA 6 #5	WILDCAT #5	0.0	NATIONAL FUEL GAS
8234961	2243	3101316311		107-DV		STATE REFORESTATION AREA 6 #6	WILDCAT #6	0.0	NATIONAL FUEL GAS

OKLAHOMA CORPORATION COMMISSION

-ADAMS PETROLEUM ENTERPRISES CORP			RECEIVED:	05/27/82	JA: OK				
8235310	14448	3506321113	103			BUSHWACKER #1	HORN CORNER	25.3	TRANSOK PIPE LINE
-AM-CAN RESOURCES INC			RECEIVED:	05/26/82	JA: OK				
8235105	17222	3510121014	102-2	103		HARRISON #1	YAHOLA	135.4	PHILLIPS PETROLEU
8235104	17221	3510120992	102-2	103		HARRISON #2	YAHOLA	4.4	PHILLIPS PETROLEU
-ARAPAHO PETROLEUM INCORPORATED			RECEIVED:	05/27/82	JA: OK				
8235306	14439	3504722427	103			MACK 1-15	SOONER TREND	209.0	PANHANDLE EASTERN
-ARKANSAS WESTERN PRODUCTION CO			RECEIVED:	05/27/82	JA: OK				
8235313	14443	3509322272	103			JONES #2	RINGWOOD	120.0	UNION TEXAS PETRO
8235311	14440	3509322273	103			MOBLEY #1	RINGWOOD	144.0	UNION TEXAS PETRO
-BARUCH-FOSTER CORP			RECEIVED:	05/26/82	JA: OK				
8235126	14425	3503723652	103			HENDERSON #1	WEST SHAMROCK	5.0	CITIES SERVICE GA
-BOBBY J DARNELL			RECEIVED:	05/26/82	JA: OK				
8235111	14483	3508321633	103			CHAPPELL #1	CRESCENT LOVELL	18.3	EASON OIL CO
-BOBBY J DARNELL			RECEIVED:	05/27/82	JA: OK				
8235314	14459	3508321776	103			JOHNSON #1	W PRAIRIE VIEW	16.8	EASON OIL CO
-BOW VALLEY PETROLEUM INC			RECEIVED:	05/27/82	JA: OK				
8235327	17043	3508320973	103			RAY #1	CRESCENT - LOVELL	4.3	EASON OIL CO
8235326	17042	3508320983	103			WALGREEN #1-20	CRESCENT-LOVELL	3.4	EASON OIL CO
-BROCK HYDROCARBONS INC			RECEIVED:	05/26/82	JA: OK				
8235103	16985	3507720225	102-4			HICKMAN #2-34	WILBURTON	0.0	ARKANSAS LOUISIAN
-CANADIAN EXPLORATION CORP			RECEIVED:	05/27/82	JA: OK				
8235318	14464	3501722093	103			BALL #7-2	NORTHWEST MUSTANG	125.0	DELHI GAS PIPELIN
-CITIES SERVICE COMPANY			RECEIVED:	05/27/82	JA: OK				
8235323	16738	3501722033	103			PORTER C #1	UNION CITY	182.5	DELHI GAS PIPE LI
-CLARK RESOURCES INC			RECEIVED:	05/26/82	JA: OK				
8235138	14369	3507323201	103			BURDICK 17-2	SOONER TREND	65.0	CITIES SERVICE GA
8235148	14239	3507323350	103			GRACE 20-1	SOONER TREND	175.0	EASON OIL CO
-CLEMENTS ENERGY INC			RECEIVED:	05/26/82	JA: OK				
8235116	14450	3504321099	103			SPANGLER #1	E FAY	182.0	
-CUMMINGS OIL CO			RECEIVED:	05/26/82	JA: OK				
8235119	14455	3507323171	103			CONLEY "A" #1	SOONER TREND	0.0	CITIES SERVICE GA
-DAVIS OIL COMPANY			RECEIVED:	05/26/82	JA: OK				
8235107	03930	3503920160	103			WINGARD #1	SOUTH THOMAS	580.0	ONG WESTERN INC
-DAVIS OIL COMPANY			RECEIVED:	05/27/82	JA: OK				
8235324	16996	3512920613	102-2			ALLEN STATE #1	REDMAN	0.0	EL PASO NATURAL G
8235325	16997	3504722712	102-2			BETTY #1	HILLSDALE	0.0	PANHANDLE EASTERN
-DOW KEITH OIL & GAS INC			RECEIVED:	05/26/82	JA: OK				
8235120	14479	3503100000	103			SMITH 3-A	SMITH	150.0	MANN INDUSTRIES I
-DOW KEITH OIL & GAS INC			RECEIVED:	05/27/82	JA: OK				
8235320	14477	3503120690	103			FUQUA #2	FUQUA	590.0	MANN INDUSTRIES I
-DYCO PETROLEUM CORPORATION			RECEIVED:	05/26/82	JA: OK				
8235112	14484	3505121133	103			DESKINS #1-19	UNDESIGNATED	72.0	MOBIL OIL CORP
-EARTH ENERGY RESOURCES INC			RECEIVED:	05/27/82	JA: OK				
8235328	17208	3511921808	102-4			JORDAN #1	WEST VINCO	15.0	
-EDWIN L COX			RECEIVED:	05/26/82	JA: OK				
8235137	14374	3501900000	103			COX "A" 1-32	S E JOINER CITY	73.0	AMINOIL USA INC
-ESTORIL PRODUCING CORP			RECEIVED:	05/26/82	JA: OK				

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235114	14489	3512521241		103		COLEMAN "A" #1	NE TECUMSEH	91.2	TRANSOK PIPELINE
-F C D OIL CORP				RECEIVED:	05/26/82	JA: OK			
8235118	14462	3500320869		103		ROSS 2-8	SOONER TREND	54.8	CHAMPLIN PETROLEU
-F C D OIL CORP				RECEIVED:	05/27/82	JA: OK			
8235309	14446	3507323111		103		LUEY 1-26	SOONER TREND	73.0	ONG WESTERN INC
8235316	14461	3504722841		103		MITCHELL 1-11		63.9	CRA INC
8235307	14444	3507323194		103		RESCHKE 1-26	SOONER TREND	127.8	ONG WESTERN INC
8235308	14445	3507323112		103		STEWART 1-26		0.0	ONG WESTERN INC
8235315	14460	3507323111		103		STRUCK 1-17	SOONER TREND	36.5	PHILLIPS PETROLEU
-FLINT & ASSOCIATES				RECEIVED:	05/26/82	JA: OK			
8235125	14426	3506321328		103		ANGIE DAWN #1	GREGORY	146.0	PUBLIC SERVICE CO
-G M RUPE				RECEIVED:	05/27/82	JA: OK			
8235319	14474	3510720594		103		SMITH #1	BLAKELY	30.0	PHILLIPS PETROLEU
-GRACE PETROLEUM CORPORATION				RECEIVED:	05/26/82	JA: OK			
8235117	14025	3509350013		108		JETT 1-4	CLEO SPRINGS	0.0	PIONEER GAS PRODU
-GULF OIL CORPORATION				RECEIVED:	05/26/82	JA: OK			
8235102	15844	3571121634		102-2		DEAK ROHLING #1-26	OMEGA SOUTH	0.0	ONG WESTERN INC
-HAINES OIL CO				RECEIVED:	05/27/82	JA: OK			
8235303	14424	3513722253		103		SID S SPEARS #9	SHO VEL TUM	4.9	GETTY OIL CO
-J L BUSBY				RECEIVED:	05/26/82	JA: OK			
8235140	14365	3511121619		108		BELL B-A	NATURA	2.8	PHILLIPS PETROLEU
8235143	14362	3511120531		108		COPELAND 1-A	NATURA	5.4	PHILLIPS PETROLEU
8235142	14363	3511120900		108		DIXON 1-A	BALD HILL	16.5	PHILLIPS PETROLEU
8235139	14366	3511103000		108		MARVIN GRIMMETT #1	BALD HILL	0.0	PHILLIPS PETROLEU
8235141	14364	3511120947		108		SMITH #2BV	TIGER FLATS DUTCHER	12.6	PHILLIPS PETROLEU
-JOHN A TAYLOR				RECEIVED:	05/26/82	JA: OK			
8235109	5233	3508120871		102-4		WATTS 1-27	E PRAGUE	365.0	SOUTHWEST GATHERI
-JUNIPER PETROLEUM CORPORATION				RECEIVED:	05/26/82	JA: OK			
8235147	14248	3505921028		103		JUNIPER CARLISLE 22X-3	LAVERNE	150.0	MICHIGAN - WISCON
-KANOKLA ENERGY CORP				RECEIVED:	05/26/82	JA: OK			
8235129	14402	3513321453		103		DAVE CAROLINA F-1	CAROLINA FARM	186.0	KANOKLA ENERGY CO
8235130	14401	3513321452		103		FREEDOM-PETERS F-1	FREEDOM-PETERS	4.0	KANOKLA ENERGY CO
8235128	14403	3513321513		103		ROULSTON #1	ROULSTON	54.0	KANOKLA ENERGY CO
-KENNEDY & MITCHELL INC				RECEIVED:	05/27/82	JA: OK			
8235330	02022	3513900000		102-4		ADDINGTON #1-48	UNDESIGNATED FIELD (S	120.0	PANHANDLE EASTERN
8235329	02007	3500700000		102-4		HOOVER #9-16	UNDESIGNATED (C NE 4-	120.0	NATURAL GAS PIPEL
-L & M EXPLORATION INC				RECEIVED:	05/26/82	JA: OK			
8235150	11497	3508321130		103		MILLER #2-29	NORTH RUSSELL	675.0	EASON OIL CO
-LADD PETROLEUM CORPORATION				RECEIVED:	05/26/82	JA: OK			
8235131	14396	3509322193		103		RANKIN #3	RINGWOOD	73.9	RINGWOOD GATHERIN
-MAJESTIC PETROLEUM INC				RECEIVED:	05/27/82	JA: OK			
8235305	14430	3510120000		103		SMPLEY #1 101-65-165	SHEPPARD	211.2	EL PASO NATURAL G
-MESA PETROLEUM CO				RECEIVED:	05/26/82	JA: OK			
8235104	02148	3511720868		102-4		JONAS #1-23	NW UNION CITY	302.0	TRANSOK PIPE LINE
-MOBIL OIL CORP				RECEIVED:	05/26/82	JA: OK			
8235136	14376	3513921459		103		LOLMAUGH (MNG 176) UNIT #2	GUYMON-HUGOTON	40.0	CITIES SERVICE GA
-MORGAN & STEINERT INC				RECEIVED:	05/27/82	JA: OK			
8235304	14429	3504700000		103		LEJA #1	SOONER TREND	120.0	ONG WESTERN INC
8235300	14384	3504722729		103		VAN HAUEN #1	SOONER TREND	120.0	EXXON CO USA
-NOVA ENERGY CORPORATION				RECEIVED:	05/26/82	JA: OK			
8235108	04749	3507322153		102-4		SCHRODER 1-33	NORTH OKARCHE	50.0	DELHI GAS PIPELIN
-PENN-HOMA OIL & GAS CO				RECEIVED:	05/26/82	JA: OK			
8235124	14428	3510121122		103		ALLENS 3 PETCO ENERGY 1	COLE	365.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	C	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-POST PETROLEUM COMPANY INC				RECEIVED:	05/26/82	JA: OK			
8235151	10413	3500721249		102-4		WAKEFIELD #1	GREENOUGH	0.0	
-RALPH E PLOTNER OIL & GAS INVEST			IN	RECEIVED:	05/26/82	JA: OK			
8235101	14530	3501722019		103		KROENER #1	WEST PIEDMONT	45.0	PHILLIPS PETROLEU
-SINCOE OIL CO				RECEIVED:	05/26/82	JA: OK			
8235121	14481	3507323239		103		ROBERTA #1	SOONER TREND	72.0	EASON OIL CO
-SOUTHLAND ROYALTY CO				RECEIVED:	05/26/82	JA: OK			
8235116	13523	3515121121		103		SIMPSON WALKER #2-11	FREEDOM 76	912.0	PRODUCER'S GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	05/27/82	JA: OK			
8235302	14386	3509322316		103		CALLIE WOODRING #2-29	ORION	65.0	PHILLIPS PETROLEU
8235361	14385	3509321935		103		NICHOLS #1-31	ORION	189.0	PHILLIPS PETROLEU
-STEVE JERNIGAN INC				RECEIVED:	05/26/82	JA: OK			
8235132	14383	3507322817		103		REED #1	SOONER TREND	6.5	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	05/26/82	JA: OK			
8235144	14356	3509320085		108		BOYD UNIT #10-2	GRAND VALLEY E	1.0	PHILLIPS PETROLEU
8235145	14360	3505300009		108		HAWLEY WEST UNIT #12-2	HAWLEY	1.0	CITIES SERVICE GA
-TENNECO OIL COMPANY				RECEIVED:	05/26/82	JA: OK			
8235113	14486	3512120820		103		MOSS "A" #1-13	WILBURTON	300.0	
-THE WIL-MC OIL CORP				RECEIVED:	05/27/82	JA: OK			
8235312	14442	3505329721		103		YERIAN #1	EAST MEDFORD	100.0	CRA INC
-TOWNER PETROLEUM CO/				RECEIVED:	05/26/82	JA: OK			
8235135	14380	3501722080		103		ALLGOOD #30-1	UNION CITY	0.0	PHILLIPS PETROLEU
8235133	14382	3501722108		103		KOUBA #30-1	UNION CITY	0.0	PHILLIPS PETROLEU
8235134	14381	3501721937		103		SCHWEITZER #4-1	WATONGA-CHICKASHA	6.6	
-TRANSIERRA EXPLORATION CORP				RECEIVED:	05/26/82	JA: OK			
8235100	14502	3510321257		103		JIMMY KARCHER #1	LUCIEN	17.0	AMINOIL USA INC
-TRIAD ENERGY INC				RECEIVED:	05/26/82	JA: OK			
8235149	13584	3505320760		103		DOWNING #1	WAKITA TREND	146.0	
-UNION TEXAS PETROLEUM				RECEIVED:	05/26/82	JA: OK			
8235123	14435	3509322368		103		I KOEHN B#2	HODGE AREA 2 - SEC 3	109.5	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	05/26/82	JA: OK			
8235146	14241	3507920430		103		HOLTON #1	S CAMERON	400.0	ARKANSAS LOUISIAN
-VULCAN ENERGY CORP				RECEIVED:	05/26/82	JA: OK			
8235127	14409	3507322884		103		VOTH #1	SOONER TREND	357.7	PHILLIPS PETROLEU
-WARD OIL CO				RECEIVED:	05/27/82	JA: OK			
8235317	14463	3512120862		103		DAVENPORT #120-A H	WEST FEATHERSTON	43.0	
-WENEXCO INC				RECEIVED:	05/26/82	JA: OK			
8235099	14500	3508121148		103		PARKS #1-13	WEST PADEN	186.0	SWAB CORP
8235115	14499	3508121364		103		PARKS #1-24	WEST PADEN	18.0	SWAB CORP
-WESTERN OIL RESOURCES LTD				RECEIVED:	05/26/82	JA: OK			
8235122	14436	3511721816		103		NEJ 1-07	NORTHEAST JENNINGS	65.7	MID-AMERICA GAS L
-WOOD ENTERPRISES INC				RECEIVED:	05/27/82	JA: OK			
8235322	14622	3511900000		102-4		GRENCE DEAN #1 (119-60849)	MARKHAM	35.0	PARKS ENERGY INVE
8235321	14606	3511900000		102-4		SNYDER #1 (119-67382)	MARKHAM	14.0	PARKS ENERGY INVE

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-ADOBE OIL & GAS CORPORATION				RECEIVED:	05/27/82	JA: PA			
8235152	11501	3706326607		103		JOSEPH PELLEGRENE #1	COMMODORE	24.0	
-ATLAS RESOURCES INC				RECEIVED:	05/27/82	JA: PA			
8235153	11416	3706326643		102-4		ALTEMUS #1	CHERRYHILL	34.0	COLUMBIA GAS TRAN
8235241	11414	3706325910		102-2		NICHOLS #2	GREEN	96.0	COLUMBIA GAS TRAN
-BAKER GAS INC				RECEIVED:	05/27/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235156	11489	3700500000		108		J B PARKS #1	PARKS	3.0	EQUITABLE GAS CO
8235154	11487	3700500000		108		NEELY #1	ORCHARD HILLS	3.0	APOLLO GAS CO
8235157	11490	3700520236		108		RANKIN EUWER #1	PARKS	7.5	EQUITABLE GAS CO
8235155	11488	3700520273		108		SAMUEL FANCHER #1	PARKS	1.0	EQUITABLE GAS CO
-CABOT OIL & GAS CORP				RECEIVED:	05/27/82	JA: PA			
8235253	11613	3708520361		107-TF		DONALD S RITTER #3	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8235252	11620	3708520361		102-2		DONALD S RITTER #3	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8235169	11492	3703921433		107-TF		JEWELL ALLEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8235164	11491	3703921433		102-2		JEWELL ALLEN #1	WAYNE	50.0	TENNESSEE GAS PIP
8235173	11500	3703921471		107-TF		JOHN RYND #3	WAYNE	50.0	TENNESSEE GAS PIP
8235168	11499	3703921471		102-2		JOHN RYND #3	WAYNE	50.0	TENNESSEE GAS PIP
8235178	11494	3703921451		107-TF		LAWRENCE COTTERMAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8235165	11493	3703921451		102-2		LAWRENCE COTTERMAN #1	WAYNE	50.0	TENNESSEE GAS PIP
8235172	11498	3703921467		107-TF		ROBERT DICKSON #2	WAYNE	50.0	TENNESSEE GAS PIP
8235167	11497	3703921467		102-2		ROBERT DICKSON #2	WAYNE	50.0	TENNESSEE GAS PIP
8235171	11496	3708520298		107-TF		THOMAS JOHNSTON #2	FRENCH CREEK	50.0	TENNESSEE GAS PIP
8235166	11495	3708520298		102-2		THOMAS JOHNSTON #2	FRENCH CREEK	50.0	TENNESSEE GAS PIP
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/27/82	JA: PA			
8235176	9328	3703320954		108		A CLAIR BONSALL WN-1801	BRADY TOWNSHIP	3.6	GENERAL SYSTEM PU
8235178	9330	3703320965		108		HARRY F SHELLENBERG WN-1799	BRADY TOWNSHIP	2.0	GENERAL SYSTEM PU
8235175	9327	3703320975		108		J H FRANCE REFRACTORIES CO INC #4	PIKE TOWNSHIP	0.2	GENERAL SYSTEM PU
8235177	9329	3703320950		108		J H FRANCE REFRACT CO INC WN-1800	BLOOM TOWNSHIP	1.0	GENERAL SYSTEM PU
8235182	11530	3713101382		108		JOHN G TOMAJKO WN-1729	HEMPFIELD TOWNSHIP	0.7	GENERAL SYSTEM PU
8235180	11528	3713121367		108		JOSEPH J GUYON WN-1690	SEWICKLEY TOWNSHIP	0.7	GENERAL SYSTEM PU
8235181	11529	3713101291		108		M J EARHART WN-1691	HEMPFIELD TOWNSHIP	0.2	GENERAL SYSTEM PU
8235174	9326	3703320971		108		ROBERT A MILLS WN-1816	BELL TOWNSHIP	3.7	GENERAL SYSTEM PU
8235179	11527	3703520830		108		ROBERT SPENCER WN-1683	FERGUSON TOWNSHIP	0.5	GENERAL SYSTEM PU
-DELTA DRILLING CO				RECEIVED:	05/27/82	JA: PA			
8235257	11611	3706321525		108		J W RYAN #1	CREEKSIDE SW	0.0	PEOPLES NATURAL G
8235256	11610	3706320215		108		RALSTON #1	CHERRYHILL	0.0	PEOPLES NATURAL G
8235254	11608	3706321536		108		S R FYOCK #1	CREEKSIDE SW FIELD	0.0	PEOPLES NATURAL G
8235255	11609	3706320246		108		YUCKENBURG #1	CHERRYHILL	5.0	PEOPLES NATURAL G
-DORSO ENERGY				RECEIVED:	05/27/82	JA: PA			
8235259	11553	3706326695		103		JOHN J WEYANDT #1 #168	CRETE	45.0	COLUMBIA GAS TRAN
8235258	11552	3706326678		103		JOHN J WEYANDT #2 #169	CRETE	40.0	COLUMBIA GAS TRAN
-EBERLY NATURAL GAS CO				RECEIVED:	05/27/82	JA: PA			
8235183	11475	3712921158		103		SHIREY #1	JACOBS CREEK	6.0	COLUMBIA GAS OF P
-ENERGY PRODUCTION CO				RECEIVED:	05/27/82	JA: PA			
8235260	11536	3706326480		103		EARL PIPER #1-A	NOLO MOUNTAIN	83.2	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	05/27/82	JA: PA			
8235261	11508	3704921552		107-TF		I LEWIS #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
8235184	11503	3704921495		107-TF		J CARNIEWSKI #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8235185	11505	3704921536		107-TF		J KIBBE #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8235186	11506	3704921634		107-TF		J LANDMESSER #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8235262	11509	3704921483		102-2		R BERNRITTER #1	WATERFORD	18.0	COLUMBIA GAS TRAN
8235187	11507	3704921537		107-TF		R VERGA #1	WATERFORD	18.0	COLUMBIA GAS TRAN
-FAIRMAN DRILLING CO				RECEIVED:	05/27/82	JA: PA			
8235264	11546	3706326442		103		CLYDE A STIVER #1 F-3236	JUNEAU	20.0	CONSOLIDATED GAS
8235265	11547	3706326510		103		JAMES A WINEBARK #1 F-3266	JUNEAU	20.0	CONSOLIDATED GAS
8235263	11545	3706326420		103		LEROY STIVER #1 F-3240	JUNEAU	26.0	CONSOLIDATED GAS
8235267	11549	3706326508		103		MARVIN E RICHARDSON #1 F-3267	JUNEAU	20.0	CONSOLIDATED GAS
8235268	11550	3706322277		103		QUAY A STUMPF EST #2 F-3078	BIG RUN	30.0	CONSOLIDATED GAS
8235266	11548	3706326509		103		ROBERT J TAYLOR #1 F-3265	JUNEAU	26.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FLANIGAN BROTHERS				RECEIVED:	05/27/82	JA: PA			
8235189	11480	3703920867		107-TF		ARCHIE L SHELLITO #1		5.0	NATIONAL FUEL GAS
8235188	11478	3703920867		107-TF		RALPH L & MARGARET L TAU #1		10.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	05/27/82	JA: PA			
8235269	11554	3706325875		103		FLORENCE O'HARRAH #4	MONTGOMERY	25.5	COLUMBIA GAS TRAN
-GLENN V TROYER				RECEIVED:	05/27/82	JA: PA			
8235233	11017	3704921489		102-2		GLENN V TROYER #1 (FEE)	MILL VILLAGE	10.0	COLUMBIA GAS TRAN
8235234	11018	3704921489		107-TF		GLENN V TROYER #1 (FEE)	MILL VILLAGE	10.0	COLUMBIA GAS TRAN
-HAROLD E BROWN				RECEIVED:	05/27/82	JA: PA			
8235250	11563	3712900000		108		DORSEY #1 CONTRACT 2000	NEW STANTON FIELD	33.0	PEOPLES NATURAL G
8235246	11559	3710500000		108		GUTHRIE WELL CONTRACT 2698	APOLLO FIELD	2.8	PEOPLES NATURAL G
8235242	11555	3712900000		107-TF		KLINE #1	NEW STANTON	13.0	PEOPLES NATURAL G
8235248	11561	3712900000		108		SAR THOMAS #1 CONTRACT 1519	NEW STANTON FIELD	33.0	PEOPLES NATURAL G
8235243	11556	3700500000		108		SHAFFER #1 CONTRACT 1730	APOLLO FIELD	6.0	PEOPLES NATURAL G
8235245	11558	3700500000		108		SHAFFER II CONTRACT 1730	APOLLO FIELD	4.0	PEOPLES NATURAL G
8235249	11562	3700500000		108		SHAPE #1 CONTRACT 2527	APOLLO FIELD	5.0	PEOPLES NATURAL G
8235251	11564	3712900000		108		TARR WELL #1 CONTRACT 1528	NEW STANTON FIELD	10.0	PEOPLES NATURAL G
8235247	11560	3712900000		108		TROUT WELL #1 CONTRACT 1834	NEW STANTON	10.0	PEOPLES NATURAL G
8235244	11557	3700500000		108		YOUNG #1 CONTRACT 1730	APOLLO FIELD	4.5	PEOPLES NATURAL G
-JAB ENTERPRISES INC - AGENT				RECEIVED:	05/27/82	JA: PA			
8235159	11482	3704920615		108		HAPPY HOMES ENTERPRISES INC 1-1	LAKESHORE - MEDINA	18.2	NATIONAL FUEL GAS
8235158	11481	3704920628		108		HAPPY HOMES ENTERPRISES INC 2-1	LAKESHORE - MEDINA	6.2	NATIONAL FUEL GAS
8235161	11484	3704920609		108		JAMES A BERNET - LOOMIS ST 2-1	LAKESHORE - MEDINA	11.8	NATIONAL FUEL GAS
8235160	11483	3704920610		108		JAMES A BERNET - LOOMIS ST 2-2	LAKESHORE - MEDINA	11.8	NATIONAL FUEL GAS
8235162	11485	3704920611		108		JAMES A BERNET - LOOMIS ST 2-3	LAKESHORE - MEDINA	11.8	NATIONAL FUEL GAS
8235163	11486	3704920594		108		NORTH EAST SERVICE PLAZA INC 1-1	LAKESHORE - MEDINA	5.4	NATIONAL FUEL GAS
-KALTSAS OIL CO				RECEIVED:	05/27/82	JA: PA			
8235202	11272	3704921628		103		JAMES PASIERB #1	NORTH EAST FIELD HORN	21.8	COLUMBIA GAS TRAN
8235205	11275	3704921628		107-TF		JAMES PASIERB #1	NORTH EAST FIELD HORN	21.0	COLUMBIA GAS TRAN
8235203	11273	3704921614		103		ROBERT E ORTON #2	NORTH EAST FIELD HORN	20.8	COLUMBIA GAS TRAN
8235204	11274	3704921614		107-TF		ROBERT E ORTON #2	NORTH EAST FIELD HORN	20.0	COLUMBIA GAS TRAN
-KEYSTONE OIL & GAS INC				RECEIVED:	05/27/82	JA: PA			
8235272	11571	3706522366		103		BUFFINGTON #2	CLIFFORD BUFFINGTON	32.9	T W PHILLIPS GAS
-KISKI VALLEY OIL & GAS CO				RECEIVED:	05/27/82	JA: PA			
8235274	11538	3712900000		108		HAMILTON (PNG LEASE NO 10133)	BELL	1.5	PEOPLES NATURAL G
8235280	11544	3712900000		108		HAMILTON #1 (PNG WELL #33695)	UNKNOWN	3.5	PEOPLES NATURAL G
8235279	11543	3712900000		108		KASKAN (PNG WELL #15204)	UNKNOWN	9.0	PEOPLES NATURAL G
8235278	11542	3712900000		108		MUFFLEY #1 (PNG WELL #10663)	UNKNOWN	3.6	PEOPLES NATURAL G
8235273	11537	3712900000		107-TF		MUFFLEY #2 (PNG WELL NO 9554)	BELL	18.6	PEOPLES NATURAL G
8235277	11541	3712900000		108		SARGEANT #1 (PNG WELL #11620)	UNKNOWN	13.9	PEOPLES NATURAL G
8235276	11540	3712900000		108		SARGEANT #2 (PNG WELL #33681)	UNKNOWN	13.9	PEOPLES NATURAL G
8235275	11539	3712900000		108		SCHALL (PNG WELL #25222)	BELL	2.0	PEOPLES NATURAL G
-OILMARK & CO INC				RECEIVED:	05/27/82	JA: PA			
8235266	11582	3712327695		107-TF		LAUGER #1	SUGARGROVE	8.0	NATIONAL FUEL GAS
-PEMCO GAS INC				RECEIVED:	05/27/82	JA: PA			
8235228	11355	3700500000		108		A G BEIGHLEY #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235207	11334	3700520477		108		ANNIE SCOTT #4 ARM 4770	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235227	11354	3700500000		108		D E RUPERT #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235210	11337	3700500000		108		FANNIE WIANT #1	W PA UPPER DEVONIAN S	38.0	APOLLO GAS CO
8235230	11357	3700500000		108		G R WOODSIDE #1	W PA UPPER DEVONIAN S	16.0	APOLLO GAS CO
8235218	11345	3700500000		108		H E BURKETT #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235212	11339	3700500000		108		IRA L SMITH #2	W PA UPPER DEVONIAN S	34.0	APOLLO GAS CO
8235214	11341	3700500000		108		IRA SMITH #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235209	11336	3700500000		108		J H CHRISTY #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235229	11356	3700500000		108		J H CHRISTY #2	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235216	11343	3700500000		108		J H KNAPENBERGER #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235223	11350	3700500000		108		J P KNELL #1	W PA UPPER DEVONIAN S	27.0	APOLLO GAS CO
8235211	11338	3700500000		108		L F SUTTER #1	W PA UPPER DEVONIAN S	20.0	APOLLO GAS CO
8235213	11340	3700500000		108		L F SUTTER #2	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235219	11346	3700500000		108		LEWIS BAKER #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235226	11353	3700500000		108		LLOYD HANKEY #1	W PA UPPER DEVONIAN S	18.0	APOLLO GAS CO
8235208	11335	3700500000		108		M A KUNKLE #1	W PA UPPER DEVONIAN S	25.0	APOLLO GAS CO
8235215	11342	3700500000		108		NANCY SHEAFFER #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235225	11352	3700500000		108		O J KING #2	W PA UPPER DEVONIAN S	11.0	APOLLO GAS CO
8235224	11351	3700500000		108		O J KING #3	W PA UPPER DEVONIAN S	31.0	APOLLO GAS CO
8235222	11349	3700500000		108		P S RAMALE #1	W PA UPPER DEVONIAN S	22.0	APOLLO GAS CO
8235221	11348	3700500000		108		REICHENBAUGH #1	W PA UPPER DEVONIAN S	42.0	APOLLO GAS CO
8235217	11344	3700500000		108		W C FULTON #1	W PA UPPER DEVONIAN S	8.0	APOLLO GAS CO
8235228	11347	3700520022		108		W C SCHAEFFER #1 PERMIT ARM22	W PA UPPER DEVONIAN S	12.5	APOLLO GAS CO
-REX HUBER				RECEIVED:	05/27/82	JA: PA			
8235271	11580	3700521766		108		ANTHONY ODOSSO #1-3	DAYTON	1.6	PEOPLES NATURAL G
8235278	11578	3706326595		103		REXFORD L & DOROTHY C HUBER 2-16	NORTH POINT	36.0	T W PHILLIPS GAS
-RUTH E JAMIESON				RECEIVED:	05/27/82	JA: PA			
8235193	11257	3708520115		108		BLYSTONE #1	PLUMCREEK	2.2	APOLLO GAS CO
8235197	11261	3700520077		108		BURKETT #1	BURRELL	2.7	APOLLO GAS CO
8235198	11262	3700520023		108		KING #1	BURRELL	3.3	APOLLO GAS CO
8235194	11258	3708520276		108		ROSENBERGER #1	PLUMCREEK	2.5	APOLLO GAS CO
8235200	11264	3700500000		108		SCHAEFFER #1	BURRELL	1.7	APOLLO GAS CO
8235201	11265	3700500000		108		SCHAEFFER #2	BURRELL	1.7	APOLLO GAS CO
8235199	11263	3700520021		108		SCHAEFFER #3	BURRELL	1.0	APOLLO GAS CO
8235192	11256	3700520098		108		SCHALL #2	PLUMCREEK	4.0	APOLLO GAS CO
8235196	11260	3708520122		108		SCHALL #2	PLUMCREEK	1.6	APOLLO GAS CO
8235195	11259	3708520341		108		SCHALL #3	PLUMCREEK	2.5	APOLLO GAS CO
-T W PHILLIPS GAS & OIL CO				RECEIVED:	05/27/82	JA: PA			
8235282	11566	3706323517		103		FMLY A E JACK #1	WASHINGTON	27.0	T W PHILLIPS GAS
8235231	11523	3706325154		103		FMLY JOHN M ROCHESTER #5	GRANT	50.0	T W PHILLIPS GAS
8235281	11565	3706324314		103		FMLY SAMUEL KERR #6	WEST MAHONING	26.0	T W PHILLIPS GAS
8235283	11567	3706323829		103		KENNEDY & PETERSON #4	CONEMAUGH	28.0	T W PHILLIPS GAS
8235232	11524	3712921457		103		WALTER A AND VIRGINIA WEIGEL #1	DERRY	50.0	T W PHILLIPS GAS
-TEMPLETON ENERGY INC				RECEIVED:	05/27/82	JA: PA			
8235191	11526	3700522648		103		M ISABELLE LOGAN #1	SMELTZER	0.0	T W PHILLIPS GAS
8235190	11525	3700522652		103		PAUL MOWERY #1 SERIAL #7	DAYTON QUADRANGLE	0.0	T W PHILLIPS GAS
-UNION DRILLING INC				RECEIVED:	05/27/82	JA: PA			
8235286	11516	3706325406		108		ALTA WATSON #1 0676	CHERRYHILL TOWNSHIP	4.4	COLUMBIA GAS TRAN
8235287	11522	3706324680		108		B R WILLIAMS #2 0571	RAYNE TOWNSHIP	4.7	COLUMBIA GAS TRAN
8235284	11511	3706324455		108		JOHN D MCCOMBIE #1 0611	RAYNE TOWNSHIP	5.2	COLUMBIA GAS TRAN
8235285	11513	3706325006		108		PP & V CORP #1 0658	CHERRYHILL TOWNSHIP	4.8	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	05/27/82	JA: PA			
8235289	11535	3712330101		102-2		E CORNISH JR AC7	FREEHOLD	0.0	COLUMBIA GAS TRAN
8235291	11534	3712330101		107-TF		E CORNISH JR AC7	FREEHOLD	20.0	COLUMBIA GAS TRAN
8235288	11533	3712330065		102-2		H CORNISH AC-6	FREEHOLD	20.0	COLUMBIA GAS TRAN
8235290	11532	3712330065		107-TF		H CORNISH AC6	FREEHOLD	20.0	COLUMBIA GAS TRAN
WAINOCO OIL & GAS CO				RECEIVED:	05/27/82	JA: PA			
8235295	11601	3708520273		102-2		CARL BURROWS #1 (MC-15)	GREENVILLE	0.0	TENNESSEE GAS PIP
8235297	11606	3708520265		102-2		F C & MARGARET NEWBOLD #1 (MC-13	GREENVILLE	0.0	TENNESSEE GAS PIP
8235293	11598	3708520245		102-2		GLENN K CHESS #1 (MC-9)	GREENVILLE	6.0	TENNESSEE GAS PIP

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235299	11597	3708520245		107-TF		GLENN K CHESS #1 (MC-9)	GREENVILLE	6.0	TENNESSEE GAS PIP
8235296	11604	3708520230		102-2		JOHN A BELL III #1 (MC-1)	GREENVILLE	0.8	TENNESSEE GAS PIP
8235294	11599	3708520246		102-2		MARVIN KLEINHANS #3 (MC-7)	GREENVILLE	6.0	TENNESSEE GAS PIP
8235293	11592	3708520247		102-2		WARREN I THOMPSON #1 (MC-10)	GREENVILLE	11.0	TENNESSEE GAS PIP
8235294	11591	3708520247		107-TF		WARREN I THOMPSON #1 (MC-10)	GREENVILLE	11.0	TENNESSEE GAS PIP
-WILLIAM B WOOD				RECEIVED:	05/27/82	JAI PA			
8235239	10978	3700500003		108		FLOYD M RIGGLE	PLUMCREEK	0.0	PEOPLES NATURAL G
8235238	10977	3700500000		108		GUY KARLE TRUBY	PLUMCREEK	0.0	PEOPLES NATURAL G
8235236	10975	3700500000		108		N R ANKENY	PLUMCREEK	0.0	PEOPLES NATURAL G
8235237	10976	3700500000		108		PURDON #2	PLUMCREEK	0.0	PEOPLES NATURAL G
8235235	10974	3700500000		108		R D WOOD	PLUMCREEK	0.0	PEOPLES NATURAL G
8235240	10979	3700500000		108		WILLIAM J MCINTIRE	PLUMCREEK	0.0	PEOPLES NATURAL G
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VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
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-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	05/25/82	JAI VA			
8235018		4518520065		108		N RV & POC CON COAL #809632	VIRGINIA FIELD AREA	4.0	COLUMBIA GAS TRAN
8235022		4518519660		108		N RV POC CON COAL 26 #809050	VIRGINIA FIELD AREA	9.0	COLUMBIA GAS TRAN
8235019		4518520049		108		N RV&POC CON COAL #809578	VIRGINIA FIELD AREA	5.0	COLUMBIA GAS TRAN
8235020		4518520006		108		N RV&POC CON COAL 34 #809364	VIRGINIA FIELD AREA	4.0	COLUMBIA GAS TRAN
8235011		4502719990		108		NAT SHANT BE/BOSTON 809046	VIRGINIA FIELD AREA	2.0	COLUMBIA GAS TRAN
8235017		4502719949		108		NAT SHANT BK/BOSTON #808844	VIRGINIA FIELD AREA	9.0	COLUMBIA GAS TRAN
8235013		4502719972		108		NAT SHANT BK/BOSTON 808415	VIRGINIA FIELD AREA	1.0	COLUMBIA GAS TRAN
8235012		4502719977		108		NAT SHANT BK/BOSTON 808768	VIRGINIA FIELD AREA	0.1	COLUMBIA GAS TRAN
8235014		4502719979		108		NAT SHANT BK/BOSTON 808797	VIRGINIA FIELD AREA	7.0	COLUMBIA GAS TRAN
8235016		4502719982		108		NAT SHANT BK/BOSTON 808870	VIRGINIA FIELD AREA	13.0	COLUMBIA GAS TRAN
8235010		4502720115		108		ROBT C & DAVID M BELL #809688	VIRGINIA FIELD AREA	21.0	COLUMBIA GAS TRAN
8235015		4502719988		108		ZACH JUSTICE ETAL #808672	VIRGINIA FIELD AREA	2.0	COLUMBIA GAS TRAN
-PHILADELPHIA OIL COMPANY				RECEIVED:	05/25/82	JAI VA			
8235009		4508120394		107-DV		ARVIL DEEL #P-125	NORA	17.4	KENTUCKY WEST VIR
8235021		4508120394		103		ARVIL DEEL ET UX - # P-125	NORA	12.3	KENTUCKY WEST VIR
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WEST VIRGINIA DEPARTMENT OF MINES									
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-CABOT OIL & GAS CORP				RECEIVED:	05/24/82	JAI WV			
8235039		4703923573		107-DV		ALLEN #1	WASHINGTON	27.0	TENNESSEE GAS PIP
8235035		4707921840		107-DV		J L MCLEAN A-94	UNION	33.0	TENNESSEE GAS PIP
8235038		4700521342		107-DV		LITTLE COAL LAND CO C-10	WASHINGTON	29.0	TENNESSEE GAS PIP
8235036		4703923753		107-DV		SILER COAL A-14	WASHINGTON	9.0	TENNESSEE GAS PIP
8235037		4703923693		107-DV		SILER COAL A-17	WASHINGTON	26.0	TENNESSEE GAS PIP
-CHASE PETROLEUM				RECEIVED:	05/24/82	JAI WV			
8235050		4701722610		107-DV		HILEMAN #1	IRELAND-PRUNTY	30.0	
8235049		4701722874		107-DV		STINESPRING #1	SOUTHWEST DISTRICT	29.0	
8235048		4701722875		107-DV		STINESPRING #2	SOUTHWEST DISTRICT	28.0	
-CHASE PETROLEUM				RECEIVED:	05/28/82	JAI WV			
8235094		4701722897		102-3		HEDRICK LEGGETT #1	SOUTHWEST DISTRICT	28.0	
8235093		4701722898		102-3		HEDRICK LEGGETT #2	SOUTHWEST DISTRICT	28.0	
8235092		4701722899		102-3		HEDRICK LEGGETT #3	SOUTHWEST DISTRICT	29.0	
8235098		4701722874		102-3		STINESPRING #1	SOUTHWEST DISTRICT	29.0	
8235097		4701722875		102-3		STINESPRING #2	SOUTHWEST DISTRICT	28.0	
8235096		4701722876		102-3		STINESPRING #3	SOUTHWEST DISTRICT	28.0	
8235095		4701722877		102-3		STINESPRING #4	SOUTHWEST DISTRICT	29.0	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	05/24/82	JAI WV			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235040		4700521074		108		A C CANTERBERRY WN-12420	WASHINGTON	4.4	GENERAL SYSTEM PU
8235041		4700120779		108		DELBERT WAGNER WN-12169	PHILIPPI	7.2	GENERAL SYSTEM PU
-DEVON CORPORATION				RECEIVED:	05/24/82	JA: WV			
8235046		4703521621		107-DV		KENNETH ROWLEY #1003	RAVENSWOOD	7.2	COLUMBIA GAS TRAN
-HARLESS GAS CO				RECEIVED:	05/24/82	JA: WV			
8235043		4704321188		108		CORA RONK #3	WASHINGTON DISTRICT	5.5	ROARING FORK GAS
8235042		4704321189		108		CORA RONK #4	WASHINGTON DISTRICT	5.5	ROARING FORK GAS
8235044		4704321176		108		G W HIGGINBOTHAM #2	WASHINGTON DISTRICT	2.4	ROARING FORK GAS
8235045		4704321175		108		W H HARLESS #1	WASHINGTON DISTRICT	7.0	ROARING FORK GAS
-STONEWALL GAS CO INC				RECEIVED:	05/24/82	JA: WV			
8235051		4703322646		103		NUZUM #2 29-SH	TENMILE	15.0	CONSOLIDATED GAS
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/24/82	JA: WV			
8235047		4706720360		108		BETHLEHEM STEEL B-1	JEFFERSON	11.0	CABOT CORP
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	05/27/82	JA: WV			
8235058		4701521802		108		BETHLEHEM STEEL #20	TWENTY MILE CREEK	10.0	CABOT CORP
8235061		4701521786		108		BETHLEHEM STEEL #23	TWENTY MILE CREEK	17.0	CABOT CORP
8235060		4701521787		108		BETHLEHEM STEEL #26	TWENTY MILE CREEK	0.0	CABOT CORP
8235059		4701521789		108		BETHLEHEM STEEL #31	TWENTY MILE CREEK	5.0	CABOT CORP
8235076		4706720542		108		BETHLEHEM STEEL #56	JEFFERSON	1.4	CABOT CORP
8235057		4701521804		108		BETHLEHEM STEEL #60	HENRY	1.7	CABOT CORP
8235056		4701521805		108		BETHLEHEM STEEL #61	TWENTY MILE CREEK	3.0	CABOT CORP
8235086		4706720367		108		BETHLEHEM STEEL B-14	JEFFERSON	14.0	CABOT CORP
8235052		4706720389		108		BETHLEHEM STEEL B-47	JEFFERSON	20.0	CABOT CORP
8235084		4706720398		108		BETHLEHEM STEEL B-54	JEFFERSON	15.3	CABOT CORP
8235066		4701920291		108		CALVIN KENNEY #1	MT COVE	17.0	EQUITABLE GAS CO
8235087		4706720381		108		CHARLES WILLIAMS #1	GRANT	20.8	EQUITABLE GAS CO
8235075		4706720328		108		FEDERAL COAL #11	TWENTY MILE CREEK	16.8	CABOT CORP
8235074		4706720337		108		FEDERAL COAL #13	JEFFERSON	5.6	CABOT CORP
8235072		4706720338		108		FEDERAL COAL #14	TWENTY MILE CREEK	5.8	CABOT CORP
8235082		4706720386		108		FEDERAL COAL #21	JEFFERSON	13.7	CABOT CORP
8235083		4706720387		108		FEDERAL COAL #22	TWENTY MILE CREEK	8.7	CABOT CORP
8235079		4706720527		108		FEDERAL COAL #23	JEFFERSON	6.0	CABOT CORP
8235067		4706720523		108		FEDERAL COAL #24	JEFFERSON	18.0	CABOT CORP
8235077		4706720384		108		FEDERAL COAL #27	TWENTY MILE CREEK	3.5	CABOT CORP
8235073		4706720529		108		FEDERAL COAL #29	TWENTY MILE CREEK	5.0	CABOT CORP
8235078		4706720526		108		FEDERAL COAL #30	JEFFERSON	17.0	CABOT CORP
8235069		4706720530		108		FEDERAL COAL #31	TWENTY MILE CREEK	5.0	CABOT CORP
8235080		4706720531		108		FEDERAL COAL #32	BENTREE	6.3	CABOT CORP
8235081		4706720534		108		FEDERAL COAL #35	JEFFERSON	5.6	CABOT CORP
8235054		4706720332		108		FEDERAL COAL #4	JEFFERSON	7.5	CABOT CORP
8235065		4706720330		108		FEDERAL COAL #5	TWENTY MILE CREEK	11.9	CABOT CORP
8235063		4706720335		108		FEDERAL COAL #6	TWENTY MILE CREEK	11.5	CABOT CORP
8235062		4706720336		108		FEDERAL COAL #7	TWENTY MILE CREEK	11.5	CABOT CORP
8235064		4706720331		108		FEDERAL COAL #8	TWENTY MILE CREEK	0.0	CABOT CORP
8235053		4706720334		108		FEDERAL COAL #9	JEFFERSON	3.5	CABOT CORP
8235068		4706720511		108		MOWER LUMBER CO B-1	JEFFERSON	3.8	EQUITABLE GAS CO
8235085		4706720512		108		MOWER LUMBER CO B-2	JEFFERSON	3.8	EQUITABLE GAS CO
8235055		4701920380		108		PENN CENTRAL TRANSPORTATION CO #1	MOUNTAIN GROVE	12.8	EQUITABLE GAS CO
8235070		4701920362		108		SIGNAL KNOB LODGE #2	MOUNTAIN GROVE	16.0	EQUITABLE GAS CO
8235071		4706720485		108		VICTORIA JACOBS #2	GARNT	18.0	EQUITABLE GAS CO
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-EXXON CORPORATION				RECEIVED:	05/25/82	JA: LA 3			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235028	62-2691	1770840528		102-1		OCS-G 4109 #A-3	SOUTH MARSH ISLAND	188.8	COLUMBIA GAS TRAN
8235024	62-2713	1771543469		102-1		OCS-G 4237 #F-8	SOUTH TIMBALIER	1800.8	TRUNKLINE GAS CO
-SHELL OIL CO				RECEIVED:	05/25/82	JA: LA 3			
8235025	61-2340	1770909627		102-5		OCS-8478 B-10A	EUGENE ISLAND	20.0	TRANSCONTINENTAL
-SUPERIOR OIL CO				RECEIVED:	05/25/82	JA: LA 3			
8235027	G2-2711	1773141831		102-1		WELL #C-2	SABINE PASS	0.0	
8235023	G 2-2712	1773140036		102-1		WELL NO C-3	SAVINE PASS	0.0	
-MEMORAN OFFSHORE EXPLORATION CO				RECEIVED:	05/24/82	JA: TX 3			
*8235002	61-2455	4270940554		102-5		OCS-G 2359 #A-1	HIGH ISLAND	101.0	TRANSCONTINENTAL
-MONSANTO COMPANY				RECEIVED:	05/25/82	JA: TX 3			
8235026	62-2690	4270940685		102-1		OCS-G 3755 A-5	HIGH ISLAND	0.8	COLUMBIA GAS TRAN
-SHELL OIL CO				RECEIVED:	05/24/82	JA: TX 3			
8235001	62-2654	4270449880		102-1		OCS-G 3472 A-5	BRAZOS	10.0	COLUMBIA GAS TRAN

OTHER PURCHASERS VOLUME NO :672

8235002 COLUMBIA GAS TRANS CORP
8235028 AMERADA HESS CORP
8235024 AMERADA HESS CORP
8235025 AMERADA HESS CORP
8235027 AMERADA HESS CORP

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 13, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 mile rule)
- 102–3: New well (1000 ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal seams
- 107–DV: Devonian shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary

[FR Doc. 82–17314 Filed 6–25–82; 8:45 am]

BILLING CODE 6717–01–M

[Volume 673]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 21, 1982.

JD NO	DKT	API NO	D	SEC 11	SEC 12	WELL NAME	FIELD NAME	PROD	PURCHASER
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-AMOCO PRODUCTION CO			RECEIVED:	06/02/82	JA: MI				
8235688		2113731793	102-4			STATE CHARLTON #1-10	CHARLTON 10-31N-1W	77.0	CONSUMERS POWER C
8235690		2113734727	102-4			STATE CHARLTON #2-11	CHARLTON 11A-31N-1W	1168.0	CONSUMERS POWER C
8235689		2113731794	102-4			STATE NORTH CHARLTON #1-11	CHARLTON 11-31N-1W	1168.0	CONSUMERS POWER C
-SHELL OIL CO			RECEIVED:	06/02/82	JA: MI				
8235691		2107932988	102-4			R G BROWN 2-34	BLUE LAKE TOWNSHIP	638.8	MICHIGAN CONSOLID
8235687	21-141	2114100000	102-2			STATE ALLIS 1-17B	ST ALLIS	189.5	MICHIGAN CONSOLID
8235686		2103100000	102-2			STATE FOREST 1-22A	ST FOREST	0.0	MICHIGAN CONSOLID
-TRAVERSE OIL CO			RECEIVED:	06/02/81	JA: MI				
8235684		2109933666	103			DETROIT EDISON #1-2A	WASHINGTON 10	186.8	MICHIGAN CONSOLID
-TRAVERSE OIL CO			RECEIVED:	06/02/82	JA: MI				
8235685		2110134737	103			HILLARD #1-26A	BEAR LAKE 25-A	85.0	CONSUMERS POWER C
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CONSOLIDATED OIL & GAS INC			RECEIVED:	06/01/82	JA: MT				
8235673	6-81-111	2508321471	103			YOUNG HEIRS #4	FAIRVIEW AREA RED RIV	0.0	MONTANA DAKOTA UT
-LADD PETROLEUM CORPORATION			RECEIVED:	06/01/82	JA: MT				
8235670	6-81-115	2508321373	102-3			DUNCAN PETERSON #20-12	SIDNEY	13.7	
-SOUTHLAND ROYALTY CO			RECEIVED:	06/01/82	JA: MT				
8235672	6-81-112	2507121736	102-2			LAROCHE-HARRISON TRUST 5760 #1	BOWDOIN DOME	35.0	KANSAS NEBRASKA N
8235671	6-81-113	2507121735	102-2			MURDOCK 1762 #1	BOWDOIN DOME	28.0	KANSAS NEBRASKA N
-TRANSCONTINENTAL OIL CORPORATION			RECEIVED:	06/01/82	JA: MT				
8235669	6-81-114	2508321443	103			GHOSVOLD #1-35	OTIS CREEK	93.0	TRUE OIL CO
NEBRASKA OIL & GAS CONSERVATION COMMISSION									
-RICHARD S DOUGHERTY & JAS E WARREN			RECEIVED:	06/01/82	JA: NB				
8235668		2603521241	108			W LEE HAWKINS #1	PEBBLE	36.5	MARATHON OIL CO
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ENERGY RESERVES GROUP INC			RECEIVED:	06/01/82	JA: NM				
8235681		3002527601	103			AMOCO STATE #4	BUCKEYE ABO	25.9	PHILLIPS PETROLEU
-HARVEY E YATES COMPANY			RECEIVED:	06/01/82	JA: NM				
8235680		3002527618	103			SOUTHEAST AIRSTRIP #1	SCHARB	0.0	
-LEWIS B BURLESON			RECEIVED:	06/01/82	JA: NM				
8235675		3002511827	108			GUTMAN #1	JALMAT GAS	21.0	EL PASO NATURAL G
-MERRION OIL & GAS CORP			RECEIVED:	06/01/82	JA: NM				
8235682		3004320615	103			CHAPMAN A #1	LYBROOK GALLUP EXT	77.0	
-SOUTHLAND ROYALTY CO			RECEIVED:	06/01/82	JA: NM				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235683		3001523133		108		JEB STUART "13" COM #1	ANGELL RANCH	3.0	EL PASO NATURAL G
8235678		3004522648		108		LAWSON #3	BLANCO	19.0	SOUTHERN UNION GA
8235679		3004528439		108		PIERCE #6	BLANCO	14.0	SOUTHERN UNION GA
-YATES PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: NM			
8235676		3000561270		102-2		GRYNBERG "LZ" STATE #3	PECOS SLOPE ABO	8.0	TRANSWESTERN PIPE
8235677		3000561432		102-2		MARGARET "RO" STATE #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
********** NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION **********									
-ABARTA OIL & GAS INC				RECEIVED:	06/02/82	JA: NY			
8235613	3087	3102915685		103		ABARTA B80-102 (PINGITORE #2)	LAKESHORE	32.0	NATIONAL FUEL GAS
8235614	3061	3102916564		103		ABARTA E81-007 LUTHERAN #1	LAKE SHORE	38.0	NATIONAL FUEL GAS
-AMERICAN PENN ENERGY INC				RECEIVED:	06/02/82	JA: NY			
8235643	2812	3102916680		103		BLASZ-BOWMAN UNIT #1 (1455)	EVANS	10.0	NATIONAL FUEL GAS
8235644	2814	3102915429		103		CANNY UNIT #1 (1443)	EVANS	10.0	NATIONAL FUEL GAS
8235667	2813	3102915479		103		CANNY UNIT #2 (1444)	EVANS	6.0	NATIONAL FUEL GAS
8235642	2811	3102916681		103		TWIN CREEK UNIT #1 (1521)	EVANS	10.0	NATIONAL FUEL GAS
-AURELIUS GAS CO INC				RECEIVED:	06/02/82	JA: NY			
8235655	2776	3101116149		103		EDITH H PATTERSON #2	WEST AUBURN	40.0	CONSOLIDATED GAS
8235654	2775	3101116151		103		FABIAN UNIT PATTERSON #1	WEST AUBURN	40.0	CONSOLIDATED GAS
-BAY ENERGY CO #2				RECEIVED:	06/02/82	JA: NY			
8235630	3062	3102916012		103		TOMAKA #1	HAMBURG	29.0	NATIONAL FUEL GAS
-CLINTON C MEEDER				RECEIVED:	06/02/82	JA: NY			
8235658	2821	3101315049		108		CLINT MEEDER #1- D & CL	LAKESHORE	15.0	NATIONAL FUEL GAS
-CUMBERLAND OIL CORP				RECEIVED:	06/02/82	JA: NY			
8235638	2384	3101315637		107-DV		C POPIELARZ #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8235640	2382	3101315909		107-DV		D FAIRBANKS #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8235628	2381	3101316267		107-DV		D FAIRBANKS #3	FORESTVILLE	6.0	NATIONAL FUEL GAS
8235624	2380	3101316312		107-DV		DALLAS ZAHM #2	LAKESHORE	20.0	NATIONAL FUEL GAS
8235637	2385	3101315697		107-DV		GRACE EDE #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8235639	2383	3101315526		107-DV		HOUCK #2	FORESTVILLE	40.0	NATIONAL FUEL GAS
8235627	2372	3101315573		107-DV		HOUCK #3	FORESTVILLE	40.0	NATIONAL FUEL GAS
8235633	2368	3101315598		107-DV		LAMMERHIRT #1	FORESTVILLE	45.0	NATIONAL FUEL GAS
8235634	2369	3101315597		107-DV		LAMMERHIRT #2	FORESTVILLE	45.0	NATIONAL FUEL GAS
8235632	2367	3101315819		107-DV		G HALL #1	FORESTVILLE	20.0	NATIONAL FUEL GAS
8235631	2366	3101315820		107-DV		ORREN HALL #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
8235646	2386	3101315678		107-DV		POPIELARZ #2	FORESTVILLE	20.0	NATIONAL FUEL GAS
-ECLIPSE ENERGY CORP				RECEIVED:	06/02/82	JA: NY			
8235663	2985	3101316427		103		EE 4 HALVORS GN	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235664	2896	3101316894		103		HAMLET I EE9	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235665	3134	3101316973		103		HAMLET II EE 11	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235666	2984	3101316895		103		MEZZIO #II EE8	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235659	2897	3101316853		103		MEZZIO I EE 7	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235661	2899	3101316801		103		STEBBINS II EE6	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235660	2898	3101316848		103		STEBBINS III EE5	LAKE SHORE	15.0	NATIONAL FUEL GAS
8235662	2900	3101316962		103		VAN DETTE EE 10	LAKE SHORE	15.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	06/02/82	JA: NY			
8235629	2799	3101314396		103		BESCH #3 #3127	LAKE SHORE	6.0	NATIONAL FUEL GAS
-GAS & GAS INC				RECEIVED:	06/02/82	JA: NY			
8235615	3021	3102916624		103		BORIS METELOVSKI #1	LAKE SHORE	18.0	NATIONAL FUEL GAS
-J M RESOURCES				RECEIVED:	06/02/82	JA: NY			
8235657	2857	3101314420		108		KNIGHT-KOFOED #5	LAKESHORE	11.2	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	06/02/82	JA: NY			

VOLUME 673 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8235653	2800	3103714526		103		N W THATER #2 LRC #53	PAVILION	20.0	ELIZABETHTOWN GAS
-MAYNARD OIL COMPANY				RECEIVED:	06/02/82	JA: NY			
8235645	2850	3102916876		103		BEIER #1	WILDCAT	0.0	NATIONAL FUEL GAS
8235641	2851	3102916661		103		NIEMAN #1	WILDCAT	0.0	NATIONAL FUEL GAS
-NORTH COLLINS DRILLING PROGRAM				RECEIVED:	06/02/82	JA: NY			
8235649	2851	3102914797		108		C & M EDER #1 #1486	NORTH COLLINS	10.0	NATIONAL FUEL GAS
8235648	2852	3102914798		108		N L & V L SCHMITZ #1 1487	NORTH COLLINS	10.0	NATIONAL FUEL GAS
8235647	2853	3102914799		108		N L & V L SCHMITZ #2 #1488	NORTH COLLINS	10.0	NATIONAL FUEL GAS
-OILMARK & CO INC				RECEIVED:	06/02/82	JA: NY			
8235656	2840	3101313794		108		NOCEK #1	LAKESHORE	5.0	NATIONAL FUEL GAS
-P & S DRILLING INC				RECEIVED:	06/02/82	JA: NY			
8235651	3117	3102919656		103		BECHER-POUTMIER #1	BUFFALO CREEK	30.0	NATIONAL FUEL GAS
8235650	3118	3102916984		103		HICKEY #2	ALDEN-LANCASTER	4.5	NATIONAL FUEL GAS
-PATRICK PETROLEUM CORP OF MICHIGAN				RECEIVED:	06/02/82	JA: NY			
8235652	2817	3100316557		103		ROBERTS #1	GORDON BROOK	60.0	
-RICHARDSON PETROLEUM CORP				RECEIVED:	06/02/82	JA: NY			
8235621	2753	3100316524		103		C & C DOUGHERTY #1	INDEPENDENCE	11.0	NATIONAL FUEL GAS
8235623	2754	3110116153		103		JACK LOSEY #1	INDEPENDENCE	10.0	NATIONAL FUEL GAS
8235622	2755	3100316260		103		S & M DOUGHERTY #1	INDEPENDENCE	12.0	NATIONAL FUEL GAS
-SINCLAIRVILLE PETROLEUM CORP				RECEIVED:	06/02/82	JA: NY			
8235620	2843	3102914530		108		DICK #1	EAST AURORA	0.0	NATIONAL FUEL GAS
8235616	2849	3102915274		108		KRULL #1	E AURORA	0.0	NATIONAL FUEL GAS
8235619	2844	3102914407		108		MCNEIL #1	E AURORA	0.0	NATIONAL FUEL GAS
8235618	2846	3102914626		108		MODEN #1	EAST AURORA	0.0	NATIONAL FUEL GAS
8235617	2848	3102915240		108		STEWART #1	EAST AURORA	0.0	NATIONAL FUEL GAS
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	06/02/82	JA: NY			
8235625	2370	3101315413		107-DV		E BARMORE #2	GERRY	20.0	COLUMBIA GAS TRAN
8235635	2364	3101315414		107-DV		F BARMORE #1	GERRY	20.0	COLUMBIA GAS TRAN
8235626	2371	3101314829		107-DV		R BARMORE #1	GERRY	20.0	COLUMBIA GAS TRAN
8235636	2365	3101315416		107-DV		R BARMORE #2	GERRY	20.0	COLUMBIA GAS TRAN

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OHIO DEPARTMENT OF NATURAL RESOURCES

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-A W AND V J INNES				RECEIVED:	06/01/82	JA: OH			
8235442		3416725511		103		A B CLINE JR #1	LOWELL	1.8	VALENTINE OIL PRO
-ALTHEIRS OIL INC				RECEIVED:	06/01/82	JA: OH			
8235331		3412725572		103	107-TF	PONTIOUS #1A	HARRISON TOWNSHIP	5.0	
-AMERICAN PETROEL INC				RECEIVED:	06/01/82	JA: OH			
8235333		3416726501		103		FLEMING #2	LOWELL	3.7	COLUMBIA GAS TRAN
8235332		3416726500		103		FLEMING #3	LOWELL	3.6	COLUMBIA GAS TRAN
-B T SIMPSON JR				RECEIVED:	06/01/82	JA: OH			
8235583		3407523493		103		CLARENCE MOHLER #2	WELCOME	60.0	COLUMBIA GAS TRAN
8235584		3407523496		103		MARGARET SMAIL #2	WELCOME	70.0	COLUMBIA GAS TRAN
-BARVAL				RECEIVED:	06/01/82	JA: OH			
8235335		3410323003		103	107-TF	E VALENTINE #1-A	WADSWORTH	1.5	JONES & LAUGHLIN
-BELDEN & BLAKE & CO #79				RECEIVED:	06/01/82	JA: OH			
82353678		3415123643	D	107-TF		J & M SEIFER COMM - 1-341152	LIMAVILLE	36.5	
8235367A		3415123643		103		J & M SEIFERT COMM - 1-341152	LIMAVILLE	36.5	
8235388		3416120083		103		J W BOWERS ET AL - 1-1092	CONVOY	36.5	
8235385		3416120097		103		O DEAN KNERR - 2-341091	CONVOY	36.5	
-BELDEN & BLAKE & CO L P NO 76				RECEIVED:	06/01/82	JA: OH			
8235372		3416120067		103		MERLYN W MACE COMM - 3-1075	CONVOY	36.5	
-BELDEN & BLAKE & CO. 78				RECEIVED:	06/01/82	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235377		3416120080		103		A E & D J WILSON - 1-341088	CONVOY	36.5	
8235376		3416120079		103		BEATRICE BOWERS - 1-341087	CONVOY	36.5	
8235382		3416120092		103		D C & E S MCOMBER - 1-341105	CONVOY	36.5	
8235378		3416120081		103		KERMIT IMLER - 2-341085	CONVOY	36.5	
8235379		3416120082		103		KERMIT IMLER - 3-341086	CONVOY	36.5	
8235381		3416120090		103		LLOYD DUNCAN - 1-1103	CONVOY	36.5	
8235383		3416120093		103		PEOPLES TRUST&EDI HIPSHER 1-341100	CONVOY	36.5	
8235384		3416120094		103		SARAH E THOMAS - 1-341106	CONVOY	36.5	
-BELDEN & BLAKE AND CO #77				RECEIVED:	06/01/82	JA: OH			
8235370		3416120065		103		FT WAYNE NAT BANK&MCDOWELL2-341067	CONVOY	36.5	
8235371		3416120066		103		HAROLD R & IMA R PUTMAN - 1-341076	CONVOY	36.5	
8235375		3416120073		103		JESSE AND ALVA BOWERS - 1-1077	CONVOY	36.5	
8235374		3416120069		103		JESSE V POLING - 1-341079	CONVOY	36.5	
8235373		3416120068		103		O DEAN KNERR - 1-1078	CONVOY	36.5	
-BELDEN & BLAKE CO L P NO 75				RECEIVED:	06/01/82	JA: OH			
8235369		3416120055		103		FORT WAYNE NATIONAL BANK 1-1014	UNION	36.5	
8235365		3401921353		103		H A GALAY - 1-973	ROSE	36.5	
8235364		3401921352		103		MARY SAVAGE - 1-972	ROSE	36.5	
8235368		3416120052		103		MERLYN & RUBY MACE #1 -995	UNION	36.5	
8235366		3401921531		103		WHITACRE-GREER - 31-970	BROWN	36.5	
-BELDEN & BLAKE OIL PRODUCTION				RECEIVED:	06/01/82	JA: OH			
8235360		3415122064		108		C & R ROSE COMM #1 1-548		3.0	
8235343		3413320217		108		CHALFANT COMM #1 1-0373		3.0	
8235361		3415122159		108		D & S LOZIER COMM #1 1-573		3.0	
8235352		3415121871		108		G NOFSINGER #8 1-0507		3.0	
8235357		3415121978		108		G NOFSINGER COMM #11 1-0531		3.0	
8235341		3401922047		108		G NOFSINGER COMM #12 1-0539		3.0	
8235340		3401920542		108		HICKORY CARROLL COMM #6 1-571		3.0	
8235338		3401920333		108		HICKORY CLAY CO #1 1-0495		3.0	
8235346		3415121057		108		J & F KING COMM #2 1-0355		3.0	
8235354		3415121914		108		J MAYERS #2 1-0512		3.0	
8235337		3401920290		108		JAMES BROS COAL #1 1-0465		3.0	
8235339		3401920528		108		JAMES BROS COAL CO #3 1-562		3.0	
8235355		3415121942		108		L & G THOUVENIN #3 1-0509		3.0	
8235362		3415122222		108		L & S BOWLING COMM #1 1-595		3.0	
8235345		3415120981		108		L V LANTZER COMM #1 1-0272		3.0	EAST OHIO GAS
8235336		3401920288		108		LUCAS MYERS COMM #1 1-0418		3.0	
8235351		3415121800		108		MAGNOLIA MINING CO #1 1-0494		3.0	
8235353		3415121872		108		MAGNOLIA MINING CO #2 1-508		3.0	
8235358		3415122030		108		MAGNOLIA MINING CO #3 1-0538		3.0	
8235344		3413320219		108		MICHAEL MERCHEK COMM #1 1-0393		3.0	
8235363		3415122242		108		MINCER COMM #1 1-0614		3.0	
8235350		3415121707		108		MUZZY DEV CORP COMM #1 1-0476		3.0	
8235342		3409920214		108		R & D NEWELL COMM #1 1-0414		3.0	
8235359		3415122127		108		R & O GILL COMM #1 1-568		3.0	
8235349		3415121378		108		R & T WEBB COMM #1 1-0466		3.0	
8235347		3415121093		108		W & A ABBOTT COMM #1 1-042E		3.0	
8235356		3415121956		108		W & N BLACKMER COMM #1 1-0527		3.0	
8235348		3415121145		108		WARREN BOWMAN #2 1-0449		3.0	
-BEREA OIL AND GAS CORPORATION				RECEIVED:	06/01/82	JA: OH			
8235388		3415520736		108		H SCHLACT #1	FARMINGTON	1.2	EAST OHIO GAS CO
8235387		3411925991		103	107-TR	L FRICK #7	RICH HILL	6.0	COLUMBIA GAS TRAN
8235386		3409923159		103		R MOORE #3	NEW CONCORD	6.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-BERMAN J SHAFER				RECEIVED: 06/01/82 JA: OH					
8235578		3410322752		107-TF		RICKETTS-STOLL #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
-BLAZE OIL AND GAS INC				RECEIVED: 06/01/82 JA: OH					
8235389		3416922778		107-TF		A C D C (ST OF OH) #1	APPLE CREEK	36.5	COLUMBIA GAS TRAN
-BRADEN DEVELOPMENT COMPANY				RECEIVED: 06/01/82 JA: OH					
8235390		3416726877		103		ISAAC PUGH #2	RINARD MILLS	10.0	COLUMBIA GAS TRAN
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED: 06/01/82 JA: OH					
8235391		3416724881	D	108		BROWN #1		47.5	GAS TRANSPORT INC
8235392		3416923224		103	107-TF	SIDLE #1	SHREVE	7.3	COLUMBIA GAS TRAN
-CARMCO INC				RECEIVED: 06/01/82 JA: OH					
8235393		3410322912		103	107-TF	CARMELA TRAMONTE #1	GRANGER	20.0	
-CLARENCE ASH				RECEIVED: 06/01/82 JA: OH					
8235334		3416727077		103		C ASH #2	MUSKINGUM TWP	8.0	RIVER GAS CO
-CLARENCE SHERMAN				RECEIVED: 06/01/82 JA: OH					
8235581		3415723708		103	107-TF	FREEMAN MILLER #2	AUBURN	15.0	EAST OHIO GAS CO
8235579		3407523548		103	107-TF	WILLIAM ANDREAS #1	CLARK	15.0	EAST OHIO GAS CO
8235580		3407523549		103	107-TF	WILLIAM ANDREAS #2	CLARK	15.0	EAST OHIO GAS CO
-CLINTON OIL CO				RECEIVED: 06/01/82 JA: OH					
8235396		3408923969		108		H KIBLER #3-525		10.0	NEWZONE GAS CO
8235394		3408923126		108		HOWARD KIBLER #1		10.0	NEWZONE GAS CO
8235395		3408923192		108		KIBLER #2		10.0	NEWZONE GAS CO
-DERBY OIL & GAS CORP				RECEIVED: 06/01/82 JA: OH					
8235397		3407523664		103	107-TF	A A WEAVER #3	SALT CREEK	12.0	COLUMBIA GAS TRAN
-DISCOVERY OIL LTD				RECEIVED: 06/01/82 JA: OH					
8235399		3407523332		107-TF		ADEN MILLER #1	BERLIN	12.0	
8235398		3407523339		107-TF		L MILLER #1	HARDY	12.0	
-DOME DRILLING CO				RECEIVED: 06/01/82 JA: OH					
8235401		3403521139		103	107-TF	BROOKINS-ROONEY #2	OLMSTED	10.9	COLUMBIA GAS TRAN
8235402		3403521143		103	107-TF	ERB #1	OLMSTED	18.2	COLUMBIA GAS TRAN
8235400		3400721927		103	107-TF	KAZEN CARNEY #2	CHERRY VALLEY	18.2	PARK OHIO INC
8235403		3409321152		107-TF		SAMSEL #1	COLUMBIA	36.5	COLUMBIA GAS TRAN
-DONALD M ROBINSON				RECEIVED: 06/01/82 JA: OH					
8235572		3411121953		107-TF		HARRY STEINHOFF #1	WASHINGTON	19.0	
-DORAN & ASSOCIATES INC				RECEIVED: 06/01/82 JA: OH					
8235404A		3408720291		103		GLADYS MELVIN #1	PERRY	12.0	COLUMBIA GAS TRAN
8235404M		3408720291	D	107-TF		GLADYS MELVIN #1	PERRY	12.0	COLUMBIA GAS TRAN
8235405		3411925809		103	107-TF	JOHN PAUL #1 A	WAYNE	12.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC/ALDOR				RECEIVED: 06/01/82 JA: OH					
8235408		3412724814	D	108		BILLY CARTER #1 KA-48		12.0	NATIONAL OIL & GA
8235407		3412724813		108		DONALD STERRETT #1 KA-47		12.0	NATIONAL GAS & OI
8235406		3412723788		108		LAWRENCE FORGRAVE #1 KA-49		12.0	NATIONAL GAS & OI
-EDCO DRILLING & PRODUCING INC				RECEIVED: 06/01/82 JA: OH					
8235409		3403124629		103	107-TF	SHRIMPLIN WB-4G	RANDLE	18.0	
-EMRON ENERGY CORP				RECEIVED: 06/01/82 JA: OH					
8235410		3416723936		103		EARL RUSH #1	MUSKINGUM	40.0	COLUMBIA GAS TRAN
-ENSERCH EXPLORATION INC				RECEIVED: 06/01/82 JA: OH					
8235411		3400709020		108		L & H GRAHAM "A" #1	LENOX	5.0	JONES & LAUGHLIN
-FRONTIER PETROLEUM LTD				RECEIVED: 06/01/82 JA: OH					
8235412		3416726550		103		DELORIS JONES #1	RINARD MILLS	12.0	RIVER GAS CO
-GASEARCH INC				RECEIVED: 06/01/82 JA: OH					
8235413		3408721794		103	107-TF	BROWN #1	SHEFFIELD	20.0	
8235415		3415522108		103	107-TF	NATIONAL NORTHERN INC #2	LIBERTY	20.0	AMERICAN ENERGY S
8235414		3415521651		103	107-TF	PASSELL #2	MECCA	20.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235416		3410322911		103	107-TF	CARMELA TRAMONTE #2	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235417		3410322913		103	107-TF	CARMELA TRAMONTE #3	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235418		3410322914		103	107-TF	CARMELA TRAMONTE #4	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235419		3410322915		103	107-TF	CARMELA TRAMONTE #5	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235420		3410322916		103	107-TF	CARMELA TRAMONTE #6	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235421		3410322917		103	107-TF	CARMELA TRAMONTE #7	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235422		3410322918		103	107-TF	CARMELA TRAMONTE #8	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235423		3410322919		103	107-TF	CARMELA TRAMONTE #9	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235424		3410322920		103	107-TF	CARMELA TRAMONTE #10	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235425		3410322921		103	107-TF	CARMELA TRAMONTE #11	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235426		3410322922		103	107-TF	CARMELA TRAMONTE #12	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235427		3410322923		103	107-TF	CARMELA TRAMONTE #13	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235428		3410322924		103	107-TF	CARMELA TRAMONTE #14	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235429		3410322925		103	107-TF	CARMELA TRAMONTE #15	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235430		3410322926		103	107-TF	CARMELA TRAMONTE #16	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235431		3410322927		103	107-TF	CARMELA TRAMONTE #17	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235432		3410322928		103	107-TF	CARMELA TRAMONTE #18	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235433		3410322929		103	107-TF	CARMELA TRAMONTE #19	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235434		3410322930		103	107-TF	CARMELA TRAMONTE #20	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235435		3410322931		103	107-TF	CARMELA TRAMONTE #21	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235436		3410322932		103	107-TF	CARMELA TRAMONTE #22	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235437		3410322933		103	107-TF	CARMELA TRAMONTE #23	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235438		3410322934		103	107-TF	CARMELA TRAMONTE #24	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235439		3410322935		103	107-TF	CARMELA TRAMONTE #25	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235440		3410322936		103	107-TF	CARMELA TRAMONTE #26	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235441		3410322937		103	107-TF	CARMELA TRAMONTE #27	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235442		3410322938		103	107-TF	CARMELA TRAMONTE #28	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235443		3410322939		103	107-TF	CARMELA TRAMONTE #29	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235444		3410322940		103	107-TF	CARMELA TRAMONTE #30	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235445		3410322941		103	107-TF	CARMELA TRAMONTE #31	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235446		3410322942		103	107-TF	CARMELA TRAMONTE #32	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235447		3410322943		103	107-TF	CARMELA TRAMONTE #33	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235448		3410322944		103	107-TF	CARMELA TRAMONTE #34	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235449		3410322945		103	107-TF	CARMELA TRAMONTE #35	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235450		3410322946		103	107-TF	CARMELA TRAMONTE #36	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235451		3410322947		103	107-TF	CARMELA TRAMONTE #37	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235452		3410322948		103	107-TF	CARMELA TRAMONTE #38	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235453		3410322949		103	107-TF	CARMELA TRAMONTE #39	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235454		3410322950		103	107-TF	CARMELA TRAMONTE #40	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235455		3410322951		103	107-TF	CARMELA TRAMONTE #41	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235456		3410322952		103	107-TF	CARMELA TRAMONTE #42	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235457		3410322953		103	107-TF	CARMELA TRAMONTE #43	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235458		3410322954		103	107-TF	CARMELA TRAMONTE #44	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235459		3410322955		103	107-TF	CARMELA TRAMONTE #45	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235460		3410322956		103	107-TF	CARMELA TRAMONTE #46	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235461		3410322957		103	107-TF	CARMELA TRAMONTE #47	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235462		3410322958		103	107-TF	CARMELA TRAMONTE #48	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235463		3410322959		103	107-TF	CARMELA TRAMONTE #49	GRANGER	20.0	
-GEORGE OIL CO				RECEIVED: 06/01/82 JA: OH					
8235464		3410322960		103	107-TF	CARMELA TRAMONTE #50	GRANGER	20.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GEORGE N WARNER				RECEIVED: 06/01/82		JA: OH			
8235598		3405320012		108		ANNA BUKGY		9.8	COLUMBIA GAS TRAN
8235606		3405300062		108		C C FIRST #1		9.8	COLUMBIA GAS TRAN
8235602		3405300021		108		C C FIRST #2-5851		9.8	COLUMBIA GAS TRAN
8235607		3405320100		108		C JEWEL #1		9.8	COLUMBIA GAS TRAN
8235599		3405320014		108		C JEWEL #1-6773		9.8	COLUMBIA GAS TRAN
8235609		3405320273		108		C JEWEL #2		9.8	COLUMBIA GAS TRAN
8235605		3405300060		108		EMMETT ELLIOTT FRENCH #1		9.8	COLUMBIA GAS TRAN
8235601		3405320019		108		F E STOVER #1		9.8	COLUMBIA GAS TRAN
8235608		3405300116		108		J H MINK #1		9.8	COLUMBIA GAS TRAN
8235604		3405300059		108		JOHN MINK #1		9.8	COLUMBIA GAS TRAN
8235603		3405300042		108		M & F DANIELS #1		9.8	COLUMBIA GAS TRAN
8235597		3405320009		108		VIRGIL RIFE #1		9.8	COLUMBIA GAS TRAN
8235608		3405320201		108		W THOMAS #1		9.8	COLUMBIA GAS TRAN
-HERALD OIL & GAS CO				RECEIVED: 06/01/82		JA: OH			
8235416		3410521898		108		GUY SARGENT #1		5.4	COLUMBIA GAS TRAN
8235417		3410521930		108		TED WARNER #1		5.4	COLUMBIA GAS TRAN
-HOPCO RESOURCES INC				RECEIVED: 06/01/82		JA: OH			
8235438		3412725482		103	107-TF	MILLER #81	GLENFORD	12.0	COLUMBIA GAS TRAN
8235436		3411926138		103	107-TF	PRIOR #A3	DRESDEN	12.0	COLUMBIA GAS TRAN
8235437		3411926140		103	107-TF	PRIOR #82	DRESDEN	12.0	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 06/01/82		JA: OH			
8235441		3412724620		107-TF		CHARLES & VERNON SOWERS #1	HARRISON	6.0	NATIONAL GAS & OI
8235440		3411522265		107-TF		EDNA STONEBURNER #1	YORK	16.0	NATIONAL GAS & OI
8235439		3411522032		107-TF		WAYNE SMITH #1	SMITH	9.0	NATIONAL GAS & OI
-IRON RIDGE PRODUCTION CO				RECEIVED: 06/01/82		JA: OH			
8235443		3416727082		103		DON BURKEY #1	MUSKINGUM TWP - BEREA	8.0	RIVER GAS CO
-IRVIN PRODUCING COMPANY				RECEIVED: 06/01/82		JA: OH			
8235444		3411926254		103	107-TF	HAZEL ROBERTS #1	GRATIOT	16.8	NATIONAL GAS & OI
-J D DRILLING CO				RECEIVED: 06/01/82		JA: OH			
8235447		3410522344		103		ARNOLD WEBSTER #3	POMEROY	5.0	COLUMBIA GAS TRAN
8235448		3410522363		103		ARNOLD WEBSTER #4	POMEROY	5.0	COLUMBIA GAS TRAN
8235445		3410521839		107-DV		JAMES & JOHN SUTTLE #1	LEBANON	3.0	COLUMBIA GAS TRAN
8235446		3410522030		103		RICHARD MEES #1	SHADE	7.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 06/01/82		JA: OH			
8235468		3406720369		103		ROY BIRNEY #2	CADIZ	1.0	COLUMBIA GAS TRAN
8235461		3406720361		103		ROY BIRNEY #3	CADIZ	1.0	COLUMBIA GAS TRAN
-JOHN C MASON				RECEIVED: 06/01/82		JA: OH			
8235459		3408323182		103		JEAN VIERS #2	UNION	5.0	OHIO CUMBERLAND G
-JONSU OIL CORP				RECEIVED: 06/01/82		JA: OH			
8235449		3403124682		103		KELLEY #2	SPRING MOUNTAIN	6.0	
8235450		3403124683		103		KELLEY #3	SPRING MOUNTAIN	6.0	
8235451		3408924279		103		MCGUIRE #1	BOWLING GREEN	3.0	
-K S T OIL & GAS CO INC				RECEIVED: 06/01/82		JA: OH			
8235452		3415320918		103	107-TF	FEUCHT #1	NORTHAMPTON	0.0	
-KENOIL				RECEIVED: 06/01/82		JA: OH			
8235453		3416921899		108		CLARA SELL #1		6.0	COLUMBIA GAS TRAN
-LANDPROVEST INC				RECEIVED: 06/01/82		JA: OH			
8235455		3405923006		107-TF		BAY #3	BUCKEYEVILLE	30.0	
8235454		3405922987		107-TF		CARL WILSON #1	CAMBRIDGE	25.0	
8235456		3405923084		107-TF		FERGUSON #1	CAMBRIDGE	25.0	
-LOMAK PETROLEUM INC				RECEIVED: 06/01/82		JA: OH			
8235457		3405520322		107-TF		M WHITING #2	BURTON	24.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-M B OPERATING CO INC				RECEIVED:	06/01/82	JA: OH			
8235458		3415123468		103	107-TF	FLINTILOTE CO UNIT #21	MARLBORO	22.8	
-NATIONAL PETROLEUM CORP				RECEIVED:	06/01/82	JA: OH			
8235473		3400720815		108		EWING #6		15.0	OHIO GAS CO
8235463		3400720255		108		HAYSLETT #1		15.0	OHIO GAS CO
8235464		3400720268		108		KASDAN #1		15.0	OHIO GAS CO
8235465		3400720319		108		KASDAN #2		15.0	OHIO GAS CO
8235474		3400720815		108		LENGYAL #1		15.0	OHIO GAS CO
8235472		3400720808		108		LENGYEL #3		15.0	OHIO GAS CO
8235467		3400720767		108		LENGYEL #4		15.0	OHIO GAS CO
8235466		3400720764		108		LENGYEL 2		15.0	OHIO GAS CO
8235468		3400720803		108		MARCH #1		15.0	OHIO GAS CO
8235470		3400720805		108		MARCH #2		15.0	OHIO GAS CO
8235471		3400720806		108		MARCH #3		15.0	OHIO GAS CO
8235475		3400720891		108		NELSON #2		15.0	OHIO GAS CO
8235469		3400720804		108		W SMITH #1		15.0	OHIO GAS CO
-OXFORD OIL CO				RECEIVED:	06/01/82	JA: OH			
8235477		3403123837		108		CHARLES SELDERS #1		8.0	NATIONAL GAS & OI
8235478		3408921858		108		FRED WALCOTT #1		2.3	NATIONAL GAS & OI
8235479		3408922039		108		FRED WALCOTT #2		2.3	NATIONAL GAS & OI
8235488		3411922819		107-TF		MICHAEL MARTIN UNIT #1	HARRISON	12.0	
8235476		3403123325		107-RT		WALTER ADAMS #1	CLARK	9.0	COLUMBIA GAS TRAN
8235481		3411924099		108		WIGTON-CAPEWELL #1		2.8	NATIONAL GAS & OI
-POI ENERGY INC				RECEIVED:	06/01/82	JA: OH			
8235484		3413320955		108		ANDERSON #1		4.6	
8235545		3415320529		108		B & N MATTHEWS #1		5.3	
8235529		3413321636		108		BLAIR #1		4.8	
8235518		3413321544		108		CHARVAT #1		5.8	
8235509		3413321438		108		CITY OF STREETSBORO #1		1.1	
8235508		3413321437		108		CITY OF STREETSBORO #2		1.1	
8235553		3415325680		108		CUNNINGHAM		7.5	
8235492		3413321255		108		ELDRIDGE #1		9.4	
8235493		3413321256		108		ELDRIDGE #2		9.4	
8235535		3413321814		108		ENGLISH #1		2.1	
8235541		3413321902		108		ENGLISH #2A		2.1	
8235512		3413321454		108		FEAR #2		10.7	
8235561		3415521027		108		FIELD HOUSE #1		1.0	COLUMBIA GAS TRAN
8235547		3415320541		108		FORTUNA #1		18.7	
8235549		3415320550		108		FORTUNA #4		18.7	
8235538		3413321856		108		GALE #1		2.5	
8235539		3413321857		108		GALE #2		2.5	
8235506		3413321427		108		GRESSARD #2		13.0	
8235504		3413321425		108		GRISSARD #1		13.0	
8235548		3413321862		108		GRISSARD #3		10.0	
8235490		3413321088		108		GRUBB #1		9.1	
8235517		3413321498		108		HARTMAN #1		7.7	
8235494		3413321328		108		HARTMAN #2		7.7	
8235528		3413321624		108		HARTMAN #3		7.7	
8235487		3413321007		108		HUDSON FIREWORKS #1		3.4	
8235488		3413321008		108		HUDSON FIREWORKS #2		3.4	
8235522		3413321598		108		IRELAND #1		6.2	
8235521		3413321597		108		IRELAND #2		6.2	
8235519		3413321579		108		IRELAND #3		6.2	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235555		3415123469		103	107-TF	FLINTILOTE CO UNIT #22	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235556		3415123470		103	107-TF	FLINTILOTE CO UNIT #23	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235557		3415123471		103	107-TF	FLINTILOTE CO UNIT #24	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235558		3415123472		103	107-TF	FLINTILOTE CO UNIT #25	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235559		3415123473		103	107-TF	FLINTILOTE CO UNIT #26	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235560		3415123474		103	107-TF	FLINTILOTE CO UNIT #27	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235562		3415123475		103	107-TF	FLINTILOTE CO UNIT #28	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235563		3415123476		103	107-TF	FLINTILOTE CO UNIT #29	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235564		3415123477		103	107-TF	FLINTILOTE CO UNIT #30	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235565		3415123478		103	107-TF	FLINTILOTE CO UNIT #31	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235566		3415123479		103	107-TF	FLINTILOTE CO UNIT #32	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235567		3415123480		103	107-TF	FLINTILOTE CO UNIT #33	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235568		3415123481		103	107-TF	FLINTILOTE CO UNIT #34	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235569		3415123482		103	107-TF	FLINTILOTE CO UNIT #35	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235570		3415123483		103	107-TF	FLINTILOTE CO UNIT #36	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235571		3415123484		103	107-TF	FLINTILOTE CO UNIT #37	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235572		3415123485		103	107-TF	FLINTILOTE CO UNIT #38	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235573		3415123486		103	107-TF	FLINTILOTE CO UNIT #39	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235574		3415123487		103	107-TF	FLINTILOTE CO UNIT #40	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235575		3415123488		103	107-TF	FLINTILOTE CO UNIT #41	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235576		3415123489		103	107-TF	FLINTILOTE CO UNIT #42	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235577		3415123490		103	107-TF	FLINTILOTE CO UNIT #43	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235578		3415123491		103	107-TF	FLINTILOTE CO UNIT #44	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235579		3415123492		103	107-TF	FLINTILOTE CO UNIT #45	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235580		3415123493		103	107-TF	FLINTILOTE CO UNIT #46	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235581		3415123494		103	107-TF	FLINTILOTE CO UNIT #47	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235582		3415123495		103	107-TF	FLINTILOTE CO UNIT #48	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235583		3415123496		103	107-TF	FLINTILOTE CO UNIT #49	MARLBORO	22.8	
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	06/01/82	JA: OH			
8235584		3415123497		103	107-TF	FLINTILOTE CO UNIT #50	MARLBORO	22.8	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235524		3413321606		108		IRELAND-KRAVETS #1		7.5	
8235528		3413321580		108		IRELAND-KRAVETZ #2		7.5	
8235538		3413321645		108		KANGESSOR #2		7.0	
8235531		3413321646		108		KANGISSOR #1		7.0	
8235507		3413321428		108		KREIERHOFF #1		13.5	
8235585		3413321426		108		KREIERHOFF #2		13.5	
8235518		3413321450		108		LEAR #1		10.7	
8235544		3415320526		108		MCMILLEN - KREJCI #1		2.0	
8235496		3413321330		108		MOEBIUS #1		9.3	
8235483		3413320876		108		MOORE #1		2.9	
8235482		3413320875		108		MOORE #2		2.9	
8235532		3413321755		108		MOORE #3		0.9	
8235533		3413321756		108		MOORE #4		0.9	
8235534		3413321757		108		MOORE BOWERS #1		1.6	
8235526		3413321610		108		MORGAN #1		2.6	
8235525		3413321609		108		MORGAN #2		2.6	
8235550		3415320552		108		O'FLENAGEN #1		2.8	
8235537		3413321831		108		PENNOCK #1		10.0	
8235536		3413321830		108		PENNOCK #2		10.0	
8235514		3413321495		108		PSENICKA #1		6.9	
8235543		3415320525		108		RANDOLPH #1		1.3	
8235546		3415320531		108		RANNY REUSCH #1		4.3	
8235560		3415321026		108		REESE #1		1.0	
8235486		3413320963		108		ROOSA #2		8.8	
8235489		3413321071		108		SARGENT-POLSFORD-KOTKOWSKI #1		12.2	
8235513		3413321455		108		SARRICK #2		7.5	
8235542		3415320523		108		SCHMIDT #1	SCHMIDT	1.0	
8235495		3413321329		108		SHANK #2		9.4	
8235516		3413321497		108		SHEEHAN - STEVER #1		9.2	
8235523		3413321601		108		SMITH MEAD #1		7.9	
8235511		3413321451		108		SORRICK #1		7.8	
8235527		3413321615		108		SWEET #1		15.2	
8235559		3415320670		108		THOMAS DREW #4		10.7	
8235558		3415320668		108		THOMAS-DREW #1		7.7	
8235548		3415320549		108		THOMPSON #1		2.9	
8235557		3415320615		108		TOP ROC #1		1.7	
8235556		3415320614		108		TOP ROC #2		1.7	
8235555		3415320612		108		TOP ROC #3		1.7	
8235551		3415320563		108		TREAD #2		8.0	
8235552		3415320564		108		TREAP #1		8.0	
8235554		3415320574		108		TREAP #3		8.0	
8235588		3413321355		108		WASON CRANE (AURORA) #1		5.4	
8235499		3413321354		108		WASON CRANE (AURORA) #2		5.4	
8235498		3413321353		108		WASON CRANE (AURORA) #3		5.4	
8235502		3413321357		108		WASON CRANE #1		10.0	
8235503	121	3413321358		108		WASON CRANE #2		10.0	
8235501		3413321356		108		WASON CRANE #3		10.0	
8235497		3413321351		108		WASON CRANE #5		10.0	
8235485		3413320960		108		WEINGART #3		3.4	
8235491		3413321193		108		WEINGART-ROOSA #1		9.0	
8235515		3413321496		108		WOODARD #1		4.5	
-QUAKER STATE OIL REFINING CORP			RECEIVED: 06/01/82			JA: OH			
8235565		3407322179		103		SUNDAY CREEK COAL CO #29	NEW STRAITSVILLE	3.7	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235566		3407322623		103	107-TF	SUNDAY CREEK COAL CO #41	NEW STRAITSVILLE	14.6	COLUMBIA GAS TRAN
8235567		3407322625		103	107-TF	SUNDAY CREEK COAL CO #48	NEW STRAITSVILLE	18.3	COLUMBIA GAS TRAN
8235568		3407322626		103	107-TF	SUNDAY CREEK COAL CO #51	NEW STRAITSVILLE	18.3	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED:	06/01/82	JA: OH			
8235569		3411924728	D	107-RT		JOHN MATTINGLY #1	MUSKINGUM	15.0	COLUMBIA GAS TRAN
-RESOURCE EXPLORATION INC				RECEIVED:	06/01/82	JA: OH			
8235570		3406720203		108		LIPPENCOTT-BURDETTE #1	WASHINGTON TWP	42.1	COLUMBIA GAS TRAN
8235571		3406722177		108		TRASTER #1	WASHINGTON TWP	26.7	COLUMBIA GAS TRAN
-RICHARD C POLING				RECEIVED:	06/01/82	JA: OH			
8235563		3412725371		103	107-TF	FRANK DONHAVEY #1	CLAYTON	5.0	
8235564		3412725579		107-TF		MORRIS - WILSON #5	CLAYTON	5.0	
8235562		3411925554		103	107-TF	NORMAN #1	LICKING	5.0	
-S S S ENERGY CO				RECEIVED:	06/01/82	JA: OH			
8235573		3410322796		103	107-TF	STATON/STEPFIELD #2A	WADSWORTH	0.0	
-SANDHILL ENERGY INC (OH)				RECEIVED:	06/01/82	JA: OH			
8235576		3416727029		103		CLIFFORD CHANEY #1	GRANDVIEW	14.6	
8235574		3416726755		103		H STEVEN ALLOWAY #2	GRANDVIEW	21.9	
8235575		3416726844		103		YOHO #1	NEW MATAMORAS	10.0	
-SCHRINSHER OIL & GAS EXPLORATION				RECEIVED:	06/01/82	JA: OH			
8235577		3416922454		103	107-TF	HAMMER-GRABER #3	BAUGHMAN	26.0	EAST OHIO GAS CO
-STONEWALL GAS CO INC				RECEIVED:	06/01/82	JA: OH			
8235589		3410522317		103		BOBBY & CLARA POWERS #1	SHADE	0.0	COLUMBIA GAS TRAN
8235588		3410522316		103		BOBBY & CLARA POWERS #2	SHADE	0.0	COLUMBIA GAS TRAN
8235592		3410522361		103		CLARENCE L STORY #1	SHADE	0.0	COLUMBIA GAS TRAN
8235586		3405320756		103		GALLIA COUNTY IMPROVEMENT CORP #1	GALLIPOLIS	0.0	COLUMBIA GAS TRAN
8235587		3405320757		103		GALLIA COUNTY IMPROVEMENT CORP #2	GALLIPOLIS	0.0	COLUMBIA GAS TRAN
8235585		3405320730		103		HAMLIN & MARY KING #1	GALLIPOLIS	0.0	COLUMBIA GAS TRAN
8235591		3410522334		103		LARRY & JUDY #1	SHADE	0.0	COLUMBIA GAS TRAN
8235590		3410522333		103		VERNAL & LOUISE #2	SHADE	0.0	COLUMBIA GAS TRAN
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	06/01/82	JA: OH			
8235462		3403124601		103		SCHMID #1	NEW CASTLE	0.0	
-TIPKA - BARTLO OIL & GAS CO				RECEIVED:	06/01/82	JA: OH			
8235593		3405922805		103	107-TF	OSBORNE UNIT #1	WILLS	12.0	LIBBEY-OWENS-FORD
-TOWNER PETROLEUM CO				RECEIVED:	06/01/82	JA: OH			
8235594		3405923273		107-TF		HARR #1	GUERNSEY	0.0	TENNESSEE GAS PIP
-TRUMBULL RESOURCES				RECEIVED:	06/01/82	JA: OH			
8235595		3415521923		107-TF		SIMON #1	VIENNA	25.0	EASCO ALUMINUM CO
8235596		3415522030		107-TF		SIMON #2	GIRARD	25.0	EASCO ALUMINUM CO
-W E SHRIDER CO				RECEIVED:	06/01/82	JA: OH			
8235582		3403124445		107-TF		GARY LAMBES #1	TRINWAX	3.0	COLUMBIA GAS TRAN
-WENNER PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: OH			
8235618		3407523259		107-TF		A SWARTZENTRUBER #1	MORELAND EXTENSION	13.1	COLUMBIA GAS TRAN
-WILLIAM F HILL				RECEIVED:	06/01/82	JA: OH			
8235429		3407522553		108		BOYD #5 (FORMERLY BERT SHAFFER)		9.0	COLUMBIA GAS TRAN
8235430		3407522554		108		BOYD #6 (FORMERLY BERT SHAFFER)		7.0	COLUMBIA GAS TRAN
8235428		3407522496		108		BYRON E WEISWANDER #1		0.0	COLUMBIA GAS TRAN
8235420		3407521963		108		DENNERLL #1		2.0	COLUMBIA GAS TRAN
8235422		3407522257		108		E & R PARSONS #1		10.0	COLUMBIA GAS TRAN
8235427		3407522490		108		GLENN LANG #1		8.0	COLUMBIA GAS TRAN
8235435		3416922146		108		HOISINGTON #2		54.0	COLUMBIA GAS TRAN
8235424		3407522279		108		HOWARD W BALES #1		9.0	COLUMBIA GAS TRAN
8235423		3407522277		108		JOHN R HERSHBERGER #1		7.0	COLUMBIA GAS TRAN
8235431		3407522619		108		JOHN STARNER #2		7.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8235432		3407522620		108		JOHN STARNER #3		6.0	COLUMBIA GAS TRAN
8235425		3407522280		108		MARY PARSONS #1		8.0	COLUMBIA GAS TRAN
8235418		3403123090		108		MORGAN #1		18.0	COLUMBIA GAS TRAN
8235419		3403123409		108		MORGAN #2		4.0	COLUMBIA GAS TRAN
8235421		3407522082		108		RHEES #1		35.0	COLUMBIA GAS TRAN
8235426		3407522380		108		ROGER J DENNERLL #2		8.0	COLUMBIA GAS TRAN
8235434		3407522674		108		THOMAS & MARY COOK #1		6.0	COLUMBIA GAS TRAN
8235433		3407522673		108		THOMAS CROSKEY #1		6.0	COLUMBIA GAS TRAN
-URAY PETROLEUM CORP OF OHIO				RECEIVED:	06/01/82	JA: OH			
8235612		3413322494		103	107-TF	BAKER #1	NELSON	18.0	EAST OHIO GAS CO
8235611		3413322493		103	107-TF	NELSON MOBILE-BAKER #1	GARRETSVILLE	18.0	EAST OHIO GAS CO
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-AMOCO PRODUCTION CO				RECEIVED:	06/03/82	JA: CO 1			
8235699	CD 0179-82	0508106414		103		USA AMOCO "AA" #1	POWDER WASH	280.0	MOUNTAIN FUEL SUP
-BOW VALLEY PETROLEUM INC				RECEIVED:	06/03/82	JA: CO 1			
8235696	CD 0158-82	0507708469		103	107-TF	FEDERAL #2-33	PLATEAU CREEK	185.0	NORTHWEST PIPE LI
-CHANDLER & ASSOCIATES INC				RECEIVED:	06/03/82	JA: CO 1			
8235694	CD 0168-82	0510308743		107-TF		FORK UNIT 12-13-1-2	DOUGLAS CREEK NORTH	288.0	NORTHWEST PIPELIN
-GETTY OIL COMPANY				RECEIVED:	06/03/82	JA: CO 1			
8235700	CD 0184-82	0506706414		107-TF		UTE "E" #3	IGNACIO BLANCO MESAVE	300.0	NORTHWEST PIPELIN
-MITCHELL ENERGY CORPORATION				RECEIVED:	06/03/81	JA: CO 1			
8235692	CD 0165-82	0507708447		102-2		COYOTE WASH UNIT 4-27-8-102	WILDCAT (DAKOTA)	500.0	NORTHWEST PIPELIN
-TWIN ARROW INC				RECEIVED:	06/03/82	JA: CO 1			
8235698	CD 0187-81	0510308682		103		TERRA 1-27 X	UNNAMED	0.0	NORTHWEST PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/03/82	JA: UT 1			
8235697	UD 0193-82	4301905511		108		SAN ARROYO UNIT #17	SAN ARROYO	9.0	MESA PIPELINE CO
8235702	UD 0192-82	4301930527		108		SAN ARROYO UNIT #31	SAN ARROYO	9.0	MESA PIPELINE CO
-BELCO PETROLEUM CORPORATION				RECEIVED:	06/03/82	JA: UT 1			
8235703	UD 0173-82	4304730827		107-TF		CWU 58-19	CHAPITA WELLS UNIT	6.0	MOUNTAIN FUEL SUP
8235701	UD 0175-82	4304730642		107-TF		DUCK CREEK 4-17	DUCK CREEK	8.0	NORTHWEST PIPELIN
-CONOCO INC				RECEIVED:	06/03/82	JA: UT 1			
8235693	UD 0171-82	4304730572		107-RT		CONOCO ANKERPONT 2 #6	OURAY	91.0	MOUNTAIN FUEL SUP
-LINMAR ENERGY CORP				RECEIVED:	06/03/82	JA: UT 1			
8235695	UD 0154-82	4304730969		103		UTE 1-18 B1E	WASATCH BLUEBELL	0.0	GARY ENERGY CORP
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
-MARATHON OIL COMPANY				RECEIVED:	06/01/82	JA: LA 3			
8235674	G1-2403	1772440318		102-5		MAIN PASS BLOCK 306 F-4	MAIN PASS	45.0	SOUTHERN NATURAL

OTHER PURCHASERS VOLUME NO 367

8235653 NEW JERSEY NATURAL GAS CO

Kenneth F. Plumb,
Secretary

[FR Doc. 82-17287 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-C

[Project No. 3845-001]

American Hydro Power Co.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that American Hydro Power Company, Permittee for the B. F. Goodrich Project No. 3845 located on the Perkiomen Creek in Montgomery County, Pennsylvania, has requested that its preliminary permit be terminated. The preliminary permit was issued on May 15, 1981, and would have expired on October 31, 1982. The Permittee states that it finds the project not feasible both from a financial and an environmental point of view.

American Hydro Power Company's request was dated May 19, 1982. The surrender of the permit for Project No. 3845 is in the public interest and is accepted as of the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 17414 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3171-001]

City of Columbus, Ohio; Application for Preliminary Permit

June 23, 1982.

Take notice that the City of Columbus, Ohio (Applicant) filed on May 10, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 3171 to be known as the Morse Road Water Plant Project located on Big Walnut Creek in Franklin and Delaware Counties. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Glenn G. Hughes, Malcolm Pirnie, Inc., 6161 Busch Blvd., Columbus, Ohio 43229.

Project Description—The proposed project would consist of existing project works including: (1) Hoover Dam, owned by the Applicant, which is a composite structure comprised of (a) a concrete gravity overflow spillway section 680 feet long and 90 feet high at a crest elevation of 890 feet m.s.l., flanked on the west by (b) a rolled earth embankment section 1,124 feet long with a maximum height of 123.5 feet, and on the east by (c) an earth embankment section 779 feet long with a maximum height of 75.5 feet; (2) a reservoir with a surface area of 3,843 acres and a storage capacity of 93,204 acre-feet at maximum surface elevation of 900 feet m.s.l. New project works would include: (1) modification of the existing outlet works at the dam; (2) a 21,100-foot-long, 84-inch diameter raw water pipeline extending from Hoover Dam to the Morse Road Water Treatment Plant; (3) a powerhouse, adjacent to the Water Plant, containing a turbine/generator unit with a rated capacity of 465 kW; (4) a 200-foot-long transmission line; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 2,810 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $170,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 28, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17404 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-353-000]

Consolidated Gas Supply Corp.; Application

June 22, 1982.

Take notice that on May 28, 1982, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP82-353-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain transmission pipeline and related and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 5.9 miles of 8-inch pipeline and related and appurtenant facilities between Maxwell Compressor Station and existing 8-inch Line No. TL-424 in Doddridge County, West Virginia. Applicant states that it is

currently authorized to abandon the Maxwell compressor station and relocate the single 440 horsepower compressor unit to its Collins compressor station. Applicant asserts that due to unanticipated gas supplies available at Maxwell, Applicant now proposes to retain the Maxwell station and that the proposed facilities are necessary to connect these supplies to Applicant's wet gas transmission system.

It is asserted that the cost of the proposed facilities would be $1,039,500 which would be financed from funds on hand and from funds to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commision on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17406 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6234-000]

Goldenwest Power; Application for Preliminary Permit

June 23, 1982.

Take notice that Goldenwest Power (Applicant) filed on April 20, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6234 to be known as the Blue Creek Power Project located on Blue Creek in Humboldt County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The proposed project would consist of: (1) A 250-foot-long, 5-foot-high diversion structure; (2) a 7,500-foot-long, 108-inch-diameter diversion conduit; (3) an 800-foot-long, 96-inch-diameter penstock; (4) a powerhouse with an installed capacity of 2,500 kW; and (5) a 9-mile-long, 12-kV transmission line from the powerhouse to an existing Pacific Gas & Electric Company transmission line. The Applicant estimates that the average annual energy production would be 21.75 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of the preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting the studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 3, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before September 3, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than November 2, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments protests, or petitions to intervene must be received on or before September 3, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17409 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5481-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Middle Parsnip Creek Hydroelectric Project No. 5481, has requested that its preliminary permit be terminated. The permit was issued on February 19, 1982, and would have expired July 31, 1983. The project would have been located on Middle Parsnip Creek near Eureka, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5481 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17416 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5097-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Lime Creek Hydroelectric Project No. 5097, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Lime Creek in Lake County, Montana.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5097 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17417 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5467-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Little North Fork Hydroelectric Project No. 5467, has requested that its preliminary permit be terminated. The permit was issued on February 5, 1982, and would have expired July 31, 1983. The project would have been located on Little North Fork of Big Creek near Eureka, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5467 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17418 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5471-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Upper Tenmile Creek Hydroelectric Project No. 5471, has requested that its preliminary permit be terminated. The permit was issued on February 19, 1982, and would have expired July 31, 1983. The project would have been located on Upper Tenmile Creek near Libby, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5471 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17419 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5476-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Lower Tenmile Creek Hydroelectric Project No. 5476, has requested that its preliminary permit be terminated. The permit was issued on February 5, 1982, and would have expired July 31, 1983. The project would have been located on Lower Tenmile Creek near Libby, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5476 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17420 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5093-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investment, Inc., Permittee for the proposed Yew Creek Hydroelectric Project No. 5093, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Yew Creek in Lake County, Montana.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5093 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17421 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5099-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Kelly Creek Hydroelectric Project No. 5099, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Kelly Creek in Shoshone County, Idaho.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5099

is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17422 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5101-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Deep Creek Hydroelectric Project No. 5101, has requested that its preliminary permit be terminated. The permit was issued on February 1, 1982, and would have expired July 31, 1983. The project would have been located on the Deep Creek in Stevens County, Washington.

The Permittee filed its request on June 1, 1982, and the surrender of the preliminary permit for Project No. 5101 is deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17423 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5482-001]

Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit

June 25, 1982.

Take notice that Homestake Consulting and Investments, Inc. (Homestake), Permittee for the proposed Gold Creek Hydroelectric Project No. 5482, has requested that its preliminary permit be terminated. The permit was issued on February 5, 1982, and would have expired July 31, 1983. The project would have been located on Gold Creek near Eureka, in Lincoln County, Montana. Homestake states that the site has been determined unfeasible for hydroelectric development and will not require further study.

Homestake filed its request on June 1, 1982, and the surrender of its permit for Project No. 5482 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17424 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4196-001]

Indiana Municipal Power Agency; Surrender of Preliminary Permit

June 24, 1982.

Take notice that Indiana Municipal Power Agency, (IMPA) Permittee for the U.S. Army Corps of Engineers' C. M. Harden Dam and Reservoir, Project No. 4196 has requested that its preliminary permit be terminated. The preliminary permit was issued March 16, 1981 and would have expired on September 1, 1982. The project would have been located on the Raccoon Creek in Parke County, Indiana. IMPA cites that after extensive investigations, "the facilities at the C. M. Harden Dam and Reservoir is not economically attractive to the Indiana Municipal Power Agency".

IMPA filed its request on May 19, 1982, and the surrender of its permit for Project No. 4196 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17415 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-366-000]

Kansas-Nebraska Natural Gas Co., Inc.; Petition for Declaratory Order

June 22, 1982.

Take notice that on June 8, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP82-366-000 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure for an order declaring that the sale of natural gas from Petitioner's own distribution facilities, or from any distribution system which it supplies at wholesale, to a customer who, in turn, converts such gas into compressed natural gas (CNG), and sells it to others at a point within the same station for use as motor vehicle fuel, is not a sale subject to the Commission's jurisdiction under the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is submitted that Petitioner is an operating utility company engaged in the production, purchase, and gathering of natural gas in Kansas, Nebraska, Oklahoma, Colorado, Wyoming, and Texas; in its purchase and gathering in Montana; in its sale at wholesale in Oklahoma; in its transmission, sale at wholesale and retail distribution in Kansas, Nebraska, and Colorado; and in its transmission and retail distribution in Wyoming.

It is further submitted that Petitioner presently owns and operates two plants in Hastings and Scottsbluff, Nebraska, which convert natural gas to CNG for use by Petitioner as fuel for its own motor vehicles. In 1981, it is asserted, Petitioner consumed approximately 2,900 Mcf of natural gas in the form of CNG in its company-owned vehicles.

Petitioner states that it presently sells natural gas to the Yuma West School District, Yuma, Colorado, E. E. Sonnenburg and Sons, Inc., Julesburg, Colorado, Master Feeders, Inc., Haskell County, Kansas, and the City of McCook, Nebraska, four large fleet users, for use in their own vehicles.

Petitioner asserts that because of the substantial investment required for compression and storage facilities it has received a number of inquiries from large fleet users who are interested in selling CNG to other users as well as using CNG in their own vehicles. In addition, Petitioner indicates that some persons have expressed interest in the establishment of CNG filling stations from which CNG would be sold to third parties equipped to use CNG in their vehicles. Petitioner states that, based on its experience, sales of 35 Mcf of gas per day would enable such CNG filling stations to serve approximately 50 vehicles daily, but it does not anticipate sales of more than 50 Mcf of gas per day to any one CNG user.

Petitioner, therefore, requests that the Commission issue an order declaring that a sale of natural gas by Petitioner from its own distribution facilities, or a sale by any distributor which Petitioner serves at wholesale, to customers who convert such natural gas into CNG and sell it to others within the same state for use as motor fuel would be exempt from the Commission's jurisdiction under the Natural Gas Act because such sales involve the local distribution of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17407 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-104-000]

Koppers Company, Inc.—Forest Products Group; Application for Commission Certification of Qualifying Status of a Cogeneration Facility; Correction

June 22, 1982.

In Docket No. QF82-104-000 appearing in the **Federal Register** issue of May 7, 1982 on page 19737, make the following correction: On page 19737, in the second column, in the first paragraph, lines one and two.

"Koppers Company, Inc., Organic Materials Group" is corrected to read "Koppers Company, Inc., Forest Products Group".

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17408 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-359-000]

Montana-Dakota Utilities Co.; Application

June 22, 1982.

Take notice that on June 4, 1982, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP82-359-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon certain facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities on its interstate natural gas transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate the following facilities:

(1) Approximately 5.5 miles of 12¾-inch O.D. natural gas transmission main beginning at a point on the existing Billy Creek to Sheridan line in the NE¼ of Section 10, and terminating at a point in the NE¼ of Section 22, all in Johnson County, Wyoming.

(2) A new city gate station to be located in the NE¼ of Section 22, Johnson County, Wyoming.

The estimated cost for construction of the above facilities is as follows:

Transmission Main	$922,350
City Gate Station	35,500
Total cost	957,850

In addition to the above construction, Applicant seeks authorization for abandonment of approximately 4.09 miles of the existing 8¾-inch O.D. transmission main and the existing city gate station. Applicant asserts that the existing 8¾-inch O.D. transmission main to be abandoned would be kept in service and reclassified as distribution main. It is stated that the existing city gate station would be abandoned as a city gate station and salvageable material reused at the new city gate station and that the present station building would be retained for distribution storage purposes.

Applicant maintains that the proposed facilities are required to relocate a portion of the Billy Creek to Sheridan transmission line away from the populated area through which it presently runs. It is indicated that the proposed route of the new line would be immediately adjacent to the interstate highway on the east side of the city of Buffalo, Wyoming. It is further stated that the existing transmission line through the city of Buffalo would be retained in place and reclassified as a distribution main and that this reclassification would allow a reduction in the operating pressure from a maximum of 365 psig to about 100 psig. Applicant states that the increase safety factor due to operating at a such lower pressure would allow this line satisfactorily to serve distribution functions for many more years.

It is stated that the replacement of the existing 8¾-inch O.D. transmission main is proposed to be made with new 12¾-inch O.D. main. Applicant states that the relocation would add about 1.4 miles to the total length of the Billy Creek to Sheridan transmission line which would increase the pressure drop in this line section if equal size replacement was made.

The proposed facilities would be financed by Applicant through internally generated funds and/or interim short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17409 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-357-000]

Nueces Co. Application

June 22, 1982.

Take notice that on June 2, 1982, The Nueces Company (Applicant), Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP82-357-000 an application pursuant to Section 284.127 of the Commission's Regulations for authorization to transport natural gas for a term of approximately 15 years for Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that it intends to enter into a gas transportation agreement with CIG pursuant to which, for a term of approximately 15 years, Applicant would receive natural gas at various points of delivery on its pipeline systems in Adams, Bent, Cheyenne, Kiowa, Kit Carson, and Prowers Counties, Colorado, and would transport and redeliver such gas at the point of

interconnection between the facilities of Applicant and CIG in Adams, Bent, Kiowa, and Cheyenne Counties, Colorado, and at such other points as may be mutually agreeable.

It is estimated that the maximum daily and total volumes of natural gas to be transported under the proposed arrangement would be 7,705 Mcf and 42,187,000 Mcf respectively.

For such transportation service, Applicant proposes to charge CIG 38.31 cents per Mcf of gas.

Applicant desiring to be heard or to make any protest with reference to said application should on or before July 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17410 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4409-001]

City of Portland, Oregon; Surrender of Preliminary Permit

June 24, 1982.

Take notice that the City of Portland, Oregon, Permittee for the proposed Upper Austin Point Hydroelectric Project No. 4409, has requested that its preliminary permit be terminated. The permit was issued on December 18, 1981, and would have expired November 30, 1984. The project would have been located on the Collwash River in Clackamas County, Oregon.

The Permittee filed its request on June 1, 1982, and the surrender of its permit for Project No. 4409 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17425 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6235-001]

South Yuba Water District; Application for Preliminary Permit

June 23, 1982.

Take notice that the South Yuba Water District (Applicant) filed on May 27, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6235 to be known as the Daquerre Point Project located on the Yuba River in Yuba County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Frances Hofman, South Yuba Water District, 3002 Forty Mile Road, Marysville, California 95901.

Project Description—The project would use irrigation water diverted through an 8/foot-diameter conduit from behind the Daquerre Point Dam. The proposed 720-kW powerplant would be located at elevation 102 feet or 110 feet depending upon the alternative chosen. Applicant estimates that the proposed project would have an average annual output of 4,667 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct studies to determine the economic, financial, engineering, and environmental feasibility of the project. Applicant estimates that its studies would cost $90,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 28, 1982, the competing application itself [see: 18 CFR 4.30 et seq. (1981)]. A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17411 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-358-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

June 22, 1982.

Take notice that on June 3, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP82-358-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of Granite State Gas Transmission, Inc. (Granite State), all as more fully set forth in the application

which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement, Applicant proposes to transport up to 21,818 Mcf of natural gas per day for Granite State. The transportation service would enable Granite State to participate in a storage service proposed to be rendered by Penn-York Energy Corporation (Penn-York). It is stated that the receipt and delivery points for all volumes to be received from and delivered to Granite State would be at Applicant's delivery points to Granite State located in Hampden County, Massachusetts, and at Applicant's delivery points to Granite State located in Essex County, Massachusetts. Applicant asserts that the sum of all withdrawal volumes of gas delivered to Granite State at the Tawnee and Pleasant Street delivery points in Essex County would not, on any day, exceed 38,629 Mcf unless otherwise previously agreed to by Applicant. Applicant further asserts that the receipt and delivery point for all volumes to be delivered to and received from Penn-York for Granite State's account would be at the point of interconnection between the facilities of Applicant and Penn-York located in Potter County, Pennsylvania. Further, it is stated that the total withdrawal transportation volumes would not exceed 2,400,000 Mcf.

It is asserted that Granite State would pay Applicant a volume charge each month equal to the product of 44.17 cents per Mcf multiplied by the total volume in Mcf of natural gas delivered by Applicant to Granite State during the month. It is further asserted that Granite State would pay Applicant during April of each year 44.17 cents per Mcf multiplied by 90 percent of the difference in volume between 0.9516 times 2,400,000 Mcf reduced by whatever portion of such volume which Applicant did not transport and deliver for the account of Granite State during such period because of Applicant's inability to transport and deliver volumes related to injection and withdrawal input volumes requested by Granite State and the total of the daily withdrawal transportation volumes during such period from April 1 through the following March 31.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 14, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17413 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-109-000, et al.]

Texas Eastern Transmission Corp.; Settlement Conference

June 22, 1982.

Take notice that on June 29, 1982, at 10:00 a.m., a settlement conference of all interested parties will be convened concerning the issues involved in the above-referenced proceeding. Further, a settlement conference of all interested parties will be convened on June 30, 1982, after the prehearing conference scheduled for 10:00 a.m., to discuss any and all unresolved matters in the above-referenced proceeding. The conferences will be held in a room to be designated for such purposes at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17430 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-000]

Transwestern Pipeline Co.; Informal Settlement Conference

June 22, 1982.

Take notice that on July 1, 1982, at 10:00 a.m., an informal settlement conference of all interested parties will be convened concerning the above-captioned matter. The conferences will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the conference, but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17431 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6260-000]

Robert Maynard Yensen; Application for Preliminary Permit

June 23, 1982.

Take notice that Robert Maynard Yensen (Applicant) filed on April 26, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6260 to be known as the Shafer Creek Waterpower Project located on Shafer Creek in Boise County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert Maynard Yensen, 305 West 4th, Emmett, Idaho 83617.

Project Description—The proposed project would consist of: (1) A 2-foot high diversion structure with negligible storage; (2) a 3,500-foot-long, 18-inch-diameter penstock; (3) a powerhouse with total installed capacity of 100 to 150 kW; and (4) a 0.25-mile-long transmission line from the powerhouse to be existing Idaho Power Company transmission line. The Applicant estimates that the average annual energy production would be 0.5 to 1.0 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would conduct the technical, environmental

and economic studies and also prepare an FERC license application. The Applicant estimates that the cost of undertaking these studies would be $5,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

The Commission will accept applications for license of exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 30, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations [see: 18 C.F.R. § 4.30 et seq. or § 4.101 et seq. (1981), as appropriate].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than October 29, 1982.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82–17413 Filed 6–25–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 23, 1982.

JD NO	JA DKT	API NO	C SECTN STATUS	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********							
-A G HILL			RECEIVED:	06/04/82 JA: TX			
8235825	F-08-047586	4237133473	102-4	TREES STATE "46" #1-A	A G-H (CHERRY CANYON)	23.0	WARREN PETROLEUM
-ACME PETROLEUM CO			RECEIVED:	06/04/82 JA: TX			
8235876	F-01-050019	4217730565	192-2 103	PARR #1 ID N/A	PEACH CREEK (AUSTIN C	365.0	VALERO TRANSMISSI
-AKERS AND FULTZ INC			RECEIVED:	06/04/82 JA: TX			
8235764	F-09-044525	4250334475	103	ANN PRICE #1 2079N	RICE (CONGL)	10.6	BLACK HAWK GASOLI
8235763	F-09-044522	4223733691	103	J D CRAFT #21 21223	MARINA MAG (CONGL)	19.1	CITIES SERVICE GA
-ALPS OIL CO			RECEIVED:	06/04/82 JA: TX			
8236038	F-08-051391	4210332821	103	M B MCKNIGHT "A" B	SAND HILLS (MCKNIGHT)	12.0	WARREN PETROLEUM
-AMOCO PRODUCTION CO			RECEIVED:	06/04/82 JA: TX			
8235869	F-04-069676	4247932883	107-TF	KILLAM & HURD AMOCO FEE "B" #1	UMBRELLA NORTH/7300/	169.7	DELHI GAS PIPELIN
8235868	F-04-049675	4247933228	103 107-TF	KILLAM & HURD AMOCO FEE "E" #1	NORTH UMBRELLA/CLARK/	894.3	DELHI GAS PIPELIN
8235878	F-7C-050062	4243530404	108	MRS MARY M RAY #1	ALDWELL RANCH (CANYON	11.8	LONE STAR GAS CO
8235822	F-08-047426	4213533643	103	NORTH COWDEN UNIT #1988	COWDEN NORTH	0.7	WESTAR TRANSMISSI
8235931	F-10-050602	4242130048	108	W A WHORTON "A" #2-U	COLDWATER CREEK - U P	28.0	COLORADO INTERSTA
-ANADARKO PRODUCTION COMPANY			RECEIVED:	06/04/82 JA: TX			
8235980	F-10-051001	4221131378	103	FLOWERS "B" #6097	GRANITE WASH	103.0	PANHANDLE EASTERN
8235969	F-7C-050895	4238300000	107-TF	SALLIE FOX "C" #1	SALLIE CISCO	500.0	PANHANDLE EASTERN
8235968	F-7C-050894	4243100000	107-TF	SALLIE FOX "D" #1-A	SALLIE CISCO	250.0	PANHANDLE EASTERN
-ANDERSON PETROLEUM INC			RECEIVED:	06/04/82 JA: TX			
8235726	F-7C-042062	4210533510	103 107-TF	ALMEDA HOOVER 3-22	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235807	F-7C-046826	4210531566	108	AUSTIN C MILLSPAUGH "D" 1-2	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235808	F-7C-046832	4210531571	108	AUSTIN MILLSPAUGH "F" 2-14A	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235792	F-7C-046789	4210500000	108	AUSTIN MILLSPAUGH "G" 2-15	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235801	F-7C-046815	4210531075	108	CRYSTELLE CHILDRESS "B" 2-7	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235814	F-7C-046823	4210531899	108	CRYSTELLE CHILDRESS "F" 3-3	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235793	F-7C-046790	4210531960	108	DOROTHY G MILLSPAUGH "C" 3-22	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235800	F-7C-046814	4210531656	108	IRA CARSON "E" 1-46	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235809	F-7C-046833	4210531678	108	IRA CARSON "F" 3-8	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235805	F-7C-046825	4210531633	108	IRA CARSON "I" 1-48	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235796	F-7C-046806	4210531657	108	IRA CARSON "J" 2-48	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235806	F-7C-046826	4210531866	108	IRA CARSON "M" 2-28	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235791	F-7C-046788	4210531591	108	J S PIERCE "I" 4-17	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235797	F-7C-046808	4210531679	108	J S PIERCE III 2-5	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235795	F-7C-046804	4210531641	108	J S PIERCE 2-8	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235799	F-7C-046813	4210531057	108	J S PIERCE 3-1	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235794	F-7C-046803	4210531553	108	J S PIERCE 3-4	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235798	F-7C-046811	4210532198	108	LAURA HOOVER ESTATE "D" 2-41	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235802	F-7C-046818	4210532004	108	MOODY MINERALS "A" 2-23	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8235803	F-7C-046819	4210531998	108	MOODY MINERALS "A" 3-21	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
-APEX PETROLEUM INC			RECEIVED:	06/04/82 JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8235860	F-78-049498	4208332758		102-4		HERRING #1
8235861	F-78-049499	4208332789		102-4		HERRING #2
8235862	F-78-049500	4208332788		102-4		HERRING #3
-ARCO OIL AND GAS COMPANY				RECEIVED:	06/04/82	JA: TX
8235778	F-04-045728	4221531153		103		F E CHESTNUT #3
8235727	F-04-042212	4221530976		103		SWALLOW GAS UNIT #5-U
-B & B FARM INDUSTRIES INC				RECEIVED:	06/04/82	JA: TX
8235935	F-10-050657	4221131326		103		ANVIL PARK #1
-B & L OPERATING CO				RECEIVED:	06/04/82	JA: TX
8235744	F-78-043396	4241733362		102-4		CHAMBERS #2 (17817)
-BATA ENERGY INC				RECEIVED:	06/04/82	JA: TX
8236140	F-78-051636	4213300000		103		C E TERRELL #8 (01636)
8236139	F-78-051635	4213333671		103		C E TERRELL #9 (01636)
8236144	F-7C-051640	4208130644		102-4		F PRICE #2 (07477)
8236143	F-7C-051639	4208130645		102-4		F PRICE #3 (07477)
8236142	F-7C-051638	4208130726		102-4		F PRICE #4 (07477)
8236141	F-7C-051637	4208131154		102-4		F PRICE #5 (07477)
-BDK PRODUCTION CO INC				RECEIVED:	06/04/82	JA: TX
8235937	F-83-050668	4214931278		102-2	103	JESSIE BOEHNKE #1
-BOB WALLACE OIL INC				RECEIVED:	06/04/82	JA: TX
8236118	F-10-051572	4206531093		103		CULBERTSON (04944) #6-6
8236023	F-10-051351	4206531092		103		CULBERTSON (04944) #7-6
8236022	F-10-051350	4206531084		103		CULBERTSON (04944) #8-6
8235911	F-10-050516	4206531134		103		HAYS TRUST (04938) #5A-7
-BRANNER ENGINEERING INC				RECEIVED:	06/04/82	JA: TX
8235874	F-06-049903	4220330912		103	107-TF	JOSSIE TAYLOR BECKER-#1
-BTA OIL PRODUCERS				RECEIVED:	06/04/82	JA: TX
8235896	F-78-050368	4217331213		102-4		7613 JV-P COX "C" #5
-C & K PETROLEUM INC				RECEIVED:	06/04/82	JA: TX
8235821	F-04-047370	4224700000		102-2		MESTENA OIL & GAS #H-2
-CAL-TEX OIL CO				RECEIVED:	06/04/82	JA: TX
8236116	F-10-051564	4223330955		103		CARVER WATERFLOOD #2 (00729) #29
8236117	F-10-051565	4223330083		103		H W CARVER (00728) #9
-CAMPBELL ENERGY CORP				RECEIVED:	06/04/82	JA: TX
8235863	F-83-049515	4248132224		102-4		S A WILBECK #1
-CANYON CO				RECEIVED:	06/04/82	JA: TX
8235996	F-7C-051215	4210531786		108		LAURA HOOVER ESTATE #101
8235995	F-7C-051214	4210531789		108		LAURA HOOVER ESTATE #1019
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	06/04/82	JA: TX
*8235741	F-04-047214	4235531533		103		G P MARDNER #142
*8235771	F-04-044932	4235531644		102-4	103	J S ELIFF #20-L
*8235720	F-04-039399	4235531804		102-4	103	J S ELIFF #21
8235752	F-83-032840	4205131856		102-2		LUK KAZMIR #1
*8235813	F-04-047083	4235531934		102-4	103	TEXON ROYALTY CO #E-L
-CHEVRON U S A INC				RECEIVED:	06/04/82	JA: TX
8235919	F-04-050555	4204700764		108		MESTINA OIL & GAS CO #1-30
-CHIEFS OIL INVESTMENTS				RECEIVED:	06/04/82	JA: TX
8236075	F-78-051451	4236731297		108		K SMITH #1
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	06/04/82	JA: TX
8235766	F-08-044679	4223733504		103		SHAWVER "A" #1 (ID NO)
-CLEAR FORK GAS CO				RECEIVED:	06/04/82	JA: TX
8235895	F-7C-050378	4244700000		108		HENRY S BRYSON #1
-CLEMCO INC				RECEIVED:	06/04/82	JA: TX

FIELD NAME	PROD	PURCHASER
HERRING (WINCHELL)	66.0	LONE STAR GAS CO
HERRING (BRENEKE)	160.0	LONE STAR GAS CO
WILDCAT	343.0	LONE STAR GAS CO
TABASCO (X)	197.0	TENNESSEE GAS PIP
DONNA (6700'-PROPOSED	365.0	TENNESSEE GAS PIP
CANADIAN S E (DOUGLAS	240.0	PIONEER CORP
CHAMBERS (CADDO)	22.0	DELHI GAS PIPELIN
EASTLAND COUNTY REGUL	19.0	LONE STAR GAS CO
EASTLAND COUNTY REGUL	26.0	LONE STAR GAS CO
ACR (CANYON)	155.0	SUN GAS CO
ACR (CANYON)	91.0	SUN GAS CO
ACR (CANYON)	91.0	SUN GAS CO
ACR (CANYON)	68.0	SUN GAS CO
GIDDINGS (BUDA) & GID	3.5	PHILLIPS PETROLEU
PANHANDLE CARSON COUN	0.3	CABOT PIPELINE CO
PANHANDLE CARSON COUN	85.0	CABOT PIPELINE CO
PANHANDLE CARSON COUN	104.0	CABOT PIPELINE CO
PANHANDLE CARSON COUN	6.7	CABOT PIPELINE CO
BLOCKER (COTTON VALLE	365.0	UNITED GAS PIPE L
BLALOCK LAKE SE (WOLF	4.0	PHILLIPS PETROLEU
MESTENA GRANDE (QUEEN	0.0	AMERICAN PIPE LIN
PANHANDLE - HUTCHINSO	438.0	DIAMOND SHAMROCK
PANHANDLE - HUTCHINSO	525.3	DIAMOND SHAMROCK
SPANISH CAMP (YEGUA 7	182.5	NATURAL GAS PIPEL
AMERICAN (CANYON)	9.0	EL PASO NATURAL G
AMERICAN (CANYON)	15.0	EL PASO NATURAL G
STRATTON (6-15)	0.0	TENNESSEE GAS PIP
STRATTON (J-2 RES 1)	4015.0	TENNESSEE GAS PIP
STRATTON (6-2 RES 6)	211.7	TENNESSEE GAS PIP
GIDDINGS (AUSTIN CHAL	67.9	FERGUSON CROSSING
STRATTON (F-39-14)	0.0	TENNESSEE GAS PIP
ALTA MESA	3.7	TENNESSEE GAS PIP
TOTO (STRAWN)	4.2	SOUTHWEST GAS PIP
JACK COUNTY REGULAR	0.0	LONE STAR GAS CO
HUGHES-ODELL (CADDO U	0.0	LONE STAR GAS CO

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236037	F-06-051390	4249930909		102-4		LEONARD HERRING #2	QUITMAN NE (HILL)	300.0	ARKANSAS LOUISIAN
-CLOUDBERRY CO				RECEIVED:	06/04/82	JA: TX			
8235714	F-78-038056	4250333761		103		TYSON #3	RYAN (CONGL 4365)	75.0	SOUTHWESTERN GAS
-COLLIER DIAMOND C OILS INC				RECEIVED:	06/04/82	JA: TX			
8235985	F-08-051149	4231732438		103		SLAUGHTER B-2	SULPHUR DRAW (6790 DE	15.0	GETTY OIL CO
8235986	F-08-051150	4231732439		103		SLAUGHTER B-3	SULPHUR DRAW (6790 DE	14.0	GETTY OIL CO
8235987	F-08-051151	4231732441		103		SLAUGHTER C-2	SULPHUR DRAW (6790 DE	13.0	GETTY OIL CO
8235984	F-08-051148	4231732442		103		SLAUGHTER D-2	SULPHUR DRAW (6790 DE	16.0	GETTY OIL CO
-COLROD CO				RECEIVED:	06/04/82	JA: TX			
8236138	F-88-051634	4207931434		102-4		W R COLEMAN #1 (63501)	BONANZA (SAN ANDRES)	9.0	WARREN PETROLEUM
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	06/04/82	JA: TX			
8236111	F-03-051534	4205132086		102-2		J K PEARCE #2	GIDDINGS (AUSTIN CHAL	40.0	FERGUSON CROSSING
-CONOCO INC				RECEIVED:	06/04/82	JA: TX			
8236047	F-78-051405	4243331188		103		BRINKLEY ARTHUR JR A #43 ID #04263	FLOWERS (CANYON SAND)	13.9	CITIES SERVICE CO
8236007	F-04-051290	4213100000		108		ROBERT DRISCOLL #55	CONOCO-DRISCOLL (UPPE	1.1	TRANSCONTINENTAL
8236049	F-08-051413	4200333116		103		W T FORD #67 ID #01665	FUHRMAN-MASCHO	26.3	PHILLIPS PETROLEU
-COPET INC				RECEIVED:	06/04/82	JA: TX			
8235918	F-78-050553	4204900000		103		BOOTH CREEK #1	BROWN COUNTY REGULAR	10.8	LONE STAR GAS CO
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:	06/04/82	JA: TX			
8236129	F-78-051599	4213500000		103		COWDEN #12	HARPER	9.0	PHILLIPS PETROLEU
-CZAR RESOURCES INC				RECEIVED:	06/04/82	JA: TX			
8235717	F-01-038621	4217730816		102-2		RUDDOCK VACC SERVICES INC (B) #1	PILGRIM (AUSTIN CHALK	0.0	
8235716	F-01-038588	4217730621		102-2	103	RUDDOCK VACC SERVICES INC #A-1	PILGRIM (AUSTIN CHALK	0.0	
8235715	F-01-038587	4217730537		102-2	103	RUDDOCK VACCINATING SERVICES INC #1	PILGRIM (AUSTIN CHALK	0.0	
-DALECO RESOURCES				RECEIVED:	06/04/82	JA: TX			
8235770	F-03-044927	4204100000		102-4		ROBERT MOORE #1	CLAY NE (EDWARDS LIME	0.0	CLAJON GAS CO
-DAMERON PETROLEUM CORP				RECEIVED:	06/04/82	JA: TX			
8235902	F-7C-050459	4210500000		102-4		VIRGINIA HOOVER 1-18	AMERICAN (SPRABERRY B	50.0	EL PASO NATURAL G
8235992	F-7C-051213	4210532576		108		W P HOOVER #1-13U	AMERICAN (SPRABERRY A	0.0	EL PASO NATURAL G
8235994	F-7C-051214	4210532343		108		W P HOOVER #1011A	AMERICAN (CANYON)	4.0	EL PASO NATURAL G
8235993	F-7C-051212	4210532339		108		W P HOOVER #102A	AMERICAN (CANYON)	6.0	EL PASO NATURAL G
-DELTA DRILLING CO				RECEIVED:	06/04/82	JA: TX			
8235776	F-06-045698	4236500000		103	107-TF	CHRISTIAN #3	CARTHAGE (CV)	0.0	UNITED GAS PIPE L
8235732	F-7C-043012	4210500000		103	107-TF	FRIEND "94" #2	OZONA (CANYON)	0.0	
-DELTA OIL & GAS CO				RECEIVED:	06/04/82	JA: TX			
8235949	F-78-050721	4242900000		103		COPELAND-MITCHELL RRC #97002	CADDO NORTH (DUFFER)	0.0	LONE STAR GAS CO
8235948	F-78-050720	4242900000		103		J H GRACEY RRC #83905	CADDO (DUFFER)	0.0	LONE STAR GAS CO
8235850	F-78-049129	4242900000		108		R M ROGERS ESTATE RRC #69883	ROGERS RANCH (CONGL)	0.0	LONE STAR GAS CO
8235851	F-78-049131	4242900000		108		R M ROGERS ESTATE RRC #70621	ROGERS RANCH (CONGL)	25.0	LONE STAR GAS CO
8235999	F-78-051252	4236300000		108		ROGERS ROGERS & KING "A" RRC #85837	R R & K (2900)	16.0	LONE STAR GAS CO
8235998	F-78-051251	4236300000		108		ROGERS ROGERS & KING RRC #18005	MINERAL WELLS NORTH (	8.0	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	06/04/82	JA: TX			
8235849	F-78-049074	4236732063		102-4		SADIE FEUILLY #1	WEATHERFORD NE (STRAW	195.0	SOUTHWESTERN GAS
-DISCORBIS OIL CO				RECEIVED:	06/04/82	JA: TX			
8235994	F-04-050336	4213135796		102-4		WM E CARL TRUSTEE ET AL "A" #1	MONTEMAYOR (5500')	54.0	VALLEY GAS TRANSM
-DISCOVERY ENERGY INC				RECEIVED:	06/04/82	JA: TX			
8235944	F-78-050698	4242900000		102-4		SPICER #1	VAUGHAN DUFFER	54.0	WARREN PETROLEUM
-DISCOVERY OPERATING INC				RECEIVED:	06/04/82	JA: TX			
*8235841	F-8A-048623	4222732576		103		BOWLIN #1	ACKERLY (DEAN SAND)	0.0	TEXACO INC
*8235853	F-08-049133	4231800000		103		UNIVERSITY 11 B #1	THREE-BAR (DEVONIAN)	4.5	PHILLIPS PETROLEU
*8235852	F-08-049132	4231732414		103		VOGLER #1	SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
-DORCHESTER EXPLORATION INC				RECEIVED:	06/04/82	JA: TX			
8235870	F-08-049700	4243131056		103		FOSTER 10-1	CONGER (PENN)	711.3	ESPERANZA PIPELIN

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-EL PASO EXPLORATION CO						
8235737	F-7C-043037	4210532927		RECEIVED:	06/04/82	JA: TX
8235733	F-7C-043032	4210532534		102-4		ODESSA ET AL 4 #4
8235734	F-7C-043034	4210532826		102-4		ODESSA 1 #2
8235735	F-7C-043035	4210532916		102-4		ODESSA 1 #3
8235736	F-7C-043036	4210532928		102-4		ODESSA 2 #3
8235738	F-7C-043038	4210532930		102-4		ODESSA 4 #3
-ENERGY RESERVES GROUP INC				102-4		ODESSA 4 #5
8236043	F-7C-051396	4228131033		RECEIVED:	06/04/82	JA: TX
8236042	F-7C-051395	4223531863		103		J E CHAPPELL "A" #9
8236041	F-7C-051394	4241331174		103		R S WILLIAMS "B" #3
8236044	F-7C-051397	4241331192		103		R S WILLIAMS "B" #5
-ENERGY SOURCES INC				103		R S WILLIAMS "B" #6
8235945	F-06-050711	4200130000		RECEIVED:	06/04/82	JA: TX
-ENERGY-AGRI PRODUCTS INC				102-4		J R VANNOY #1
8236119	F-10-051573	4206500000		RECEIVED:	06/04/82	JA: TX
8236021	F-10-051346	4206500600		103		MONEY #1
-ENRE CORP				103		PEELER #4 (ID #04825)
8235879	F-7B-050095	4213333544		RECEIVED:	06/04/82	JA: TX
-ENSERCH EXPLORATION INC				102-4		MITCHAM ESTATE "A" #1
8235748	F-42-043675	4228531592		RECEIVED:	06/04/82	JA: TX
8236072	F-04-051437	4228300000		103	107-TF	ALBERT SMOLIK #3
-ESENJAY PETROLEUM CORP				108		HENRY ONEY #1
8235829	F-04-047934	4235531941		RECEIVED:	06/04/82	JA: TX
8235843	F-02-048788	4229732638		102-4	103	C L LEMOND #3
-EXCELSIOR OIL CORP				102-4	103	PAWLIK-GODFREY GAS UNIT #1
8235817	F-06-047236	4218300000		RECEIVED:	06/04/82	JA: TX
8235815	F-04-047231	4218300000		103		ANNIE V HOLT HEIRS #1-C 096108
8235816	F-06-047232	4231500000		103		ANNIE V HOLT HEIRS #1-T 096265
-EXXON CORPORATION				103	107-TF	W C WHITFIELD HEIRS G U #1-1 096268
8236147	F-03-051653	4207131172		RECEIVED:	06/04/82	JA: TX
8235959	F-08-050811	4249531466		103		BROUSSARD-HEBERT A/C 1 #35
8236131	F-03-051623	4215731216		103		BROWN-ALTMAN B #29
8235855	F-08-049286	4200332938		103		C C NELSON #27
8236033	F-03-051383	4207131238		103		FULLERTON CLEARFORK UNIT #1343
*8236009	F-03-051303	4215731182		103		GALVESTON BAY STATE "A" #184
8235908	F-08-050503	4210300000		108		H P LOCKWOOD #47
8236148	F-03-051654	4207131218		103		J C TUBB B #10
8236110	F-03-051331	4207131296		103		J E BROUSSARD A/C 1 #24
8235901	F-08-050438	4200300000		103		J E BROUSSARD A/C 1 #96
*8236040	F-04-051393	4227331581		108		J E PARKER A/C 3 #71
*8236137	F-04-051633	4227331295		103		K R ALAZAN 370 (97095)
*8236092	F-04-051494	4227331449		102-4		K R CANELO 36 (10006)
*8236039	F-04-051392	4227331207		102-4		K R CANELO 41-D (10008)
*8235983	F-03-051113	4215731218		102-4		K R STRATTON P-259-D (098031)
8236010	F-03-051304	4215530504		103		LOCKWOOD & SHARP A #96
8236109	F-03-051525	4207131245		103		LUTHER R SHERROD #33
*8236093	F-04-051495	4206130591		103		MARIE ZAPPE #29
8236084	F-7C-051475	4241330922		103		MRS S K EAST 120 (098013)
8235785	F-8A-046024	4216532173		107-TF		PEARL WILLIAMS #7
8235875	F-8A-049964	4216532243		103		ROBERTSON CLEARFORK UNIT #5703
*8236090	F-04-051492	4204730617		103		ROBERTSON CLFK UNIT 8603
*8236091	F-04-051493	4204730655		103		VFGU #1 V-70-F (78382)
				103		VFGU #1 V-77-D (78643)

FIELD NAME	PROD	PURCHASER
INGHAM (QUEEN)	50.0	EL PASO NATURAL G
INGHAM (QUEEN)	47.0	EL PASO NATURAL G
INGHAM (QUEEN)	45.0	EL PASO NATURAL G
INGHAM (QUEEN)	45.0	EL PASO NATURAL G
INGHAM (QUEEN)	45.0	EL PASO NATURAL G
INGHAM (QUEEN) FIELD	50.0	EL PASO NATURAL G
JAMESON (STRAWN)	10.8	UNION TEXAS PETRO
VELREX (CISCO 6260)	72.0	NORTHERN NATURAL
VELREX (CISCO 6260)	25.2	NORTHERN NATURAL
VELREX (CISCO 6260)	144.0	NORTHERN NATURAL
BLACKFOOT SOUTH (RODE	1642.5	DELHI GAS PIPELIN
PANHANDLE CARSON	125.0	GETTY OIL CO
PANHANDLE CARSON	110.0	GETTY OIL CO
D R 5 (CONGL)	23.0	BENGAL GAS TRANSM
WORD N	185.0	VALERO TRANSMISSI
WHELAN (TRAVIS PEAK P	0.0	TEXAS EASTERN TRA
AGUA DULCE N (6500)	365.0	ESPERANZA TRANSMI
MAXINE E (10,000)	180.0	DELHI GAS PIPELIN
DANVILLE EAST (PETTIT	186.0	WESTERN GAS CORP
DANVILLE E (TRAVIS PE	275.0	WESTERN GAS CORP
RODESSA (COTTON VALLE	58.0	TEXAS EASTERN TRA
ANAHUAC (MIOCENE 4900	6.0	HOUSTON PIPELINE
EMPEROR EAST (CLEARFO	9.0	
SUGARLAND	5.5	UTTCO
FULLERTON	15.0	PHILLIPS PETROLEU
RED FISH REEF S (FRIO	270.0	HOUSTON PIPELINE
THOMPSON	16.6	ARMCO STEEL CORP
SAND HILLS (MCKNIGHT)	5.0	EL PASO NATURAL G
ANAHUAE (MIOCENE 19)	365.0	HOUSTON PIPELINE
ANAHUAC	135.0	HOUSTON PIPELINE
GOLDSMITH N (SAN ANDR	1.0	PHILLIPS PETROLEU
MADERO (J-24)	344.9	ARMCO STEEL CORP
CANELO (C-44)	54.0	ARMCO STEEL CORP
CANELO (F-80 S)	19.0	ARMCO STEEL CORP
STRATTON (P-4 M)	300.0	ARMCO STEEL CORP
THOMPSON	28.0	ARMCO STEEL CORP
RACCOON BEND (COCKFIE	6.2	TEXAS SOUTHEASTER
ANAHUAC	55.0	HOUSTON PIPELINE
RITA N E (I-70)	183.0	ARMCO STEEL CORP
DOVE CREEK (CANYON C)	148.0	NORTHERN NATURAL
ROBERTSON N (CLEARFOR	15.0	PHILLIPS PETROLEU
ROBERTSON N (CLFK 710	15.0	PHILLIPS PETROLEU
VIBORAS (MASSIVE FIRS	292.0	ARMCO STEEL CORP
VIBORAS (MASSIVE SECO	267.0	ARMCO STEEL CORP

JD NO	JA CKT	API NO	D SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FAGADAU ENERGY CORP			RECEIVED: 06/04/82 JA: TX					
8236014	F-09-051335	4237732573	103		SCALING RANCH "A" 22008	BELLEVUE WEST (CADDO)	50.0	BLUEGROVE GASOLIN
-FISHER-WEBB INC			RECEIVED: 06/04/82 JA: TX					
8235941	F-10-050683	4229531036	102-4		LEWIS #1	HIGGINS W (NOVI)	350.0	PIONEER CORP
-FOREST OIL CORPORATION			RECEIVED: 06/04/82 JA: TX					
8235906	F-04-050487	4204730925	102-2		NOLL-HOPPER #1	RACHAL DEEP (VICKSBUR	750.0	TRANSCONTINENTAL
*8235722	F-04-040875	4247933031	102-2	107-TF	VAQUILLAS RANCH CO LTD #12	GATO CREEK (9800')	350.0	UNITED TEXAS TRAN
-FRANKS PETROLEUM INC ETAL			RECEIVED: 06/04/82 JA: TX					
8235963	F-06-050477	4236531361	102-4		WIENER #6	CARTHAGE (TRANSITIONA	300.0	TEXAS EASTERN TRA
-FRED BANNOWSKY			RECEIVED: 06/04/82 JA: TX					
8235970	F-7C-050927	4239900009	102-4		M BROOKSHIER #1 (87105)	P W C (DOGBEND LIMEST	126.0	ODESSA NATURAL CO
-FREMONT ENERGY CORP			RECEIVED: 06/04/82 JA: TX					
8235905	F-04-050483	4247900009	103		FEC-CNP #23 096188	LA CRUZ (OLMOS)	30.4	LONE STAR GAS CO
8235904	F-04-050481	4247900003	103		FEC-CNP #24 096038	LA CRUZ (OLMOS)	25.5	LONE STAR GAS CO
-FURRY PRODUCING CO			RECEIVED: 06/04/82 JA: TX					
8235977	F-78-050939	4204900000	103		DELMER LEWIS	BROWN COUNTY REGULAR	6.0	ODESSA NATURAL CO
-GALAXY OIL COMPANY			RECEIVED: 06/04/82 JA: TX					
8235881	F-03-050101	4204130606	102-2		D C GREAGOR B #1	GIDDINGS (AUSTIN CHAL	100.0	PRODUCERS GAS CO
8235702	F-03-045845	4204130500	102-2		LEBON AGNELLO #1	GIDDINGS (AUSTIN CHAL	100.0	PRODUCERS GAS CO
8235883	F-03-050128	4204130604	102-2		MATTIE MAE HIGGINS #1	GIDDINGS (AUSTIN CHAL	100.0	PRODUCERS GAS CO
-GENE POWELL			RECEIVED: 06/04/82 JA: TX					
8235758	F-06-044200	4240100000	103	107-TF	GLADNEY GAS UNIT #2	OAK HILL (COTTON VALL	250.0	UNITED GAS PIPE L
-GENESIS PETROLEUM CORP			RECEIVED: 06/04/82 JA: TX					
8235854	F-04-049142	4221500000	102-4		YTURRIA CATTLE CO #1 (UNASSIGNED)	LA SARA (ND 6-A)	105.0	TENNESSEE GAS PIP
-GETTY OIL COMPANY			RECEIVED: 06/04/82 JA: TX					
8236032	F-8A-051371	4203330765	103		CLAYTON RANCH 13-32 #1	EAST TANK (FUSSELMAN)	0.2	
8235762	F-06-044347	4236500000	103	107-TF	EMMA EDDY #3	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
8236031	F-7B-051370	4243331408	103		FLOWERS CANYON SAND UNIT #213	FLOWERS (CANYON SAND)	4.0	CITIES SERVICE CO
8236030	F-7B-051369	4243331416	103		FLOWERS CANYON SAND UNIT #214	FLOWERS (CANYON SAND)	5.0	CITIES SERVICE CO
8236029	F-7B-051367	4243331414	103		FLOWERS CANYON SAND UNIT #216	FLOWERS (CANYON SAND)	2.0	CITIES SERVICE CO
8236028	F-7B-051366	4243331415	103		FLOWERS CANYON SAND UNIT #217	FLOWERS (CANYON SAND)	14.0	CITIES SERVICE CO
8235761	F-06-044246	4231300000	102-4		G W WARE "A" #1	INGRAM TRINITY (RODES	73.0	LONE STAR GAS CO
-GILLRING OIL CO			RECEIVED: 06/04/82 JA: TX					
8235964	F-04-050834	4235500009	108		L ANDERSON #2 - ID0179646	AGUA DULCE /6800/	19.0	TENNESSEE GAS PIP
-GOLDEN PETOLEUM			RECEIVED: 06/04/82 JA: TX					
8235909	F-09-051170	4223734008	102-4		RATER #1	GOLDEN (CONGLOMERATE	200.0	LONE STAR GAS CO
8235990	F-09-051171	4223734075	102-4		WOODHOUSE #4	STRAWAN (ELLENBURGER)	10.3	LONE STAR GAS CO
-GORDON T WEST JR & STAN RUGELEY			RECEIVED: 06/04/82 JA: TX					
8235893	F-7B-050328	4244732785	102-2	103	JACK STEPHENS #1 (18019)	CONDRON (CADDO)	76.0	LONE STAR GAS CO
-GULF OIL CORPORATION			RECEIVED: 06/04/82 JA: TX					
8235781	F-09-045809	4218130798	102-4		BYRD PICKENS #2	N E SOUTHMAYD	10.0	LONE STAR GAS CO
8236046	F-08-051399	4213533842	103		C A GOLDSMITH #1363	LAWSON (SAN ANDRES)	511.0	PHILLIPS PETROLEU
8236045	F-A8-051396	42-7900602	108		DUGGAN SLAUGHTER UNIT #2-1	SLAUGHTER	3.0	AMOCO PRODUCTION
8236062	F-08-051423	4237133185	103	107-TF	IVY B WEATHERBY #3	ROJO CABALLOS (MISSIS	400.0	EL PASO NATURAL G
8236052	F-38-051411	4249531409	103		KEYSTONE HOLT UNIT #9338	KEYSTONE (HOLT)	50.0	CABOT CORP
8236078	F-38-051465	4249531414	103		KEYSTONE HOLT UNIT #9339	KEYSTONE (HOLT)	47.0	CABOT CORP
8236048	F-38-051409	4249531419	103		KEYSTONE HOLT UNIT #9342	KEYSTONE (HOLT)	25.0	CABOT CORP
-H W FINNEY			RECEIVED: 06/04/82 JA: TX					
8235532	F-7B-050653	4236300000	107-PC		CLARA POPP #1	N STRAWN (POPP CONG)	20.0	SOUTHWESTERN GAS
-H-M OIL CO			RECEIVED: 06/04/82 JA: TX					
8235828	F-34-047948	4241931576	103		E R & PARODA DEITCH #1	MORGAN (5940 FRIO)	0.0	UNITED GAS PIPELI
-HAYDEN FARMER			RECEIVED: 06/04/82 JA: TX					
8235760	F-09-044236	4200900000	102-4		PRIDEAUX "K" #1	ARCHER COUNTY REGULAR	1956.4	MID-STATE GAS COR

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HAZLEWOOD CO INC						
8235712	F-78-036810	4236732545		RECEIVED:	06/04/82	JA: TX
				102-2		F E DAVIDSON GAS UNIT #1
-HMGW OIL CO				RECEIVED:	06/04/82	JA: TX
8235779	F-78-045786	4236332642		102-4		STRINGER #1
-HNB OIL COMPANY				RECEIVED:	06/04/82	JA: TX
8235787	F-[illegible]-046248	4248300000		102-4	103	BRITT "7" #2
8236130	F-04-051618	4250500000		108		OSCAR M LAUREL #3
8235938	F-7C-[illegible]592	4243[illegible]000		103	107-TF	SHURLEY "36" #3
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED:	06/04/82	JA: TX
8235848	F-03-048926	4228731116		103		BEN OLTMAN OIL UNIT #2
8235810	F-03-046845	4228730605		103		RINEY SPACEK #1
-HUMBLE EXPLORATION CO INC				RECEIVED:	06/04/82	JA: TX
8235745	F-03-043590	4214900000		102-2	103	FRANCES S #1
8235749	F-03-043682	4214900000		102-2	103	GAIL MARIE #1
8235747	F-03-043594	4214931181		102-2	103	LINDA ANDERSON #1
8235746	F-03-043593	4214900000		102-2	103	MARY JANE #1
8235748	F-03-043595	4214900000		102-2	103	MEDUSA #1
-INDEPENDENT EXPLORATION CO				RECEIVED:	06/04/82	JA: TX
8235724	F-82-041322	4228531535		102-4		SWANEY-BELLINGER #1-T
-INDIAN WELLS OIL CO				RECEIVED:	06/04/82	JA: TX
8236020	F-7C-051345	4223531806		103		ATKINSON #713-1
-INVESTEK INC				RECEIVED:	06/04/82	JA: TX
8235897	F-09-050402	4223733498		102-4		W A COOK
-J A LEONARD				RECEIVED:	06/04/82	JA: TX
8235888	F-03-050243	4205100000		102-4		COFFIELD-SMITH "C" #1
-J M PURVIS				RECEIVED:	06/04/82	JA: TX
8236003	F-08-051282	4232930967		103		HEIDELBERG #1
8236125	F-08-051587	4232930876		103		J M BILLINGTON #1
8236062	F-08-051281	4232930877		103		J M BILLINGTON #3
8236124	F-08-051886	4231732142		103		J M BILLINGTON "A" #2
8236123	F-08-051585	4232930874		103		J M MEEK #1
8236122	F-08-051584	4232930875		103		J M MEEK #2
8236000	F-08-051279	4231732143		103		L D SNELL #1
8236001	F-08-051280	4231732374		103		MCADAMS LEWIS #1
-J M HUBER CORPORATION				RECEIVED:	06/04/82	JA: TX
8235942	F-1[illegible]-050684	4223300000		108		HERRING #133 RC
-JACK F GRINN				RECEIVED:	06/04/82	JA: TX
8235991	F-8A-051189	4244732890		102-4		CLAYTON RYAN #2
-JACKSON EXPLORATION INC				RECEIVED:	06/04/82	JA: TX
8235811	F-8A-046936	4211531637		103		HARRIS "A" #1
-JAMES D RICE				RECEIVED:	06/04/82	JA: TX
8235960	F-7B-050814	4208300000		103		E P WOODRUFF "A" #2 (17882)
-JAMES G STEWART				RECEIVED:	06/04/82	JA: TX
8235710	F-09-034979	4250300000		108		MARY C MILLIS "B" #6 RRC #21376
-JAMES K ANDERSON INC				RECEIVED:	06/04/82	JA: TX
8235981	F-7C-051049	4239932156		102-4		MICHAELIS "38" #1
-JONES CO				RECEIVED:	06/04/82	JA: TX
8236149	F-7B-051677	4241733700		102-4		MATTHEWS "28" #2 (17023)
8235957	F-7B-050796	4242933159		102-4		ROY CORBETT #5
8235925	F-7[illegible]-050564	4241734110		102-4		SOUTH GREEN "68A" #1
-KEITH D GRAHAM				RECEIVED:	06/04/82	JA: TX
8235939	F-[illegible]-050819	4215131963		102-2		SANTA FE "C" #1
8235910	F-03-050514	4215131801		102-2		WILKERSON UNIT #1

VOLUME 674 PAGE 006

FIELD NAME	PROD	PURCHASER
MINERAL WELLS S (STRA	180.0	SOUTHWESTERN GAS
RYAN (CONGL 4365)	183.0	SOUTHWESTERN GAS
ALLISON - BRITT (1235	0.0	COLORADO INTERSTA
LAS OVEJAS (WILCOX 91	56.8	HOUSTON PIPELINE
SAWYER CANYON	0.0	INTRATEX GAS CO
GIDDINGS AUSTIN CHALK	0.0	PGP GAS PRODUCTS
GIDDINGS (BUDA)	0.0	PGP GAS PRODUCTS
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	197.5	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
HOPE (M102660)	294.0	VALERO TRANSMISSI
IRION W (CANYON)	0.0	NORTHERN NATURAL
OZIE W (CADDO CONGLOM	38.6	SOUTHWESTERN GAS
INEZ JAMESON (NAVARRO	46.9	FERGUSON CROSSING
SPRABERRY (TREND AREA	16.5	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.4	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	12.4	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	17.2	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	13.5	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.4	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	53.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	12.1	PHILLIPS PETROLEU
WEST PANHANDLE	0.0	COLORADO INTERSTA
INDEPENDENT (BEND CON	1140.0	PALO DURO PIPELIN
TEX-HAMON (DEAN)	0.0	ADOBE OIL & GAS C
COLEMAN COUNTY REGULA	10.0	LONE STAR GAS CO
FISH CREEK	6.0	LONE STAR GAS CO
FRITZESS (GARDNER SAN	30.0	LONE STAR GAS CO
FLAT ROCK CREEK (CADD	72.0	DELHI GAS PIPELIN
CORBETT (DUFFER)	895.0	SOUTHWESTERN GAS
ROCKWELL E (CONGL)	630.0	DELHI GAS PIPELIN
GIDDINGS (AUSTIN CHAL	507.4	FERGUSON CROSSING
CALDWELL NORTHEAST (G	79.6	CLAJON GAS CO

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-KENWELL OPERATING CO				RECEIVED:	06/04/82	JA: TX			
8236024	F-05-051352	4218100000		108		C H BARNES HEIRS #1	BIG MINERAL CREEK	14.2	LONE STAR GAS CO
-KILROY CO OF TEXAS				RECEIVED:	06/04/82	JA: TX			
8235742	F-02-045560	4217531065		102-4		IRENE VINTON #1-L	DANFORTH (2875')	219.0	TRANSCONTINENTAL
-LADD PETROLEUM CORPORATION				RECEIVED:	06/04/82	JA: TX			
8235775	F-02-045225	4205731041		102-2		AMERICAN NATIONAL INSURANCE #3	LA SALLE RANCH (FRIO	246.9	DELHI GAS PIPELIN
-LENOIR M JOSEY INC				RECEIVED:	06/04/82	JA: TX			
8235912	F-06-050534	4240131197		103	107-TF	C S PRICE #2	OAK HILL (COTTON VALL	0.0	DELHI GAS PIPELIN
-LIMARK CORP				RECEIVED:	06/04/82	JA: TX			
8236025	F-08-051354	4237133689		103		MILDRED JEFFERIES STATE #1	PALICKY (QUEEN SAND)	25.0	PERRY PIPELINE CO
-LIVELY ENERGY & DEVELOPMENT CORP				RECEIVED:	06/04/82	JA: TX			
8236146	F-7C-051645	4243532615		103	107-TF	SUTTON 29-1	PHYLLIS SONORA (LOWER	365.0	LONE STAR GAS CO
8236145	F-7C-051644	4243532614		103	107-TF	SUTTON 30-1	PHYLLIS SONORA (LOWER	730.0	LONE STAR GAS CO
-LOMAX EXPLORATION COMPANY				RECEIVED:	06/04/82	JA: TX			
8235713	F-03-027868	4231333298		102-4		H G DEAN #1	M Y VICK (DEXTER G SA	30.0	LONE STAR GAS CO
-LONE STAR OIL & GAS CO				RECEIVED:	06/04/82	JA: TX			
8236127	F-78-051596	4242932831		103		L S O C "A" (13)	STEPHENS COUNTY REGUL	146.0	WELL GAS INC OF T
8236126	F-78-051597	4242932879		103		L S O C "B" (12)	STEPHENS COUNTY REGUL	54.8	WELL GAS INC OF T
-LUCKY BIRD PETROLEUM, INC.				RECEIVED:	06/04/82	JA: TX			
8235982	F-10-051108	4206531016		103		PREWIT #2	PANHANDLE	0.0	GETTY OIL CO
-M & A OIL CO LTD				RECEIVED:	06/04/82	JA: TX			
8236012	F-09-051317	4223700000		102-4		WM B GREGG #1-A	ANTELOPE S (BRYSON)	36.0	LONE STAR GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:	06/04/82	JA: TX			
8235856	F-06-049308	4241930327		102-4		LOCKE #1-T	CARLILE & HOWELL (TRA	285.0	UNITED GAS PIPELI
8235730	F-06-042735	4236531362		103		UNA BAGLEY #2	BELLE BOWER (PALUXY U	360.0	TENNESSEE GAS PIP
-MCCANN CORP				RECEIVED:	06/04/82	JA: TX			
*8235873	F-08-049819	4231732410		103		JONES #1	SPRABERRY (TREND AREA	29.2	PHILLIPS PETROLEU
-MCZ INC				RECEIVED:	06/04/82	JA: TX			
8235951	F-03-050745	4204100000		102-2		CONNOR-WHEELER UNIT #1-U	KURTEN (WOODBINE)	145.0	FERGUSON CROSSING
8235952	F-03-050751	4204100000		102-2		WHEELER OIL UNIT I #1-U	KURTEN (WOODBINE)	131.0	FERGUSON CROSSING
-MEWBOURNE OIL COMPANY				RECEIVED:	06/04/82	JA: TX			
8235962	F-10-050821	4235730931		103		HARDY #2 RRC ID #04617	BULER NO (CLEVELAND)	5.0	TRANSWESTERN PIPE
8235961	F-10-050820	4235731045		103		HARDY #5 RRC ID #04617	BULER NORTH (CLEVELAN	11.0	TRANSWESTERN PIPE
-MGF OIL CORP				RECEIVED:	06/04/82	JA: TX			
8235725	F-7C-041823	4238300000		103		UNIVERSITY "16-B" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-MITCHELL ENERGY CORPORATION				RECEIVED:	06/04/82	JA: TX			
8235933	F-09-050642	4250335311		102-4		D R MCCOOL #1	JERMYN WEST (MARBLE F	73.0	SOUTHWESTERN GAS
8235934	F-09-050643	4223734113		103		J J MYERS #1	JACK COUNTY REGULAR	40.0	
8235943	F-09-050694	4223700000		108		M E FERRELL #4 #18832	JACKSBORO (SE/5270)	16.0	SOUTHWESTERN GAS
8236027	F-09-051358	4249732249		103		T C W B #32 #17355	MORRIS (CONSOLIDATED	95.8	NATURAL GAS PIPEL
-MOLE OPERATING COMPANY INC				RECEIVED:	06/04/82	JA: TX			
8235831	F-04-047992	4213100000		102-4		MARSHALL #1	JOSEPHINE C (WILCOX)	0.0	NATURAL GAS PIPEL
-MORAN EXPLORATION INC				RECEIVED:	06/04/82	JA: TX			
8236006	F-7C-051289	4238332061		103		UNIVERSITY "3" #1	TEXON WEST (SPRABERRY	0.0	PHILLIPS PETROLEU
-MORMAC ENERGY CORP				RECEIVED:	06/04/82	JA: TX			
8235826	F-04-047669	4224931443		102-4		CHARLES W MUIL #2-T	CAPTAIN LUCEY (5210)	35.0	NUE-WELLS PIPELIN
-MORRIS STEPHENS				RECEIVED:	06/04/82	JA: TX			
8235913	F-09-050539	4223733426		103		MCQUERRY #3	WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
8235914	F-09-050540	4223733966		103		MCQUERRY #5	WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
8235915	F-09-050541	4223733958		103		MCQUERRY #6	WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
8235916	F-09-050542	4223733967		103		MCQUERRY #7	WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
8235917	F-09-050543	4223734240		103		MCQUERRY #8	WOODKIRK (STRAWN)	18.0	LONE STAR GAS CO
-MORROW RESOURCES INC				RECEIVED:	06/04/82	JA: TX			

JD NO	JA DKT	API NO	L	SEC(1)	SEC(2)	WELL NAME
8236036	F-7C-C5138R	4245130904		102-2	103	BROWN "A" #3
-MOSBACHER PRODUCTION CO				RECEIVED:	06/04/82	JA: TX
8236112	F-[illegible]-051537	4217730983		102-2		HERBERT L BECKENDORF #1
-NATURAL GAS ANADARKO INC				RECEIVED:	06/04/82	JA: TX
8235827	F-1[illegible]-047[illegible]	4235700[illegible]		102-1		MEYER 1389
-NEW ERA INTERNATIONAL				RECEIVED:	06/04/82	JA: TX
8236115	F-09-051561	4250335792		103		PADGETT #2
-NORMAN PAUTSKY				RECEIVED:	06/04/82	JA: TX
8235907	F-78-050494	4208300000		108		MCCULLOUGH 05632
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	06/04/82	JA: TX
8235731	F-09-042756	4249732227		103		FLOYD HAYNES UNIT #2
-NORTH RIDGE CORP				RECEIVED:	06/04/82	JA: TX
8235789	F-7E-046472	4213333509		102-4	103	HALL WALKER (BARKER) #2
*8235756	F-7E-043683	4213333207		102-4	103	W T DAVIS #3
*8235751	F-7B-043684	4213333281		102-4	103	W T DAVIS #5
-NORTH STAR PETROLEUM CORPORATION				RECEIVED:	06/04/82	JA: TX
8235950	F-10-050725	4223300000		108		POLO-SANFORD #1 (023826)
-OLSEN ENERGY INC				RECEIVED:	06/04/82	JA: TX
8236076	F-09-051454	4247532458		103		DORR #2
*8235844	F-[illegible]-048829	4213533737		103		PARKER "B" #1
*8235845	F-08-048832	4213533829		103		PARKER "B" #2
-OMEGA MINERALS INC				RECEIVED:	06/04/82	JA: TX
8235997	F-[illegible]-05124[illegible]	4250731513		102-4		CHESTER KIEFER #5-C
8235963	F-01-050831	4250731456		102-4		E E PLUMLY #5
-OXY PETROLEUM INC				RECEIVED:	06/04/82	JA: TX
8235707	F-04-028829	4270330182		102-4		STATE LEASE M-77985 #1-L
8235709	F-04-029963	4260330146		102-4		STATE LEASE 77221 #1-L
8235708	F-04-028850	4260330136		102-4		STATE TRACT 845-S #1-L
-PARAGON RESOURCES INC				RECEIVED:	06/04/82	JA: TX
8235757	F-03-044159	4215731187		102-4		PLUMBER8 #1
-PARKER & PARSLEY INC				RECEIVED:	06/04/82	JA: TX
8235886	F-7C-050179	4232931020		103		WINDHAM "C" #1
-PATRICK PETROLEUM CORP (MI)				RECEIVED:	06/04/82	JA: TX
8235766	F-04-044563	4270230158		102-4		STATE LEASE 774-L #4 ID #97160
-PAYNE OIL FIELD CONSULTING & OPER				RECEIVED:	06/04/82	JA: TX
8235859	F-7B-049487	4242933032		103		MCKELVAIN #1
-PED OIL CORP				RECEIVED:	06/04/82	JA: TX
8235820	F-0B-047336	4222700000		102-2		FLANAGAN B-2
8235819	F-08-047337	4222700000		102-2		FLANAGAN B-3
8235818	F-0B-047336	4222700000		102-2		FLANAGAN B-4
-PENINSULA RESOURCES CORPORATION				RECEIVED:	06/04/82	JA: TX
8235777	F-02-045723	4205731731		103		MELBOURNE GAS UNIT #1
-PENNZOIL PRODUCING COMPANY				RECEIVED:	06/04/82	JA: TX
8235872	F-04-049775	4250531428		102-4		HINNANT "SUR 307" #C-1
8235842	F-06-048698	4236531328		103	107-TF	HULL A-22
8235704	F-04-000198	4235500000		108-ER		KERR #7
8235812	F-06-047068	4236531291		103	107-TF	ROBERTS #4
-PETROLEUM CORPORATION OF TEXAS				RECEIVED:	06/04/82	JA: TX
8235988	F-09-051156	4223700000		108		G R COX #1
8236121	F-09-051575	4223700000		108		J R HOLDEN #1
-PETROLEUM TECHNICAL SERVICES CO				RECEIVED:	06/04/82	JA: TX
8236094	F-08-051507	4210332845		103		P J LEA #8
8235788	F-08-046361	4210332658		103		TOM COWDEN #2

FIELD NAME	PROD	PURCHASER
K W B (STRAWN)	42.8	LONE STAR GAS COM
PEACH CREEK (AUSTIN C	23.0	VALERO TRANSMISSI
TURNER E (MORROW UPPE	400.0	TRANSWESTERN PIPE
HEDAYATI (MISS)	86.0	SUN GAS TRANSMISS
COLEMAN COUNTY REGULA	4.2	EL PASO HYDROCARB
BOONESVILLE (BEND CON	150.0	NATURAL GAS PIPEL
RANGER (BLACK LIME WE	0.0	PRISM ENTERPRISES
RANGER (BLACK LIME WE	46.1	PRISM ENTERPRISES
RANGER (BLACK LIME WE	26.6	PRISM ENTERPRISES
PANHANDLE WEST	13.0	COLORADO INTERSTA
DORR (QUEEN SAND)	10.1	PERRY PIPELINE CO
HARPER	18.7	PHILLIPS PETROLEU
HARPER	5.4	PHILLIPS PETROLEU
STIDHAM (OLMOS)	88.0	VALERO TRANSMISSI
PLUMLY (OLMOS) FIELD	64.0	VALERO TRANSMISSI
MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
MATAGORDA ISLAND BLOC	2.0	CHANNEL INDUSTRIE
MATAGORDA ISLAND BLOC	3.0	CHANNEL INDUSTRIE
RANDON EAST (8000)	219.0	
PEGASUS (SPRABERRY)	15.8	PHILLIPS PETROLEU
BLOCK 774 (L CIB MAZ)	0.0	TENNESSEE GAS PIP
RUSSELL (DUFFER)	120.0	LONE STAR GAS CO
RED DRAW (FUSSELMAN)	0.0	PHILLIPS PETROLEU
RED DRAW (FUSSELMAN)	0.0	PHILLIPS PETROLEU
REDDRAW (FUSSELMAN)	6.0	PHILLIPS PETROLEU
MAGNOLIA BEACH	0.0	VALERO TRANSMISSI
AVIATORS S (9450')	584.0	VALERO INTERSTATE
CARTHAGE/COTTON VALLE	585.0	UNITED GAS PIPE L
AGUA DULCE	0.0	UNITED GAS PIPELI
CARTHAGE/COTTON VALLE	500.0	UNITED GAS PIPE L
PERRIN EAST (ATOKA CO	4.8	CITIES SERVICE GA
PERRIN EAST (CONGLOME	10.2	CITIES SERVICE GA
LEA (SAN ANDRES)	18.3	WARREN PETROLEUM
LEA (SAN ANDRES)	2.2	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236108	F-08-051522	4210332846		103		TOM COWDEN #4	LEA (SAN ANDRES)	2.1	WARREN PETROLEUM
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/04/82	JA: TX			
8235824	F-06-047557	4236331198		102-2	107-TF	HALL 2 #3	CARTHAGE COTTON VALLE	365.0	UNITED GAS PIPELI
-PRAIRIE PRODUCING CO				RECEIVED:	06/04/82	JA: TX			
8235773	F-02-045225	4246931799		102-4		WHITEHEAD #1 095977	MARILOU (FRIO 5550)	360.0	FLORIDA GAS TRANS
-PRECISION DRILLING CO INC				RECEIVED:	06/04/82	JA: TX			
8235940	F-78-050681	4208332725		103		MRS EULA P WEAVER ESTATE #2	COLEMAN COUNTY REGULA	13.5	LONE STAR GAS CO
8235939	F-78-050680	4208332725		103		MRS EULA P WEAVER ESTATE #3	COLEMAN COUNTY REGULA	13.5	LONE STAR GAS CO
8235936	F-78-050662	4208332725		103		MRS EULA P WEAVER ESTATE #4	COLEMAN COUNTY REGULA	13.0	LONE STAR GAS CO
-PRODECO EXPLORATIONINC				RECEIVED:	06/04/82	JA: TX			
8235830	F-03-047965	4204130647		102-2		BERT WHEELER #1	KURTEN (WOODBINE)	945.E	PRODUCERS GAS CO
-R A W ENERGY CORP				RECEIVED:	06/04/82	JA: TX			
8235728	F-78-042425	4236732095		102-4		BROWN #1-L 97637	GARNER N W (4200)	365.0	SOUTHWESTERN GAS
8235774	F-78-045660	4236732188		102-4		KESSLER 1-L RRD ID NOT ASSIGNED	NOT ASSIGNED-COPY OF	156.0	SOUTHWESTERN GAS
-R L FORCE				RECEIVED:	06/04/82	JA: TX			
8236034	F-78-051386	4235331134		102-4		J P AYCOCK #4	J & J (CADDO)	54.0	PALO DURO PIPELIN
8236035	F-78-051387	4235331134		102-4		J P AYCOCK #5	J & J (CADDO)	54.0	PALO DURO PIPELIN
-RAW HIDE OIL & GAS INC				RECEIVED:	06/04/82	JA: TX			
8235946	F-10-050718	4217931015		103		COBB #1	PANHANDLE GRAY COUNTY	124.0	CABOT PIPELINE CO
8235947	F-10-050719	4217930853		103		HEIDAJA #1	PANHANDLE GRAY COUNTY	146.0	CABOT PIPELINE CO
-RAY TEMPLETON CO				RECEIVED:	06/04/82	JA: TX			
8235929	F-78-050589	4236932606		103		L B JONES #2 RRC #89287	N E PUTNAM (CONGLOMER	36.0	DELHI GAS PIPELIN
-REAGAN WASKOM JR				RECEIVED:	06/04/82	JA: TX			
8235834	F-78-[illegible]521	42[illegible]		102-4		HART RANCH #1-1866	MINERAL WELLS S (4270	254.0	INTRASTATE GATHER
-RELIANCE ENERGY & MINERALS CORP				RECEIVED:	06/04/82	JA: TX			
8235880	F-03-050397	4205132084		102-2		MERLE UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-RIDGE OIL CO				RECEIVED:	06/04/82	JA: TX			
*8235927	F-78-050579	4213333434		102-4	103	BARNEY CARTER EST #1	RANGER NW (MARBLE FAL	57.6	COMPRESSOR RENTAL
*8235928	F-78-050581	4213333555		102-4	103	BECK #1	RANGER NW (MARBLE FAL	39.6	COMPRESSOR RENTAL
*8235967	F-78-050876	4242933128		102-4	103	INGRAM #1	RANGER NW (MARBLE FAL	104.4	COMPRESSOR RENTAL
8235979	F-78-050948	4242933144		102-4	103	TERRELL #1	RANGER NW (MARBLE FAL	32.4	COMPRESSOR RENTAL
-ROCKWOOD RESOURCES INC				RECEIVED:	06/04/82	JA: TX			
8235769	F-03-044725	4248131667		103		HENRY #1	DABOVAL (FRIO #4 5500	6.0	TENNESSEE GAS PIP
-SAGE ENERGY CO				RECEIVED:	06/04/82	JA: TX			
8235954	F-03-050776	4214931258		102-2		MARK "A" #1 RRC#15157	GIDDINGS (AUSTIN CHAL	22.0	PHILLIPS PETROLEU
8235978	F-03-050945	4214900000		102-2		O'QUINN "A" #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8235988	F-03-050809	4214931259		102-2		OSAGE #1 RRC #15148	GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
8235847	F-7C-049660	4238331433		103		UNIVERSITY 8-C #1 RRC #08134	FARMER (SAN ANDRES)	3.0	NORTHERN NATURAL
-SANCHEZ-OBRIEN OIL & GAS CORP				RECEIVED:	06/04/82	JA: TX			
8235721	F-04-040250	4247932953		107-TF		OLMITOS RANCH INC #1	OLMITOS RANCH (WILCOX	500.0	UNITED TEXAS TRAN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	06/04/82	JA: TX			
8235767	F-03-044631	4205131799		102-2		JAMES LASTLY #1	GIDDINGS (AUSTIN-CHAL	375.0	FERGUSON CROSSING
8235772	F-03-044982	4205131770		102-2		JAMES LASTLY #2	GIDDINGS (AUSTIN-CHAL	765.0	FERGUSON CROSSING
8235814	F-03-047156	4205131771		102-2		JAMES LASTLY #3	GIDDINGS (AUSTIN-CHAL	1200.0	FERGUSON CROSSING
-SANTA FE MINERALS INC				RECEIVED:	06/04/82	JA: TX			
8235956	F-05-050791	4234932127		103	107-TF	J BOYD #1	CHENEYBORO (COTTON VA	70.0	TEXAS UTILITIES F
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:	06/04/82	JA: TX			
8235976	F-03-050938	4228731096		102-2	103	FARISS #1	GIDDINGS (AUSTIN CHAL	219.0	PERRY PIPELINE CO
-SCANDRILL CO				RECEIVED:	06/04/82	JA: TX			
8235780	F-09-045792	4250335032		103		SEWELL #6	YOUNG COUNTY REGULAR	9.1	SUN GAS TRANSMISS
-SEAGULL RESOURCES INC				RECEIVED:	06/04/82	JA: TX			
8235864	F-05-049543	4222330304		103		A N RANDOLPH ESTATE #1	RICKTON (SMACKOVER)	6.0	TEXAS UTILITIES F
8235865	F-05-049544	4222330298		103		J M DOOSON ESTATE #1	WILDCAT	6.0	TEXAS UTILITIES F

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SENTINEL PETROLEUM CORP									
8235723	F-7B-041135	4213332589				RECEIVED: 06/04/82 JA: TX			
-SEXTON OIL & MINERALS CORP				102-4		BROWN ESTATE #1	FOSTER MARBLE FALLS	6.0	ODESSA NATURAL CO
8235832	F-04-048317	4235531749				RECEIVED: 06/04/82 JA: TX			
-SHELL OIL CO				102-3		ST TR 689-A SEXTON OIL&MINERALS #1	TULE LAKE	6.0	
8236078	F-04-051297	4221533836				RECEIVED: 06/04/82 JA: TX			
8236011	F-04-051308	4221530904		103		A A MCALLEN "B" #12	MCALLEN RANCH (VICKSB	100.0	VALERO TRANSMISSI
-SHEPHERD PETROLEUM INC				103		A A MCALLEN "B" #8	MCALLEN RANCH (VICKSB	100.0	VALERO TRANSMISSI
8235953	F-7B-050761	4242932110				RECEIVED: 06/04/82 JA: TX			
-SHOW PETROLEUM INC				102-4		HAILEY #2	AGAPE (CADDO MIDDLE)	38.0	BRECKENRIDGE GASO
8235974	F-7B-050934	4242932943				RECEIVED: 06/04/82 JA: TX			
8235975	F-7B-050935	4242932989		102-4		HAMES "A" #2	RANGER NW (MARBLE FAL	22.0	LONE STAR GAS CO
8235972	F-7B-050932	4213333079		102-4		HAMES "B" #3	RANGER NW (MARBLE FAL	1.0	LONE STAR GAS CO
8235973	F-7B-050933	4213333082		102-4		HUNT #I-1	DESDEMONA N (CONGL)	6.0	NORTHERN GAS PROD
-SIDWELL OIL & GAS INC				102-4		ROBERTSON #C-1	DESDEMONA N (CONGL)	3.0	NORTHERN GAS PROD
8235711	F-10-035827	4219500300				RECEIVED: 06/04/82 JA: TX			
-SPINDLETOP OIL & GAS CO				102-3		GATLIN 1-10	HANSFORD (KINDERHOOK)	155.0	TRANSWESTERN PIPE
8236114	F-7B-051561	4236730804				RECEIVED: 06/04/82 JA: TX			
-STALEY OPERATING CO				102-4		KIDWELL HEIRS #1			
8235966	F-7C-050863	4243532662				RECEIVED: 06/04/82 JA: TX	MALES (4650)	50.0	LONE STAR GAS CO
-STEPHENSON & PORTER				103	107-TF	CARTA 113 #1			
8235759	F-09-044233	4200900800				RECEIVED: 06/04/82 JA: TX	SAWYER (CANYON)	146.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				102-4		ELSIE P SMITH #1-A			
8236073	F-8A-051441	4221933302				RECEIVED: 06/04/82 JA: TX	FARMER (CADDO)	1572.0	MID-STATE GAS COR
8235923	F-08-050560	4200300000		103		CENTRAL LEVELLAND UNIT #266			
8235920	F-08-050557	4200300000		108		E M DRACHENBERG #10	LEVELLAND	2.0	AMOCO PRODUCTION
8235921	F-08-050558	4200300000		108		E M DRACHENBERG #13	FUHRMAN-MASCHO	1.0	PHILLIPS PETROLEU
8235922	F-08-050559	4200300000		108		E M DRACHENBERG #14	FUHRMAN-MASCHO	3.0	PHILLIPS PETROLEU
8235924	F-08-050561	4200300000		108		E M DRACHENBERG #4	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
8235926	F-08-050568	4200300000		108		E M DRACHENBERG #5	FUHRMAN-MASCHO	3.0	PHILLIPS PETROLEU
8236074	F-04-051442	4213135770		108		E M DRACHENBERG #7	FUHRMAN-MASCHO	3.0	PHILLIPS PETROLEU
8236026	F-06-051356	4242330544		103		L WIEDERKEHR #204	FUHRMAN-MASCHO	4.0	PHILLIPS PETROLEU
8236132	F-7B-051624	4214300000		103		SHAMBURGER LAKE UNIT #36-2	GOVT WELLS N AREA	1.0	VALERO INTERSTATE
8236135	F-7B-051627	4214300000		108		T P FEE (DIAZ) #14	SHAMBURGER LAKE	9.0	LONE STAR GAS CO
8236136	F-7B-051628	4214300000		108		T P FEE (DIAZ) #3-A	DIAZ (STRAWN)	12.0	SOUTHWESTERN GAS
8236133	F-7B-051625	4214300000		108		T P FEE (DIAZ) #7	DIAZ (STRAWN)	13.0	CHRISTIE GAS TRAN
8236077	F-7B-051464	4214300000		108		T P FEE DEED #5 #1	DIAZ (STRAWN)	16.0	SOUTHWESTERN GAS
8236134	F-03-051626	4207100000		108		T P FEE 41 B #1	DIAZ (STRAWN)	16.0	SOUTHWESTERN GAS
-SUNDANCE ENERGY CORP						WHITE ESTATE "A" #4	X-RAY (MARBLE FALLS)	10.0	LONE STAR GAS CO
8235971	F-7B-050929	4213332496				RECEIVED: 06/04/82 JA: TX	WILLOW SLOUGH	8.0	UNITED TEXAS TRAN
-SUPERIOR OIL CO				103		PACK #1			
8235784	F-03-045982	4228731107				RECEIVED: 06/04/82 JA: TX	EASTLAND COUNTY REGUL	16.0	NORTHERN GAS PROD
-TANA OIL & GAS CORP				102-2	103	EDGMON-CAMERON #6			
8236059	F-04-051420	4247900000				RECEIVED: 06/04/82 JA: TX	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8236061	F-04-051422	4247931135		108		B M & G A COX #1-2297 58942			
8236051	F-04-051412	4247900000		108		G G BENAVIDES #1-A 66414	LAS TIENDAS (OLMOS)	14.8	LONE STAR GAS CO
8236060	F-04-051421	4247930595		108		J R SAUNDERS #1 61597	SANTOS THOMAS (ESCOND	10.8	LONE STAR GAS CO
8236052	F-04-051413	4247930595		108		N D MACHAR ESTATE #1 62278	BOOTH RANCH (OLMOS)	10.5	LONE STAR GAS CO
8236053	F-04-051414	4247930606		108		PALAFOX EXPLORATION CO #1-A 66120	SANTOS THOMAS (ESCOND	11.0	LONE STAR GAS CO
8236054	F-04-051415	4247930617		108		PALAFOX EXPLORATION CO #1-B 66155	LAS TIENDAS (OLMOS)	3.7	LONE STAR GAS CO
8236055	F-04-051416	4247930846		108		PALAFOX EXPLORATION CO #1-C 66156	LAS TIENDAS (OLMOS)	3.4	LONE STAR GAS CO
8236056	F-04-051417	4247930556		108		PALAFOX EXPLORATION CO #1-58 66415	LAS TIENDAS (OLMOS)	1.4	LONE STAR GAS CO
8236057	F-04-051418	4247931557		108		PALAFOX EXPLORATION CO #1-68 62145	LAS TIENDAS (OLMOS)	16.4	LONE STAR GAS CO
							LAS TIENDAS (OLMOS)	10.6	LONE STAR GAS CO
							LAS TIENDAS (OLMOS)	0.6	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
8236358	F-04-051419	4247930503		108		V D MARTIN #1-B 58519	LAS TIENDAS (OLMOS)	13.8	LONE STAR GAS CO
-TARTAN PRODUCTION CO				RECEIVED:	06/04/82	JA: TX			
8235706	F-04-011043	4235500000		102-4		WALTER L RICHTER #2	BAILEY (1200)	41.0	NUEWELLS PIPELINE
-TEE OPERATING CO				RECEIVED:	06/04/82	JA: TX			
8235892	F-03-050326	4216730856		102-4		HALLS BAYOU RANCH GAS UNIT	GREENS LAKE (MIOCENE	8.0	
-TENEXPLO FUND III				RECEIVED:	06/04/82	JA: TX			
8235754	F-09-044155	4250300000		102-2		WORTH GRAGG #4	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8235755	F-09-044156	4250300000		102-2		WORTH GRAGG #5	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
8235756	F-09-044157	4250300000		102-2		WORTH GRAGG #6	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
-TENNECO OIL COMPANY				RECEIVED:	06/04/82	JA: TX			
8235891	F-02-050323	4712331135		102-4		C A GEARY UNIT 4 #2	PROPOSED COTTONWOOD C	6.0	
-TEXACO INC				RECEIVED:	06/04/82	JA: TX			
8235883	F-08-051254	4210931507		103		CULBERSON "W" FEE #7	FORD WEST (4100)	8.8	EL PASO NATURAL G
8235840	F-84-048561	4221933352		103		IRA P DELOACHE #35	LEVELLAND	0.0	AMOCO PRODUCTION
8235846	F-84-048856	4221933317		103		IRA P DELOACHE #49	LEVELLAND	16.6	AMOCO PRODUCTION
8235885	F-8A-050135	4216532331		103		J B ROBERTSON #44	ROBERTSON N (CLEARFOR	34.7	PHILLIPS PETROLEU
8235884	F-08-050133	4243131112		103		STERLING-N-FEE #3	CONGER (PENN)	0.8	VALERO TRANSMISSI
-THE ANSCHUTZ CORPORATION				RECEIVED:	06/04/82	JA: TX			
8235938	F-03-050677	4203931692		102-4		FINGER #1 ID #15173	PLEASANT BAYOU (FINGE	131.0	
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	06/04/82	JA: TX			
8235827	F-7C-050207	4210533637		102-4		UNIVERSITY 31-15 #1	UNIVERSITY 31 (STRAWN	240.8	PHILLIPS PETROLEU
-THREE B OIL CO				RECEIVED:	06/04/82	JA: TX			
8235898	F-08-050409	4237133518		103		BLACKMON #2 #26677	PAYTON	32.8	PERRY PIPELINE CO
8235900	F-08-050411	4247532507		103		DORR-HILL #1 #27097	PAYTON	31.0	PERRY PIPELINE CO
8235899	F-08-050410	4237133285		103		T O & SCHARFF #2 #26415	PAYTON	7.6	PERRY PIPELINE CO
-THROCKMORTON GAS SYSTEMS				RECEIVED:	06/04/82	JA: TX			
8235783	F-78-045953	4244700000		102-4		MCDONALD/CONDRON #1 (85498)	CONDRON (CISCO)	0.0	WARREN PETROLEUM
8235718	F-78-038906	4244731720		102-4		PATSY MORRISON "C" #1	THROCKMORTON COUNTY R	0.0	WARREN PETROLEUM
8235719	F-78-038907	4244700000		102-4		M A BROWN UNIT "C" #15	VALDA (CADDO)	0.0	WARREN PETROLEUM
-TIPPERARY OIL AND GAS CORP				RECEIVED:	06/04/82	JA: TX			
8235753	F-08-045873	4237133223		103		TIPPERARY #1	EL CINCO (WICHITA ALB	406.0	INTRATEX GAS CO
-TOTAL ENERGY CO OF TEXAS				RECEIVED:	06/04/82	JA: TX			
8235790	F-10-046601	4217900000		108		JOHNSON A-5	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
-TRAVELERS OIL CO				RECEIVED:	06/04/82	JA: TX			
8235833	F-10-048353	4206531020		103		BURNETT "A" #7 04806	PANHANDLE -CARSON COU	11.0	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	06/04/82	JA: TX			
8235882	F-06-050105	4245930524		103	107-TF	ALLGOOD G U #1	GILMER (JURASSIC)	0.0	
8235871	F-06-049735	4207330458		102-4		GILCHRIST "A" #1	PERCY WHEELER (TRAVIS	0.0	
8235739	F-02-043046	4226531578		102-4		KORINEK #1	KEMPER (5690')	0.0	UNITED GAS PIPELI
8235857	F-08-049310	4210300000		102-4		NELLIE TUCKER "C" #2	COSTA (CLEARFORK UPPE	1200.0	DELHI GAS PIPELIN
-U S EXPLORATION CORP				RECEIVED:	06/04/82	JA: TX			
8236004	F-78-051283	4213333105		103		CRISWELL #1 #8	CRISWELL N (MISSISSIP	4.9	NORTHERN GAS PROD
8236005	F-78-051284	4213333177		103		PIPPIN 097880	FLATWOOD E (DUFFER)	9.9	NORTHERN GAS PROD
-U S OPERATING INC.				RECEIVED:	06/04/82	JA: TX			
8235786	F-03-046027	4228731056		102-2		MAMIE #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	6.0	PGP GAS PRODUCTS
-UNION OIL COMPANY OF CALIF				RECEIVED:	06/04/82	JA: TX			
8235765	F-05-044559	4246730489		103		CARROLL UNIT #415	VAN (CARROLL SAND)	4.0	UNITED GAS PIPELI
-UNION TEXAS PETROLEUM				RECEIVED:	06/04/82	JA: TX			
8235965	F-08-050841	4247532412		107-OP		CHINA LAKE "206" #1	BURKHOLDER (RUSSELMAN	817.6	LONE STAR GAS CO
-UTX EXPLORATION INC				RECEIVED:	06/04/82	JA: TX			
8235743	F-02-043361	4202500000		102-4		K D ROCHE B-2C	HEARD RANCH (3550) -	0.0	TRUNKLINE GAS CO
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	06/04/82	JA: TX			
8236126	F-01-051590	4217730654		102-4	103	PETTUS #1	PEACH CREEK (AUSTIN C	0.0	VALERO TRANSMISSI

JD NO	DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROL	PURCHASER
-VANDERBURG PRODUCTION INC				RECEIVED:	06/04/82	JA: TX			
8236120	F-10-051574	4217931032		103		VANDERBURG #1 (ID#C5041)	PANHANDLE GRAY	100.0	CABOT PIPELINE CO
-VENQUEST RESOURCES INC				RECEIVED:	06/04/82	JA: TX			
8235847	F-03-048868	4247700000		102-2		NORTH GAYHILL UNIT #1	GIDDINGS-AUSTIN CHALK	0.0	CLAJON GAS CO
-W B TRAMMELL				RECEIVED:	06/04/82	JA: TX			
8236089	F-78-051486	4215131416		102-4		W B TRAMMELL #7-19	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
-W R EDWARDS JR				RECEIVED:	06/04/82	JA: TX			
8236088	F-10-051485	4223300000		103		BEARKILLER #18	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8236087	F-10-051484	4223300000		103		BEARKILLER #20	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8236085	F-10-051482	4223300000		103		BEARKILLER #31	PANHANDLE HUTCHINSON	150.0	PANHANDLE PRODUCI
8236086	F-10-051483	4223300000		103		MERCHANT ET AL #4	PANHANDLE HUTCHINSON	95.0	PANHANDLE PRODUCI
-WAGNER & BROWN				RECEIVED:	06/04/82	JA: TX			
8236099	F-08-051505	4217331210		103		ALLIEN "A" #10-27	CONGER (PENN)	343.3	TEXAS UTILITIES F
8236098	F-08-051504	4243131043		103		ALLIEN "A" #9-27	CONGER (PENN)	115.0	TEXAS UTILITIES F
8236100	F-08-051506	4243131029		103		FLINT "A" #3-30	CONGER (PENN)	873.8	TEXAS UTILITIES F
8236102	F-08-051508	4243130975		103		FLINT "B" #7-2	CONGER (PENN)	674.0	TEXAS UTILITIES F
8236101	F-08-051507	4243130976		103		FLINT "B" #8-2	CONGER (PENN)	480.0	TEXAS UTILITIES F
8236107	F-08-051515	4243130968		103		FLINT "B" #9-26	CONGER (PENN)	167.0	TEXAS UTILITIES F
8236103	F-08-051510	4243130988		103		GLASS "I" #5-38	CONGER (PENN)	293.0	TEXAS UTILITIES F
8236095	F-08-051501	4243130989		103		GLASS "I" #6-38	CONGER (PENN)	161.0	TEXAS UTILITIES F
8236097	F-08-051503	4243131001		103		GRIGSBY #5-14	CONGER (PENN)	143.0	TEXAS UTILITIES F
8236096	F-08-051502	4243131032		103		GRIGSBY #6-14	CONGER (PENN)	204.0	TEXAS UTILITIES F
8236105	F-08-051513	4243131074		103		HILDEBRAND #42-12	CONGER (PENN)	459.0	TEXAS UTILITIES F
8236104	F-08-051512	4243131104		103		HILDEBRAND #43-16	CONGER (PENN)	152.0	TEXAS UTILITIES F
8236106	F-08-051514	4243131088		103		HILDEBRAND #44-20	CONGER (PENN)	254.0	TEXAS UTILITIES F
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	06/04/82	JA: TX			
8236083	F-08-051470	4210332773		103		M B MCKNIGHT #124	ARMER (6350')	28.0	EL PASO NATURAL G
8236079	F-08-051466	4210332831		103		P J LEA #114	LEA (TUBB)	14.8	EL PASO NATURAL G
8236081	F-08-051468	4210332822		103		P J LEA #120	LEA (SAN ANDRES)	36.0	EL PASO NATURAL G
8236082	F-08-051469	4210332832		103		P J LEA #121	LEA (SAN ANDRES)	38.0	EL PASO NATURAL G
8236080	F-08-051467	4210332677		103		STATE "EG" #17	DUNE	10.3	EL PASO NATURAL G
-WCS PETROLEUM INC				RECEIVED:	06/04/82	JA: TX			
8235866	F-03-049558	4205131973		102-2		JOSEPH RILEY UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-WELLS-BATTELSTEIN OIL & GAS INC				RECEIVED:	06/04/82	JA: TX			
8235729	F-78-042458	4208332452		102-4		R BLAND #2	BLAND (JENNINGS)	32.0	ODESSA NATURAL CO
-WESTLAND OIL DEVELOPMENT CORP				RECEIVED:	06/04/82	JA: TX			
8236013	F-08-051327	4222732562		102-4		ELMO L MARTIN #1	HUTTO SOUTH (PERMIAN)	10.0	PHILLIPS PETROLEU
-WILLIAM PERLMAN				RECEIVED:	06/04/82	JA: TX			
8235705	F-7C-008154	4243530527		107-TF		ADA CAUTHORN "24" #1	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
8235838	F-7C-048529	4243532143		107-TF		ADA CAUTHORN "4" #2	SHURLEY RANCH (CANYON	20.0	EL PASO NATURAL G
8235835	F-7C-048522	4243532127		107-TF		FANNIE E WADE "44" #2	SAWYER (CANYON)	20.0	EL PASO HYDROCARB
8235836	F-10-048523	4243532142		107-TF		GEORGE BROCKMAN "64" #3	SAWYER (CANYON)	45.0	EL PASO HYDROCARB
8235837	F-7C-048524	4210532228		107-TF		L M MUDSPETH MEM HOSP "F" #1	SAWYER (CANYON SAND)	20.0	EL PASO NATURAL G
8235839	F-7C-048530	4243532109		107-TF		MACK CAUTHORN "109" #1	SHURLEY RANCH (CANYON	45.0	EL PASO NATURAL G
-WILSON ENERGY INC				RECEIVED:	06/04/82	JA: TX			
8236113	F-7C-051547	4238332120		103		PLAGENS #1	SPRABERRY (TREND AREA	15.0	UNION TEXAS PETRO
8235877	F-08-050025	4231733900		103		STIMSON-BURLEY 1[illegible] #1	FRAN-GLASS (PENNSYLVA	128.5	ADOBE OIL & GAS C
8236069	F-7C-051431	4210533816		103		UNIVERSITY 2 "B" 10 G	FARMER (SAN ANDRES)	45.6	BIG LAKE GASOLINE
8236070	F-7C-051432	4210533817		103		UNIVERSITY 2 "B" 11 G	FARMER (SAN ANDRES)	40.0	BIG LAKE GASOLINE
8236071	F-7C-051433	4210533818		103		UNIVERSITY 2 "B" 12 G	FARMER (SAN ANDRES)	41.9	BIG LAKE GASOLINE
8236068	F-7C-051430	4210533820		103		UNIVERSITY 2H #1	FARMER (SAN ANDRES)	36.0	BIG LAKE GASOLINE
8236067	F-7C-051429	4210533828		103		UNIVERSITY 2H #2	FARMER (SAN ANDRES)	27.0	BIG LAKE GASOLINE
8236066	F-7C-051428	4210533826		103		UNIVERSITY 2H #3	FARMER (SAN ANDRES)	28.0	BIG LAKE GASOLINE

VOLUME 674 PAGE 013

JD NO	JA DAT	NPT NO	D SEC(1)	SEC(2)	WELL NAME
8236065	F-7C-051427	4210533825	103		UNIVERSITY 2H #4
8236064	F-7C-051426	4210533622	103		UNIVERSITY 2H #5
8236063	F-7L-051425	4210533621	103		UNIVERSITY 2H #6
-WINN EXPLORATION/DULCE CO			RECEIVED:	06/04/82	JA: TX
8235890	F-31-05[illegible]272	4250731608	102-4		PRYOR RANCH 46
-WORLD PRODUCERS INC			RECEIVED:	06/04/82	JA: TX
8236015	F-7B-051336	4236331827	108		GOEN #1
8236019	F-7B-051341	4236332088	108		GOEN "C" #4
8236016	F-7B-051337	4236332362	108		GOEN "F" #7
8236018	F-7B-051340	4236731598	108		L S BYRD #3
8236017	F-7B-051338	4236731333	108		W L JENKINS #2
-WORLDWIDE ENERGY CORPORATION			RECEIVED:	06/04/82	JA: TX
8235955	F-36-05[illegible]779	4242302[illegible]	102-4		DENMAN #H-1
-ZINN PETROLEUM CO			RECEIVED:	06/04/82	JA: TX
8235858	F-[illegible]2-3[illegible]408	42[illegible]2531838	102-4		SARA BAYOT #5
-ZONERGY INC			RECEIVED:	06/04/82	JA: TX
8235823	F-31-047465	4217700000	102-2		NIXON #1

FIELD NAME	PROL	PURCHASER
FARMER (SAN ANDRES)	28.0	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	32.0	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	31.7	BIG LAKE GASOLINE
WINN-DULCE	0.0	NORTHERN NATURAL
VAN DYKE (ATOKA)	7.0	NATURAL GAS PIPEL
VAN DYKE (ATOKA)	6.0	NATURAL GAS PIPEL
VAN DYKE (ATOKA)	14.0	NATURAL GAS PIPEL
MOBY DICK (STRAWN)	12.0	NATURAL GAS PIPEL
LAKE MINERAL WELLS (4	10.0	SOUTHWESTERN GAS
SUNSHINE (RODESSA)	0.0	SEMCO GAS INC
RAGSDALE (1100)	40.0	TRANSCONTINENTAL
PEACH CREEK (AUSTIN C)	0.0	TIPPERARY CORP

OTHER PURCHASERS VOLUME NO 0674

8235720	COLUMBIA GAS TRANS CORP
8235722	TRANSCONTINENTAL GAS P L CORP
8235741	COLUMBIA GAS TRANS CORP
8235750	LONE STAR GAS CO
8235751	LONE STAR GAS CO
8235771	COLUMBIA GAS TRANS CORP
8235813	COLUMBIA GAS TRANS CORP
8235841	PIONEER NATURAL GAS CO
8235844	EL PASO NATURAL GAS CO
8235845	EL PASO NATURAL GAS CO
8235852	NORTHERN NATURAL GAS CO
8235853	EL PASO NATURAL GAS CO
8235873	NORTHERN NATURAL GAS CO
8235927	LONE STAR GAS CO
8235928	LONE STAR GAS CO
8235967	LONE STAR GAS CO
8235983	E I DUPONT DE NEMOURS & CO INC
8236009	E I DUPONT DE NEMOURS & CO INC
8236039	E I DUPONT DE NEMOURS & CO INC
8236040	E I DUPONT DE NEMOURS & CO INC
8236090	E I DUPONT DE NEMOURS & CO INC
8236091	E I DUPONT DE NEMOURS & CO INC
8236092	E I DUPONT DE NEMOURS & CO INC
8236095	E I DUPONT DE NEMOURS & CO INC
8236137	E I DUPONT DE NEMOURS & CO INC

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17432 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-C

[Volume 675]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 23, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMOCO PRODUCTION CO			RECEIVED:	06/04/82		JA: LA			
8236377	82-0075	1703320124		107-DP		J B LEBLANC #1 16400 TUSC RA SUK	PORT HUDSON	2190.0	TEXAS GAS TRANSMI
-BETHLAN PRODUCTION CORP			RECEIVED:	06/04/82		JA: LA			
8236355	82-0189	1707321427		108		A THIBEAUX #4	MONROE GAS FIELD	14.8	IMC PIPELINE CO I
8236357	82-0190	1707321610		108		BLACKWELL #1	MONROE GAS FIELD	15.1	IMC PIPELINE CO I
-FORMAN EXPLORATION COMPANY			RECEIVED:	06/04/82		JA: LA			
8236313	82-164	1705721700		102-A	103	BOWIE LUMBER CO LTD #1	LAKE BOEUF	750.0	
-GAS RESOURCES INC			RECEIVED:	06/04/82		JA: LA			
8236387	82-0077	1711122065		108		EXXON #2	MONROE GAS	11.0	IMC EXPLORATION C
8236388	82-0078	1711122066		108		EXXON #3	MONROE GAS	8.0	IMC EXPLORATION C
8236390	82-0079	1711122067		108		EXXON #4	MONROE GAS	11.0	IMC EXPLORATION C
8236389	82-0080	1711122068		108		EXXON #5	MONROE GAS	11.0	IMC EXPLORATION C
8236391	82-0081	1711122069		108		EXXON #6	MONROE GAS	10.0	IMC EXPLORATION C
-GLENDA PETROLEUM CORP			RECEIVED:	06/04/82		JA: LA			
8236397	82-0041	1711123126		103		GLENDA P 12 #1 S/N 174347	MONROE	16.0	MID LOUISIANA GAS
8236300	82-0037	1711123131		103		GLENDA P 12 #10 S/N 174352	MONROE	16.0	MID LOUISIANA GAS
8236301	82-0038	1711123132		103		GLENDA P 12 #11 S/N 174353	MONROE	16.0	MID LOUISIANA GAS
8236302	82-0039	1711123133		103		GLENDA P 12 #12 S/N 174354	MONROE	16.0	MID LOUISIANA GAS
8236303	82-0040	1711123134		103		GLENDA P 12 #13 S/N 174355	MONROE	16.0	MID LOUISIANA GAS
8236396	82-0042	1711123127		103		GLENDA P 12 #2 S/N 174348	MONROE	16.0	MID LOUISIANA GAS
8236398	82-0043	1711123128		103		GLENDA P 12 #3 S/N 174349	MONROE	16.0	MID LOUISIANA GAS
8236399	82-0044	1711123129		103		GLENDA P 12 #4 S/N 174350	MONROE	16.0	MID LOUISIANA GAS
8236304	82-0045	1711123130		103		GLENDA P 12 #5 S/N 174351	MONROE	16.0	MID LOUISIANA GAS
8236400	82-0046	1711123102		103		GLENDA P 12 #6 S/N 174152	MONROE	16.0	MID LOUISIANA GAS
8236305	82-0047	1711123103		103		GLENDA P 12 #7 S/N 174153	MONROE	16.0	MID LOUISIANA GAS
8236290	82-0116	1707321738		103		MCKNIGHT #1 S/N 174975	MONROE	15.0	UNITED GAS PIPELI
8236291	82-0117	1707321739		103		MCKNIGHT #2 S/N 174976	MONROE	15.0	UNITED GAS PIPELI
8236292	82-0118	1707321740		103		MCKNIGHT #3 S/N 174977	MONROE	16.0	UNITED GAS PIPELI
8236283	82-0119	1707321741		103		MCKNIGHT #4 S/N 174978	MONROE	15.0	UNITED GAS PIPELI
8236284	82-0120	1707321742		103		MCKNIGHT #5 S/N 174979	MONROE	15.0	UNITED GAS PIPELI
8236285	82-0121	1707321744		103		MCKNIGHT #7 S/N 174981	MONROE	15.0	UNITED GAS PIPELI
8236286	82-0122	1707321745		103		MCKNIGHT #8 S/N 174982	MONROE	15.0	UNITED GAS PIPELI
8236385	82-0018	1707321542		103		PENNZOIL 28 #10 S/N 176973	MONROE	16.0	UNITED GAS PIPELI
8236386	82-0019	1707321543		103		PENNZOIL 28 #11 S/N 176974	MONROE	16.0	UNITED GAS PIPELI
8236382	82-0015	1707321544		103		PENNZOIL 28 #12 S/N 176975	MONROE	16.0	UNITED GAS PIPELI
8236367	82-0033	1707321546		103		PENNZOIL 28 #14 S/N 176977	MONROE	16.0	UNITED GAS PIPELI
8236375	82-0027	1707321548		103		PENNZOIL 28 #16 S/N 176979	MONROE	16.0	UNITED GAS PIPELI
8236376	82-0021	1707321549		103		PENNZOIL 28 #17 176980	MONROE	16.0	UNITED GAS PIPELI
8236365	82-0022	1707321550		103		PENNZOIL 28 #18 S/N 176981	MONROE	16.0	UNITED GAS PIPELI
8236366	82-0032	1707321541		103		PENNZOIL 28 #9 S/N 176972	MONROE	16.0	UNITED GAS PIPE L
8236298	82-0035	1707321564		103		PENNZOIL 29 #11 S/N 177319	MONROE	16.0	UNITED GAS PIPE L

VOLUME 675 PAGE 002

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236383	82-0016	1707321585		103		PENNZOIL 29 #14 S/N 171098	MONROE	16.0	UNITED GAS PIPELI
8236299	82-0036	1707321587		103		PENNZOIL 29 #16 S/N 177320	MONROE	16.0	UNITED GAS PIPE L
8236384	82-0017	1707321592		103		PENNZOIL 29 #21 S/N 177243	MONROE	16.0	UNITED GAS PIPELI
8236297	82-0034	1707321562		103		PENNZOIL 29 #9 S/N 176985	MONROE	16.0	UNITED GAS PIPELI
-HADDOCK PETROLEUM CORP				RECEIVED:	06/04/82	JA: LA			
8236359	82-0061	1711123452		103		EXXON #1	MONROE	18.0	IMC PIPELINE CO I
8236363	82-0062	1711123453		103		EXXON #2	MONROE	18.0	IMC PIPELINE CO I
8236362	82-0063	1711123454		103		EXXON #5	MONROE	18.0	IMC PIPELINE CO I
-HERBST RESOURCES INC				RECEIVED:	06/04/82	JA: LA			
8236310	82-0071	1711123222		108		ROBERSON #1	MONROE GAS ROCK	2.5	IMC PIPELINE CO I
-IMC EXPLORATION COMPANY				RECEIVED:	06/04/82	JA: LA			
8236311	82-0072	1711123179		108		DEAN #4	MONROE	14.0	PETRO-LEWIS FUNDS
8236401	82-0048	1711122754		103		OLIN GAS TRANSMISSION CO #74	MONROE	31.0	IMC PIPELINE CO I
8236306	82-0049	1711122755		103		OLIN GAS TRANSMISSION CO #75	MONROE	26.0	IMC PIPELINE CO I
8236338	82-0050	1711122786		103		OLIN GAS TRANSMISSION CO #76	MONROE	63.0	IMC PIPELINE CO I
8236339	82-0051	1711122759		103		OLIN GAS TRANSMISSION CO #77	MONROE	63.0	IMC PIPELINE CO I
8236345	82-0052	1711122801		103		OLIN GAS TRANSMISSION CO #80	MONROE	31.0	IMC PIPELINE CO I
8236334	82-0008	1711123427		103		OLIN GAS TRANSMISSION CO #85	MONROE	18.0	IMC PIPELINE CO I
8236335	82-0009	1711123429		103		OLIN GAS TRANSMISSION CO #91	MONROE	21.0	IMC PIPELINE CO I
8236312	82-0073	1711123237		108		PARKS #F-336	MONROE	20.0	IMC PIPELINE CO I
-LANKFORD & NANCE				RECEIVED:	06/04/82	JA: LA			
8236308	82-0069	1711123235		108		FROST #16	MONROE	10.0	TEXAS GAS TRANSMI
8236364	82-0067	1711123194		108		FROST #4	MONROE	3.0	TEXAS GAS TRANSMI
8236307	82-0068	1711123195		108		FROST #5	MONROE	10.0	TEXAS GAS TRANSMI
8236309	82-0070	1711123243		108		K D LANKFORD #6	MONROE	6.0	TEXAS GAS TRANSMI
-MID LOUISIANA GAS COMPANY				RECEIVED:	06/04/82	JA: LA			
8236288	82-0186	1711123059		108		MLGC FEE GAS #1013	MONROE GAS	12.7	MID LOUISIANA GAS
8236360	82-0059	1711123065		103		MLGC FEE GAS #1019	MONROE GAS FIELD	27.4	MID LOUISIANA GAS
8236392	82-0091	1711123066		103		MLGC FEE GAS #1020	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236321	82-0029	1711123082		103		MLGC FEE GAS #1028	MONROE GAS	29.2	MID LOUISIANA GAS
8236394	82-0092	1711123083		103		MLGC FEE GAS #1029	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236322	82-0030	1711123084		103		MLGC FEE GAS #1030	MONROE GAS	25.6	MID LOUISIANA GAS
8236332	82-0006	1711123085		103		MLGC FEE GAS #1031	MONROE GAS FIELD	18.3	MID LOUISIANA GAS
8236378	82-0011	1711123086		103		MLGC FEE GAS #1032	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8236333	82-0007	1711123087		103		MLGC FEE GAS #1033	MONROE GAS FIELD	18.3	MID LOUISIANA GAS
8236323	82-0031	1711123088		103		MLGC FEE GAS #1034	MONROE GAS	31.0	MID LOUISIANA GAS
8236281	82-0187	1711123150		108		MLGC FEE GAS #1049	MONROE GAS	11.0	MID LOUISIANA GAS
8236395	82-0094	1711123152		103		MLGC FEE GAS #1051	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236369	82-0096	1711123153		103		MLGC FEE GAS #1052	MONROE GAS FIELD	26.8	MID LOUISIANA GAS
8236356	82-0188	1711123154		108		MLGC FEE GAS #1053	MONROE GAS FIELD	7.3	MID LOUISIANA GAS
8236368	82-0095	1711123175		103		MLGC FEE GAS #1055	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236370	82-0097	1711123248		103		MLGC FEE GAS #1060	MONROE GAS FIELD	18.2	MID LOUISIANA GAS
8236371	82-0098	1711123250		103		MLGC FEE GAS #1062	MONROE GAS FIELD	18.2	MID LOUISIANA GAS
8236372	82-0099	1711123252		103		MLGC FEE GAS #1064	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8236340	82-0053	1711123255		103		MLGC FEE GAS #1067	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236344	82-0054	1711123256		103		MLGC FEE GAS #1068	MONROE GAS FIELD	23.7	MID LOUISIANA GAS
8236341	82-0055	1711123257		103		MLGC FEE GAS #1069	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236343	82-0056	1711123258		103		MLGC FEE GAS #1070	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236379	82-0012	1711123259		103		MLGC FEE GAS #1071	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236380	82-0013	1711123260		103		MLGC FEE GAS #1072	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236381	82-0014	1711123261		103		MLGC FEE GAS #1073	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236373	82-0100	1711123262		103		MLGC FEE GAS #1074	MONROE GAS FIELD	23.6	MID LOUISIANA GAS
8236350	82-0101	1711123263		103		MLGC FEE GAS #1075	MONROE GAS FIELD	25.6	MID LOUISIANA GAS

VOLUME 675 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236358	82-0102	1711123264		103		MLGC FEE GAS #1076	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236357	82-0103	1711123265		103		MLGC FEE GAS #1077	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236354	82-0104	1711123266		103		MLGC FEE GAS #1078	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236355	82-0105	1711123267		103		MLGC FEE GAS #1079	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236353	82-0106	1711123268		103		MLGC FEE GAS #1080	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236351	82-0107	1711123269		103		MLGC FEE GAS #1081	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236352	82-0108	1711123270		103		MLGC FEE GAS #1082	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236346	82-0109	1711123271		103		MLGC FEE GAS #1083	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236347	82-0110	1711123272		103		MLGC FEE GAS #1084	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236348	82-0111	1711123273		103		MLGC FEE GAS #1085	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236349	82-0112	1711123274		103		MLGC FEE GAS #1086	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236342	82-0113	1711123275		103		MLGC FEE GAS #1087	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236337	82-0114	1711123276		103		MLGC FEE GAS #1088	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236336	82-0115	1711123277		103		MLGC FEE GAS #1089	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236326	82-0116	1711123278		103		MLGC FEE GAS #1090	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236327	82-0117	1711123279		103		MLGC FEE GAS #1091	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236328	82-0118	1711123280		103		MLGC FEE GAS #1092	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236329	82-0119	1711123281		103		MLGC FEE GAS #1093	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236330	82-0120	1711123282		103		MLGC FEE GAS #1094	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236331	82-0121	1711123283		103		MLGC FEE GAS #1095	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236324	82-0122	1711123284		103		MLGC FEE GAS #1096	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236325	82-0123	1711123285		103		MLGC FEE GAS #1097	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236315	82-0124	1711123286		103		MLGC FEE GAS #1098	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236316	82-0125	1711123287		103		MLGC FEE GAS #1099	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236317	82-0126	1711123288		103		MLGC FEE GAS #1100	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236318	82-0127	1711123289		103		MLGC FEE GAS #1101	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236319	82-0128	1711123290		103		MLGC FEE GAS #1102	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236320	82-0129	1711123291		103		MLGC FEE GAS #1103	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236313	82-0130	1711123292		103		MLGC FEE GAS #1104	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236314	82-0131	1711123293		103		MLGC FEE GAS #1105	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236304	82-0132	1711123294		103		MLGC FEE GAS #1106	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236305	82-0133	1711123295		103		MLGC FEE GAS #1107	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236302	82-0134	1711123296		103		MLGC FEE GAS #1108	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236303	82-0135	1711123297		103		MLGC FEE GAS #1109	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236300	82-0136	1711123298		103		MLGC FEE GAS #1110	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236301	82-0137	1711123299		103		MLGC FEE GAS #1111	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236298	82-0138	1711123300		103		MLGC FEE GAS #1112	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236296	82-0139	1711123301		103		MLGC FEE GAS #1113	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236295	82-0140	1711123302		103		MLGC FEE GAS #1114	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236294	82-0141	1711123303		103		MLGC FEE GAS #1115	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236293	82-0142	1711123304		103		MLGC FEE GAS #1116	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236292	82-0143	1711123305		103		MLGC FEE GAS #1117	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236291	82-0144	1711123306		103		MLGC FEE GAS #1118	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236290	82-0145	1711123307		103		MLGC FEE GAS #1119	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236289	82-0146	1711123308		103		MLGC FEE GAS #1120	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236287	82-0147	1711123309		103		MLGC FEE GAS #1121	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236286	82-0148	1711123310		103		MLGC FEE GAS #1122	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236285	82-0149	1711123311		103		MLGC FEE GAS #1123	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236284	82-0150	1711123312		103		MLGC FEE GAS #1124	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236283	82-0151	1711123313		103		MLGC FEE GAS #1125	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236282	82-0152	1711123314		103		MLGC FEE GAS #1126	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236280	82-0153	1711123315		103		MLGC FEE GAS #1127	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236279	82-0154	1711123316		103		MLGC FEE GAS #1128	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236278	82-0155	1711123317		103		MLGC FEE GAS #1129	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236277	82-0156	1711123318		103		MLGC FEE GAS #1130	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236276	82-0157	1711123319		103		MLGC FEE GAS #1131	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236275	82-0158	1711123320		103		MLGC FEE GAS #1132	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236274	82-0159	1711123321		103		MLGC FEE GAS #1133	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236273	82-0160	1711123322		103		MLGC FEE GAS #1134	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236272	82-0161	1711123323		103		MLGC FEE GAS #1135	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236271	82-0162	1711123324		103		MLGC FEE GAS #1136	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236270	82-0163	1711123325		103		MLGC FEE GAS #1137	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236269	82-0164	1711123326		103		MLGC FEE GAS #1138	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236268	82-0165	1711123327		103		MLGC FEE GAS #1139	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236267	82-0166	1711123328		103		MLGC FEE GAS #1140	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236266	82-0167	1711123329		103		MLGC FEE GAS #1141	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236265	82-0168	1711123330		103		MLGC FEE GAS #1142	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236264	82-0169	1711123331		103		MLGC FEE GAS #1143	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236263	82-0170	1711123332		103		MLGC FEE GAS #1144	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236262	82-0171	1711123333		103		MLGC FEE GAS #1145	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236261	82-0172	1711123334		103		MLGC FEE GAS #1146	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236260	82-0173	1711123335		103		MLGC FEE GAS #1147	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236259	82-0174	1711123336		103		MLGC FEE GAS #1148	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236258	82-0175	1711123337		103		MLGC FEE GAS #1149	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236257	82-0176	1711123338		103		MLGC FEE GAS #1150	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236256	82-0177	1711123339		103		MLGC FEE GAS #1151	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236255	82-0178	1711123340		103		MLGC FEE GAS #1152	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236254	82-0179	1711123341		103		MLGC FEE GAS #1153	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236253	82-0180	1711123342		103		MLGC FEE GAS #1154	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236252	82-0181	1711123343		103		MLGC FEE GAS #1155	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236251	82-0182	1711123344		103		MLGC FEE GAS #1156	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236250	82-0183	1711123345		103		MLGC FEE GAS #1157	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236249	82-0184	1711123346		103		MLGC FEE GAS #1158	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236248	82-0185	1711123347		103		MLGC FEE GAS #1159	MONROE GAS FIELD	25.6	MID LOUISIANA GAS

VOLUME 675 PAGE 003

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236358	82-0057	1707321794		103		MLGC FEE GAS #1087	MONROE GAS FIELD	26.2	MID LOUISIANA GAS
8236393	82-0093	1707321795		103		MLGC FEE GAS #1090	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236296	82-0102	1711123308		103		MLGC FEE GAS #1091	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236342	82-0001	1711123298		103		MLGC FEE GAS #1092	MONROE GAS FIELD	12.8	MID LOUISIANA GAS
8236361	82-0058	1711123316		103		MLGC FEE GAS #1095	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236295	82-0103	1711123371		103		MLGC FEE GAS #1096	MONROE GAS	21.9	MID LOUISIANA GAS
8236294	82-0104	1711123372		103		MLGC FEE GAS #1097	MONROE GAS	25.6	MID LOUISIANA GAS
8236328	82-0002	1711123375		103		MLGC FEE GAS #1098	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236329	82-0003	1711123376		103		MLGC FEE GAS #1099	MONROE GAS FIELD	25.6	MID LOUISIANA GAS
8236330	82-0004	1711123377		103		MLGC FEE GAS #1100	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236331	82-0005	1711123378		103		MLGC FEE GAS #1101	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8236324	82-0126	1711121478		108		MLGC FEE GAS #738	MONROE GAS FIELD	15.4	MID LOUISIANA GAS
8236325	82-0130	1711121714		108		MLGC FEE GAS #764	MONROE GAS FIELD	12.7	MID LOUISIANA GAS
8236326	82-0131	1711121828		108		MLGC FEE GAS #765	MONROE GAS FIELD	21.0	MID LOUISIANA GAS
8236327	82-0132	1711121829		108		MLGC FEE GAS #766	MONROE GAS FIELD	17.6	MID LOUISIANA GAS
8236293	82-0180	1711121830		108		MLGC FEE GAS #767	MONROE GAS	17.4	MID LOUISIANA GAS
8236314	82-0161	1711121863		108		MLGC FEE GAS #776	MONROE GAS	20.6	MID LOUISIANA GAS
8236292	82-0183	1711121990		108		MLGC FEE GAS #851	MONROE GAS	15.6	MID LOUISIANA GAS
8236315	82-0184	1711122515		108		MLGC FEE GAS #903	MONROE GAS	15.6	MID LOUISIANA GAS
8236374	82-0185	1711122600		108		MLGC FEE GAS #934	MONROE GAS FIELD	20.4	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO VIII				RECEIVED:		06/04/82 JA: LA			
8236316	82-0024	1707321723		103		LEDOUX #1	MONROE	11.0	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO XI				RECEIVED:		06/04/82 JA: LA			
8236318	82-0026	1707321724		103		NORTH MONROE LAND CO #1	MONROE	8.0	IMC PIPELINE CO I
8236319	82-0027	1707321730		103		NORTH MONROE LAND CO #2	MONROE	8.0	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO XII				RECEIVED:		06/04/82 JA: LA			
8236317	82-0025	1707321806		103		L M B #2	MONROE	15.0	IMC PIPELINE CO I
8236320	82-0028	1707321805		103		LMB #1	MONROE	21.0	IMC PIPELINE CO I
-NIXON GAS & OIL INC				RECEIVED:		06/04/82 JA: LA			
8236346	82-0185	1707321677		103		STURGEON #1	MONROE GAS	11.0	MID LOUISIANA GAS
-PELICAN DRILLING				RECEIVED:		06/04/82 JA: LA			
8236336	82-0010	1707321782		103		LIEBER #1 HSU #511	MONROE	86.2	IMC PIPELINE CO I
-PRIMOS PRODUCTION CO				RECEIVED:		06/04/82 JA: LA			
8236349	82-0108	1711123328		103		PETRO LEWIS CONS CALHON #3	MONROE	14.4	PETRO LEWIS FUNDS
8236351	82-0109	1711123329		103		PETRO LEWIS FROST LUMBER #47	MONROE	16.4	PETRO LEWIS FUNDS
8236288	82-0115	1711123048		103		PETRO LEWIS FROST LUMBER #57	MONROE	12.3	PETRO LEWIS FUNDS
8236348	82-0107	1711123050		103		PETRO LEWIS FROST LUMBER #59	MONROE	12.3	PETRO LEWIS FUNDS
8236347	82-0106	1711123049		103		PETRO LEWIS FROST LUMBER 58	MONROE	8.2	PETRO LEWIS FUNDS
8236287	82-0113	1711123199		103		PETRO LEWIS MARTIN #1	MONROE	20.5	PETRO LEWIS FUNDS
8236354	82-0112	1711122996		103		PETRO LEWIS UNION POWER #22	MONROE	12.3	PETRO LEWIS FUNDS
8236352	82-0111	1711123330		103		PETRO LEWIS UNION POWER #25	MONROE	12.3	PETRO-LEWIS FUNDS
8236289	82-0114	1711123208		103		PETRO LEWIS UNION POWER #27	MONROE	8.2	PETRO LEWIS FUNDS
8236353	82-0111	1711122984		103		PETRO-LEWIS FROST LUMBER #48	MONROE	20.5	PETRO LEWIS FUNDS
-TEXACO INC				RECEIVED:		06/04/82 JA: LA			
8236337	82-0023	1709520067		103		MARINO 3 1-300 RA SUA	BONNET CARRE	100.0	LOUISIANA POWER &

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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:		06/01/82 JA: NY			
8236279	2820	3101315517	D	107-DV		EE #3 MARTIN #1	LAKE SHORE	15.0	NATIONAL FUEL GAS

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OKLAHOMA CORPORATION COMMISSION

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-AMERICAN PETROLEUM & MINERAL CO INC RECEIVED: 06/01/82 JA: OK

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236215	14582	3506321242		103		CHAPMAN 1-A	HOLDENVILLE	120.0	ARKANSAS LOUISIAN
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	06/01/82	JA: OK			
8236230	12150	3509520254		102-4		COX 1-34	WILLIS	0.0	TEXACO INC
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	06/01/82	JA: OK			
8236153	14346	3507322875		103		A BEASLEY 1-5	SOONER TREND	139.0	PHILLIPS PETROLEU
8236202	14503	3504722212		103		GUNGOLL 1-19	SOONER TREND	16.0	PHILLIPS PETROLEU
8236154	14501	3507300000		103		LOHMEYER 1-23	SOONER TREND	20.0	PHILLIPS PETROLEU
8236230	14511	3507322759		103		REEVES 1-8	SOONER TREND	18.0	PHILLIPS PETROLEU
-H M C OIL & GAS INC				RECEIVED:	06/01/82	JA: OK			
8236246	14549	3509120437		103		ALBIN 1-32	UNKNOWN	163.1	WELLHEAD ENTERPRI
-HUNKER EXPLORATION CO				RECEIVED:	06/01/82	JA: OK			
8236257	12153	3501922209		102-4		CITY OF ARDMORE #1-13		0.0	LONE STAR GAS CO
8236174	11210	3501922081		102-4		DOWNS 1-7		3281.0	LONE STAR GAS CO
8236258	12154	3501922135		102-4		MARKHAM #1-5		0.0	LONE STAR GAS CO
-BURK ROYALTY CO				RECEIVED:	06/01/82	JA: OK			
8236194	14058	3500721996		103		WILSON UNIT NO	CAMRICK	146.0	NORTHERN NATURAL
-BUTTONWOOD PETROLEUM INC				RECEIVED:	06/01/82	JA: OK			
8236190	17229	3504321232		102-2		JACK GILCHRIST #1	UNNAMED	34.7	PHILLIPS PETROLEU
-CANADIAN EXPLORATION CORP				RECEIVED:	06/01/82	JA: OK			
8236200	14379	3501722082		103		SCALAPINO #13-1	SOUTH YUKON	30.0	DELHI GAS PIPELIN
-CENTURY OIL & GAS CORP				RECEIVED:	06/01/82	JA: OK			
8236239	08855	3513721870		102-2		REICH #1 OTC #137-55647	NELLIE	175.0	LONE STAR GAS CO
-CHASE EXPLORATION CORP				RECEIVED:	06/01/82	JA: OK			
8236261	12483	3507121676		108		HARKINS 4-17	UNNAMED	2.7	CITIES SERVICE GA
8236260	12412	3507121150		108		HORKINS 1-17	UNNAMED	0.2	CITIES SERVICE GA
8236259	12411	3507121204		108		HORKINS 2-17	UNNAMED	0.2	CITIES SERVICE GA
8236262	12504	3507121051		108		JOHNSON 1-19	UNNAMED	0.2	CITIES SERVICE GA
8236263	12505	3507121668		108		KAMPENROEDER #2-22	UNNAMED	0.0	CITIES SERVICE GA
8236268	12535	3507121677		108		SCHIEBER #2-21	UNNAMED	1.4	CITIES SERVICE GA
8236264	12507	3507121613		108		SHEIK #1-32	UNNAMED	0.0	CITIES SERVICE GA
8236267	12535	3507120956		108		STOCKTON #1-34	UNNAMED	0.4	CITIES SERVICE GA
8236269	12540	3507121665		108		TATE #2-6	UNNAMED	1.4	CITIES SERVICE GA
8236265	12517	3507120959		108		TURVEY-TAYLOR #2-22	UNNAMED	2.6	CITIES SERVICE GA
8236266	12519	3507121806		108		VOGGELE#2-20	UNNAMED	1.5	CITIES SERVICE GA
-CLARK RESOURCES INC				RECEIVED:	06/01/82	JA: OK			
8236244	14542	3507323307		103		HEBARD 13-1	SOONER TREND	65.0	CONOCO INC
-COTTON PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: OK			
8236219	18779	3511521240		107-DP		SECHRIST #1	UNNAMED	0.0	UNITED GAS PIPE L
-CRAIN & DEISENROTH				RECEIVED:	06/01/82	JA: OK			
8236176	12006	3503722959		103		BARTON	EAST CUSHING	22.0	COLORADO GAS COMP
8236175	12005	3503723043		103		DOTY	EAST CUSHING	7.2	COLORADO GAS COMP
8236177	12006	3503723069		103		LUNSFORD	EAST CUSHING	25.0	COLORADO GAS COMP
-CUMMINGS OIL CO				RECEIVED:	06/01/82	JA: OK			
8236155	14456	3507323009		103		YOST "A" #1	SOONER TREND	0.0	CITIES SERVICE GA
-DAVIS OIL COMPANY				RECEIVED:	06/01/82	JA: OK			
8236181	06729	3501721379		103		AIRPORT TRUST #3	NORTH FORK	400.0	PHILLIPS PETROLEU
-DEAN CLARK				RECEIVED:	06/01/82	JA: OK			
8236182	14574	3511100000		108		FLUD #1	HAMILTON SWITCH SW SE	10.8	PHILLIPS PETROLEU
-DONLARR EXPLORATION INC				RECEIVED:	06/01/82	JA: OK			
8236152	14308	3507323069		103		SHANNON #2	SOONER TREND	141.0	PHILLIPS PETROLEU
-DOW KEITH OIL & GAS INC				RECEIVED:	06/01/82	JA: OK			
8236159	14482	3503100000		103		SCHOOL LAND #2	SCHOOL LAND 2	0.0	MANN INDUSTRIES I
-DYCO PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: OK			

JD NO	JA DAT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236184	14576	3500722037		103		NOLDER #2		3.6	PHILLIPS PETROLEU
-EARTH ENERGY RESOURCES INC				RECEIVED:	06/01/82	JA: OK			
8236173	17263	3511921572		102-2		AHRBERG #1	NORTHWEST BOOMER LAKE	6.0	ARCO OIL & GAS CO
8236168	17258	3511921452		102-2		AHRBERG #1A	NORTHWEST BOOMER LAKE	4.5	ARCO OIL & GAS CO
8236172	17262	3511921750		102-2		AHRBERG-HAAK #1	NORTHWEST BOOMER LAKE	16.5	ARCO OIL & GAS CO
8236169	17259	3511921883		102-2		AHRBERG-HAAK #2	NORTHWEST BOOMER LAKE	10.5	ARCO OIL & GAS CO
8236189	17207	3511921838		102-4		COE - BAILEY #2	WEST VINCO	15.0	
8236188	17206	3511921805		102-4		COE #1	WEST VINCO	15.0	
8236192	17264	3511921884		102-2		KALEIDOSCOPE #1	NORTHWEST BOOMER LAKE	10.5	ARCO OIL & GAS CO
8236171	17261	3511921814		102-2		OKLAHOMA STATE #2	NORTHWEST BOOMER LAKE	105.0	ARCO OIL & GAS CO
8236170	17260	3511921815		102-2		OKLAHOMA STATE #3	NORTHWEST BOOMER LAKE	90.0	ARCO OIL & GAS CO
8236166	17256	3511921642		102-2		OKLAHOMA STATE #4	NORTHWEST BOOMER LAKE	120.0	ARCO OIL & GAS CO
8236167	17257	3511921914		102-2		OWENS-RADER #1	NORTHWEST BOOMER LAKE	10.0	ARCO OIL & GAS CO
8236270	14632	3511921466		103		RANDOLPH #2	MEHAN	182.0	CITIES SERVICE GA
-ECC OIL CO				RECEIVED:	06/01/82	JA: OK			
8236273	14637	3514722189		103		LAIR #1 SW/4 SE/4 SE/4 31-25N-14E	OGLESBY GAS FIELD	25.0	OKAN GAS CO
8236272	14635	3514722287		103		THOMAS #1 SW-4 NE/4 SW/4 31-25N-14E	OGLESBY GAS FIELD	3.0	OKAN GAS CO
-ENERGY RESERVES GROUP INC				RECEIVED:	06/01/82	JA: OK			
8236274	14638	3509321273		103		JORDAN #2	RINGWOOD	108.4	PHILLIPS PETROLEU
8236275	14639	3509321795		103		JORDAN #3	RINGWOOD	163.5	PHILLIPS PETROLEU
8236276	14640	3509322333		103		JORDAN #4	RINGWOOD	70.4	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC				RECEIVED:	06/01/82	JA: OK			
8236250	14558	3514920201		103		MAUDE G BIRCKETT #2	BURNS FLAT	153.0	NATURAL GAS PIPEL
-ESTORIL PRODUCING CORP				RECEIVED:	06/01/82	JA: OK			
8236165	17255	3512521241		102-2	103	COLEMAN "A" #1	NE TECUMSEH	0.0	BETHEL GAS CO
-EXXON CORPORATION				RECEIVED:	06/01/82	JA: OK			
8236205	14564	3504921441		103		T E MCNEER #6U	GOLDEN TREND NORTH	85.0	WARREN PETROLEUM
-F HOWARD WALSH JR				RECEIVED:	06/01/82	JA: OK			
8236191	18743	3501521273		107-DP		GOODFELLOW #1		993.0	TENNESSEE GAS PIP
-G W RUPE				RECEIVED:	06/01/82	JA: OK			
8236158	14473	3511121603		103		CHURCH #1	YOUNGSTOWN	60.0	PHILLIPS PETROLEU
8236157	14472	3511122268		103		WILLIAMS #2	YOUNGSTOWN	38.0	PHILLIPS PETROLEU
-GIN INC				RECEIVED:	06/01/82	JA: OK			
8236255	11127	3507300000		103		JACK #1	SOONER TREND	2.0	DALCO PETROLEUM C
8236256	11128	3507300000		103		QUEEN #1	SOONER TREND	2.0	DALCO PETROLEUM C
-GRACE PETROLEUM CORPORATION				RECEIVED:	06/01/82	JA: OK			
8236161	14526	3509322350		103		ROSE 2-12	CLEO SPRINGS	0.0	
-GREAT WESTERN LAND CO INC				RECEIVED:	06/01/82	JA: OK			
8236195	14188	3510721669		103		BECKY ANN #1	LYONS-QUINN	3.6	PHILLIPS PETROLEU
-HANKS PETROLEUM CORP				RECEIVED:	06/01/82	JA: OK			
8236233	13617	3509322292		103		CAROL ANN #1	SOONER TREND	0.0	PIONEER GAS PRODU
-HARPER OIL COMPANY				RECEIVED:	06/01/82	JA: OK			
8236226	14523	3507323271		103		RENSHAW #2	SOONER TREND	30.0	PHILLIPS PETROLEU
-HARRY A ELLS JR				RECEIVED:	06/01/82	JA: OK			
8236203	14537	3510300000		108		ANNIE SUMNER #4		15.0	COMPCO INC
-INTER-GLOBE ENERGY INC				RECEIVED:	06/01/82	JA: OK			
8236224	14370	3508121368		103		CORRENTE #2-3		0.0	SUN GAS CO
-JACK C GREEN				RECEIVED:	06/01/82	JA: OK			
8236185	14578	3512321130		103		CHISM #11	EAST FRANCIS	36.5	ARKLA GAS CO
-JICO EXPLORATION INC				RECEIVED:	06/01/82	JA: OK			
8236237	14449	3507323164		103		JICO-ALLEN GREER #1	SONNER TREND	109.5	PHILLIPS PETROLEU
-JONES & PELLOW OIL CO				RECEIVED:	06/01/82	JA: OK			
8236247	14555	3504921693		103		RUSSELL #2	KLONDIKE	16.0	AMINOIL USA INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8236248	14556	35[illegible]4921698		103		SUMMAR 11-1	S W PAULS VALLEY	18.0	AMINOIL USA INC
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	06/01/82	JA: OK			
8236208	14570	3500500000		108		R J HOOD #1	E ALINE	10.0	UNION TEXAS PETRO
8236209	14571	3509300000		108		SIMONS #1	KINGFIELD	5.0	UNION TEXAS PETRO
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	06/01/82	JA: OK			
8236204	14559	3513900000		108		GODLEY #2	CAMRICK	20.0	
-KENNEDY & MITCHELL INC				RECEIVED:	06/01/82	JA: OK			
8236178	02250	3505900000		102-4		BEARD #8-98	UNDESIGNATED (NE NE 3	450.0	MICHIGAN WISCONSI
8236180	06072	3504500000		102-4		GAGE #23-339	NW FARGO	180.0	NORTHERN NATURAL
8236179	03391	3505900000		102-4		PAYE #17-302	UNDESIGNATED (C NE 3-	365.0	NORTHERN NATURAL
8236231	12743	3504520887		102-4		SUTTER #32-432	UNDESIGNATED (C NE SE	550.0	NORTHERN NATURAL
-L E JONES PRODUCTION COMPANY				RECEIVED:	06/01/82	JA: OK			
8236225	14620	3513722847		103		GRIFFIN #1		36.0	GETTY OIL CO
-L O WARD				RECEIVED:	06/01/82	JA: OK			
8236214	14572	3502720493		103		STABLE RUN #1	N NORMAN	87.5	SUN GAS CO
-L P ENERGY				RECEIVED:	06/01/82	JA: OK			
8236196	13985	3507323134		103		MALY #1	SOONER TREND	6.0	CONOCO INC
-LOBAR OIL CO INC				RECEIVED:	06/01/82	JA: OK			
8236206	14567	3508321004		103		DENNY #1		6.0	CASON OIL CO
-MORAN EXPLORATION INC				RECEIVED:	06/01/82	JA: OK			
8236210	11880	3501721879		103		HOLLMAN #1	YUKON AREA	6.0	PHILLIPS PETROLEU
8236193	11879	3501721951		103		WHITE #1	YUKON AREA	6.0	PHILLIPS PETROLEU
-NATIONAL OIL COMPANY				RECEIVED:	06/01/82	JA: OK			
8236160	14525	35[illegible]9322075		103		093-67577 RIKLI #1	W DRUMMOND	30.0	CITIES SERVICE GA
-NORTEX GAS & OIL CO				RECEIVED:	06/01/82	JA: OK			
8236235	14561	35[illegible]5921022		103		NINE "A" 31-1	MOCANE LAVERNE	400.0	INTERNORTH INC
-OKLA OIL & GAS ROYALTIES INC				RECEIVED:	06/01/82	JA: OK			
8236232	13017	3513722650		103		SPEARS #2		0.0	GETTY OIL CO
-OLD DOMINION OIL CORP				RECEIVED:	06/01/82	JA: OK			
8236164	14546	3505920989		103		EASTERWOOD #1	EAST MAY	372.6	DELHI GAS PIPELIN
-OMNI OIL & GAS INC				RECEIVED:	06/01/82	JA: OK			
8236151	14307	3507322661		103		L SHANE #1	SOONER TREND	58.0	PHILLIPS PETROLEU
-ONYX ENERGY CORP				RECEIVED:	06/01/82	JA: OK			
8236253	17115	3508720689		102-4	103	LITTLE BEAR 1-26	LITTLE BEAR	376.3	OG & E CO & PUBLI
-P-T LTD #1				RECEIVED:	06/01/82	JA: OK			
8236228	14532	35[illegible]4722745		103		BEARD 35-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8236227	14531	35.9322262		103		CRAMER 27-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8236229	14533	35[illegible]4722670		103		MALY 32-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	06/01/82	JA: OK			
8236211	12703	3504520948		102-2		CAMARGO GRAZING "A" #1		6.0	PANHANDLE EASTERN
-PORTS OF CALL OIL CO				RECEIVED:	06/01/82	JA: OK			
*8236254	18133	3501521190		102-2		WILLIAMS #9-I	OAKLEY	116.0	EL PASO NATURAL G
-PREMIER RESOURCES LTD				RECEIVED:	06/01/82	JA: OK			
8236158	14290	35[illegible]5920800		103		HINTHER A027-01	E SELMAN	150.0	MICHIGAN-WISCONSI
8236223	14289	3505920962		103		HOWARD #2 A02703	E SELMAN	730.0	MICHIGAN WISCONSI
-RALPH L HARVEY				RECEIVED:	06/01/82	JA: OK			
8236277	14664	35[illegible]7[illegible]000		108		PRESTON #1	MOCANE-LAVERNE	20.0	EL PASO NATURAL G
-RANKIN & CARTER				RECEIVED:	06/01/82	JA: OK			
8236240	02853	3504900000		102-2		FREEMAN #1	HOOVER	1.2	LONE STAR GAS CO
-SAMSON RESOURCES COMPANY				RECEIVED:	06/01/82	JA: OK			
8236220	12885	3503920461		102-4	103	LEONARD #2-23	NORTHWEST WEATHERFORD	219.0	ARKANSAS LOUISIAN
-SERVICE DRILLING CO				RECEIVED:	06/01/82	JA: OK			
8236249	14557	3511921745		103		THOMASON #4-20		15.0	CITIES SERVICE GA

FIELD NAME	PROD	PURCHASER
[illegible]	0.0	[illegible]
[illegible]	0.0	[illegible]
[illegible]	0.0	[illegible]

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED:	06/01/82	JA: OK	
8236221	13025	3510321312		102-4		LAVERLE #1	
8236197	14554	3510321422		103		POLO #1	
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	06/01/82	JA: OK	
8236183	14358	3501922040		108		JOSEPH POLLACK #10	
-SUNDANCE ENERGY CORP				RECEIVED:	06/01/82	JA: OK	
8236156	14462	3504722426		103		JOHNDROW #1	
-TENNECO OIL COMPANY				RECEIVED:	06/01/82	JA: OK	
8236251	15544	3500721658		102-4		CARLISLE 13-15	
8236278	15543	3500721658		102-4		CARLISLE 13-15	
8236252	15545	3500721671		102-4		CARLISLE 14-16	
8236213	14563	3512120831		103		DAKIL #1-13	
8236212	14562	3506320613		103		TURNER MEADORS #5-1	
-THE WIL-MC OIL CORP				RECEIVED:	06/01/82	JA: OK	
8236217	16853	3513700000		102-4		DORA PAXTON #1 (92-15)	
8236186	17204	3513721753		102-4		EDWARDS "E" #5 (151-1)	
8236187	17205	3513721754		102-4		EDWARDS "E" #6 (154-2)	
8236218	16854	3513722140		102-4		EDWARDS ESTATE #3 (151-11)	
8236216	16952	3513700000		102-4		FEDERAL LAND BANK #1 (154-4)	
-TOMMY M MOORE				RECEIVED:	06/01/82	JA: OK	
8236162	14530	3511123355		103		HOLLOWAY #1-A	
-TOWNER PETROLEUM CO				RECEIVED:	06/01/82	JA: OK	
8236207	14568	3501722109		103		SHUTTEE #30-1	
-TRANSIERRA EXPLORATION CORP				RECEIVED:	06/01/82	JA: OK	
8236199	14353	3510321347		103		FYNES MCGILL #1	
8236198	14351	3510321392		103		FYNES MCGILL #2	
-TRIAD ENERGY INC				RECEIVED:	06/01/82	JA: OK	
8236222	14241	3505320760		102-4		DOWNING #1	
-TRIPET MANAGEMENT INC				RECEIVED:	06/01/82	JA: OK	
8236245	14547	3504921538		103		HURST 1-8	
-UNION TEXAS PETROLEUM				RECEIVED:	06/01/82	JA: OK	
8236234	14352	3509322354		103		C E WILDER #2	
-VAUGHN GOOD				RECEIVED:	06/01/82	JA: OK	
8236201	14468	3500300003		103		DUPUS A-1	
-VULCAN ENERGY CORP				RECEIVED:	06/01/82	JA: OK	
8236243	14538	3501721996		103		DICKERSON #1	
8236271	14634	3507323154		103		MOSHER #1	
-WESSELY ENERGY CORPORATION				RECEIVED:	06/01/82	JA: OK	
8236242	14519	3508720622		103		WAGNER #1-10	
-WHEATLAND OIL CO				RECEIVED:	06/01/82	JA: OK	
8236241	14632	3504520591		103		SHAHAN #1	
-WILLIFORD ENERGY CO				RECEIVED:	06/01/82	JA: OK	
8236236	14212	3500722126		103		PAULINE JONES #1	
-WORTH PETROLEUM CO				RECEIVED:	06/01/82	JA: OK	
8236163	14539	3515100000		103		FUGIT #1	

OTHER PURCHASERS VOLUME NO :675

8236234 TRANSWESTERN P L CO

VOLUME 675 PAGE 307

FIELD NAME	PROD	PURCHASER
POLO	8.0	AMINOIL USA INC
POLO	0.0	AMINOIL U S A INC
BHO-VEL-TUM	20.0	MOBIL OIL CORP
SOUTH HUNTER	155.0	GRACE PETROLEUM C
MOCANE-LAVERNE	133.2	COLORADO INTERSTA
MOCANE-LAVERNE	1017.0	COLORADO INTERSTA
MOCANE-LAVERNE	302.4	COLORADO INTERSTA
FIELD IS UNNAMED	150.0	
SOUTH PAPOOSE	70.0	OKLAHOMA NATURAL
COMANCHE	222.1	
COMANCHE	237.6	
	143.3	
COMANCHE	0.0	
COMANCHE	133.6	
	13.0	PHILLIPS PETROLEU
UNION CITY	0.0	PHILLIPS PETROLEU
TRANSIERRA-CINNAMON F	26.0	AMINOIL USA INC
TRANSIERRA-CINNAMON F	26.0	AMINOIL USA INC
WAKITA TREND	146.0	CRA INC
UNKNOWN	2737.5	WELLHEAD ENTERPRI
HODGE AREA 1 SECTION	189.5	PANHANDLE EASTERN
	0.0	
SOONER TREND	51.1	CONOCO INC
SOONER TREND	116.8	PHILLIPS PETROLEU
N W MAYSVILLE	23.0	SUN GAS CO
SOUTH PEEK	606.0	PANHANDLE EASTERN
N W DOMBEY	292.0	PHILLIPS PETROLEU
WILDCAT - C NE/4 SEC	106.8	TENNESSEE GAS PIP

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17483 Filed 6-25-82 8:45 am]

BILLING CODE 6717-01-C

[Project No. 3043-001]

Arkansas Electric Cooperative Corp. and the Arkansas Valley Electric Cooperative Corp.; Application for License (Over 5 MW)

June 23, 1982.

Take notice that the Arkansas Electric Cooperative Corporation and the Arkansas Valley Electric Cooperative Corporation (Applicant) filed on February 19, 1982, an application for license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for construction and operation of a water power project to be known as the Lock & Dam No. 13 Project No. 3043. The project would be located on the Arkansas River in Crawford and Sebastian Counties, Arkansas. Correspondence with the Applicant should be directed to: Joe R. Moody, Jr., P.E., Benham-Holway Power Group, 5300 South Yale Avenue, Tulsa, Oklahoma 74135.

Project Description—The proposed project would utilize the existing Lock and Dam No. 13 and the resulting pool under the jurisdiction of the Corps of Engineers and would consist of: (1) a new reinforced concrete powerhouse, 130 feet wide by 225 feet long, located 250 feet downstream from the dam on the north side of the river and containing two new 16.6-MW turbine/generator units operating under a maximum power head of 19 feet; (2) new headrace and tailrace channels; (3) a new 69-kV transmission line five miles long; and (4) appurtenant mechanical and electrical facilities and equipment.

Purpose of Project—The average annual generation of 120,000,000 kWh would be used to provide power to the Applicant's customers.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before September 7, 1982, either the competing application itself [see 18 CFR 4.33(a) and (d)] or a notice of intent [See 18 CFR 4.33(b) and (c)] to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules and Practice of Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before September 7, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also me served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-17402 Filed 6-25-82; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 6341-000]

Bibb County, Georgia; Application for Preliminary Permit

June 23, 1982.

Take notice that Bibb County, Georgia (Applicant) filed on May 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)] for Project No. 6341 to be known as the Fenley Ryther Dam located on the Tobesofkee Creek in Bibb County, Georgia. The Application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Emory Greene, Chairman, Bibb County Commission, Bibb County Courthouse, Macon, Georgia 31201.

Project Description—The proposed project would consist of: (1) an existing earth-filled embankment structure 54 feet high and 900 feet long; (2) an existing reservior with a surface area of 19,000 acres and an estimated normal storage capacity of 25,000 acre-feet; (3) a proposed powerhouse to be located near the left side of the spillway, housing one turbine-generator with a total installed capacity of 1,600 kW; (4) a proposed transmission line to connect the generator to the existing distribution system; and (5) a appurtenant facilities. The Applicant estimates that the average annual energy output would be 3.5 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et. seq. (1981)].

Competing Application—This application was filed as a competing application to Oglethorpe Power Corporation's application for Project No. 5732 filed on December 7, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, if will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980).

In determining the appropriate action to take, the Commission will consider all protests or other comment filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 30, 1982.

Filing and Service of Responsive Document—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17403 Filed 6-25-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures From Arkla Industries, Inc. (Case No. F-005)

AGENCY: Office of Conservation and Renewable Energy, DOE.

SUMMARY: Today's notice publishes a "Petition for Waiver" from Arkla Industries, Inc., requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. The petition requests DOE to grant relief from the test procedure requirements relating to the determination of the efficiency improvement attributable to the condensing of flue gases. Arkla seeks to use a National Bureau of Standards (NBS) condensate measuring method instead of present DOE test procedures requirement basing condensation calculations on the average flue gas temperature. DOE is soliciting comments, data and information respecting the petition.

DATE: DOE will accept comments, data, and information not later than July 28, 1982.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-005, Mail Stop CE-113.1, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR § 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basis model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data.

Arkla Industries, Incorporated (Arkla), filed a Petition for Waiver from the DOE test procedures for furnaces. Specifically, the petitioner believes that the use of the existing furnace test procedure will lead to results that provide materially inaccurate comparative data when these test procedures are applied to the UR and DR series condensing furnace line manufactured by Arkla.

The Arkla petition seeks a waiver from the DOE test method basing condensation calculations on the average flue gas temperature. Arkla contends that its UR and DR series furnace line condenses more of the water vapor than the DOE test method predicts. Specifically, the petitioner states that the DOE test method "does not allow efficiency improvement for latent heat recovered from film condensing."

Arkla requests the option to use the condensate measuring method set forth in Appendix C of National Bureau of Standards Interagency Report 80-2110, Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers, to determine the energy efficiency of its UR and DR series furnace line. Arkla contends that this alternate test method "will more truly measure the efficiency of condensing furnaces" and is of sufficient reliability to permit in-house testing by manufacturers.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition, particularly the request to permit in-house testing.

Issued in Washington, DC, June 14, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

April 19, 1982.

Gentlemen:

1. Petition For Waiver

Under provisions of 10 CFR 430.27 a Petition For Waiver from Test Procedures in 10 CFR Part 430, Subpart B, Appendix N dated August 12, 1980 is requested by Arkla Industries Inc, Evansville, Indiana.

Arkla Industries Inc will be manufacturing and marketing a series of Gas-Fired Forced-Air Condensing Furnaces that will be tested under provisions of 10 CFR Part 430, Subpart B, Appendix N. Appendix N prohibits any manufacturer from declaring any measure of energy consumption unless they are based on Appendix N Tests. As Appendix N Tests do not allow efficiency improvement for latent heat recovered from film condensing, we are submitting this Petition.

2. General Description of Petitioner's Business

Arkla Industries Inc, Subsidiary of Arkansas Louisiana Gas Co., is a manufacturer of residential and commercial gas air conditioners, gas-fired outdoor cooking equipment and will now be manufacturing a series of gas-fired high efficiency forced air furnaces that will recover latent heat by condensing water

vapor in the combustion products before they exit the furnace. These furnaces are manufactured in five sizes from 40,000 (Btuh) to 120,000 (Btuh) input. Currently these models are in operation throughout the U.S. with model designation UR and DR series and are covered under U.S. Patent No. 4,261,326 dated April 14, 1981.

3. Area Models UR and DR Furnace Design Principles

The UR and DR model furnaces utilize one or more fired clamshell type heat exchangers with one or more un-fired stainless steel clamshell type heat exchangers in counterflow and parallel flow to extract latent heat from the water vapor contained in the products of combustion and thereby increasing steady state efficiency over conventional furnaces.

4. DOE Test Underates Measurable Condensate

Testing under 10 CFR Part 430, August 12, 1980 will credit condensation of water in the flue products only based on dew point of the average flue gas temperatue and does not take into consideration film condensing that will add to steady state efficiencies.

5. DOE Test Does Not Inform Consumer of True Efficiencies Available

Arkla Industries Inc's position is that with the present DOE test the consumer is not made aware of the higher actual efficiencies of condensing furnace now available.

With a more accurate representation of condensing furnace efficiencies, the better informed consumer will be more likely to make economic decisions favoring energy savings.

6. Alternate Test Method

The procedure as outlined in Appendix C of National Bureau of Standards Publication NBSIR 80–2100 April 1981 will more truly measure the efficiency of condensing furnaces and this Petitioner requests that Arkla Industries Inc be granted the option to use method as outlined in NBSIR 80–2110.

This Petitioner also concurs with Lennox that in-house testing by manufacturers should be allowed.

7. Public Policy

The granting of this waiver will further serve to inform and encourage the consumer to purchase high efficiency furnaces and in turn manufacturers will continue to develop energy saving appliances. As more high efficiency appliances are put in use the nation's energy conservation policy will be promoted.

8. Other Manufacturers

It is our belief that there are two manufacturers that market condensing furnaces or boilers. These manufacturers are:

1. Hydrotherm Inc., Rockland Avenue, Northvale, New Jersey 07647, Boiler Manufacturers.

2. Lennox Industries Inc., Dallas, Texas.

If additional information is required contact Fred Bawel or Harry Ihlenfield of Arkla's Engineering Department.

Respectfully, Arkla Industries Inc.

R. H. Merrick,

Vice President, Engineering and Research.

[FR Doc. 82-17280 Filed 6-25-82; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of April 19 Through April 23, 1982

During the week of April 19 through April 23, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

June 18, 1982.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Appeals

Gulf Oil Corporation, April 21, 1982, DEA–0330

Gulf Oil Corporation filed an Appeal of an Emergency Supplemental Allocation Order issued to it on February 7, 1979, by the Economic Regulatory Administration. In the Order, the ERA directed Gulf to sell crude oil to Marion Corporation during February and March 1979. In considering the Appeal, the DOE determined that the ERA had not exceeded its authority in issuing the order, but that the ERA's determination that Marion qualified for an emergency supplemental allocation was incorrect. Accordingly, the ERA order was rescinded. The DOE also determined that no restitution was appropriate. The important issues considered in the Decision included: the definition of a refiner's supply for purposes of 10 CFR 211.66(c); and the appropriateness of restitution in buy-sell appeals.

Susan L. Hiatt, April 21, 1982, HRA–0046

Susan L. Hiatt filed an Appeal from a partial denial by the Director of the Division of Freedom of Information and Privacy Act Activities of a Request for Information which she had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that a fee waiver should be granted in this case. Important issues that were considered in the Decision and Order were (i) the current public interest in the subject matter to which the documents pertain, (ii) dissemination of such material in view of the status of the requester as a representative of a bona fide public interest group and (iii) the fact that the requester is engaged in administrative proceedings with the government.

Self Powered Lighting, Inc., April 21, 1982, HFA–0044

Self Powered Lighting, Inc. filed an Appeal from a partial denial by the Chief of the Operations Branch—Division of Political-Military Security Affairs of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain of the documents which were initially withheld under exemption 5 of the FOIA should not be released to the public. Important issues that were considered in the Decision and Order were (i) the relevance of the documents to the request, (ii) non-existence of responsive records as sufficient justification for denial under 10 CFR 1004.5(b)(5) and (iii) the firm's failure to request specific documents.

Remedial Order

Caulkins Oil Co., April 19, 1982, BRO–1405

The ERA filed a "Notice of Execution of Consent Order" in connection with a Proposed Remedial Order issued to Caulkins Oil Co. on January 19, 1981. In its submission, the ERA informed the OHA that Caulkins and it had entered into a consent order resolving all the matters covered by the PRO and requested that the administrative proceedings be terminated. Upon review of the circumstances, the OHA concluded that good cause existed for terminating the enforcement proceeding and that no undue prejudice would result. Accordingly, the ERA's request was granted.

Requests for Exception

Diamond Shamrock Corporation, April 21, 1982, BEE–1690

Diamond Shamrock Corporation filed an Application for Exception from the provisions of 10 CFR 211.69 in which the firm sought permission to submit an amended entitlements report (Form ERA–49) to the Economic Regulatory Administration to correct a reporting error. In considering the request, the DOE found that the firm failed to show that the provisions of 10 CFR 211.69 which limit the filing of amended entitlement reports to the reporting period of October 1980 through January 1981 impose a serious hardship or gross inequity on the firm. Accordingly, exception relief was denied.

J. M. Reeves Chevron, April 21, 1982, BEE–1643

J. M. Reeves Chevron (Reeves) filed an Application for Exception in which the firm sought retroactive exception relief from the provisions of 10 CFR Part 212. The relief, if granted, would have eliminated Reeves' obligation to refund overcharges specified in a Proposed Remedial Order (PRO) previously issued to the firm. In considering the request, the DOE found that Reeves had not shown that it had experienced a serious hardship or gross inequity during the overcharge period. The DOE also concluded that Reeves had not demonstrated that it would experience a severe and irreparable injury if it were required to refund the overcharges described

in the PRO. Accordingly, Reeves' Application for Exception was denied.

Request for Stay

Memphis Aero Corp., April 21, 1982, HRS-0022, HRT-0022

Memphis Aero Corporation filed an Application for Stay and an Application for Temporary Stay from the requirement that it comply with a Remedial Order that was issued to it on November 20, 1981. In considering the Applications, the DOE determined that Memphis satisfied the criteria set forth at 10 CFR 205.125 for stay relief, and the stay request was therefore granted and the temporary stay request was therefore dismissed.

Motions for Discovery

Atlantic Richfield Co., HRD-0001; Gulf Oil Corp., HRD-0001; Texaco Inc., HRD-0009; Louisiana Land & Exploration Co., HRD-0010; Standard Oil Co. (Ohio), HRZ-0024; Marathon Oil Co., HRZ-0036; Southland Royalty Co., April 21, 1982, HRZ-0037.

Atlantic Richfield Co., Gulf Oil Corp., Standard Oil Co. (Ohio), Marathon Oil Co., Texaco Inc., Louisiana Land & Exploration Co., and Southland Royalty Co. ("the producers") filed a joint motion to take the depositions of eight named individuals in connection with five enforcement actions brought by the DOE Special Counsel for Compliance (Case Numbers DRO-0193, 0194, 0195, 0197, 0199). The depositions were requested to enable the producers to explore allegations of improper document destruction and *ex parte* communications by DOE officials. The producers also filed a Supplemental Motion for Discovery in which they sought access to certain materials arguably related to those allegations which the DOE was ordered to preserve by the United States District Court for the District of Columbia.

In considering the producers' requests, the DOE concluded that because the producers possessed copies of the documents alleged to have been destroyed by OSC personnel, the producers had not met their burden of demonstrating that the requested document destruction discovery was necessary to obtain relevant and material evidence. The DOE also determined that in view of the resignations of the agency officials alleged to have engaged in improper conduct and the failure of the producers to make an adequate showing that any of the alleged *ex parte* communications had harmed or prejudiced their defense on the merits to the underlying enforcement proceedings, the producers' request for deposition discovery regarding the subject of *ex parte* communications should be denied. Finally, the DOE concluded that because the issues of document destruction and *ex parte* communications were no longer relevant to the underlying enforcement proceedings, the producers' Supplemental Motion for Discovery should also be denied.

William P. Johnson, April 21, 1982, BRD-0434, BRH-0434

William P. Johnson, trustee for former shareholders of the Ancora-Citronelle Corporation (Ancora), filed a Motion for Discovery, a Motion for Evidentiary Hearing, and a Motion to Strike. All three motions related to Ancora's objections to a Proposed Remedial Order (PRO) issued to the firm on November 2, 1979, by the ERA Southeast District Office.

In its Motion for Discovery, Ancora sought information concerning four matters. First, Ancora sought the agency's contemporaneous constructions of the term "property" as defined in 10 CFR 212.72, and information concerning the administrative record of FEA Ruling 1975-15, 40 Fed. Reg. 40632 (1975). These requests were denied. The DOE determined that no basis existed for granting contemporaneous construction discovery, because Ancora's contentions with respect to the "property" definition had already been explicitly addressed and rejected by the Temporary Emergency Court of Appeals (TECA). Because TECA had also determined that Ruling 1975-15 was procedurally valid, Ancora's administrative record discovery request was similarly found not to seek relevant information.

Second, Ancora sought information concerning a Memorandum of Understanding Ancora and FEA entered on January 27, 1975. In it Statement of Objections, Ancora claimed that this document barred ERA from issuing the PRO against the firm. The DOE determined that because the Memorandum of Understanding was ambiguous in scope, extrinsic evidence would provide relevant information concerning the parties' intent in entering the agreement. Therefore, Ancora was granted discovery of DOE documents discussing the Memorandum of Understanding and the scope of the audit preceding it. Ancora's requests to depose agency officials responsible for drafting and reviewing the Memorandum of Understanding were dismissed without prejudice to refiling after ERA had produced the documentary discovery that had been granted.

Third, Ancora sought to depose former agency officials concerning actions which formed the basis of an estoppel defense Ancora had asserted against ERA. Because the DOE determined that all disputes concerning Ancora's estoppel defense were legal in nature, these requests were denied.

Fourth, Ancora sought information concerning the factual basis of the PRO issued to it. Most of Ancora's requests of this type were found to seek information Ancora needed to be able to respond completely to the PRO, and were accordingly granted. The DOE also found that those responses to interrogatories of this type that had already been provided to ERA were incomplete. ERA was therefore ordered to furnish Ancora with more complete responses to these requests.

In its Motion for Evidentiary Hearing, Ancora reserved the right to seek an evidentiary hearing with respect to each factual finding of the PRO it contested in its Statement of Objections. The DOE concluded that it could not determine whether an evidentiary hearing concerning those factual matters on which it had granted discovery were necessary until discovery was completed. Accordingly, Ancora's Motion for Evidentiary Hearing was dismissed without prejudice to refiling once discovery had been completed.

In its Motion to Strike, Ancora requested that 28 excerpts from ERA's pleadings be striken because they lacked factual support. The DOE determined that even if Ancora were correct in alleging that the 28 ERA assertions had no factual basis, Ancora had not demonstrated that it would be prejudiced by their retention in the record. Accordingly, Ancora's Motion to Strike was denied.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case. No.

Miller Oil Purchasing Company, BEX-0101
North American Petroleum Corporation, BRA-0749

[FR Doc. 82-17524 Filed 6-25-82; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of May 14 Through May 21, 1982

During the week of May 14 through may 21, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

June 18, 1982.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 14 through May 21, 1982]

Date	Name and location of applicant	Case No.	Type of submission
May 14, 1982	Ginsburg, Feldman, Weil & Bress, Washington, D.C	HFA-0056	Appeal of an Information Request Denial. If granted: The April 5, 1982, Information Request Denial issued by the Southwest Regional Center would be rescinded, and Ginsburg, Feldman, Weil & Bress would receive access to documents relating to DOE's crude oil producer audit of Beren Oil Company.
Do	Ginsburg, Feldman, Weil & Bress, Washington, D.C	HFA-0057	Appeal of an Information Request Denial. If granted: The April 12, 1982, Information Request Denial issued by Director of Economic Regulatory Administration, Southwest Regional Office would be rescinded, and Ginsburg, Feldman, Weil & Bress would receive access to documents relating to DOE's crude oil producer audits of Arrow Petroleum, Camp Oil Company, and Mercury Chemical.
Do	Marathon Oil Company, Findlay, Ohio	HRZ-0065	Interlocutory Order. If granted: Marathon Oil Company would receive information from the Office of Special Counsel regarding the January 26, 1982, Decision and Order issued to Marathon Oil Company and the Office of Special Counsel.
May 17, 1982	Lampton-Love, Inc., Washington, D.C	HRD-0049	Motion for Discovery and HRH-0049 Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Lampton-Love, Inc. in response to the Proposed Remedial Order (Case No. HRO-0015).
May 18, 1982	Mosher and Company, Washington, D.C	HER-0027	Request for Modification/Rescission. If granted: The May 3, 1982, Decision and Order issued by the Office of Hearings and Appeals (Case No. BED-0124) denying the firm's request for discovery would be rescinded.
Do	The 341 Tract Unit of the Citronelle Field, Mobile, Ala	HEX-0028	Supplemental Order. If granted: The provisions of the December 31, 1980 Interim Order issued to the Citronelle Unit would be modified to account for the revenues derived from the sale of the Unit's tertiary crude oil production.
May 19, 1982	Energy Corporation of America, Metairie, La	HRX-0029	Supplemental Order. If granted: The ordering paragraph nor the May 10, 1982, Decision and Order issued to Energy Corporation of America would be modified.
May 20, 1982	Eubert H. Maloney, Jr., Shreveport, La	HFA-0058	Appeal of an Information Request Denial. If granted: The May 13, 1982, Information Request Denial issued by the Nevada Operations Office would be rescinded and Eubert H. Maloney, Jr. would receive access to certain DOE information.
May 21, 1982	McCulloch Gas Processing Corp., Los Angeles, Calif	HEZ-0057	Interlocutory Order. If granted: McCulloch Gas Processing Corp., will be required to submit additional information to support its request for price exception relief in Case No. BCX-0183.

[FR Doc. 82-17292 Filed 6-25-82; 8:45 am]
BILLING CODE 6450-01-M

Office of the Secretary

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the return of 15 kilograms of highly enriched research reactor fuel from the NRX and NRU reactors in Canada for reprocessing and storage.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security. This arrangement for the return of U.S. origin highly enriched uranium (HEU) is consistant with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than July 13, 1982.

Dated: June 23, 1982.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-17485 Filed 6-25-82; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; International Atomic Energy Agency (IAEA)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for supply of the following material:

Contract Number S-IA-117, to the International Atomic Energy Agency, Vienna, Austria, 19.0 grams of uranium enriched to an average of 24.0% in U-235, and 3.25 grams of plutonium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than July 13, 1982.

Dated: June 23, 1982.

For the Department of Energy.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 82-17486 Filed 6-25-82; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59088; TSH-FRL 2157-1]

Dihaloethylacetate; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-18) under section 5 of the Toxic Substances Control Act (TSCA) on May 12, 1982. Notice of receipt of the application was published in the **Federal Register** of May 26, 1982 (47 FR 23021). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 12, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–82–18. The manufacturer claimed its identity, the specific chemical identity, the specific end-use and production volume of the new substance as confidential business information. The generic name of the new substance is dihaloethylacetate, and it will be used as a site-limited intermediate. The test marketing period is not to exceed 2 months. During manufacture, exposure is limited to sampling. A notice published in the **Federal Register** of May 26, 1982 (47 FR 23021) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–18, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Although there are significant health concerns for the TME substance, exposure to workers during manufacture is expected to be very low and protective equipment is used. Major health concerns for the TME substance include severe irritancy and CNS effects resulting from acute exposures. In addition, the TME substance may metabolically form an alkylating agent evoking some concern for potential carcinogenicity.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 2 months commencing on the date of signature of this notice by the Administrator.

4. The type of exposure to the new chemical should not exceed or differ from that specified in the application, and the duration of exposure should not exceed that specified.

5. The substance may not be shipped as such from its site of manufacture. Manufacturing procedures outlined in the application must be followed and personal protective equipment described in the application is mandatory.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: June 18, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–17342 Filed 6–25–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 82–324 and 325; File Nos. 20904–CG–P–2–82 and 22278–CG–P–2–82]

Pac-West Telecomm, Inc. and Com Pak, Inc.; Order Designating Applications for Consolidated Hearing

Adopted: June 14, 1982.

Released: June 18, 1982.

By the Common Carrier Bureau.

In re applications of Pac-West Telecomm, Inc. for authority to construct a new airground radiotelephone station on frequences 454.675 and 454.850 MHz in the Domestic Public Land Mobile Radio Service near Glendive, Montana; and Com Pak, Inc. d.b.a. Wymo Communications; for authority to construct a new airground radiotelephone station on frequencies 454.675 and 454.850 MHz in the Domestic Public Land Mobile Radio Service near Glendive, Montana.

1. Presently before the Chief, Mobile Services Division, acting pursuant to delegated authority, are the captioned applications of Pac-West Telecomm, Inc. (Pac-West) and Com Pak, Inc., d.b.a. Wymo Communications (Wymo) for airground radiotelephone stations at Glendive, Montana. These applications are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest.

2. We find both Pac-West and Wymo to be legally, technically and otherwise qualified to construct and operate the proposed facilities. Accordingly, it is ordered pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Pac-West Telecomm, Inc., File 20904–CG–P–2–82 and Com Pak, Inc., d.b.a. Wymo Communications, File No. 22278–CG–P–2–82, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the maintenance, personnel, and facilities pertaining thereto; and

(b) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

4. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

5. It is further ordered, That the applicants shall file written notices of

appearances under § 1.221 of the Commission's Rules within 20 days of the release date of this Order.

6. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-17439 Filed 6-25-82; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

- Special Committee No. 79, "Universal Marine Radiotelephone Compatibility," Notice of 8th Meeting, Wednesday, July 14, 1982—1:00 p.m., Conference Room 9230/9232, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Agenda

1. Administrative Matters.
2. Consideration of Working Papers.

T. B. Miller, Chairman SC-79, WJG Telephone Company, P.O. Box 9363, Memphis, TN 38109; Phone: (901) 789-3800.

- Executive Committeee Meeting, Notice of June Meeting, Thursday, July 15, 1982—9 a.m., Conference Room 8334, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Agenda

1. Administrative Matters.
2. Special Committee Reports.

- Special Committee No. 80, "FCC Rules Review as Required by Regulatory Flexibility Act of 1980," Notice of 5th Meeting, Thursday, July 15, 1982—2:00 p.m., Conference Room 8334, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Agenda

1. Administrative Matters.
2. Discussion concerning FCC Rules to be reviewed.
3. Assignment of tasks.

Charles S. Carney, Chairman SC-80, Nav-Com, Inc., 711 Grand Blvd., Deer Park, NY 11729; Phone: (516) 667-7710.

The RTCM has acted as a cooridnator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 17440 Filed 6-25-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-174]

Standard Savings Association, Houston, Texas; Final Action Approval of Conversion Applications

Dated: June 23, 1982.

Notice is hereby given that on May 21, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 82-374 approved the application of Standard Savings Association, Houston, Texas ("Association"), for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas, 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-17380 Filed 6-25-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 40]

J. M. Altieri, Inc.; Reinstatement of License

By Federal Maritime Commission Order served and published in the **Federal Register**, J. M. Altieri, Inc.'s Independent Ocean Freight Forwarder License No. 40 was revoked, effective May 6, 1982, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was served on May 11, 1982.

An appropriate surety bond has been received in favor of J. M. Altieri, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and § 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in § 10.01(a) of Commission Order No. 1 (Revised), dated November 12, 1981, Independent Ocean Freight Forwarder License No. 40 shall be reissued to J. M. Altieri, Inc., effective May 5, 1982. A copy of this notice shall be published in the **Federal Register** and served upon J. M. Altieri, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-17449 Filed 6-25-82; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Valtor Import & Export Inc., 498 N.W. 35th Avenue, Miami, FL 33125
Officers: Miguel A. Valdes, President and Javier Torres, Secretary

Nabil F. Sahliyeh, dba Setco International Co., 8700 N. Stemmons Freeway, Suite #305, Dallas, TX 75247

Movers Port Service, Inc., 7035 Convoy Court, San Diego, CA 92128
Officers: R. W. Arendsee, Chairman of the Board of Directors; F. W. Kircher, President/Director; Douglas Cruikshank, Vice President; Hugh Crumpler, Vice President; Kenneth N. Garrison, Vice President; Han Helders, Senior Vice President; Harry House, Vice President; Charles H. Purviance, Senior Vice President; Catherine N. Sirpis, Secretary/Director; Paul D. Smith, Senior Vice President

York Marine Ltd. c/o Natalie Miller, Apt. 24G, 45 E. 89th Street, New York, NY 10028
Officers: Alfred Miller, Vice President and Robert F. De Gaetano

AirNaut International Corp. c/o Robert L. Visconti, One World Trade Center, New York, NY 10048
Officer: R. L. Visconti, President/Director/Sole Stockholder

Dated: June 23, 1982.

By the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-17430 Filed 6-25-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1817]

Unicorn Shipping Co. (Gilberto S. Pereiro, d.b.a.); Order of Revocation

On June 3, 1982, Gilberto S. Pereiro, dba Unicorn Shipping Company, 1728 S.W. 12th Street, Miami, FL 33135 requested the Commission to revoke his Independent Ocean Freight Forwarder License No. 1817.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1817 issued to Unicorn Shipping Company (Gilberto S. Pereiro, dba), be revoked effective June 3, 1982 without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1817 issued to Unicorn Shipping Company (Gilberto S. Pereiro, dba) be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Unicorn Shipping Company (Gilberto S. Pereiro, dba).

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-17448 Filed 6-25-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration Services Advisory Committee; Termination

Notice is hereby given that all operations of the FMCS Arbitration Services Advisory Committee will terminate, and that the Committee will be abolished as of the close of business on Friday, July 2, 1982.

Notice of the establishment of the Committee was published in the **Federal Register** on October 31, 1973 (38 FR 30028).

Kenneth E. Moffett,

Director.

June 22, 1982

[FR Doc. 82-17394 Filed 6-25-82; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *AmSouth Bancorporation,* Birmingham, Alabama; to acquire 100 percent of the voting shares or assets of National Bank of Birmingham, Birmingham, Alabama. Comments on this application must be received not later than July 21, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation,* Chicago, Illinois; to acquire 100 percent of the voting shares or assets of Northern Trust Bank of Florida, N.A., Miami, Florida. Comments on this application must be received not later than July 21, 1982.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Affiliated Bankshares of Colorado, Inc.,* Boulder, Colorado; to acquire 100 percent of the voting shares or assets of The Littleton National Bank, Littleton, Colorado. Comments on this application must be received not later than July 21, 1982.

2. *Central Bancorporation, Inc.,* Denver, Colorado; to acquire 100 percent of the voting shares of General Bancorporation, Inc., Broomfield, Colorado. Comments on this application must be received not later than July 21, 1982.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Northeast United Bancorp, Inc. of Texas,* Fort Worth, Texas; to acquire 25 percent of the voting shares or assets of Northwest Bank, Roanoke, Texas, a proposed new bank. Comments on this application must be received not later than July 21, 1982.

Board of Governors of the Federal Reserve System, June 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17770 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that in dispute and summarizng the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.,* Denver, Colorado; to acquire 100 percent of the voting shares or assets of United Bank of Highlands Ranch, N.A., Littleton, Colorado, a proposed new bank. Comments on this application must be received not later than July 22, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First Atlanta Corporation,* Atlanta, Georgia; to acquire an additional 15.4 percent of the voting shares or assets of First South Bankcorp, Columbus, Georgia. Applicant has an application pending to acquire 50.1 of the voting shares of First South Bankcorp. This

application may be inspected at the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than July 22, 1982.

Board of Governors of the Federal Reserve System, June 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17372 Filed 6-25-82; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 18, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company, Inc.*, New York, New York (mortgage banking—California): To engage through its subsidiary, ARCS Mortgage Inc., a California corporation, from offices in Redding, California; Lancaster, California; and Davis, California, in making loans secured by first and second mortgages on real estate consisting of one-to four-family residential properties to customers in Shasta and Los Angeles counties, California.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Florida): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc., located in Pinellas Park, Florida, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Pinellas Park, Florida, location. The new activities in which Citicorp Person-to-Person Financial Center of Florida, Inc. proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned activities shall be comprised of the entire state of Florida. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* office shall be comprised of the entire state of Florida for all the aforementioned activities. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc.

3. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; California): To expand the activites and service areas of four existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. and to establish four *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. proposed to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estates; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of each of the Citicorp Person-to-Person offices for the aforementioned proposed activities shall be comprised of the entire state of California. The proposed expanded service areas of the Citicorp Person-to-Person offices shall include the entire state of California for a portion of their previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* offices of Citicorp Homeowners, Inc. will engage are: the making or acquring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortage disability insurance directly related to extensions of mortgage loans. The proposed service areas of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire state of California for all the aforementioned activities. Credit related life, accident, and health insurance may

be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from offices in Sherman Oaks, California; Glendale, California; San Bernardino, California; and Torrance, California.

4. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Florida): To expand the activities and service areas of four existing offices of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc. and to establish *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The previously approved activities in which the offices of Citicorp Person-to-Person Financial Center of Florida engage are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The new activities in which the offices of Citicorp Person-to-Person Financial Center of Florida propose to engage *de novo* are: the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for each Citicorp Person-to-Person office for all previously approved and proposed activities shall be comprised of the entire state of Florida. The activities in which the *de novo* offices of Citicorp Homeowners, Inc., propose to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance be licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of each of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire state of Florida for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from offices in Pensacola, Florida; Miami Lakes, Florida; West Palm Beach, Florida; Tallahassee, Florida.

5. *Citicorp*, New York, New York (consumer finance and insurance activities; Georgia): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same location. The proposed activities in which Citicorp Person-to-Person Financial Center, Inc. will engage *de novo* are: the making, acquiring and servicing for its own account and for the account of others, extensions of credit to individuals secured by liens on residential or non-residental real estate and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. These acitvities will be conducted from an office in Atlanta, Georgia, servicing the entire state of Georgia. The proposed activities in which *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residental or nonresidental real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The *de novo* office of Citicorp Homeowners, Inc. shall be located in Atlanta, Georgia, and shall service the entire state of Georgia. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (finance company activities; all fifty (50) states and the District of Columbia): To engage, through its indirect subsidiary, BA Business Credit Corporation, a Delaware corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company. Such activities will include, but not be limited to, making loans and other extensions of credit of a commerical nature to individuals and businesses; such loans may be unsecured or secured by personal assets and residental and commerial real estate. These activities will be conducted from an office located in Allentown, Pennsylvania, serving all fifty (50) States and the District of Columbia.

2. *Rainer Bancorporation*, Seattle, Washington (finance, insurance; Colorado): To engage through its subsidiary, Rainer Mortgage Company, in the following activities; making or acquiring for its own account or for the account of others, loans or other extensions of credit; and acting as an insurance agent or broker with regard to insurance that is directly related to extension of credit by Rainer Mortgage Company in the following categories; mortgage redemption insurance in the form of credit life and disability insurance; property and casualty insurance on real and personal property, including homeowners, fire and extended coverage, liability, builder's course of construction, and builder borrower insurance and performance bonds. These activities will be conducted from an office in Lakewood, Colorado, serving the entire State of Colorado.

Board of Governors of the Federal Reserve System, June 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17367 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 21, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation*, New York, New York, (consumer finance, sales finance, and credit insurance activities; Massachusetts): To engage through a *de novo* indirect subsidiary, Finance One Mortgage of Massachusetts, Inc., in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as could be made or acquired by a finance company under Massachusetts law; servicing such loans and other extensions of credit; and acting as agent or broker for the sale of credit life insurance directly related to such extensions of credit. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit secured by real and personal property, including real estate equity loans, and offering credit-related single life insurance and decreasing or level term (in the case of single payment loans) life insurance, directly related to extensions of credit made or acquired by Finance One Mortgage of Massachusetts, Inc., by licensed agents or brokers, to the extent permissible under applicable state insurance laws and regulations. These activities will be conducted from an office in Burlington, Massachusetts, that will serve the entire State of Massachusetts.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation*, Baltimore, Maryland (leasing insurance and financing activities: Missouri and Tennessee): To engage through its subsidiary, Maryland National Leasing Corporation, in the following activities: engaging generally in the business of leasing personal property (including, but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment and including conditional sales contracts and chattel mortgages) where the lease is the functional equivalent of an extension of credit; originating and servicing personal property leases as principal or agent; buying, selling and otherwise dealing in personal property lease contracts as principal or agent; acting as adviser in personal property leasing transactions; engaging in the sale, as agent or broker, or insurance similar in form and intent to credit life and/or mortgage redemption insurance; engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or nonaffiliated individuals, partnerships, corporations or other entities; buying, selling and otherwise dealing in real property leases as principal, agent or broker; acting as adviser in real property leasing transactions; engaging generally in commercial lending operations, including, but not limited to, secured and unsecured commercial loans and other extension of credit to commercial enterprises; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from offices in Manchester, Missouri, and Nashville, Tennessee. The geographic area to be served by the Manchester office will be the central area of the United States in general including, but not limited to, the States of Iowa, Kansas, Missouri and Nebraska. The geographic area to be served by the Nashville office will also be the central area of the United States in general including, but not liited to, the States of Alabama, Arkansas, Indiana, Kentucky, Lousisiana, Mississippi, and Tennessee.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Bancorporation, Inc.*, Denver, Colorado, (insurance activities; Colorado): To engage through a subsidiary, First Denver Insurance Agency, Inc., in acting as agent for the sale of credit life, credit accident and health insurance or borrowers who have been extended credit by a bank or bank-related firm which is a member of The First National Bancorporation system. These activities would be conducted from a new office in Fort Collins, Colorado, serving Larimer County, Colorado.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

1. *U.S. Bancorp*, Portland, Oregon (finance, thrift, servicing, and insurance activities; Utah): To engage, through its indirect subsidiary, U.S. Thrift & Loan, in the making, acquiring, and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to commercial, rediscount and installment sales contracts, in the issuance of thrift certificates and passbook; and in insurance agent activities with regard to credit life and disability insurance solely in connection with extensions of credit by U.S. Thrift & Loan. The proposed activities will not include the offering of transaction accounts of any kind. The proposed activities will be conducted from an office in Salt Lake City, Utah, serving all of Salt Lake County, Utah.

Board of Governors of the Federal Reserve System, June 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17369 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank

Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byard Street, Richmond, Virginia 23261:

1. *Princeton Bank Holding Company,* Princeton, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Princeton Bank & Trust Company, Princeton, West Virginia. Comments on this application must be received not later than July 21, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Coffeyville Bancshares, Inc.,* Wichita, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Coffeyville, Coffeyville, Kansas. Comments on this application must be received not later than July 21, 1982.

2. *Monte Vista Bank Corp.,* Monte Vista, Colorado; to become a bank holding company by acquiring 94 percent of the voting shares of Bank of Monte Vista, Monte Vista, Colorado. Comments on this application must be received no later than July 21, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Red Bird Bancshares, Inc.,* Dallas, Texas; to become a bank holding copany by acquiring 80 percent of the voting shares of the Red Bird Bank of Dallas, Dallas, Texas. Comments on this application must be received not later than July 21, 1982.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *First National Corporation,* San Diego, California; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to First National Bank, San Diego, California. Comments on this application must be received not later than July 21, 1982.

Board of Governors of the Federal Reserve System, June 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17369 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *American Security Bancshares, Inc.,* Welsh, Louisiana; to become a bank holding company by acquiring at least 80 percent of the voting shares of American Bank, Welsh, Louisiana. Comments on this application must be received not later than July 22, 1982.

2. *Monroe Bancshares, Inc.,* Madisonville, Tennessee; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Madisonville, Madisonville, Tennessee. Comments on this application must be received not later than July 22, 1982.

3. *One American Corp.,* Vacherie, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First American Bank and Trust, Vacherie, Louisiana. Comments on this application must be received not later than July 16, 1982.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Firsnabanco, Inc.,* Viroqua, Wisconsin; to become a bank holding company by acquiring 94.4 percent of the voting shares of First National Bank in Viroqua, Viroqua, Wisconsin. Comments on this application must be received not later than July 22, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *City Bancorp Inc.,* Murphysboro, Illinois; to become a bank holding company by acquiring 87.4 percent of the voting shares of the City National Bank of Murphysboro, Murphysboro, Illinois. Comments on this application must be received not later than July 22, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Western National Bancorporation,* Tulsa, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of Western National Bank of Tulsa, Tulsa, Oklahoma. Comments on this application must be received not later than July 22, 1982.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *LaSalle Bancshares, Inc.,* Jena, Louisiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of the LaSalle State Bank, Jena, Louisiana. Comments on this application must be received not later than July 22, 1982.

F. **Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:**

1. *Hoosier Bancshares, Inc.,* Bloomington, Indiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Bloomington National Bank, Bloomington, Indiana. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than July 22, 1982.

Board of Governors of the Federal Reserve System, June 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17371 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

Seafirst Corp.; Proposal To Engage in Consumer Transaction Account Activities

Seafirst Corporation, Seattle, Washington, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "Act") and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage, through its subsidiaries Seafirst University Hills Industrial Bank and Seafirst Belcaro Industrial Bank, both located in Denver, Colorado, in the activity of offering consumer transaction accounts. The geographic area to be served is in each case the State of Colorado.

Such activities have been conditionally approved by the Board under certain circumstances. *First Bancorporation* (Beehive Financial Corporation), 68 Federal Reserve Bulletin 253 (1982). In connection with this application, the Applicant proposes to transfer existing commerical loans at Seafirst University Hills Industrial Bank to another subsidiary that will not engage in offering transaction accounts.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Interested persons may also express their views on questions related to the status of the subsidiaries involved as banks under the Act, and on questions related to the imposition of interest rate ceilings and reserve reqirements on the proposed consumer transaction accounts.

Any request for a hearing on these questions must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 22, 1982.

Board of Governors of the Federal Reserve System, June 22, 1982.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 82-17373 Filed 6-25-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Final Maximum Allowable Cost (MAC) Determinations for Certain Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final Notice for Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board (PRB) announces the following final Maximum Allowable Cost (MAC) determinations:

Drug	MAC limit
Acetaminophen w/codeine, oral tablet, 300 mg/60 mg	$0.1458
Ampicillin, oral capsule, 250 mg	0.0422
Ampicillin, oral liquid, 125 mg/5 ml	0.0114
Penicillin VK, oral tablet, 250 mg	0.0417
Penicillin VK, oral tablet, 500 mg	0.0649
Penicillin VK, oral liquid, 125 mg/5 ml	0.0109
Tetracycline HCl, oral capsule, 500 mg	0.0394

These multiple source drugs are reimbursed under Medicaid, Medicare, and other programs administered by the Department, and have been identified as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. These limits represent the maximum product cost recognized by the Department for purposes of reimbursement or purchase. These MAC limits do not apply to unit dose packaging for institutional use.

EFFECTIVE DATE: August 12, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Executive Secretary, Pharmaceutical Reimbursement Board, 1-D-5 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594-5403.

I. Background

The Pharmaceutical Reimbursement Board was established within the Health Care Financing Administration (HCFA) to set limits on payment or reimbursement for drug products under HCFA and other HHS programs. On March 31, 1981, the Board published a notice in the **Federal Register** (46 FR 19603) proposing revised MAC limits on eight drug products. The Board has received written comments concerning these revised MAC limits on these drugs, and now announces final MAC determinations for the drug products listed above. The following is a summary of the written comments and other material on which the Board relied in determining each MAC limit and the Board's reason for its determinations.

In making the determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relies on two sources: A HCFA survey and *Drug Topics Red Book*. The HCFA survey is a summary, updated monthly, of pharmacy invoice prices obtained by HCFA under contract with IMS America. The HCFA survey price is based on the 70th percentile of invoice prices from a panel of 1,000 pharmacies nationwide. *Drug Topics Red Book*, published annually and updated monthly, is a listing of advertised prices of suppliers.

The Board originally established MAC limits for these drug products in earlier **Federal Register** notices. However, since the time the earlier MAC limits became effective, a number of lower prices have appeared in the marketplace. In response to these price changes, the Board decided to consider new lower limits on these products.

II. General Comments

1. Comments from a hospital and a society of hospital pharmacists requested that the proposed revised MAC limits not apply to drugs purchased in unit dose packages intended for institutional use since the product costs for these products often exceed the MAC limits and are often available from only one source in this form.

The Board acknowledges that the MAC limits can be inappropriate for drug products purchased in unit dose packaging and has determined that these MAC limits will not apply to unit dose packages purchased for and used in institutions.

2. Two pharmacists commented that the MAC limits were unfair because they force pharmacists to purchase and use substandard generics in order to service Medicaid beneficiaries.

The Board does not agree that the proposed MAC limits are unfair or that they force pharmacists to purchase and use substandard generic drugs products in order to service Medicaid patients. The underlying premise of the MAC program is that for those drugs for which

FDA has provided the required assurance, the generic products are the equivalent of the brand name products. Thus, the MAC program does not jeopardize the quality of drug therapy for Medicaid beneficiaries.

These comments regarding purchase and use of substandard generics are of concern to the Board in light of the assurances provided by the FDA. The Board relies upon the assurances of the FDA regarding the quality of marketed drug products, and the Board believes that considering FDA's authority, position and assurance of product equivalence, the products subject to MAC limits are acceptable for use by all patients, not just Medicaid beneficiaries.

Further, if the commenters have substantial information that substandard generic products are in the marketplace and the evidence is in conflict with the assurances provided the Board by the FDA regarding products under consideration for MAC limits, the evidence should be immediately subsmitted to the FDA for proper action. The Board is confident that the FDA is capable of exercising its scientific judgment and supplying the required support for the MAC program.

3. A pharmacist commented that the proposed MAC limits were too low and pharmacists cannot purchase within proposed MAC limits "* * * with any type of relative convenience".

With regard to those comments that have criticized the data sources relied upon by the Board, the Board believes that the combination of data sources and the opportunities for public participation clearly assures the reasonableness of its final determinations. Sources of advertised prices such as *Drug Topics Red Book* are widely used to gauge the levels of offered prices. Generally, *Red Book* prices are the upper levels paid for products. The nationwide HCFA survey of invoice level prices includes all sizes of pharmacies and provides information on the actual prices paid by pharmacies (as opposed to the often discounted advertised prices). To date, no evidence has been submitted to show that prices in the *Red Book* are understated or that the HCFA survey is inaccurate. While the Board believes these sources to be completely adequate, the value of public participation in the MAC process is that it provides the public an opportunity to make certain that the record upon which the Board relies will be as timely, complete and accurate as possible.

The MAC regulations (45 CFR 19.5(c)) require that the "Board shall make an initial determination of the lowest unit price at which the drug is widely and consistently available from any formulator or labeler. This determination will be based on the package size of the drug most frequently purchased by providers. If it appears to the Board that a drug is or will be unavailable to providers in one or more localities at the same lowest unit price at which it is available elsewhere, the Board shall make a separate determination for each such locality". As indicated above, in making the initial determination of the lowest unit price at which drug products under MAC considerations are widely and consistently available, the Board makes use of the HCFA survey and other data sources available from IMS America. These information sources are used by the Board to establish the package size most frequently purchased by providers. The Board acknowledges that local purchasing variations may occur but it must consider overall purchases relating to package size.

The fact that a pharmacist does not find drug products within MAC limits with "* * * any type of relative convenience" does not mean that the products are not widely and consistently available within the MAC limit. The Board has never claimed that all sales of a drug are within MAC limits but rather that there is sufficient availability of the drug at MAC levels and that it can be readily obtained at those levels.

4. A pharmacist commented that, because of the passage of generic substitution laws, pharmacists have had to carry double inventories of drug products, both brand and generic versions, and that the PRB, through the proposed MAC limits, forces pharmacists to carry the generic versions of products.

The Board notes that most States have generic substitution laws that allow the pharmacists to select, within certain limits, equivalent generic products when tradename products are prescribed. In most instances, these laws have had the support of organized pharmacy and are intended to reduce the cost of drugs to all consumers. The Board believes that considering FDA's authority, position and assurances of product equivalence, the products subject to MAC limits are acceptable for use by all patients, not just program beneficiaries. The fact that a pharmacist chooses to stock both the tradename and generic versions of the same product is not an issue to be addressed by the Board.

The Board notes that where (a) FDA has provided the required assurance that the generic products are the equivalent of the trade name, (b) the Board has adequate assurance that capacity is more than sufficient, and (c) economic information indicates that the equivalent generic product is available in the marketplace, the Board believes that it must take advantage of the competitive market forces that exist and use these forces as would any other prudent purchaser of durg products.

5. Three pharmacists commented that in order to obtain drug products within the proposed MAC limits, pharmacists must purchase in larger than usual quantities and, therefore, maintain excessive inventory which is contrary to sound business practices.

The Board believes that these responses were elicited by the proposal to establish a MAC limit on acetaminophen w/codeine in the 1000 tablet package size and has taken these comments into consideration when it arrived at its determination for this drug (see Summary of Comments on Individual Products, below).

6. Three pharmacists commented that it would appear that the Board is searching the literature for special deals and maintaining these as a standard for normal purchasing.

These comments are an incomplete assessment of the Board's decision-making. We note that it is the Board's responsibility to determine the lowest unit price at which a particular multiple source drug is widely and consistently available. The MAC drug regulations do not expressly specify the exact method of making these determinations. The Board continues to rely on the HCFA survey that shows invoice prices of actual pharmacy transactions. We also believe that advertised prices are an important tool in determining the price levels at which drugs are available in the marketplace. These advertised prices represent the best estimate of maximum price levels, and actual deliverd prices are often discounted from the advertised price.

However, the Board has never relied solely on advertised prices. Even when advertised prices are the only figures available when a MAC is proposed, the Board has not established a MAC limit for a drug in the absence of supporting information from the HCFA survey or information received during the comment period, indicating the drug's availability. The Board does not simply choose the lowest price found or search the literature for special prices.

As indicated above, the Board believes that the combination of data sources and the opportunities for public participation clearly assure the reasonableness of its final determinations. To the extent that commenters offer market data not available in the time of the proposed MAC limit, the Board relies upon these

submissions and modifies its proposals whenever it will achieve a more accurate and equitable result.

7. Four pharmacists' comments suggested that the Board consult pharmacists who are participating in the MAC program for input before establishing MAC limits.

The Board believes that the MAC procedures, which include a significant opportunity for public participation, provide assurance that any interested party must have input into the MAC process, especially those who participate in the Medicaid, Medicare and other HHS sponsored programs.

The Board believes that the combination of data sources and the opportunity for significant public participation in the MAC process support the adequacy of its final determinations.

The value of public participation in the MAC process is that its provides individuals the opportunity to make certain that the record upon which the Board relies is as timely, complete and accurate as possible. As indicated above, the Board will consider all data submitted by commenters and modify proposed limits whenever such data more accurately reflects the market situation.

On several occasions, the Board has revised proposed MAC limits or has decided not to establish MAC limits in response to public comments that the drug products were not widely and consistently available at the proposed limit. The Board makes every effort to assure that the information it considers is timely and notes that it considers updated price data for drug products under consideration for MAC limits until the close of the comment period.

8. A pharmacist commented that a major problem for pharmacists is the availability of generic drugs within the MAC price, and that sometimes wholesalers do not maintain an adequate supply of generic products.

The Board establishes a MAC limit at a level only after receiving adequate assurances that the product will be widely and consistently available at that price.

The Board has already lowered four existing MAC limits based on changes in the marketplace, and suspended four other announced limits when it became clear that prices had increased for those drug products. The Board will continue to review the market data monthly on all existing MAC limits and those under development, and will adjust the limits as appropriate. Should a condition develop or exist regarding a MAC limit that would cause undue hardship on those handling MAC products, the Board is open to receive comments addressing such conditions. The Board will examine such comments and seeks to determine how such conditions affect the MAC program and all of its participants. If an acute situation develops which may cause immediate harm, the Board may suspend MAC limits.

9. A pharmacist commented that since generic substitution is often called for and drug companies are putting products on the market with or without FDA approval, the pharmacists is often put in a difficult position because he or she does not know which products to use.

The MAC process does not jeopardize the quality of drugs used under its program. As stated above, the Board believes that considering FDA's authority, position, and assurance of product equivalence, the product subject to MAC limits are acceptable for use by all patients. Not only is the Department confident of the adequacy of the FDA's procedures but the courts as well have been satisfied with the procedures (see *United States* v. *Articles of Drugs* * * * *The Lannett Company, Inc.*, 585 F. 2d 575 (3d Cir. 1978), and *Premo Pharmaceutical, Inc.* v. *United States*, 78 Civ. 5435(MP) (S.D.N.Y. July 1979)). (A full description of the issue was published as part of an earlier Pharmaceutical Reimbursement Board final notice on October 24, 1980 (45 FR 70574).)

10. The owner of a wholesale drug company supplied comments in the form of information taken from its current price files and stated that "* * * it was my feeling that the data from our house would be sufficient to substantiate our observation based on the fact that we service a wide geographic area." The commenter continues by stating that further reductions in MAC prices will discourage brand name innovator manufacturers from competing in this market, and further reductions in prices at this time or further regulatory intervention will cause a continuing reduction in profit and program incentives for the pharmacist, the wholesaler and the manufacturer.

The Medicare and Medicaid programs were established to finance health care for the aged, the disabled, and the poor. The Board continues to believe that its proper function is to take advantage of existing price differences in the multi-source drug product marketplace so that Medicare and Medicaid beneficiaries continue to receive quality care at competitive prices. The Board notes that it seeks to take advantage of price differences that already exist between various multiple source products in that market to insure more cost effective use of scarce health care funds.

11. A pharmacist commented that he was notified of the proposed MAC limits in a trade magazine that arrived May 14, 1981 and asked that additional time be provided before the end of the comment period.

The **Federal Register** has long been the vehicle by which not only proposed and final MAC notices are published, but all regulations promulgated by federal agencies. The Board is aware that every individual does not read the **Federal Register** each day and that many do not read it at all. However, the Board believes it allows sufficient time for all interested parties to submit relevant comments following the publication of proposed MAC limits. The fact that the pharmacist obtained information regarding the proposed MAC limits from a trade publication cannot be addressed by the Board. Further, the Board notes that the **Federal Register** notice, stating that the Board may reconsider existing MAC limits on this group of drugs, was published on May 19, 1980 (45 FR 62560). Specific proposed MAC limits were published on March 31, 1981 and the close of the comment period was May 22, 1981 (46 FR 19603). The Board believes this was adequate time for comments to be submitted.

12. A pharmacist commented that, in some case, the current MAC limits are lower than the price at which many small pharmacies are able to purchase the product.

The Board is unable to address this issue as presented by the commenter since no specific information was submitted. The Board does note that it has received no comments on existing limits and that the PRB staff makes every effort to remain current of the existing market.

III. Summary of Comments on Individual Products

The PRB previously established final MAC limits on the eight drug products to which this notice is addressed. However, since that time, a number of lower prices have appeared in the marketplace. In response to these lower prices, the Board considered a lower limit for each of these eight products. The Board announces new MAC limits for seven of these eight drug products. The Board has reviewed the record on the eighth product, and has voted to suspend consideration of a lower MAC limit on it at this time.

Acetaminophen W/Codeine, Oral Tablet, 300 mg/30mg

A final MAC limit on acetaminophen w/codeine, oral tablet, 300 mg/30 mg of $0.0780 per tablet became effective on January 25, 1979 (43 FR 57972). On March 31, 1981, the Board proposed a lower MAC limit of $0.0649 per tablet for this product based upon a selling price of $64.90 per 1000 tablet package size.

The Board reviewed the projected national sale data submitted by the Johnson and Johnson Company and concluded that on the basis of this, there existed sufficient doubt that the 1000 tablet package size is indeed the most frequently purchased package size. Further, the Board was concerned that some small pharmacies might be unable to purchase the 1000 tablet package size and therefore be disadvantaged by that lower MAC limit. On June 18, 1981, the Boad reviewed the record on acetaminophen w/codeine 300 mg/30 mg oral tablets and voted to suspend consideration of a lower MAC limit at this time.

Acetaminophen W/Codeine, Oral Tablet, 300 mg/60 mg

A final MAC limit on acetaminophen w/codeine, oral tablet, 300 mg/60 mg of $0.1545 per tablet became effective on January 25, 1979 (43 FR 57972). On March 31, 1981, the Board proposed a revised MAC limit of $0.1458 per tablet for this product based upon a selling price of $14.58 per 100 tablet package size.

Several comments were received from pharmacists and a pharmaceutical association stating they could not obtain the product at the proposed MAC limit or that the limit was too low. Johnson and Johnson Company, a major marketer of the product, commented that this drug product represented only a small prescription volume for Medicaid and that the Board's saving estimates were overstated.

The Board is not persuaded with the Johnson and Johnson comment on savings. The Board believes that the savings estimates are sufficiently significant to justify the reimbursement limits established by the MAC process. Further, as cited earlier, the Board seeks to take advantage of price differences that exist between various mulptiple source products in the market to insure more cost-effective use of scarce health care funds.

The HCFA survey now shows that the product is available from Burroughs Wellcome and Smith Kline Company at or below the proposed MAC limit of $0.1458 per tablet. The *Drug Topic Red Book* lists an additional eight suppliers of the product within the proposed MAC limit, to those originally identified by the Board in the economic data and prices have remained virtually unchanged from July 1980 to December 1980. Small and medium size independent pharmacies have purchased the product at or below the proposed $0.1458 per tablet limit. On June 18, 1981, after reviewing the record, the Borad voted to establish the proposed final MAC limit on acetaminophen w/codeine 300 mg/60 mg oral tablet at $0.1458 per tablet. The Board believes this price level assures wide and consistent availability of the product.

Ampicillin, Oral Capsule, 250 mg

A final MAC limit on ampicillin, oral capsule, 250 mg of $0.0595 per capsule became effective on January 25, 1979 (43 FR 57972). On March 31, 1981, the Board proposed a lower MAC limit of $0.0420 per capsule for this product based upon a selling price of $21.00 per 500 capsule package size.

Several comments were received from pharmacists stating that they could not obtain the product at the proposed MAC limit. Several comments stated that the product was not available from such supplliers as Wyeth, Bristol, Parke Davis, and Lederle within the proposed MAC limit, but did not state that the product was not available within the proposed MAX limit from another source. Lawrence Pharnaceuticals, a drug wholesaler in Jacksonville, Florida, submitted information from its current price files that stated the products of Wyeth, Bristol, Parke Davis and Beecham were not available from Lawrence within the proposed MAC limit. The Board notes that the comment did not state that the drug product was not available from another supplier within the proposed MAC limit.

Written comments and other information supplied during the comment period indicated that ampicillin, 250 mg oral capsule was not widely and consistently available at the originally proposed MAC limit of $0.0420 per capsule.

At the time of the proposed MAC limit of $0.0420 per capsule, the HCFA survey showed that the product was available from Wyeth, Bristol, Parke Davis and Lederle (subsidiary of the second, ninth, tenth and eighteenth largest ethical drug firms, respectively). Over sixty percent of the purchases of the product were made at or below the proposed limit of $0.0420 per capsule. Small and medium independent pharmacies had purchased the product at or below the proposed $0.0420 per capsule limit. However, recent price increases have been brought to the attention of the Board. The HCFA survey continues to show that the product is available from Lederle, Parke Davis, Wyeth and Bristol Laboratories at or below the $0.0422 per capsule level. Over seventy percent of the purchases of the product were made at or below the $0.0422 per capsule level. Small and medium size independent pharmacies have purchased the product at or below the $0.0422 per capsule level. On June 18, 1981 after reviewing the record, the Board voted to establish the proposed final MAC limit on ampicillin, 250 mg oral capsule at $0.0422 per capsule to reflect the price increases that had taken place after the original MAC limit was proposed. The Board believes this price level assures wide and consistent availability of the product.

Ampicillin, Oral Liquid, 125 mg/5 ml

A final MAC limit on ampicillin, oral liquid, 125 mg/5 ml of $0.0145 per milliliter became effective on October 25, 1977 (42 FR 48393). On March 31, 1981, the Board proposed a lower MAC limit of $0.0114 per milliliter for this product based upon a selling price of $1.14 per 100 milliliter package size.

A comment was received from a pharmacist stating that the product was not available within the proposed MAC limit.

The HCFA survey now shows that the product is available from Wyeth, Squibb, Lederle, Smith Kline and Parke Davis at or below the proposed MAC limit of $0.0114 per milliliter. Over seventy percent of the purchases of the product were made at or below the $0.0114 per milliliter level. Small and medium size independent pharmacies have purchased the product at or below the proposed $0.0114 per milliliter level. On June 18, 1981 after reviewing the record, the Board voted to establish the proposed final MAC limit on ampicillin, 125 mg/5 ml, oral liquid at $0.0114 per milliliter. The Board believes that this price level assures wide and consistent availabilty of the product.

Penicillin VK, Oral Tablet, 250 mg

A final MAC limit on penicillin VK, oral tablet, 250 mg of $0.0535 per tablet became effective on October 25, 1977 (42 FR 48393). On March 31, 1981, the Board proposed a lower MAC limit of $0.0395 per tablet for this product based upon a selling price of $3.95 per 100 tablet package size.

At the time of the proposed MAC limit of $0.0395 per tablet the HCFA survey showed that the product was available from Smith Kline and Squibb (the fourth and sixteenth largest ethical drug firms) and from Pfipharmecs, (a subsidiary of

the twelfth largest ethical drug firm). Forty percent of the total market and over ninety percent of the category "all other brands" were purchased at or below the proposed limit of $0.0395 per tablet. Small independent pharmacies have purchased the product at or below the proposed $0.0395 per tablet limit.

Written comments and other information supplied during the comment period indicated that penicillin VK, oral tablet, 250 mg was not widely and consistently available at the originally proposed MAC limit of $0.0395 per tablet.

The HCFA survey now shows that the product is available from Smith Kline and Pfipharmecs at or below the $0.0417 per tablet level. Forty percent of the total market and over ninety percent of the category "all other brands" were purchased at or below the $0.0417 per tablet level. Small and medium size independent pharmacies have purchased the product at or below the $0.0417 per tablet level. The *Drug Topic Red Book* lists seventeen additional suppliers of the product at or below the $0.0417 per tablet level. On June 18, 1981 after reviewing the record, the Board voted to establish the proposed final MAC limit on penicillin VK, oral tablet, 250 mg at $0.0417 per tablet to reflect price increases that had taken place after the original MAC limit was proposed. The Board believes this price level assures wide and consistent availability.

Penicillin VK, Oral Tablet, 500 mg

A final MAC limit on penicillin VK, oral tablet, 500 mg of $0.1025 per tablet became effective on October 25, 1977 (42 FR 48393). On March 31, 1981, the Board proposed a lower MAC limit of $0.0849 per tablet for this product based upon a selling price of $8.49 per 100 tablet package size.

Several comments stated the product was not available from suppliers such as Parke Davis, Upjohn and Squibb within the proposed MAC limit of $0.0649 per tablet. One comment stated that the product is available from these suppliers at the proposed limit, only in special promotions, limited to specific periods of the year and in larger than normal quantities. The comment further stated that the prices are not available on a routine basis within the proposed MAC limit from normal sources of supply, such as the wholesaler.

Lawrence Pharmaceuticals submitted information from its current price files that revealed that the products of Smith Kline and Eli Lilly were not available from Lawrence within the proposed MAC limit. The Board notes that the comment did not state that the product was not available from another supplier within the proposed limit.

The HCFA survey now shows that the product is available from Upjohn, Squibb and Parke Davis at or below the proposed MAC limit of $0.0649 per tablet. Over ninety percent of the category "all other brands" were purchased at or below the proposed limit of $0.0649 per tablet. Small and medium size independent pharmacies have purchased the product at or below the proposed $0.0649 per tablet limit. The *Drug Topics Red Book* lists ten additional suppliers of the product at or below the proposed MAC limit of $0.0649 per tablet. On June 18, 1981, after reviewing the record, the Board voted to establish the proposed final MAC limit on penicillin VK, 500 mg, oral tablet at $0.0649 per tablet. The Board believes this price level assures wide and consistent availability of the product.

Penicillin VK, Oral Liquid, 125 mg/5 ml

A final MAC limit on penicillin VK, oral liquid, 125 mg/5 ml of $0.0120 per milliliter became effective on October 25, 1977 (42 FR 48393). On March 31, 1981, the Board proposed a lower MAC limit of $0.0109 per milliliter for this product based upon a selling price of $1.09 per 100 milliliter package size.

Two comments were received from pharmacists stating that the product was not available within the proposed MAC limit.

The HCFA survey now shows that the product is available from Lederle, Park Davis and Squibb, at or below the proposed MAC limit of $0.0109 per milliliter. Over ninety percent of the category "all other brands" were purchased at or below the proposed $0.0109 per milliliter level. Small and medium size independent pharmacies have purchased the product at or below the proposed $0.0109 per milliliter limit. The *Drug Topics Red Book* lists six additional suppliers of the product at or below the proposed MAC limit of $0.0109 per milliliter. On June 18, 1981, after reviewing the record, the Board voted to establish a proposed final MAC limit on penicillin VK, oral liquid 125 mg/5 ml at $0.0109 per milliliter. The Board believes that this price level assurres wide and consistent availability of the product.

Tetracycline HCl, Oral Capsule, 500 mg

A final MAC limit on tetracycline HCl, oral capsule, 500 mg of $0.0465 per capsule became effective on April 10, 1978 (43 FR 7714). On March 31, 1981, the Board proposed a lower MAC limit of $0.0394 per capsule for this product based upon a selling price of $3.94 per 100 capsule package size.

Two comments were received from pharmacists stating that the product was not available within the proposed MAC limit.

The HCFA survey now shows that the product is available from Smith Kline, Wyeth and Parke Davis, at or below the proposed MAC limit of $0.0394 per capsule. Over seventy percent of the category "all other brands" were purchased at or below the proposed $0.0394 per capsule limit. Small and medium size independent pharmacies have purchased the product at or below the proposed $0.0394 per capsule limit. The *Drug Topics Red Book* lists twelve additional suppliers of the product at or below the proposed MAC limit of $0.0394 per capsule. On June 18, 1981, after reviewing the record, the Board voted to establish a proposed final MAC limit on tetracycline HCl, 500 mg, oral capsule at $0.0394 per capsule. The Board believes that this price level assures wide and consistent availability of the product.

IV. Impact Analyses

We have determined that this final notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this final notice will not change expenditures by over $100 million per year or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. We estimate that the net effect of this notice in reducing program expenditures will be approximately $1.5 million in fiscal year 1982. This determination sets forth a specific unit price at which each of these drugs is widely and consistently available. For these reasons, we believe no Regulatory Impact Analysis is required.

In addition, this notice does not meet the criteria set forth in section 605(b) of Pub. L. 96-354 (the Regulatory Flexibility Act of 1980) for preparing a regulatory flexibility analysis since we do not believe that it will result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data which has enabled the Board to determine that small and medium size pharmacies are able to acquire these drug products at or below the final MAC limits.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act and sec. 215 of the

Public Health Services Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), 1396a(a)(30), and 216)

Dated: January 21, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

Approved: June 2, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-17363 Filed 6-25-82; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

[Program Announcement No. 13668-823]

Historically Black Colleges and Universities Initiative

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of availability of financial assistance funds for the Historically Black Colleges and Universities Initiative.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted for financial assistance to support projects which increase the capacity of Historically Black Colleges and Universities (HBCUs) to provide quality education related to housing, employment, transportation and health promotion among older persons. This program is authorized under Title IV of the Older Americans Act of 1965, as amended (42 U.S.C. 3001, et seq.).

DATE: Closing date for receipt of applications is August 16, 1982.

Scope of This Announcement

This announcement relates only to the Administration on Aging's award of discretionary grants to Historically Black Colleges and Universities. The Administration on Aging administers other discretionary grants programs in the areas of education and training, research and development, demonstrations, long term care projects, and national impact activities. Such activities are separately announced.

Program Purpose

The purpose of the Older Americans Act Title IV Discretionary Program is to build and encourage the practical use of knowledge for improvement of the quality of services available to older people. This is accomplished by means of the development of new knowledge, the demonstration of new approaches, the provision of training, and the generation of technical assistance materials and best practice models which address the enhancement of life circumstances of older persons. Projects to be supported under this program announcement will be funded by the Administration on Aging.

Background

This program activity responds to the President's Executive Order 12320, dated September 15, 1981, which was directed toward advancing the development of human potential and strengthening the capacity of Historically Black Colleges and Universities to provide quality education. Federal agencies supporting initiatives under this Executive Order have been instructed to establish plans for increasing the ability of historically Black institutions of higher education to participate in government sponsored grant programs.

Program Objectives and Priorities

The focus of this announcement is on developing innovative techniques to increase the capacity of Historically Black Colleges and Universities (HBCUs) to provide quality self-help education related to housing, employment, transportation and health promotion among older persons and develop methods for establishing and maintaining linkages between HBCUs and private sector organizations. In order to fulfill these objectives, awards will be made to historically Black institutions of higher education to:

1. Establish quality innovative self-help educational activities for older persons in areas related to housing, employment, transportation and health promotion;

2. Establish relationships between HBCUs, private sector and government organizations (e.g. Area Agencies on Aging, Social Services Agencies, Head Start grantees, etc.,) that support and improve programs which emphasize training older persons to be self-sufficient in areas related to housing, employment, transportation and health promotion and develop methods for maintaining these relationships after Federal financial participation ends.

The Administration of Aging, which is the funding agency for these projects, will be assisted by the other program operating components of OHDS in efforts to enhance the ability of HBCUs to compete for private sector funds through:

—Information sharing about the specific interests of private sector institutions, including corporations, foundations, voluntary organizations, etc.;

—Sharing with HBCUs examples of successful private sector projects that may assist in the development of new projects; and

—Facilitation of access by HBCUs to private sector resources (expertise and funding) to assist them in training and capacity building, directed toward improving their ability to compete for resources.

Eligible Applicants

Organizations eligible to apply for projects under this announcement must be among those institutions of higher education that are Federally recognized as Historically Black Colleges and Universities.

Available Funds and Duration of Support

The Administration on Aging expects to make four awards averaging $87,500 (Federal share) to Historically Black Colleges and Universities under this announcement. Each of the awards will be expected to address one or more of these topical areas (i.e, housing, employment, transportation or health promotion) in Fiscal Year 1982. It is anticipated that a total of $350,000 will be available. These figures include both direct and indirect costs.

The project period is for seventeen (17) months. Applicant HBCUs will need to show how they plan to continue the project once Federal financial participation ends.

Cost-Sharing

Cost-sharing is considered to be an important means of demonstrating an applicant's commitment to the objectives of this program. Historically Black Colleges and Universities receiving awards are expected to provide a match of at least twenty percent (20%) of the total allowable project costs during the project period. The grantee share may be cash or in-kind, and must be project related and allowable under the Department's applicable cost principles in 45 CFR Part 74.

Indirect Cost Limitation

Indirect costs for the conduct of training by educational institutions, public agencies and non-profit organizations may not exceed eight (8) percent of allowable direct costs.

The Application Process

Availability of Forms

Applications for financial assistance must be submitted on Standard Form 424, Application for Federal Assistance, and other forms provided for this purpose. Copies may be obtained by writing to: Office of Education and Training, Administration on Aging, Room 4270, HHS North Building, 330

Independence Avenue, SW., Washington, D.C. 20201, Telephone: (202) 472–4226.

Application Submission

One (1) signed original and five (5) copies of the application, including all attachments, must be submitted to the address indicated in the application instructions. At the time the application is submitted, one (1) additional copy must be submitted to the appropriate State Unit on Aging and one (1) copy must be submitted to the Administration on Aging Regional Program Director. Addresses for State Units on Aging and Regional Offices of the Administration on Aging are included in the application instructions.

A–95 Notification Process

Not Applicable.

Application Consideration

The Commissioner on Aging will make the final decision on each grant application under this announcement. Applications which are complete and conform to the requirements of this announcement will be subjected to a competitive review and evaluation by qualified persons outside the Administration on Aging. The results of the technical review will assist the Commissioner in considering competing applications and making funding decisions. The Commissioner will take into account the comments of other cooperating components of the Office of Human Development Services, as well as the comments of the State Agencies on Aging, the Regional Offices of the Administration on Aging, and the Administration on Aging Central Office staff.

Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of Notice of Financial Assistance Awarded. This notice sets forth the amount of funds granted, the terms and conditions of the award, the budget period for which support is given, the total awardee share expected, and the total period for which project support is intended.

Review Criteria

Applications by HBCUs will be evaluated on the basis of the following criteria:

I. *Technical Approach* (30 points). The application provides a well defined technical approach covering the need for the project and the objectives to be achieved, including:

A. Information that demonstrates a broad knowledge of self-help activities related to housing, employment, transportation or health promotion programs and how private sector resources will be mobilized at the local level to enhance training programs for older persons;

B. Identification of specific, housing, employment, transportation or health promotion needs of older persons;

C. Identification of specific innovative self-help educational activities related to housing, employment, transportation or health promotion for older persons that will be developed or expanded upon as part of the institution's higher education curriculum;

D. Identification of specific community-based private sector organizations, especially business enterprises with which the HBCUs will mobilize housing, employment, transportation or health promotion resources for older persons, and identification of reasonable approaches for undertaking this mobilization effort;

E. Identification of ways in which self-help educational programs for older persons in housing, employment, transportation or health promotion will be institutionalized within the HBCU and the collaborating private sector organizations with which the HBCU will work;

F. Demonstration of support and working relationships with appropriate State and Area Agencies on Aging; and

G. Identification of ways to transfer innovative findings to other communities.

II. *Project Implementation* (10 points). The application specifies a sound plan for task accomplishment over the project (and beyond), including a reasonable staff-loading by task.

III. *Organizational Capability* (30 points). The applicant HBCU has adequate experience, resources, and facilities to carry out the project, including:

A. Demonstrated experience in the effective conduct of self-help training programs in housing, employment, transportation or health promotion;

B. Demonstrated exeperience in working with and mobilizing private sector resources; and

C. Demonstrated capacity to adapt and disseminate important information, materials, and other technical assistance resources.

IV. *Staffing and Management* (15 points).

A. Proposed staff is well qualified to implement project objectives and tasks (résumés of key personnel are to be included);

B. Assignment of project responsibilities is clear and appropriate to achieving objectives, with adequate supervisory and clerical support to assure project success.

V. *Budget* (15 points).

A. The proposed budget is commensurate with the level of effort needed to accomplish project objectives and is within the guidelines of this announcement;

B. The application assures the applicant agency's commitment to cost-share at least 20% of the Federal award. Beyond meeting the minimum requirement, the application reflects a significant resource commitments including a reasonable plan to institutionalize the project after Federal financial participation comes to an end.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this announcement is August 16, 1982.

Mailed Applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the closing date; or

2. Sent by first class mail, postmarked on or before the closing date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

Applications Submitted by Other Means. Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before the close of business on or before the closing date.

Late Applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program No. 13.668, Programs for the Aging: Training, Research, and Discretionary Programs)

Dated: June 9, 1982.

Lennie-Marie P. Tolliver,

Commissioner on Aging.

Dated: June 18, 1982.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 82–17382 Filed 6–25–82; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: 43 CFR 4740.4–2, Application for Adoption of Wild Horses and Burros
Bureau Form Number: 4710–10
Frequency: Nonrecurring
Description of Respondents: Individuals
Annual Responses: 10,000
Annual Burden Hours: 1,000
Bureau Clearance Officer (alternate): Linda Gibbs, 202–653–8853

James M. Parker,
Deputy Director.
June 11, 1982.

[FR Doc. 82-17306 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-84-M

Utah; Grazing Management Program for Pinyon Planning Unit

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of Pinyon Draft Environmental impact statement and public hearing.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and 1975 Federal Court Order, the Bureau of Land Management (BLM) has prepared a draft grazing management environmental impact statement (EIS) for the Pinyon Planning Unit rangeland management program in portions of Beaver, Iron, Milford, and Washington Counties of southwestern Utah.

The Draft EIS examines five alternative management programs: (1) Continuation of current management (no action), (2) Planning Recommendations, (3) Livestock Grazing Perference, (4) Resident Resource Values, and (5) Livestock Maximization. The alternatives examine varied levels of livestock grazing (from 60,757 animal unit months—AUMs—to 209,006 AUMs), wildlife forage (from 2,663 AUMs to 8,345 AUMs), and wild horse forage (from 0 AUMs to 12,825 AUMs). Varying levels of vegetation treatment and management intensity would accompany the different alternatives.

Copies of the Draft EIS are available from the Cedar City District Office at 1579 North Main, P.O. Box 724, Cedar City, Utah 84720, (801) 586–2401 or the Beaver River Resource Area, 444 South Main, Suite C–3, Cedar City, Utah 84720, (801) 586–2458. Public reading copies of the Draft EIS will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, NW., Washington, D.C. 20240

Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

Written comments on the Draft EIS should be submitted to the Cedar City District Manager by August 16, 1982.

Notice is hereby given that oral and/or written comments will be received at a public hearing at the following date, time and location: July 28, 1982, 7:00 p.m., Bureau of Land Management, Cedar City District Office, 1579 North Main, Cedar City, Utah 84720.

Requests to submit oral and/or written testimony at the hearing will be received at the door.

Written and oral comments concerning the adequacy of the Draft EIS will be considered in the preparation of the Final Pinyon Grazing Management EIS.

Roland Robison,
State Director.
June 21, 1982.

[FR Doc. 82-17308 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-84-M

Wyoming; Proposed Grazing Management; Intent To Prepare an Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Development of a Management Framework Plan and Preparation of an Environmental Impact Statement on the Proposed Grazing Management in the Salt Wells—Pilot Butte Portion of the Rock Springs District, Wyoming.

SUMMARY: Pursuant to section 102(a) of the National Environmental Policy Act, the Bureau of Land Management (BLM), Rock Springs District Office will prepare an Environmental Impact Statement (EIS) based on rangeland management planning recommendations for the Salt Wells Resource Area and Pilot Butte portion of the Big Sandy Resource Area located in southwest Wyoming. In addition BLM will be soliciting public comment on proposed management framework plan decisions in the Salt Wells—Pilot Butte area not directly related to rangeland management. The Salt Wells—Pilot Butte area includes approximately 1.9 million acres of BLM-administered lands in Sweetwater and Uinta Counties.

The purpose of the range management recommendations is to maintain or improve public land resource values which include soil, water, vegetation, wildlife, and wild horses. The EIS will analyze effects of managing grazing allotments based on selective management categories. This notice modifies an earlier (October 1980) notice of intent to prepare this EIS, and reflects recent changes in rangeland management policy.

Alternatives to be considered include continuation of present livestock management as well as alternatives depiciting different levels and intensities of management for livestock and other resources.

DATE: A public scoping meeting July 29, 1982, 7:00 p.m.

ADDRESS: Western Wyoming College, 2500 College Drive, Rock Springs, Wyoming.

The purpose of the meeting is (1) to provide the public with an opportunity to comment on proposed management framework plan decisions not directly related to rangeland management; (2) to present rangeland management multiple use planning recommendations to the public; (3) to inform the public of the proposed action and tentative alternatives that BLM proposes to analyze in the EIS; (4) to gather resource information from the public; and (5) to identify concerns and issues important to the public for possible inclusion into the EIS or into planning system decisions. Comments received at this scoping meeting will be used in developing the EIS and the planning decisions that result.

FOR FURTHER ACTION CONTACT:

All inquiries and comments should be directed to: Bob Bierer, Salt Wells Resource Area Manager, Clint Hanson, Big Sandy Resource Area Manager, or Jim Cagney, Salt Wells—Pilot Butte EIS Team Leader, P.O. Box 1869, Rock Springs, Wyoming 82901; Telephone: (307) 382–5350. Written comments on the planning system recommendations must

be received no later than close of business August 31, 1982.

Donald H. Sweep,

District Manager.

[FR Doc. 82-17387 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-55-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to conduct certain activities with endangered species:

Applicant: Tall Timbers Research Station, Tallahassee, FL (PRT 2-9295)

The applicant requests a permit to take five pair of pine barrens treefrogs (*Hyla andersonii*) for scientific research on propagation techniques.

Applicant: Duke University Primate Center, Durham, NC (PRT 2-9303)

The applicant requests a permit to import one male captive-bred black lemur (*Lemur macaco*) from the Bristol Zoo, England, for enhancement of propagation.

Applicant: National Zoological Park, Washington, DC (PRT 2-9302)

The applicant requests a permit to import one female captive-bred golden lion tamarin (*Leontopithecus rosalia*) from the Johannesburg Zoo, South Africa, for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicants.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before July 28, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 22, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-17437 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS-G 3108 and 3466, Blocks 700 and 713, Matagorda Island Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 21, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-17386 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Lands Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) Interior.

ACTION: Notice of availability of Findings of No Significant Impact (FONSI) addressing Environmental Assessments (EAs) for development of seven abandoned mine land projects under the State of Tennessee Reclamation Plan.

SUMMARY: OSM has prepared EAs on projects included in the federal grant application submitted by the State of Tennessee to the Office of Surface Mining.

A FONSI has been prepared for the seven reclamation projects indicated below and included in the grant application developed under Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231-1234.

ADDRESS: Copies of the EAs and FONSI are available for inspection or may be obtained at the following locations between the hours of 8:00 a.m. and 4:00 p.m.:

Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902; and

Tennessee Department of Conservation, Dempster Building, 305 West Springdale Avenue, Knoxville, Tennessee 37917; Contact Person: Tim Eagle

FOR FURTHER INFORMATION CONTACT: W. Hord Tipton, Acting Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, Knoxville, Tennessee 37902.

Reclamation projects included in the application and their location:

1. Title: Royal Blue Mine Reclamation Project
   Location: Western Campbell County
   Description: Seal portals and eliminate hazardous structures.
2. Title: 19-B Garbage Dump Reclamation Project
   Location: Northern Central Scott County
   Description: Eliminate hazardous impoundments, highwalls, and garbage.
3. Title: Frozen Head Reclamation Project
   Location: Eastern Morgan County
   Description: Seal portals, eliminate hazardous structures, and stabilize disposal areas.
4. Title: Kent Hollow Landslide Reclamation Project
   Location: Central Campbell County
   Description: Stabilize landslide.
5. Title: Stinging Fork Reclamation Project
   Location: Bledsoe County
   Description: Eliminate hazardous highwall and sources of poor water quality.
6. Title: Twinton Reclamation Project
   Location: Western Fentress County
   Description: Seal airshaft, eliminate hazardous structure, and reclaim gob material.
7. Title: Tennessee Big Creek Phase I Maintenance
   Location: Grundy County
   Description: Liming, fertilizing, revegetation; and reworking drain crossings.

Dated: June 23, 1982.

J. Steven Griles,

Acting Director, OSM

[FR Doc. 82-17451 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-05-M

Office of the Secretary

Privacy Act of 1974; Revision and Update of Systems of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records which are maintained and subject to the requirements of section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. Except as noted below, all changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the material in the Federal Register on April 11, 1977 (42 FR 18968), and August 21, 1980 (45 FR 55833).

The following Privacy Act system notices are updated and republished in their entirety below:

System name	Previously published at
1. Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45.	45 FR 55833.
2. Motor Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50.	45 FR 55835.
3. Property Management Accountability—Interior, Office of the Secretary—51.	45 FR 55835.
4. Travel Management Records—Interior, Office of the Secretary—52.	45 FR 55836.
5. Privacy Act Files—Interior, Office of the Secretary—57.	45 FR 55837.
6. Freedom of Information Appeal Files—Interior, Office of the Secretary—69.	45 FR 55838.
7. Payroll, Attendance and Leave—Interior, Office of the Secretary—85.	42 FR 19033.
8. Travel—Interior, Office of the Secretary—86.	42 FR 19034.
9. Position Control—Interior, Office of the Secretary—89.	42 FR 19034.

New routine uses, which are compatible with the purposes for which the records are maintained, are being added to six of the above systems of records. A routine use providing for disclosure to a Congressional office to respond to an inquiry made by the individual of record is being added to systems OS–50, OS–52, OS–69, OS–85, OS–88 and OS–89. A routine use providing for disclosure to a Federal agency in order to obtain information for issuing an operator's permit is added to system OS–50 (Motor Vehicle Operator's Identification Card Applications). The statements describing the categories of individuals covered by the notices for systems OS–45, OS–50, OS–51, OS–52, OS–85, OS–88 and OS–89 are revised to clarify that the records include employees of independent agencies, councils, and commissions who are provided administrative support by the Office of the Secretary.

Written comments on the proposed routine uses described above can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received within 30 days of publication in the Federal Register will be considered. The system shall be effective as proposed without further notice unless comments are received which would result in a contrary determination.

Dated: June 22, 1982.

Joseph D. Doddridge, Jr.,

Acting Deputy Assistant Secretary of the Interior.

INTERIOR/OS–45

SYSTEM NAME:

Security Clearance Files and Other Reference Files—Interior, Office of the Secretary—45.

SYSTEM LOCATION:

Office of the Secretary, Office of Administrative Services (PMO), Division of Enforcement and Security Management, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in the Office of the Secretary, Other Departmental Offices, Bureau Heads, Bureau Security Officers, and employees in Independent Agencies, Councils, and Commissions who are provided administrative support, whose duties have been designated critical sensitive or non-critical sensitive.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of SF–85 or SF–86 and/or SF–171 supplied by individual concerned as well as copies of letters of transmittal between Interior and the Office of Personnel Management concerning the individual's background investigation. Further, contains copy of certification of clearance status and briefing and/or debriefing certificate signed by individual as appropriate. Card file reflects summary, case number and disposition of the case number and disposition of the case file following review.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for the identification of (a) Office of the Secretary personnel and heads of Bureaus and their respective Security Officers who have been granted a security clearance; (b) persons in a pending clearance status awaiting the results and adjudication of Office of Personnel Management investigations; and (c) persons whose clearance has been terminated in the last five years due to an administrative down-grading, transfer to other agencies, employment retirement, or death. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in reponse to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in a locked room in manipulation-proof 3-way combination lock steel safes. Access granted only to cleared personnel on official business.

RETENTION AND DISPOSAL:

Records are maintained in active status until the individual is debriefed; held for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Enforcement and Security Management, Office of Administrative Services (PMO), Office of the Secretary, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Same as the above. A written and signed request stating that the requester

seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as the above. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained as well as data furnished by other Federal agencies on the person concerned.

INTERIOR/OS-50

SYSTEM NAME:

Motor Vehicle Operator's Identification Card Applications—Interior, Office of the Secretary—50.

SYSTEM LOCATION:

Office of the Secretary—(1) Division of General Services, Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240. (2) Division of Personnel Services, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support, who have been issued government driver identification cards.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the individual's name, title, sex, date of birth, place of birth, physical characteristics, social security number, past driving record, traffic citations, accidents for past three years, medical history, state driver license number, and road test results, when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491(j); 5 U.S.C. 1302, 3301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is internal control over the issuance of government driver identification cards. Disclosure outside the Department are, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Federal agency where necessary to obtain information relevant to the issuance of an operator's permit, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on form DI-131-Rev. and Standard Form 47.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Stored in locked office.

RETENTION AND DISPOSAL:

Subject to general records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Administrative Services and Chief, Division of Personnel Services, Office of Administrative Services, Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees applying for a government driver identification card.

INTERIOR/OS-51

SYSTEM NAME:

Property Management Accountability—Interior, Office of the Secretary—51.

SYSTEM LOCATION:

Division of General Services, Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals designated as Responsible Officers in the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support and who are charged with the care, utilization, recordkeeping, etc., for property assigned to them.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains computer identification codes for each Responsible Officer and descriptive data about each piece of property (excluding supplies) assigned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 483(b).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is the internal control of property assigned to offices. Disclosures outside the Department are (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (3) to respond to General Accounting Office audits and Congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer media.

RETRIEVABILITY:

System is indexed by code assigned to each Responsible Officer or by various property system codes.

SAFEGUARDS:

Maintained with safeguards meeting the "Computer Security Guidelines for Implementing the Privacy Act of 1974."

RETENTION AND DISPOSAL:

Destroyed when obsolete.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Office Services, Office of Adminstrative Services, U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit requests to the System Manager. The request must be in writing, signed by the requester, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Responsible Officer who is assigned the property by code.

INTERIOR/OS 52

SYSTEM NAME:

Travel Management Records—Interior, Office of the Secretary—52.

SYSTEM LOCATION:

Branch of Travel. Office of Administrative Services (PMO), Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or individuals who travel on official business on behalf of the Department of the Interior, Mine Safety and Health Administration (MSHA), Department of Labor Regional Solicitor in Philadelphia, Penna., and Independent Agencies, Councils, and Commissions who are provided administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records system contains passports, visas, printouts of airline ticket payment reports, Government transportation requests; and travel tickets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701, et seq.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary used of the records are making reservations, generating tickets, and transferring travel tickets to fiscal services for payment. Disclosures outside the Department are (1) to the airlines for travel and reservation purposes, (2) the transfer of passports and visa to other Federal agencies, (3) to the U.S. Department of Justice when related to litigation or anticipated litigation, and (4) of information indicating a violation or potential violation of a potential violation of a statute regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (5) from the record of and individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Printouts and tickets maintained in folders. Government transportation requests, passports, and visas are maintained in a locked safe.

RETRIEVABILITY:

Printouts filed by bureau. Government transportation requests filed by number and name. Passports and visas filed by name.

SAFEGUARDS:

Passports, visas, and Government transportation log books stored in a locked room in manipulation proof three way combination lock steel safes. Printouts stored in a locked office. Access granted only to designated personnel.

RETENTION AND DISPOSAL:

General Records Schedule No. 9, Item No. 4.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Branch of Travel, Office of Administrative Services, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

Submit request to the System Manager. The request must be in writing, signed by the requestor, and meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Federal employees and individuals who travel on behalf of the Department.

INTERIOR/OS-57

SYSTEM NAME:

Privacy Act Files—Interior, Office of the Secretary—57.

SYSTEM LOCATION:

(1) Office of Information Resources Management, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Offices of Privacy Act Officers of each bureau of the Department. (See Appendix for addresses of bureau headquarters offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have submitted requests for notification, access or amendment of records under the Privacy Act. (2) Individuals who have filed Privacy Act appeals with Assistant Secretary—Policy, Budget, and Administration under the department's regulations. (3) Offices of Systems Managers and other officials authorized to receive requests for notification and access and petitions for amendments. (See system notices for addresses.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests, appeals, decisions and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are for action on requests and appeals of Privacy Act matters. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in a request or an appeal or a decision thereon; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule,

regulation, order or license; (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (5) to Federal, State or local, agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form.

RETRIEVABILITY:

By individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records on access are destroyed two years after date of reply. Final decisions on agreements or refusals to amend records are destroyed four years after final decision, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

(1) For records in the Office of Information Resources Mgt., Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) For other records: Bureau Privacy Act Officers. (See Appendix for addresses of bureau headquarters offices.)

NOTIFICATION PROCEDURE:

Contact the pertinent System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access should be addressed to any office or offices to which the requester has submitted a request for access or an appeal. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individuals on whom records are kept, Department employees who act on requests and appeals received from individuals.

INTERIOR/OS-69

SYSTEM NAME:

Freedom of Information Appeal Files—Interior, Office of the Secretary—69.

SYSTEM LOCATION:

(1) Office of Information Resources Management, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (2) Office of Public Affairs, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have filed appeals under Department of the Interior Freedom of Information appeal procedures. (2) Individuals whose Freedom of Information requests to bureaus and offices have required longer than 10 days to process. (3) Individuals whose Freedom of Information requests to bureaus and offices have been denied in whole or part.

CATEGORIES OF RECORDS IN THE SYSTEM:

Appels, recommendation of Solicitor, Director of Public Affairs, Program Assistant Secretaries and other officials, decisions of Assistant Secretary—Policy, Budget, and Administration, extension of time and initial decisions issued by bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the records are (a) to support review and decision-making for Freedom of Information appeals, (b) for preparation of annual report to the Congress. Disclosures outside the Department of the Interior may be made (1) to other Federal agencies having a subject matter interest in an appeal or bureau or office decision; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual form in file folders.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are destroyed four years after final determination by agency, or three years after final adjudication by courts.

SYSTEM MANAGER(S) AND ADDRESS:

Freedom of Information Appeals Officer, Office of Information Resources Management, Division of Directives and Regulatory Mgt., U.S. Department of the Interior, Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regading the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Bureaus and offices of the Department, appellants.

INTERIOR/OS-85

SYSTEM NAME:

Payroll, Attendance and Leave—Interior Office of the Secretary—85.

SYSTEM LOCATION:

(1) Office of Administrative Services, Division of Fiscal Services. U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240. (2) Input documents supplied by all offices serviced by the Office of Administrative Services, Division of Fiscal Services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains data concerning employee attendance, pay, allowances awards, deductions, leave, employer contributions, duty station and mailing address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101 et seq., 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to administer payroll, attendance and leave matters. Disclosures outside the Department of the Interior may be made (1) to the U.S. Treasury to issue checks to employees and make distributions of pay according to employee authorizations for savings bonds, allotments and other authorized purposes; (2) to the Office of Personnel Management to report retirement deductions; (3) to the Internal Revenue Service and appropriate State, Commonwealth, Territorial and local taxing authorities for tax purposes; (4) to the Social Security Administration to report FICA deductions; (5) to labor unions to report union dues deductions; (6) to the Office of Personnel Management and insurance carriers to report withholdings for health insurance; (7) to State employment security agencies and the U.S. Department of Labor for unemployment insurance; (8) to other Federal agencies as required by laws and implementing regulations; (9) to the U.S. Department of Justice when related to litigation or anticipated litigation; (10) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (11) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (12) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit, (13) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, punch card, microfilm and printout form.

RETRIEVABILITY:

Indexed by social security number and/or employee name.

SAFEGUARDS:

Maintained in locked room when not being used.

RETENTION AND DISPOSAL:

Retained on site until audited by GAO or transferred to a Federal Records Storage center in accordance with the fiscal records program approved by GAO, if appropriate, or the applicable GSA General Record Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, N.W. Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

Inquires regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employee, previous employers, employing office, official personnel records, and Internal Revenue Service.

INTERIOR/OS-88

SYSTEM NAME:

Travel—Interior, Office of the Secretary—88.

SYSTEM LOCATIONS:

(1) Office of Administrative Services, Division of Fiscal Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Input documents supplied by all offices serviced by the Office of Administrative Services, Division of Fiscal Services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support, and persons serving without compensation to the extent authorized under 5 U.S.C. 5703.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, destination, itinerary, mode and purpose, dates, expenses, advances, claims, reimbursements, and authorizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701 et seq.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to process travel authorizations and claims. Disclosures outside the Department of the Interior may be made (1) to the U.S. Treasury for payment of claims; (2) to the State Department for passports; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (6) to Federal, State of local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit, (7) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, machine readable and printout form.

RETRIEVABILITY:

Indexed by employee name and/or account number.

SAFEGUARDS:

Maintained in locked room when not in use.

RETENTION AND DISPOSAL:

Disposal is governed by General Records Schedule 9 issued by the Administrator of the General Services Administration pursuant to section 505(b) of the Federal Records Act of 1950 (44 U.S.C. 395(b))

SYSTEM MANAGER(S) AND ADDRESS:

Chief Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employee, employing office, and standard travel document references.

INTERIOR/OS–89

SYSTEM NAME:

Position Control—Interior, Office of the Secretary—89.

SYSTEM LOCATION:

Office of Administrative Services, Division of Fiscal Services, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of the Secretary, Other Departmental Offices, and Independent Agencies, Councils, and Commissions who are provided administrative support.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains descriptive data concerning position incumbents which is obtained from the Departmental Integrated Personnel/Payroll System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 43 U.S.C. 1457, Office of Management and Budget Circular A–64 (Revised).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records is to provide management information on authorized positions. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in manual, punch card, magnetic tape, magnetic disk and printout form.

RETRIEVABILITY:

Indexed by organization and management account.

SAFEGUARDS:

Maintained in locked room when not in use.

RETENTION AND DISPOSAL:

Records are maintained on a current basis and printouts are disposed of when superseded.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Division of Fiscal Services, Office of Administrative Services, U.S. Department of the Interior, 18th and C Street, N.W., Washington, D.C. 20240.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the request seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Departmental Integrated Personnel/Payroll System and employing offices.

[FR Doc. 82–17300 Filed 6–25–82; 8:45 am]

BILLING CODE 4310–84–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Railroad Cost Index.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The application of this index provides for a Rail Cost Adjustment Factor (RCAF) of 1.159. This RCAF when compared to the second quarter RCAF of 1.153 indicates an increase of .5 percent in railroad input prices. It remains below the RCAF of 1.177 published for the first quarter 1982. No rate actions will be ordered.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT:

Robert C. Hasek, (202) 275–0938; Susan Maslar, (202) 275–7548; Douglas Galloway, (202) 275–7277.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981), we outlined the procedures for calculation of the interim Mid-Quarter Index of railroad costs and the methodology for computing the Rail Cost Adjustment Factor. We also decided to require the AAR, no later than 20 days before the end of each quarter, to calculate and submit to the Commission the mid-quarter index.

We have received AAR's calculations of the mid-quarter index and have found that these calculations comply with the guidelines outlined in our decision served April 17, 1981.

The indices derived from these calculations are shown in the table below.

INTERIM MID-QUARTER INDEX

Category	1980 weight (percent)	First quarter 1982 actual	Second quarter 1982 forecast	Third quarter 1982 forecast
Salaries, wages and supplements	47.2	124.0	125.4	125.6
Fuel	12.3	121.1	115.7	111.0
Materials and supplies	12.2	110.8	109.0	109.1
Other expenses	28.3	111.0	111.8	111.2
Weighted average A-1980 = 100		118.4	118.4	119.0
B-10/1/80 = 100 [1] (Rail Cost Adjustment Factor)		115.3	115.3	115.9

[1] Weighted Average 10/1/80 = 102.7.

Based on the above figures, we conclude that the Second Quarter 1982 Rail Cost Adjustment Factor (RCAF) remains at 115.3 and that the Third Quarter 1982 RCAF is 115.9.

We have reviewed the AAR's Exhibit IV, "Forecasting Experience" which compares quarterly forecast with actual quarterly results. The exhibit shows that in the last 3 quarters of 1981, forecasts were understated by 1.6, 0.6, and 0.8 percent and that in the 1st quarter of 1982, forecasts were overstated by 2.1 percent. We find this exhibit to be a helpful method of tracking forecasting overstatements and understatements and ask that it be continued.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Pub. L. 96–354, it is our opinion that it will not have a significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

Dated: June 21, 1982.

By the Commission, Chariman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17361 Filed 6-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers: Permanent Authority Decisions; Decision

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the Absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–127

Decided: June 18, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Fortier not participating.

MC 119083 (Sub-4), filed May 18, 1982. Applicant: MISSOURI VALLEY TRAILS, INC., 114 First St., Havre, MT 59501. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, 415–986–8696. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 148952 (Sub-2), filed May 21, 1982. Applicant: JOHN GALVIN, d.b.a. INSTANT CARGO EXPRESS, P.O. Box 658, Derry, NH 03038. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, 402–475–6761. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162003, filed May 14, 1982. Applicant: MARK JACQUES, d.b.a. M. J. TRUCKING, 413 1st St., Luxemburg, WI 54217. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520, (715) 478–3341. Transporting (1) *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), and (2) for, or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP3–005

Decided: June 21, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

MC 118474 (Sub-12), filed June 11, 1982. Applicant: AIR VAN LINES, INC.,

1280 116th Ave., N.E., Bellevue, WA 98004. Representative: Thomas N. Chewning (same address as applicant), (206) 453–5560.Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17352 Filed 6–25–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision

The follwing applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the excepton of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authoirty granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–128

Decoded: June 18, 1982.

By the Commission, Review Board Number 1, Members Parker, Chandler and Fortier. Member Fortier not participating.

MC 99123 (Sub-10), filed May 13, 1982. Applicant: QUAST TRANSFER, INC., P.O. Box 7, Winsted, MN 55395. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *over regular routes, general commodities* (except household goods, commodities in bulk, and classes A and B explosives): (1) between Minneapolis and Browns Valley, MN: from Minneapolis over MN Hwy 55 to junction MN Hwy 124, then over MN Hwy 124 to junction MN Hwy 23, then over MN Hwy 23 to junction MN Hwy 9, then over MN Hwy 9 to junction MN Hwy 28, then over MN Hwy 28 to Browns Valley, serving the off-route points of Donnelly, Hanover, Cyrus, and Collis, MN, and return over the same route, (2) between Litchfield, MN and Milbank, SD, over U.S. Hwy 12, (3) between junction MN Hwy 22 and MN Hwy 7 and Ortonville, MN, over MN Hwy 7, (4) between Stewart and Montevideo MN, over U.S. Hwy 212, serving the off-route point of Cottonwood, MN, (5) between Buffalo and Norwood, MN, over MN Hwy 25, (6) between Paynesville and Hector, MN, over MN Hwy 4, (7) between Willmar, MN and junction U.S. Hwy 71 and U.S. Hwy 212, over U.S. Hwy 71, (8) between Paynesville and Granite Falls, MN, over MN Hwy 23, (9) between Benson and Montevideo, MN, over MN Hwy 29, (10 between Morris and Appleton, MN, over U.S. Hwy 59, (11) between Graceville and Ortonville, MN, over U.S. Hwy 75, (12) between Willmar and Milan, MN, over MN Hwy 40, (13) serving in connection with routes (1) through (12): all intermediate points and the off-route points in Hennepin, Meeker, Kandiyohi, Chippewa, Swift and Big Stone Counties, MN, in Renville and Lac Qui Parle Counties, MN on and north of U.S. Hwy 212, in Wright County, MN south of MN Hwy 55, and in Stevens County, MN south of MN Hwys 9 and 28.

MC 99493 (Sub-15), filed June 1, 1982. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, 3500 Industrial Rd., Harrisburg, PA 17110. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101, 717–236–9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S., in and east of MN, IA, MO, AR, and LA.

MC 107012 (Sub-763), filed May 20, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429–2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Miller Brewing Company, of Milwaukee, WI.

MC 110563 (Sub-328), filed June 2, 1982. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Rte. 29, North, Sidney, OH 45365. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *general commodities* (except commodities in bulk and household goods), between points in the U.S. (including AK, but excluding HI). Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 133863 (Sub-6), filed May 20, 1982. Applicant: FRANK MURPHY CONTRACT CARRIER, INC., 730 Richmond Terrace, Staten Island, NY 10301. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572–5551. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, OH, and PA.

MC 138732 (Sub-36), filed May 20, 1982. Applicant: OSTERKAMP TRUCKING, INC., 764 N. Cypress St., P.O. Box 5546, Orange, CA 92667. Representative: Steven K. Kuhlmann, Suite 2600, 717–17th St., Denver, CO 80202, (303) 892–6700. Transporting *such commodities* as are dealt in by manufactures and distributors of pulp, paper, and related articles and containers, (1) between those points in the U.S. (except AK and HI) in and west of CO, MT, OK, TX, and WY, and (2) between points in Mays County, OK, Coconino County, AZ, and Los Angeles and Orange Counties, CA, on the one hand, and, on the other, those points in the U.S., in and east of CO, MT, NM, and WY.

MC 140193 (Sub-14), filed May 13, 1982. Applicant: RICH GRANT, INC., 910 W. 24th St., Ogden, UT 84401. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *general commodities* (except classes A & B explosives, household goods, and commodities in bulk), between those points in the U.S., in and West of OH, IN, IL, MO, AR, and LA (except AK and HI).

MC 140273 (Sub-35), filed May 17, 1982. Applicant: BUESING BROS. TRUCKING, INC., 2285 Daniels St., Long Lake, MN 55356. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, 612–333–1341. Transporting *clay, concrete, glass or stone products,* between points in ND, SD, IA, MN, WI, IL, IN, MO, MI, KY, CO, NE, WY, MT, KS, and OH.

MC 146213 (Sub-19), filed May 17, 1982. Applicant: WISCONSIN FARM LINES, LTD., P.O. Box 76, Wisconsin Dells, WI 53965. Representative: Stanley C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Chicago, IL, points in McHenry, Boone, and Winnebago Counties, IL, and points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147242 (Sub-15), filed May 20, 1982. Applicant: PLAZA FREIGHT TRANSPORT, INC., 12–90 Plaza Rd., Fair Lawn, NJ 07410. Representative: Arthur Liberstein, 888 Seventh Ave., New York, NY 10106, (212) 757–8025. Transporting *foam rubber and related products,* between points in the U.S., under continuing contract(s) with Crest Foam Corporation, of Moonachie, NJ.

MC 151612 (Sub-1), (correction), filed April 20, 1982, published in the Federal Register, issue of May 26, 1982, and republished, as corrected, this publication. Applicant: U.S. SALT—JOHNSON ENTERPRISES, INC., 1020 Black Dog Road, Burnsville, MN 55337. Representative: Samuel Rubenstein, Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting (1) *chemicals and related products* between points in the U.S. (except AK and HI) under continuing contract(s) with American Salt Company of Kansas City, MO, and Independent Salt Company, of Kanopolis, KS, and (2) *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI) under continuing contract(s) with Domtar Industries, Inc., Sifto Salt Division of Schiller Park, IL.

Note.—The purpose of this republication is to correct the commodity description in part (2).

MC 151193 (Sub-25), filed May 18, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same address as applicant), (201) 499–3869. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charles T. Bainbridge's Sons, Inc., of Edison, NJ.

MC 151193 (Sub-26), filed May 18, 1982. Applicant: PAULS TRUCKING CORPORATION, 286 Homestead Ave., Avenel, NJ 07001. Representative: Michael A. Beam (same address as applicant), (201) 499–3869. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Airwick Industries, Inc., of Carlstadt, NJ.

MC 153993 (Sub-2), filed May 19, 1982. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02746. Representative: Terrence Murphy (same address as applicant), (617) 996–5620. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Smiths General Trucking and Warehouse, of West Warwick, RI.

MC 153993 (Sub-3), filed May 19, 1982. Applicant: TKN, INC., 1242 Shawmut Ave., New Bedford, MA 02746. Representative: Terrence M. Murphy (same address as applicant), (617) 996–5620. Transporting *plastic products, disposable medical supplies, rubber tubing, scissors, tweezers and gauze pads,* between points in the U.S. (except AK and HI), under continuing contract(s) with Superior Plastics Corporation, of Cumberland, RI.

MC 156983, filed June 8, 1982. Applicant: DIEBEL TRUCK SERVICE, INC., 1545 7th Ave. North, Lewiston, ID 83501. Representative: W. E. Seliski, 2 Commerce St., P.O.B. 8255, Missoula, MT 59807, 406–543–8369. Transporting (1) *fertilizer,* between points in MT, on the one hand, and, on the other, Minneapolis, MN and points in ID and WA; and (2) *such commodities* as are dealt in or used by lumber yards, between points in WA, OR, ID, and MT, on the one hand, and, on the other, those points in the U.S. in and west of WI, IL, MO, AR, and TX (except AK and HI).

MC 159382, filed May 20, 1982. Applicant: ADAMS TRUCKING COMPANY, INC., Route 1, Box 72, McCalla, AL 35111. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmington, AL 35209–4786, (205) 942–9116. Transporting *metal, metal articles, and fabrications, pipe, building and construction materials, chemicals, and machinery,* between Houston, TX, and points in Jefferson, Shelby, St. Clair, and Calhoun Counties, AL, Tangipahoa and St. Tammany Parishes, LA, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 160373, filed June 11, 1982. Applicant: C & G TRUCKING, INC., P.O. Box 56, Seaford, DE 19973. Representative: Wilmer B. Hill, Suite 366, 1030 15th St. NW., Washington, DC 20005, 202–296–5188. Transporting *textile fibers and related materials, equipment, and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with E. I. du Pont de Nemours & Company, Inc., of Wilmington, DE.

MC 161462 (Sub-1), filed May 20, 1982. Applicant: MIDLAND EXPRESS, INC., 29 South LaSalle St., Suite 350, Chicago, IL 60603. Representative: Anthony E. Young (same address as applicant), (312) 782–8880. Transporting *food and related products,* between points in FL and GA, on the one hand, and, on the other, points in IL, IN, and WI.

MC 162023, filed May 17, 1982. Applicant: FREDERICK TRANSPORT (U.S.), INC., 4000 49th Ave., Moline, IL 61265. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. N.W., Washington, DC 20005, (202) 783–3525. Transporting *machinery,* between points in Linn County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162063, filed May 18, 1982. Applicant: LDI TRANSPORT, INC., 5600

North County Rd. 18, Minneapolis, MN 55428. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Liberty Diversified Industries, of New Hope, MN, and its divisions and subsidiaries.

MC 162073, filed May 17, 1982. Applicant: VANPORT MANUFACTURING, INC., P.O. Box 97, Boring, OR 97009. Representative: Adolph Hertrich (same address as applicant), (503) 663–4466. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR and WA, under continuing contract(s) with Cascade West Materials, Inc., of Lake Oswego, OR.

MC 162283, filed June 1, 1982. Applicant: C–2 CONSTRUCTION COMPANY, 825 Monroe St. #3, Eugene, OR 97402. Representative: Duane R. Hoyt (same address as applicant), (503) 683–3100. Transporting *machinery, motor vehicles, construction and building equipment, materials and supplies* between points in the U.S. (except AK and HI).

MC 162462, filed June 11, 1982. Applicant: JIM FATH & SONS TRUCKING, INC., 8461 Cincinnati-Columbus Rd., West Chester, OH 45069. Representative: Stephen D. Strauss, 2510 Carew Tower, Cincinnati, OH 45202, 513–621–4607. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Butler, Hamilton, Montgomery, and Warren Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP3-093

Decided: June 21, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

FF 434 (Sub-8), filed June 9, 1982. Applicant: TRANSCONEX, INC., 3000 N.W. 74th Ave., Miami, FL 33152. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. As a *freight forwarder*, in connection with the transportation of *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in IL, IN, IA, KS, MI, MN, MO, NE, SD, and WI, on the one hand, and, on the other, points in CA, GA, LA, MD, NJ, NY, and TX.

MC 1515 (Sub-310), filed June 9, 1982. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant), (602) 248–2942. Over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Fort Wayne, IN and Elkhart, IN, serving all intermediate points, over U.S. Hwy 33.

Note.—This regular route authority may be tacked with applicant's existing authority.

MC 9644 (Sub-21), filed June 3, 1982. Applicant: HAYES TRUCK LINE, INC., 1410 Intercity Trafficway, P.O. Box 4018, Kansas City, MO 64101. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309, (515) 244–2329. Transporting *food and related products*, between Kansas City, KS, on the one hand, and, on the other, points in MO and IL.

MC 53965 (Sub-204), filed June 11, 1982. Applicant: GRAVES TRUCK LINE, INC., 8717 W. 110th St., Suite 700, Overland Park, KS 66210. Representative: Bruce A. Bullock, One Woodward Ave., 26th Fl., Detroit, MI 48226, (313) 965–2577. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, plastic film and printed matter, between points in the U.S. (except AK and HI), under continuing contract(s) with Armin Plastics Oklahoma, Inc. and Armin/Poly-Version, Inc., of Tulsa, OK.

MC 133864 (Sub-2), filed June 11, 1982. Applicant: ADVANCED PICKUP & DELIVERY SERVICE, INC., 140 Grand St., Carlstadt, NJ 07072. Representative: Harold L. Reckson, 32–28 Halsey Rd., Fair Lawn, NJ 07410, (201) 791–2270. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135924 (Sub-36), filed June 11, 1982. Applicant: SIMMONS TRUCKING CO., INC., 3851 River Rd., Grand Rapids, MN 55744. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting *plastic and rubber products*, between points in the U.S. (except AK and HI), under continuing contract(s) with LCP Plastics, Inc., of Colfax, NC.

MC 138144 (Sub-67), filed June 8, 1982. Applicant: FRED OLSON CO., INC., 6022 West State St., Milwaukee, WI 53213. Representative: William D. Brejcha, 180 N. Michigan, #1700, Chicago, IL 60601. Transporting *general commodities* (except A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 143165 (Sub-7), filed June 4, 1982. Applicant: CHARLES W. McCLELLAND, d.b.a. McCLELLAND LUMBER TRANSPORTS, P.O. Box 73, Cuba, MO 65453. Representative: Charles W. McClelland (same address as applicant) (314) 885–3332. Transporting *lumber and lumber products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Broadview Lumber Company, Inc., of Carthage, MO, American Log Homes, Inc., of Bourbon, MO, Slanker & Co., of Jefferson City, MO, Denney Lumber Company, Inc., of St. Louis, MO, and Binder & Son Lumber Co., Inc., of St. Charles, MO.

MC 143185 (Sub-8), filed June 8, 1982. Applicant: CHARLES G. LAWSON, TRUCKING, INC., P.O. Box 2805, Montgomery, AL 36105. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting (1) *food and related products*, between points in Perry County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *such commodities* as are dealt in or used by manufacturers and distributors of proprietary and over-the-counter drugs, between St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146964 (Sub-22), filed June 7, 1982. Applicant: RELIABLE TRUCK LINES, INC., R.D. #5, 5 Marianne Dr., York, PA 17402. Representative: Michael Valencik (same address as applicant), (717) 767–7781. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 147404 (Sub-8), filed June 7, 1982. Applicant: DONALD J. GETTELFINGER, d.b.a. GETTELFINGER FARMS, R.R. 2, Box 241, Palmyra, IN 47164. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204, (317) 635–2339. Transporting *food and related products*, between points in Lamar County, TX, on the one hand, and, on the other, points in KS, NE, LA, MS, AR, TN, AL, FL, GA, IN, and KY.

MC 148614 (Sub-3), filed June 7, 1982. Applicant: CALDWELL TRUCKING, INC., B 120 Star Rt., Pendleton, OR 97801. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), under

continuing contract(s) with Superior Transporting Systems, Inc., of Wilsonville, OR.

MC 151124 (Sub-1), filed June 9, 1982. Applicant: LOLA JEANNE LYNN, d.b.a. LYNN LEASING, P.O. Box 117, Labadie, MO 63055. Representative: Same as applicant, (314) 742–4422. Transporting *sand,* in bulk, between points in Jefferson and St. Louis Counties, MO, on the one hand, and, on the other, points in Montgomery County, IL, under continuing contract(s) with Hillsboro Glass Co., of Hillsboro, IL.

MC 154314 (Sub-2), filed June 10, 1982. Applicant: R. S. J. EXPRESS, INC., 127–36 Northern Blvd., Flushing, NY 11368. Representative: Michael R. Werner, 241 Cedar Lane, Teaneck, NJ 07666, (201) 836–1144. Transporting *iron and steel articles,* between those points in and east of TX, OK, LA, AR, MO, IA, and MN.

MC 155174, filed June 7, 1982. Applicant: ILLINOIS CARGO, INC., 14858 S. Lommis Ave., P.O. Box 212, Harvey, IL 60426. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *metal products,* between Chicago, IL, points in Vermilion County, IL, and Jackson County, MI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NY, OH, PA, and WI.

MC 156064 (Sub-2), filed June 8, 1982. Applicant: GENEVA and JOHN NIXON, d.b.a. NIXON FREIGHT LINES, 3618 U.S. Route 42, P.O. Box 213, Mason, OH 45040. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *pulp, paper, and related products,* between points in KY, WI, TX, FL, and NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159725 (Sub-2), filed June 9, 1982. Applicant: TESKEY TRANSPORTATION CO., 501 S. Stimson Ave., City of Industry , CA 91745. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *printed matter,* between points in the U.S., under continuing contract(s) with Walden Books, of Stanford, CT.

MC 160774 (Sub-1), filed June 11, 1982. Applicant: TRANSCO SERVICES, INC., P.O. Box 20133, Phoenix AZ 85036. Representative: David Robinson, 2228 W. Northern Ave., Suite B–201, Phoenix, AZ 85021, (602) 864–0999. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Hidalgo, Starr, and Cameron Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161595, filed June 11, 1982. Applicant: AMBASSADOR TOWNCAR SERVICE, INC., 2324 Post RD., Fairfield, CT 06430. Representative:> L. C. Major, Jr., Suite 304, Overlook Bldg., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *passengers and their baggage,* in the same vehicle with passengers, limited to the transportation of no more than six (6) passengers (including the driver), in one vehicle at one time, in special and charter operations, between points in Fairfield and New Haven Counties, CT, and points in NY, NJ, and DE.

MC 161765, filed May 24, 1982. Applicant: JOE E. ROBERTSON and JOE H. ROBERTSON, d.b.a. JOE'S BODY SHOP, Route 136, East, P.O. Box 533, Rantoul, IL 61866. Representative: Joe H. Robertson (same address as applicant), (217) 892–8200. Transporting *wrecked and disabled vehicles,* between points in IL, WI, MI, IA, IN, OH, KY, TN, MO, OK, and MN.

MC 161905, filed June 10, 1982. Applicant: KETCHAM TRUCKING, INC., 5 Ketcham Ave., St. James, NY 11780. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, (212) 263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Rally Oil Co., Inc., of Melville, NY.

MC 161915, filed June 8, 1982. Applicant: DAVID C. ARNIO, d.b.a. DAVID C. ARNIO TRUCKING, 1224 Granada, Casper, WY 82601. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701, (605) 343–4036. Transporting (1) (a) *Mercer commodities,* (b) *machinery,* (c) *electrical materials, equipment and supplies,* and (d) *metal products,* between points in the U.S. in and west of ND, SD, NE, KS, OK, AR, and LA (except AK and HI), and (2) *petroleum and petroleum products,* between points in Natrona County, WY, on the one hand, and, on the other, points in CO, ID, MT, NE, ND, SD, UT, and WY.

MC 162324, filed June 4, 1982. Applicant: PRIDE EXPRESS & TRANSFER CO., INC., 5423 Hollow Oak Court, St. Louis, MO 63129. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Smith-Scharff, of St. Louis, MO.

MC 162355, filed June 7, 1982. Applicant: UNIVERSAL INDUSTRIAL SERVICES, INC., 620 Wilbur Ave., Antioch, CA 94509. Representative: Elvis Lawhorn (same address as applicant), (415) 778–4430. Transporting *hazardous materials,* between points in CA, on the one hand, and, on the other, points in Owyhee County, ID, Union County, AR, and Washoe County, NV, under continuing contract(s) with General Electric Company, of Schenectady, NY, and Time Oil Company, of Seattle, WA.

MC 162384, filed June 7, 1982. Applicant: SOUTHWEST EXPRESS, INC., Washington St., East Walpole, MA 02032. Representative: Fred K. Bauer, (same address as applicant), (617) 668–2500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and west of MN, IA, MO, AR, and LA (except AK and HI).

MC 162385, filed June 8, 1982. Applicant: BILL CASE, d.b.a. CASE TRUCKING COMPANY, 324 World Trade Bldg., 1520 Texas Ave., Houston, TX 77002. Representative: John G. Wentz, Jr., 7863 Cook Rd., Houston, TX 77072, (713) 228–7447. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in AL, AZ, AR, CA, CO, FL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, and WY.

MC 162395, filed June 8, 1982. Applicant: RIO LINDA MARINE, 4835 Rio Linda Blvd., Sacramento, CA 95836. Representative: Dennis W. Markin (same address as applicant), (916) 991–5834. Transporting *boats,* between points in the U.S.

MC 162424, filed June 10, 1982. Applicant: BEN MASSIE, d.b.a. TRANSPORTATION DEL NORTE, P.O. Box 483, Pine River, MN 56474. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *building materials,* between points in CA, ID, MT, OR, SD, WA, and WY, on the one hand, and, on the other, points in IA, MN, ND, SD, and WI.

MC 97244 (Sub-6), filed May 17, 1982, previously published in the Federal Register issue of June 2, 1982. Applicant: MASS. TRANSPORTATION, INC., 187 Sidney Street, Cambridge, MA 02139. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742–3530. Transporting *food and related products,* between points in IL, MA, NJ, and NY, on the one hand, and, on the other, points in CT, DE, GA, IL, ME, MD,

MA, NH, NJ, NY, OH, PA, RI, VT, and VA.

Note.—This republication corrects the territorial description to include NJ.

Volume No. OP4-222

Decided: June 15, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 116717 (Sub-1), filed June 9, 1982. Applicant: RALPH C. HUTTICK, 4931 N. Fairhill St., Philadelphia, PA 19120. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Philadelphia, PA, points in Bucks and Montgomery Counties, PA, and points in New Castle County, DE, on the one hand, and, on the other, points in DE, MD, NJ, NY, VA and DC.

MC 154716 (Sub-3), filed June 10, 1982. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Rd., Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352–7220. Transporting *metal containers and container tops*, between points in the U.S., under continuing contract(s) with IG–LO Products Corporation, of Hernando, MS.

MC 154716 (Sub-4), filed June 10, 1982. Applicant: WALGREEN OSHKOSH, INC., 200 Wilmot Rd., Deerfield, IL 60015. Representative: John T. O'Connell, 521 S. LaGrange Rd., LaGrange, IL 60525, (312) 352–7220. Transporting *paper and paper products*, between points in the U.S., under continuing contract(s) with Manville Forest Products Corporation, of West Monroe, LA.

MC 161607 (Sub-1), filed June 1, 1982. Applicant: J. B. SAWYER TRUCKING, INC., 2205 Shannon Dr., Valparaiso, IN 46383. Representative: John B. Sawyer (same address as applicant), (219) 462–4779. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, and CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 162416, filed June 10, 1982. Applicant: CANDLEWOOD VALLEY BUS COMPANY, INC., 25 Old Gray's Bridge Rd., Brookfield, CT 06804. Representative: William D. Clinkard (same address as applicant), (203) 743–5421. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in New Haven, Hartford, Litchfield and Fairfield Counties, CT, and extending to points in the U.S. (except AK and HI).

Volume No. OP4-228

Decided: June 22, 1982.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 61396 (Sub-405), filed June 11, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. Transporting *fly ash*, between points in Sullivan County, TN, on the one hand, and, on the other, points in VA.

MC 121396 (Sub-4), filed June 11, 1982. Applicant: GOGGIN TRUCK LINE CO., INC., P.O. Box 1067, Shelbyville, TN 37160. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Nashville, TN, and Rocky Mount, NC: from Nashville over Interstate Hwy 75 to Interstate Hwy 40, then over Interstate Hwy 40, then over Interstate Hwy 40 to Interstate Hwy 64, then over Interstate Hwy 64 to Rocky Mount, and return over the same route, and (2) between Nashville, TN, and Charleston, SC: from Nashville over Interstate Hwy 40 to Interstate Hwy 26, then over Interstate Hwy 26 to Charleston, and return over the same route, serving all intermediate points in (1) and (2) above, and the off-route points in NC, SC and TN.

Note.—Applicant states he intends to tack this authority with its existing operating rights.

MC 124896 (Sub-107), filed May 24, 1982, previously noticed in the **Federal Register** issue of June 8, 1982, and republished this issue. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Sts., P.O. Box 3485, Wilson, NC 27893. Representative: Norman J. Philion, III, 1920 N St., N.W., Suite 700, Washington, DC 20036, (202) 331–8800. Transporting (1) *food and related products*, and (2) *such commodities* as are dealt in or used by fast food restaurants, between points in AL, AR, CA, DE, IA, IL, IN, KS, MY, LA, MA, MI, MN, MO, MS, NE, NY, OH, PA, OK, TN, TX, WI, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148806 (Sub-2), filed May 17, 1982. Applicant: GUNNISON TRUCKING, 601 S. Blvd., Gunnison, CO 81230. Representative: Jack K. Coleman, 26 Quartz St., P.O. Box 420, Gunnison, CO 81230, (303) 641–1871. Transporting *ores and minerals*, between points in Saguache and Gunnison Counties, CO, and points in NM and UT, under continuing contract(s) with Homestake Mining Company, of Gunnison, CO.

MC 149576 (Sub-18), filed June 14, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: Ron McGraw (same address as applicant), (201) 985–2182. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with BASF Wyandotte Corporation of Parisippany, NJ.

MC 149586 (Sub-1), filed June 11, 1982. Applicant: GAZDA MOVING COMPANY, INC., 7580 Commerce Lane, NE., Minneapolis, MN 55432. Representative: Robert P. Sack, P.O. Box 21–307, Eagan, MN 55121, (612) 452–8770. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sico, Inc., of Minneapolis, MN.

MC 154416 (Sub-5), filed June 11, 1982. Applicant: J & S LINES, INC., P.O. Box 183, Mukwonago, WI 53149. Representative: Ronald E. Laitsch, 108 S. Second St., Watertown, WI 53094, (414) 261–9725. Transporting *such commodities* as are dealt in by hardware stores, between points in NY, NJ, CT, FL, PA, IL, WI, OR, WA, ID, CA, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17353 Filed 6-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the

protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

The following applications were filed in Region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152597 (Sub-1–TA), filed June 15, 1982. Applicant: ARROW-LIFSCHULTZ FREIGHT FORWARDERS, INC., 312 West 80th Street, New York, NY 11023. Representative: Carl L. Haderer (same as applicant) *General commodities (except Classes A and B explosives, household goods, and commodities in bulk),* between NY and NJ on the one hand, and, on the other, the facilities of Atherton Industries, Carollton, TX. Supporting shipper: Atherton Industries, 260 Constitution Drive, Menlo Park, CA 94025.

MC 6713 (Sub-1–5TA), filed June 14, 1982. Applicant: BRAUN'S EXPRESS, INC., 1494 Main Street (Rear), Millis, MA 02054. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. *Contract carrier:* irregular routes: *Electrical and electronic equipment and parts, computers, data processing components and materials, supplies and equipment used in the manufacature, processing, distribution, sale and use of such commodities,* between points in ME, NJ, VT, MA, RI, CT, and NY, under continuing contract(s) with Digital Equipment Corporation, Northboro, MA. Supporting shipper: Digital Equipment Corporation, 450 Whitney Street, Northboro, MA 01532.

MC 162511 (Sub-1–1TA), filed June 16, 1982. Applicant: M.J.T. ENTERPRISES, d.b.a. CAPE COD OIL COMPANY, Ships Way Road, Provincetown, MA 02657. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Petroleum and petroleum products, gasoline, kerosene, diesel fuels and fuel oils, in containers in bulk* between points in MA and RI. Supporting shipper(s): Goulds Fuel Oil, 34 Holway Street, Chatham, MA 02633; H. H. Snow & Sons, Inc., 22 Main Street, Orleans, MA 02653; Marcey Oil Company, 37 Franklin Street, Provincetown, MA 02657; P. S. Ideal Fuel, Acapasket Road, E. Falmouth, MA.

MC 148203 (Sub-1–5TA), filed June 16, 1982. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5S, R.D. #2, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, Esq., 118 Bleeker Street, Utica, NY 13501. *Contract carrier:* irregular routes: *Foodstuffs* between Boston, MA and points in the U.S. (except AK & HI) under continuing contract(s) with The Schrafft Candy Co., Boston, MA. Supporting shipper: The Schrafft Candy Co., Sullivan Square, Boston, MA 02129.

MC 146026 (Sub-1–10TA), filed June 15, 1982. Applicant: CROSS COUNTRY FARMING CO., INC., Pine Island Turnpike, P.O. Box 134, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper products, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between the facilities used or utilized by The Beekman Paper Company, Inc., its subsidiaries, divisions, affiliates, and vendors, at points in the U.S. (except AK and HI) on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: The Beekman Paper Company, Inc., 137 Varick Street, New York, NY 10013.

MC 148849 (Sub-1–4TA), filed June 15, 1982. Applicant: EQUITABLE BAG CO., INC., 45–50 Van Dam Street, Long Island City, NY 11101. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods, and commodities in bulk),* between points in the U.S. (except AK and HI), under continuing contract(s) with Direct Shippers Association, Inc., Bayonne, NJ. Supporting shipper: Direct Shippers Association, Inc., 100 Pulaski Street, Bayonne, NJ 07003.

MC 134651 (Sub-1–1TA), filed June 17, 1982. Applicant: JOHN GRANT HAULAGE LIMITED, 2111 Lakeshore Road West, Mississauga, Ontario, CD L5J 1J9. Representative: William J. Hirsch P.C., 64 Niagara Street, Buffalo, NY 14202. *Cement* between ports of entry on the International Boundary between the U.S. and CD, located in NY, on the one hand, and, on the other, Oswego, NY. Supporting shipper: Independent Cement Corporation, 1751 Fuhrman Boulevard, Buffalo, NY 14218.

MC 162206 (Sub-1–2TA), filed June 16, 1982. Applicant: IMPERIAL FREIGHT SERVICE, INC., 740 Lloyd Road, Matawan, NJ 07747. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Chemicals (except hazardous materials and in bulk)* between the facilities of NL Chemicals at Bayonne, Jersey City, Newark and Sayreville, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: NL Chemicals, P.O. Box 700, Highstown, NJ 08520.

MC 162456 (Sub-1–1TA), filed June 14, 1982. Applicant: LOCKPORT TRUCKING & WAREHOUSE CO., INC., 129–02 Northern Boulevard, Corona, NY 11368. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *General commodities (except Classes A and B explosives, household goods and commodities in bulk),* between Corona, NY, on the one hand, and, on the other points in NJ, NY, PA and CT, under continuing contract(s) with A. Fodera & Son, Inc. d/b/a House of Fodera, Corona, NY. Supporting shippers(s): A. Fodera & Son, Inc., d/b/a House of Fodera, 129–02 Northern Boulevard, Corona, NY 11368.

MC 155231 (Sub-1–2TA), filed June 16, 1982. Applicant: MAXAM TRUCKING, INC., R.D. #D. Bassette Road, Interlaken, NY 14847. Representative: Donald C. Carmien, Esq. Suite 501 Midtown Mall, 15 Chenango Street, P.O. Box 1922, Binghamton, NY 13902–1922. *Contract carrier:* irregular routes: *Unfinished Canoes, parts, accessories and raw materials for manufacture thereof* between Marathon, NY, on the one hand, and, on the other, points in the U.S. except CA, WA, OR, MN, and ID, under continuing contract(s) with Grumman Boats—Division of Brumman Allied Industries, Inc., Marathon, NY. Supporting shipper: Grumman Boats—Division of Grumman Allied Industries, Inc., Marathon, NY 13803.

MC 3647 (Sub-1–4TA), filed June 16, 1982. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Ave., Maplewood, NJ 07040. Representative: Irwin I. Kimmelman, Atty. Gen. of NJ, John F. Ward, Dep. Atty. Gen., McCarter Hwy & Market St., P.O. Box 10009, Newark, NJ 07101. *Passengers and their baggage, and express, in the same vehicle with passengers* between points in East Brunswick, NJ and South River, NJ serving all intermediate points from

junction NJ Hwy 18 and Old Bridge Turnpike, East Brunswick (Middlesex County Hwy 527), then over Old Bridge Turnpike to junction Prospect Street, then over Prospect Street to junction Reid Street, then over Reid Street to junction Main Street, South River; then over Main Street to junction Milltown Road, then over Milltown Road to junction U.S. Hwy 18 East Brunswick. Return from junction NJ Hwy 18 and Cranbury Road, then over Cranbury Road to junction Main Street, South River; then over main Street to junction Thomas Street, then over Thomas Street to junction Reid Street and Prospect Street, then over Prospect Street to juction Old Bridge Turnpike, (Middlesex County Hwy 527); then over Old Bridge Turnpike to junction Old Bridge Turnpike and NJ Hwy 18, East Brunswick. Applicant proposes to join the above described authority with its present service to and from New York, NY. Supporting shipper(s): There are 29 statements in support of this application which may be examined at the Regional office of the I.C.C. in Boston, MA.

MC 162523 (Sub-1–1TA), filed June 17, 1982. Applicant: ROCCO G. ONORATO, d.b.a. NATICK CITGO, 62 E. Central Street, Natick, MA 01760. Representative: Francis J. Lynch, J.D., P.C., 1627 Main Street, Brockton, MA 02401. *Used motor vehicles in truckaway service* between points in PA, FL, CT, RI, MA, and NH. Supporting shipper(s): Centerville Auto Body, Inc., 9 Packard Street, Brockton, MA 02401; Hyde Park Auto Sales, 645 Hyde Park Avenue, Roslindale, MA 02136; Economy Motors, 767 Waverly Street, Framingham, MA 02171.

MC 162513 (Sub-1–1TA), filed June 16, 1982. Applicant: NOVA TRANSPORTATION, INC., 294 Kimberly Avenue, New Haven, CT 06519. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103. *General commodities (except Classes A and B explosives and commodities in bulk)* between points in CT, MA, RI, NY, and NJ and points in the U.S. east of the Mississippi River. Supporting shipper(s): There are 14 statements in support of this application which may be examined at the Regional office of the I.C.C. in Boston, MA.

MC 162497 (Sub-1–1TA), filed June 15, 1982. Applicant: PETRO TRUCKING CO., INC., 26 North Avenue, Garwood, NJ 07027. Representative: George A. Olsen, P.O. Box 357,Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Toys, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between Garwood, NJ, on the one hand, and, on the other, points in MN, OH, and PA, under continuing contract(s) with Mark 10, Garwood, NJ. Supporting shipper(s): Mark 10, 200 South Avenue, Garwood, NJ 07027.

MC 148387 (Sub-1–10TA), filed June 15, 1982. Applicant: S.M.P., INC., 166 Sitgreaves Street, Phillipsburg, NJ 08865. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Paper and paper products, and (2) Materials, equipment, and supplies, used in the manufacture and sale of the commodities named in (1) above,* between Riegelsville, PA, on the one hand, and, on the other, points in the U.S. east of and including the States of MN, IA, MO, KS, OK, and TX (except CT, NJ, and NY). Supporting shipper: Durham Mills, Inc., Route 611 and 12, Riegelsville, PA 18077.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 108631 (Sub-2–8TA), filed June 14, 1982. Applicant: BOB YOUNG TRUCKING, INC., Schoenersville Road at Industrial Dr., Bethlehem, PA 18017. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Kiln sections* and other commodities which, because of their size or weight, require the use of special handling or equipment between points in Montour County, PA, on the one hand, and, on the other, Philadelphia, PA, for 270 days. An underlying ETA seeks 30 days authority. Supporting shipper(s) Kennedy Van Saun Corporation, Railroad Street, Danville, PA 17821.

MC 151767 (Sub-II–3TA), filed June 14, 1982. Applicant: BOYD F. POWERS and MICHAEL J. POWERS, d.b.a. Powers Trucking Co., 52 Market St., Lock Haven, PA 17745. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *beMalt beverages, beveragecontainers and pallets* between Fostoria, OH, on the one hand, and, on the other, points in PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Stroh Brewery Co., Detroit, MI 48226.

MC 143374 (Sub-II–4TA), filed June 15, 1982. Applicant: DURBIN TRANSPORT, INC., 17683 Oakmont Avenue, Gaithersburg, MD 20760. Representative: H. Neil Garson, 3251 Old Lee Highway Fairfax, VA 22030. *Pizzas, pizza crusts and pizza ingredients* between the facilities of Baltimore Pizza Crust Co., Inc. at or near Baltimore, MD nd Benton Harbor and Detroit, MI and Montgomery, AL, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s) Baltimore Pizza Crust Co., Inc., 3215 Lohrs Lane, Baltimore, MD 21229.

MC 2202 (Sub-II–32TA), filed June 16, 1982. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309. Representative: William O. Turney 7101 Wisconsin Avenue, Suite 1010, Washington, D.C. 20014. *General commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk) between points in the U.S., except AK and HI, under contract or contracts with Uniroyal, Inc., World Headquarters, Middlebury, CT 06749 for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s) Uniroyal, Inc., World Headquarters, Middlebury, CT 06749.

MC 152949 (Sub-II–2TA), filed June 15, 1982. Applicant: HANOVER TRANSPORT, INC., T/A G TRANSPORTATION, 610 Lickinghole Rd. Ashland, VA 23005. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229 *Baker goods, food or related products and materials, supplies and equipment used in the manufacture, sale and distribution of the above commodities* between Richmond, VA and points in its commercial zone, on the one hand, and, on the other, points in CT, DE, GA, MA, MD, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WV and DC. An underlying ETA seeks 120 days authority. Supporting shipper(s): Interbake Foods, Inc., P.O. Box 27487, Richmond, VA 23261.

MC 158502 (Sub-II–1TA), filed June 15, 1982. Applicant: TIDEWATER COMMERCIAL DELIVERIES, INC., 600 Copeland Dr., Hampton, VA 23661. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235. Contract, irregular: *General industrial supplies,* between Greensboro, NC, on the one hand, and, on the other, points in VA, under continuing contract(s) with Tidewater Supply Co. An underlying ETA seeks 120 days authority. Supporting shipper(s): Tidewater Supply Co., 3816 Patterson Ave., Greensboro, NC.

MC 29748 (Sub-II–1TA), filed June 16, 1982. Applicant: M. C. CUMBIE, INC., 5011 Ecoff Ave., Chester, VA 23831. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235. Contract, irregular: (1) *paper and paper articles, scrap paper and corrugated boxes, chemicals, materials, supplies and equipment used in the manufacture, sale and distribution of above commodities,* between Richmond, VA, on the one hand, and, on the other, points in CT, DE, DC, GA, MD, NJ, NY,

NC, PA, SC, VA and WV; (2) *scrap waste paper, corrugated boxes and cellulose insulation,* between Richmond, VA, on the one hand, and, on the other, points in DE, DC, GA, MD, NJ, NY, NC, PA and SC; (3) *scrap paper and boxes, scrap metal and materials, supplies and equipment used in the recycling of scrap paper and metal,* between points in DC, KY, MD, NJ, NC, PA, TN, VA and WV, under continuing contract(s) with Manchester Board & Paper Co., Richmond, VA; Goldman. Supporting shipper(s): Paper Stock Co., Richmond, VA and Secondary Resources of America, Inc., Richmond, VA.

MC 36222 (Sub-II–1TA), filed June 15, 1982. Applicant: CREWE TRANSFER, INC., Rt. 1, Box 209, Crewe, VA 23930. Representative: Paul D. Collins, 7761 Lakeforest Dr., Richmond, VA 23235. Contract, irregular: *scrap metal, NOI, steel or iron, lead, silver, copper, cadmium or metal alloy,* between Richmond, VA, on the one hand, and, on the other, points in CT, DC, DE, GA, KY, MD, NJ, NY, NC, OH, PA, SC, TN, VA and WV, under continuing contract(s) with Frank H. Nott, Inc. of Richmond, VA. Supporting shipper(s): Frank H. Nott, Inc., 900 Brook Rd., Richmond, VA 23261.

MC 159062 (Sub-II–TA), filed June 15, 1982. Applicant: CENTRAL TRUCKING, INC., 137 Burgess Lane, Charlottesville, VA 22901. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Coal,* between points in Claiborne County, TN and points in Whitley County, KY, on the one hand, and, on the other, points in York County, PA. ETA seeks 120 days authority. Supporting shipper: John Farmer Coal Sales, Inc., P.O. Box P, Norris, TN 37828.

MC 160609 (Sub-2–2TA), filed June 15, 1982. Applicant: TOMAR, INC., Rt. 2, Box 274, Ridgeley, WV 26753. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: *Malt beverages, including materials, equipment and supplies,* between Eden, NC, including its commercial zone, on the one hand, and, on the other, Ridgeley, WV, including its commercial zone for 270 days, under a continuing contract(s) with Ridgeley Distributors, Inc. Supporting shipper: Ridgeley Distributors, Inc., P.O. Box 622, Ridgeley, WV 26753.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 162479 (Sub-3–1TA), filed June 16, 1982. Applicant: LEACH MANUFACTURING COMPANY, INC., P.O. Box 1010, Gadsen, AL 35902. Representative: John W. Copper, P.O. Box 162, Mentone, AL 35984. *Metals and Metal Articles and Materials, Equipment and Supplies used or utilized in the manufacture and shipping thereof,* between Calhoun and Etowah Counties, AL and points in the SE U.S. in and bordered by NJ, PA, OH, IN, IL, MO, KS, OK, and TX. Note: Applicant intends to interline at points in AL. Supporting shippers: There are five (5) supporting shippers which may be be reviewed at the ICC Authority Center in Atlanta, GA.

MC 162544 (Sub-3–1TA), filed June 18, 1982. Applicant: MARION BUS LEASING, INC., 20 South Main St., Marion, NC 28752. Representative: Naomi D. Frisbee (same as above). *Passengers and their baggage in special or charter operations,* between points in McDowell and Buncombe Counties, NC and points in TN, GA, SC, FL and VA. Supporting shippers: There are seven (7) statements in support of this application which may be examined at the ICC regional office, Atlanta, GA.

MC 162112 (Sub-3–1TA), filed June 17, 1982. Applicant: DOUG GAUT, d.b.a. LITTLE EAGLE EXPRESS, 2132 Neubert Road, Knoxville, TN 37914. Representative: Kathleen D. Day, 4507 Doris Circle, Knoxville, TN 37918.*Contract:* Irregular: *Packaged meat products, boxed pork products and salad products,* from Louisville, KY and Lexington, KY to points in Rossville, GA, Strawberry Plains, TN, Knoxville, TN, and Kingsport, TN. Supporting shippers: Volunteer Foods Coop., 454 Schmitt Road, Rossville GA 30741, Smokey Mountain Sales, Inc., Route #2, Box 120, Strawberry Plains, TN 37871, Pyramid Brokerage, Inc., P.O. Box 12573 Knoxville, TN 37912, and Giant Foods, Inc., 2461 Sherwood Road, Kingsport, TN 37760.

MC 2900 (Sub-3–34TA), filed June 16, 1982. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Contract carrier:* irregular: *General commodities (except Classes A and B Explosives)* between points in the U.S. under continuing contract(s) with the Anchor Hocking Corporation. Supporting shipper: Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130.

MC 135812 (Sub-3–4TA), filed June 17, 1982. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Road, Nashville, TN 37210. Representative: James Martin (same address as applicant). *Transportation Equipment* from Cincinnati, OH to Atlanta, GA, Charleston, WV, Cleveland, OH, Columbus, OH, Ft. Wayne, IN, Indianapolis, IN, Little Rock, AR, Louisville, KY, Memphis, TN, Nashville, TN, Peoria, IL, Roanoke, VA, St. Louis, MO, Houston, TX, Dallas, TX, Los Angeles, CA, and New Borgen, NJ. Supporting shipper: Key GMC-Peterbilt Trucks Sales, 1001 Gest Street, Cincinnati, OH 45203.

MC 121081 (Sub-3–11TA), filed June 16, 1982. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanelytown, VA 24168. (1) *Sheet Steel Piling,* from the facilities of Durabond Protective Coating Co., in Guilford County, NC to New Orleans, LA; (2) *Plastic pipe, plastic pipe fittings, and accessories,* from the facilities of Eslon Thermoplastics Corp. in Mecklenburg County, NC to points in AR, CO, IA, KS, LA, MO, MN, NE, OK, TX, and WY. Supporting shippers: Durabond Protective Coating Co., P.O. Box 7913, Greensboro, NC 27407, Eslon Thermoplastics Corp., P.O. Box 240–696, Charlotte, NC 28224.

MC 157406 (Sub-3–4TA), filed June 16, 1982. Applicant: AUTAUGA TRANSPORT, INC., 1410 South Memorial Drive, Prattville, AL 36067. Representative: Terry P. Wilson, 428 South Lawrence St., Montgomery, AL 36104. (1) *lumber, plywood and liner board,* from the facilities of MacMillan Bloedel in Pine Hill, AL, to Magnolia, MS, Little Rock, AR, and points in FL; (2) *scrap and waste paper,* from Memphis, TN, to the facilities of MacMillan Bloedel in Pine Hill, AL; and (3) *boxes,* from the facilities of MacMillan Bloedel in Little Rock, AR to Memphis, TN and its commercial zone. Supporting shipper: MacMillan Bloedel, Pine Hill, AL 36769.

MC 162342 (Sub-3–1TA), filed June 18, 1982. Applicant: BROOKS TRUCKING, INC., 942 Escambia Street, Jacksonville, FL 32208. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Contract,* irregular: *fencing and fencing materials,* between Jacksonville, FL on the one hand, and, on the other, points in NY, NJ, MD, PA, NC, SC, GA and AL under a continuing contract with Patio Wire Products, Inc., d.b.a. Florida Metals. Supporting shipper: Patio Wire Products, Inc., d.b.a. Florida Metals, 1048 Escambia Street, Jacksonville, FL 32208.

MC 160384 (Sub-3–3TA), filed June 21, 1982. Applicant: W. L. SAVAGE, d.b.a. SAVAGE TOUR AND CHARTER, Route #3, P.O. Box 3367, Clayton, GA 30525. Representative: W. L. Savage (same address as applicant). *Passengers and*

their baggage in Special Operations and Charter Service between Hall County, GA, and Knox County, TN. Supporting shippers: There are 5 support statements attached to this application which may be examined at the ICC Regional Office, Atlanta, GA.

MC 162572 (Sub-3–1TA), filed June 21, 1982. Applicant: TRUCK SERVICES, INC., 1590 Industrial Park Road, Mulberry, FL 33860. Representative: M. Craig Massey, 211 East Lime Street, P.O. Drawer 1109, Lakelade, FL 33802. *Contract:* Irregular: *General commodities, except commodities in bulk, household goods, and Class A and B explosives,* between points in FL, on the one hand, and, on the other, points in the US, except AK and HI. Supporting Shipper: Jewel T Discount Grocery, a division of Jewel Companies, Inc., 511 Lake Zurich Road, Barrington, IL 60010.

MC 145154 (Sub-3–19TA), filed June 21, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005. *Floor and wall coverings, and materials and supplies used in the manufacture and distribution thereof,* between Dallas, TX, and points in its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Merit Carpet Corp., 3410 Century Circle, Irving, TX 75062.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 98391 (Sub-4–1), filed June 11, 1982. Applicant: JEKEL MOVING & STORAGE CO., 405–36th. St. S.E., Grand Rapids, MI 49508. Representative: Tom Mieras, 405–36th St. S.E., Grand Rapids, MI 49508. Contract Irregular. *Products of John Thomas Batts, Inc., including coat hangers and parts thereof, and supplies and equipment used in the production and distribution thereof,* between Zeeland, MI and *points in U.S. except HI and AK.* Supporting shipper: John Thomas Batts Inc., 200 N. Franklin, Zeeland, MI.

MC 144519 (Sub-4–1TA), filed June 14, 1982. Applicant: BOND WAREHOUSING, INC., 235 Cook Avenue, Oconto, WI 54153. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular: *meat, meat products and packinghouse products,* from Cherokee and Denison, IA, Luverne, MN, Omaha, Schuyler and West Point, NE to Green Bay, WI. Restriction: restricted to transportation performed under continuing contract(s) with Packerland Packing Company, Inc. Supporting shipper: Packerland Packing Company, Inc., 2580 University Avenue, P.O. Box 1184, Green Bay, WI 54305.

MC 145807 (Sub-4–5TA), filed June 14, 1982. Applicant: DERBY TRANSPORT, INC., 609 1st Ave. N., Box 695, Weyburn, Saskatchewan, Canada S4H1P1. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Fertilizer (except liquid),* between ports of entry on the International Boundary Line between the U.S. and Canada, located in ND, MN and MT, on the one hand, and, on the other, points in ID. Supporting shipper: Pacifex, Inc., P.O. Box 2040, Pasco, WA 93301.

MC 146108 (Sub-4–7TA), filed June 14, 1982. Applicant: BIG T TRANSFER, INC., 2414 Jacobs Drive, New Albany, IN 47150. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. *Contract* irregular: (1) *Aluminum products, including aluminum paint, paste, granulated, powdered or atomized, and aluminum scrap;* (2) *Supplies, Materials, and Equipment used in the manufacture and distribution of the commodities in (1) above.* Between points in the United States (except AK and HI), under continuing contract(s) with Reynolds Metals Co., of Louisville, KY. Supporting shipper: Reynolds Metals Co., 4104 Camp Ground Road, Louisville, KY 40232.

MC 146630 (Sub-4–3TA), filed June 14, 1982. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Route 9, Verona, WI 53593. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086. *Cheese and pizza ingredients* from the facilities of Zim's Cheese, Inc. at or near Blanchardville and Juda, WI to points in AZ, CA, CO, KS, NV, NM, OK, UT and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Zim's Cheese, Inc., 708 Blake Street, Blanchardville, WI 53516.

MC 147771 (Sub-4–6TA), filed June 14, 1982. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475–6761. *Metal products,* between Detroit, MI and points in IA, IL, IN, OH, MN, ND, SD, and WI. Supporting shipper: Viking Materials, Inc., 2715 Nevada Avenue North, New Hope, MN 55427.

MC 149591 (Sub-4–4TA), filed June 14, 1982. Applicant: VALLEY EXPRESS., INC., P.O. Box 68, Glyndon, MN 56547. Representative: Richard P. Anderson, P.O. Box 2561, Fargo, ND 58108. *Contract,* Irregular, *Doors* from Walkerton, IN to points in AZ, CO, FL, KS, MN, MO, ND and WI, under contract(s) with American Door, Inc. of Walkerton, IN. Supporting shipper: American Door, Inc., Box 1, Walkerton, IN. 46574.

MC 150157 (Sub-4–5TA), filed June 14, 1982. Applicant: REGENCY MOTOR FREIGHT, INC., 26600 Van Born Road, Dearborn Heights, MI 48125. Representative: Martin J. Leavitt, Sullivan & Leavitt, P. C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Contract,* Irregular, *Products of Wolverine Aluminum Corporation* between Lincoln Park and Jackson, MI; Waverly, OH; Lawrence, KS; Lancaster, PA; and St. Louis, MO; and point in NC and AL under continuing contract with Wolverine Aluminum Corporation. Supporting shipper: Wolverine Aluminum Corporation, 1650 Howard, Lincoln Park, MI 48146.

MC 15617 (Sub-4–1TA), filed June 14, 1982. Applicant: GILLIAM TRUCKING, INC., 4585 South Harding St., Indianapolis, IN 46217. Representative: Harold C. Jolliff, 3242 Beech Drive, Columbus, IN 47201. *Contract,* Irregular: *General commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the United States (except AK and HI), under continuing contract(s) with Ivy Hill Packaging, Division of Ivy Hill Corporation, of Terre Haute, IN. An underlying ETA seeks 120 days authority. Supporting shipper: Ivy Hill Packaging, Division of Ivy Hill Corporation, P.O. Box 3189, Terre Haute, IN. 47803.

MC 159423 (Sub-4–1TA), filed June 14, 1982. Applicant: JOEL CARLSON TRUCKING, INC., Rt. 3, Box 128, North Branch, MN 55056. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273. *Pulp, Paper or Allied Products; Printed Matter; Flooring for Computer Installations,* between point in AR, IA, IL, IN, KS, LA, MI, MO, MN, ND, NE, OH, OK, SD, TX, WI, for 270 days. Supporting shippers: Wahl & Wahl, 4405 E. Lake St., Minneapolis, MN 55406; Continental Forest Industries, P.O. Box 348, Three Rivers, MI 49093; Quality Park Products, 1621 E. Hennepin Ave., Minneapolis, MN 55414.

MC 160149 (Sub-4–1TA), filed June 14, 1982. Applicant: DON TEUNISSEN, d.b.a. TEUNISSEN TRANSPORTATION, Route 1, Box 176, Cedar Grove, WI 53013. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract;*

irregular;*Metal products,* between the facilities of Charter Manufacturing Co., Inc., in the Milwaukee, WI, Commercial Zone, on the one hand, and, on the other, points in IL, IN, and MI, under continuing contracts with Charter Manufacturing Co., Inc., of Mequon, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Charter Manufacturing Co., Inc., 10500 North Port Washington Road, Mequon, WI, 53092.

MC 161551 (Sub-4–2TA), filed June 15, 1982. Applicant: FRANCIS J. CAITO INC., 5724 E. 10th Street, Indianapolis, IN 46219. Representative: Francis J. Caito (same as above). *General Commodities (except class A and B explosives, household goods)* between points and places in the U.S. restricted to shipments originating at or destined to facilities used by Ralston Purina Company. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63164.

MC 161615 (Sub-4–5TA), filed June 14, 1982. Applicant: SONN LINE TRANSPORT CO., INC., 4320 North 126th Street, Brookfield, WI 53005. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract;* irregular; Such commodities as are dealt in or used by a manufacturer or distributor of ice cream, between the facilities of McWilly's Enterprises, Inc., at Flint, MI, on the one hand, and, on the other, Tulsa, OK, Baltimore, MD, and Plymouth, FL, under continuing contract with McWilly's Enterprises, Inc., of Sarasota, FL. An underlying ETA seeks 120 days authority. Supporting shipper: McWilly's Enterprises, Inc., 1952 Stickney Point Road, Suite 210, Sarasota, FL 33581.

MC 162311 (Sub-4–1TA), filed June 15, 1982. Applicant: TERRENCE M. KNAPP, d.b.a. AMERICAN EAGLE MOVERS, 7221 North Touhy Avenue, Chicago, IL 60648. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603. *Household goods and furniture and fixtures,* between points in IL, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, IN, KY, MA, MI, MN, NY, TX and WI, for 270-day temporary authority. Supporting shippers: DND Systems, Inc., 126 Cloverdale Lane, Schaumburg, IL 60194; Lynn Patterson, 926 Clark, Gurnee, IL 60031; Bertrand Goldberg Associates, 300 North State, Chicago, IL 60610; W. W. Granger, Inc., 20 Davis Drive, Bellwood, IL 60104; and Old World Upholsterers and Furniture Restorers, 5917 West Lawrence Avenue, Chicago, IL 60630.

MC 162442 (Sub-4–1TA), filed June 11, 1982. Applicant: FRANK G. PROBST, d.b.a. F. G. P. & SONS, 1301 South Pearl Street, Janesville, WI 53545. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, 608–238–3119. *Contract*—Regular: Canned and preserved foodstuffs and materials, equipment and supplies used in the production and distribution of canned and preserved foodstuffs, between the facilities of Seneca Foods Corporation at or near Janesville, Hartford and Jackson, WI and Rochester, MN on the one hand and, on the other hand, points in IL on and north of U.S. Hwy 36; points in IN on, north and west of a line extending from the IL–IN border along Interstate Hwy 70 to its junction with Interstate Hwy 69, then along Interstate Hwy 69 to the IN–MI border; Boone and Des Moines, IA and points in IA on, north and east of a line extending from the IL–IA border along Interstate Hwy 80 to its junction with Interstate Hwy 35, then along Interstate Hwy 35 to the IA–MN border; points in MI on, south and west of a line extending from the shore of Lake Michigan along MI Hwy 46 to its junction with U.S. Hwy 131, then along U.S. Hwy 131 to the IN–MI border; points in MN on, south and east of a line extending from the MN–WI border along Interstate Hwy 94 to its junction with Interstate Hwy 35, then along Interstate Hwy 35 to the IA–MN border; and points in WI on and south of a line extending from the shore of Lake Michigan along WI Hwy 29 to its junction with Interstate Hwy 94, then along Interstate Hwy 94 to the MN–WI border, under continuing contract(s) with Seneca Foods Corporation. An underlyiing ETA seeks 120-day authority. Supporting shipper: Seneca Foods Corporation, 418 East Conde Street, P.O. Box 1587, Janesville, WI 53547–1587.

MC 161084 (Sub-4–1TA), filed June 15, 1982. Applicant: L & W TRUCKING, 210 St. Joe, Rapid City, SD 57701. Representative: David J. Stanton, Attorney, 520 Kansas City Street, Suite #201, Rapid City, SD 57701. *Brick,* Brick Products, Cement Block, or Clay Products with back-haul of Coal, Bentonite from points in Woodbury and Dallas Counties, IA; Cloud County, KS; Jefferson County, NE; and Jefferson County, CO; to points in Sheridan, Campbell, and Natrona Counties, WY; Yellowston County, MT; and Scottsbluff County, NE; with back-haul from points in WY, NE, and MT to points in MN, SD, IA, IL, and IN. Supporting shippers: 1. Rock River Coal Company, Pipestone, MN 56164; 2. Sioux City Brick & Tile Company, 222 Commerce Bldg., Box 807, Sioux City, IA 51102; 3. Pat's Masonry Supply, 956 Coffeen Ave., Sheridan, WY 82801.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 121814 (Sub-5–1TA), filed June 14, 1982. Applicant: TURNPIKE TRANSIT, INC., 2943 N. Toledo, Tulsa, OK 74115. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. *General commodities (except commodities in bulk, household goods, Classes A and B explosives, and articles requiring special equipment)* between Tulsa, OK and its commercial zone on the one hand, and, on the other, Paris, TX and Shreveport, LA and their commercial zones. Supporting shippers: 11.

Note.—Applicant intends to tack and interline.

MC 136275 (Sub-5–5TA), filed June 14, 1982. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Blvd., El Paso, TX 79922. Representative: Dann L. Drewry, 777 Executive Blvd., El Paso, TX 79922. *Coal Products, Sand, Gravel & Related Commodities, in bulk,* between points in Las Animas County, CO and points in Potter and Randall Counties, TX. Supporting shipper: American Fuels, Inc., P.O. Box 117, Trindad, CO.

MC 136746 (Sub-5–3TA), filed June 14, 1982. Applicant: CONSOLIDATED PARCEL SERVICE, INC., 2508 Concourse Drive, St. Louis, MO 63141. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. *General Commodities (except Classes A and B explosives, household goods and commodities in bulk),* between St. Louis, MO on the one hand, and, on the other, O'Fallon, MO. Supporting shippers: Allied Shippers and Receivers Assoc., Chicago, IL; The Gillette Company, St. Paul, MN; Bristol Myers Co., Chicago, IL.

Note.—Applicant intends to interline.

MC 147509 (Sub-5–1TA), filed June 14, 1982. Applicant: HUNTER TRANSPORTATION, CO., INC., 8025 Fillmore Street, Houston, TX 77052. Representative: Billy J. Overby (same as applicant). *Class A and B Explosives installed in Air Craft Fuselage,* between plant site of General Dynamics Corp., Ft. Worth, TX and steamship docks or container yards at Houston and LaPorte, TX. Supporting shipper: General Dynamics, Fort Worth, TX 76101.

MC 149115 (Sub-5–2TA), filed June 14, 1982. Applicant: RONALD D. JERNIGAN, d.b.a. RONNIE JERNIGAN

TRUCKING, Route 5, Box 35, Minden, LA 71055. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. *Sand and gravel, in bulk,* between Bossier, Caddo, Webster, Bienville and Red River Parishes, LA, and Panola, Rusk, Harrison and Marion Counties, TX. Supporting shipper: Braswell Sand & Gravel Co., Inc., P.O. Box 6772, Shreveport, LA 71106.

MC 162455 (Sub-5–1TA), filed June 14, 1982. Applicant: CASWELL TRUCKING, INC., Route 1, Box 30, St. Charles, IA 50240. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309. *Such commodities as are dealt in by wholesale and retail grocery houses (except in bulk),* between points in IA, on the one hand, and, on the other, points in AR, IL, IN, KS, MI, NY, OH, OK, PA, TX and WI. Supporting shipper: Hy-Vee Food Stores, Inc., 1801 Osceola Avenue, Chariton, IA 50049.

MC 162461 (Sub-5–1TA), filed June 14, 1982. Applicant: KENNETH D. LYON AND CAROLYN D. LYON, d.b.a. LYON & LYON ENTERPRISES, 430 Washington, Chillicothe, MO 64601. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Construction machinery or equipment,* from Joplin and Kansas City, MO; Wichita, KS; and Roma and Brownsville, TX, to points in IA, IL, KS, MO, NE, OK, and TX. Supporting shipper: Victor L. Phillips Inc., P.O. Box 1303, Kansas City, MO 64141.

MC 114028 (Sub-5–6TA), filed June 18, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner and Joel H. Steiner, 29 South LaSalle Street, Suite 905, Chicago, IL 60603. *General commodities (except classes A and B explosives),* between pts in the U.S. (except AK and HI), under continuing contract(s) with Signode Corporation of Glenview, IL. Supporting shipper: Signode Corporation, 3610 West Lake Avenue, Glenview, IL. 60025.

MC 124411 (Sub-5–5TA), filed June 17, 1982. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Denatured grain alcohol,* between pts in IA, IL, MN, and NE, restricted to traffic originating at or destined to the facilities of or utilized by American Gasohol Refiners, Inc. Supporting shipper(s): American Gasohol Refiners, Inc., 4004 East Kellogg, Wichita, KS 67218.

MC 134311 (Sub-5–1TA), filed June 17, 1982. Applicant: GERALDINE BENNETT AND RICHARD F. ROTH, d.b.a. BENNETT & ROTH TRUCKING, R.R. #1, Madison Road, Burlington, IA 52601. Representative: Richard D. Howe or Ronald R. Adams, 600 Hubbell Building, Des Moines, IA 50309. *Bathroom furniture and fixtures and baskets,* from Burlington, IA, to pts in the U.S. (except AK and HI). Supporting shipper: Burlington Basket Company, P.O. Box 808, Burlington, IA 52601.

MC 139506 (Sub-5–1TA), filed June 17, 1982. Applicant: SMITTY'S VAN & STORAGE CO., 1417 N. 18th Street, Omaha, NE 68102. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Contract; irregular. *General commodities (except in bulk and Classes A & B explosives),* between pts in the U.S. (except AK and HI) under a continuing contract(s) with Smith-Kramer Art Connections, Inc. of Kansas City, MO (no hazardous materials involved). Supporting shipper: Smith-Kramer Art Connections, Inc., Box 13323, Kansas City, MO 64199.

MC 143483 (Sub-5–3TA), filed June 17, 1982. Applicant: QUIK HAUL, INC., P.O. Drawer "D", Alvin, TX 77511. Representative: Fred R. Lindsey (same as applicant). *Tower Cranes, Personnel/ Material Hoists, Concrete Pumps and their accessories,* between the facilities of American Pecco Corp. at or near Houston, TX, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: American Pecco Corp., P.O. Box 45025, Houston, TX 77245.

MC 162345 (Sub-5–1TA), filed June 16, 1982. Applicant: OIL SERVICES, INC., Box 672, Chanute, KS 66720. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601. Crude Oil, from points in KS on and east of U.S. Hwy 81 to the AMOCO pipeline terminal near Humboldt, KS. Supporting shipper: Standard Oil Co. (Indiana), 200 East Randolph Drive, Chicago, IL 60601.

MC 162421 (Sub-5–1TA), filed June 17, 1982. Applicant: JANET SCHULTZ, d.b.a. G & J TRANSPORTATION, P.O. Box 3195, 9489 Sunset Terrace, Des Moines, IA, 50316. Representative: Garry Schultz, 1638 E. University, Des Moines, IA, 50316. Contract; Irregular. *Various commodities manufactured and distributed by the Amway Corporation, consisting primarily of household cleaning items and personal care products* From: Des Moines, IA to Kansas City, MO; Lincoln, NE; St. Louis, MO; Wichita, KS. Supporting shipper: Amway RDC, 6600 Merle Hay Rd., Des Moines, IA, 50310.

MC 162515 (Sub-5–1TA), filed June 16, 1982. Applicant: MIDWESTERN TRUCKING COMPANY, INC., P.O. Box 1240, West Memphis, AR 72301. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. Contract, Irregular; 1. *Chemicals and allied products and clay products* between points in the U.S. (except AK and HI) under continuing contract(s) with International Minerals and Chemical Corporation (IMC), 421 East Hawley Street, Mundelein, IL 60060; 2. *Clay, concrete, glass or stone products, cleaning compounds and automotive supplies* between points in the U.S. (except AK and HI) under continuing contract(s) with Moltan, Inc., P.O. Drawer 9, Middleton, TN 38052; 3. *Alcoholic beverages* between points in the U.S. (exept AK and HI) under continuing contract(s) with The Liquor Center, 3109 East Broadway, West Memphis, AR 72301; 4. *Lumber and lumber products* between points in the U.S. (exept AK and HI) under continuing contract(s) with West Memphis Plywood Corporation, 601 East Barton, West Memphis, AR 72301.

MC 162543 (Sub-5–1TA), filed June 18, 1982. Applicant: STANDARD DISTRIBUTING COMPANY OF FREMONT, INC., 601 East Dodge Street, Fremont, NE 68025. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Meat,* from Omaha, NE to St. Louis, MO and pts in its Commercial Zone. Supporting shipper: Signature Foods, Inc., 13039 Renfro Circle, Omaha, NE.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17354 Filed 6–25–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 7–82]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(e) (4) and (11)), notice is hereby given that the Department of Justice proposes to establish a new system of records to be maintained by the Office of the Deputy Attorney General. This system is established to track and control incoming correspondence addressed to the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; and Director, Office of Public Affairs to ensure a timely response thereto and/or any other required action. The system will be known as the Executive Secretariat

Correspondence Control System, JUSTICE/DAG–001.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment. Office of Management and Budget (OMB) Circular No. A–108, Transmittal Memorandum No. 1, requires that OMB be provided a 60-day period in which to review the system. A waiver of this 60-day period has been requested of OMB. A report of the proposed system has also been provided to the President of the Senate and to the Speaker of the House of Representatives in accordance with 5 U.S.C. 552a(o).

The public, OMB and the Congress are invited to submit written comments on this system to the Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530. If OMB grants the requested waiver, the system will be fully implemented 30 days from the publication date of this notice. If OMB denies the requested waiver, the system will be fully implemented 60 days from the publication date of this notice. In either instance, the system will be adopted without further notice in the **Federal Register.** No oral hearings are contemplated.

Dated: June 17, 1982.

Kevin D. Rooney,

Assistant Attorny General for Administration.

JUSTICE/DAG–001

SYSTEM NAME:

Executive Secretariat Correspondence Control System

SYSTEM LOCATION:

Office of the Deputy Attorney General, Department of Justice, Room 4408, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have written to the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; or Director, Office of Public Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Control information from incoming and outgoing correspondence to include a subject narrative, names of individual correspondents and organizations preparing a response to mail or initiating correspondence, and type of action and due date of such action required from the Department. This informatin is contained on hard-copy printouts and mini-computer disc units.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE:

To provide the capability to control and track correspondence to ensure a timely response thereto and/or any other required action.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Primary use of the system is limited to the Executive Secretariat staff and to officials who need access to perform official duties.

Release of information to the news media: Information permitted to be released to the news media and the public pursuant to Title 28 of the Code of Federal Regulations, § 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Disclosure may be made to a congressional office or to the Executive Office of the President from a record of an individual in response to an inquiry from either of these offices made at the request of that individual.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained as follows: hard-copy printouts are stored in standard file cabinets in a locked area; computer records are stored on on-line mimi-computer disc units at the operational mini-computer/word processing site.

RETRIEVABILITY:

Control records are retrieved by name of sender, addressee, date of receipt, due date and organization responsible for preparing the response. Records are used for the tracking/control of correspondence of concern to the Attorney General, Deputy Attorney General, Associate Attorney General and their staffs; the Assistant Attorney General, Office of Legislative Affairs and the Director, Office of Public Affairs and their staffs.

SAFEGUARDS:

During working hours, direct access is limited to the staff of the Executive Secretariat, and to officials with a need to know, to both hard-copy and mini-computer resident records. During nonworking hours, access to hard-copy records is limited to staff/officials with keys to both the file cabinets and rooms where the records are stored. Computer terminal locations are protected at all times with user identification numbers and passwords to the computer system.

RETENTION AND DISPOSAL:

A request for records disposition authority is being prepared for approval by the National Archives and Records Service.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Deputy Attorney General, Department of Justice, Executive Secretariat, Room 4408, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the system manager. To locate a specific record, the system manager must be provided with the name of the individual who corresponded with the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; or Director, Office of Public Affairs and with the date and subject matter of the correspondence. The address is the same as above.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. (Access procedures are found in Title 28 of the Code of Federal Regulations, Part 16.)

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. (Access and contesting procedures are found in Title 28 of the Code of Federal Regulations, Part 16.)

RECORD SOURCE CATEGORIES:

Control records are derived from the incoming and outgoing correspondence of the Attorney General; Deputy Attorney General; Associate Attorney General; Assistant Attorney General, Office of Legislative Affairs; and Director, Office of Public Affairs.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-17392 Filed 6-25-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

President's Committee on the National Medal of Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Thursday, July 22, 1982.

Time: 9 a.m. to 5 p.m.

Place: Rm. 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Richard S. Nicholson, Executive Secretary of the President's Committee on the National Medal of Science, National Science Foundation, Washington, D.C. 20550. Telephone: 202/527-7700.

Purpose of Meeting: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Agenda: To review nominations, with supporting documentation, as part of the selection process for the Medals.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on June 22, 1982 by the Director of the National Science Foundation pursuant to the provisions of section 10(d) of Pub. L. 92-463.

M. Rebecca Winkler,

Committee Management Coordinator.

June 23, 1982.

[FR Doc. 82-17381 Filed 6-25-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-334]

Duquesne Light Co. et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR-66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment modifies the Technical Specifications on rod misalignment, core peaking factor limits and associated parameters.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 23, 1982 (amended by letters dated April 21, April 26, May 5, May 26, June 1, and June 10, 1982), (2) Amendment No. to License No. DPR-66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of June 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-17394 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-63 issued to Niagara Mohawk Power Corporation (the licensee) which revised the license operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment approves the recirculation system safe-end replacement program, including the cutting and welding of safe-ends and the worker dose mitigation program, and it provides license conditions related to the replacement program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the proposed approval and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action.

For further details with respect to this action, see (1) the licensee's filing dated May 24, and June 8, 1982, (2) Amendment No. 49 to License No. DPR-63, (3) the Commission's related Safety Evaluation, and (4) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Penfield Library, State University College at Oswego, Oswego, New York 13126. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 17395 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Omaha Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), which revised the Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment adds setpoint, operability and surveillance requirements for the safety-grade auxiliary feedwater automatic actuation system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 17, 1981, as supplemented by letter dated March 22, 1982, (2) Amendment No. 65 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June, 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-17396 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-277]

Philadelphia Electric Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 86 to Facility Operating License No. DPR-44, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications (TSs) for operation of the Peach Bottom Atomic Power Station, Unit No. 2 (the facility) located in York County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment changes the TSs to permit Cycle 6 operation of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated February 19, 1982, as supplemented June 3, 1982, (2) Amendment No. 86 to License No. DPR-44 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of June 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-17397 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., et al.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components", to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised the inservice inspection program for the Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires on May 20, 1986.

The relief modifies the visual examination requirement for five specific Class 3 components for which 100% visual examination has been determined to be impractical.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief and related Safety Evaluation.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the request for relief dated February 5, 1982, (2) the letter to the licensee dated June 16, 1982, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the

Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Multnomah County Library, Social Science and Science Department, 801 SW 10th Avenue, Portland, Oregon 97205. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of June 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-17398 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-537]

Tennessee Valley Authority and Project Management Corp.; Availability of Site Suitability Report for Clinch River Breeder Reactor Plant

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its revised Site Suitability Report for the Clinch River Breeder Reactor Plant, to be located on the Clinch River in the town of Oak Ridge, Roane County, Tennessee. Notice of receipt of Tennessee Valley Authority and Project Management Corporation [1] application to construct and operate the Clinch River Breeder Reactor Plant was published in the **Federal Register** on June 12, 1975 (40 FR 25110).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555; at the Oak Ridge Public Library, Civic Center, Oak Ridge, Tennessee 37830; and at the Lawson McGhee Public Library, 500 West Church Street, Knoxville, Tennessee 37902, for inspection and copying. Copies of the Site Suitability Report (NUREG-0786) may be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 22 day of June 1982.

For The Nuclear Regulatory Commission.

Paul S. Check,

Director, CRBR Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 82-17399 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public method acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, SG 049-4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 1 to Regulatory Guide 5.53 and is entitled "Qualification, Calibration, and Error Estimation Methods for Nondestructive Assay." This guide describes methods and procedures acceptable to the NRC staff for meeting the provisions of the Commission's regulations as they relate to the use of nondestructive assay as used in material control and accounting systems to detect unaccounted-for loss or diversion of special nuclear material to unauthorized uses. This guide endorses and supplements ANSI N15.20-1975, "Guide to Calibrating Nondestructive Assay Systems."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 20, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 22nd day of June 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-17400 Filed 6-25-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on July 8-10, 1982, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on June 16, 1982.

The agenda for the subject meeting will be as follows:

Thursday, July 8, 1982

8:30 A.M.-8:45 A.M.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.-12:45 P.M.: Perry Nuclear Power Plant, Units 1 and 2 (Open)—The Committee will hear the report of its Subcommittee and consultants who are present regarding the request for an Operating License for the Perry Nuclear Power Plant, Units 1 and 2.

The Committee will hear and discuss reports from members of the NRC Staff and the Applicant regarding this matter.

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[1] The Energy Research and Development Administration (ERDA) became an applicant on May 1, 1975; subsequently, ERDA became the Department of Energy on October 1, 1977.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

1:45 P.M.–3:45 P.M.: NRC Safety Research Program (Open)—The members will hear and discuss the report of its Subcommittee Chairman and designated members regarding the proposed ACRS report to NRC on the proposed NRC Safety Research Program and Budget for FY 1984–85.

Members of the NRC Staff will participate as appropriate.

Portions of this session will be closed as required to discuss detailed contractual negotiation information the premature release of which would be likely to significantly frustrate the performance of the Committee's statutory function.

3:45 P.M.–6:45 P.M.: Robert E. Ginna Nuclear Power Plant (Open)—The members of the Committee will hear the reports of its Subcommittee and consultants who are present regarding the SEP review of this power plant. Members of the NRC Staff and representatives of the Applicant will also make related presentations and respond to questions by the Committee members.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

Friday, July 9, 1982

8:30 A.M.–11:30 A.M.: Clinch River Breeder Reactor (Open)—The Committee will hear the reports of its Subcommittee and consultants who may be present regarding the adequacy of the site proposed for this facility.

Representatives of the NRC Staff and the "applicant" will also make related presentations and respond to questions by the Committee members.

11:30 P.M.–12:30 P.M.: Disposal of High-Level Radioactive Wastes (Open)—The members will hear the report of its Subcommittee and consultants who are present regarding the proposed NRC regulation (10 CFR Part 60), Criteria for High Level Waste Disposal.

Representatives of the NRC Staff will make presentations and respond to questions as appropriate.

12:30 P.M.–1:00 P.M.: Future Committee Activities (Open)—The members will discuss anticipated subcommittee activities and items proposed for consideration by the full Committee.

2:00 P.M.–3:00 P.M.: Decay Heat Removal Systems (Open)—The members will hear the report of the ACRS Subcommittee and consultants who are present regarding the NRC Task Action Plan (A–45), Evaluation of Alternate Decay Heat Removal Systems.

Representatives of the NRC Staff will also make presentations and respond to questions by the ACRS members.

Representatives of the nuclear industry will participate as appropriate.

3:00 P.M.–5:00 P.M.: NRC Reactor Safety Research Program (Open)—The members will continue discussion of the proposed ACRS report to NRC regarding the proposed NRC Safety Research Program and Budget for FY 1984–85.

Portions of this session will be closed as required to discuss detailed contractual negotiation information the premature release of which would be likely to significantly frustrate the performance of the Committee's statutory function.

5:00 P.M.–6:30 P.M.: ACRS Subcommittee Activity (Open)—The members will hear and discuss the reports of ACRS Subcommittee Chairmen regarding safety related matters including resolution of steam generator tube integrity problems; proposed DOE program for siting and assessment of high level radioactive waste repositories; proposed changes in 10 CFR Part 20, Standards for Protection Against Radiation and use of radioiodine blocking agents.

Saturday, July 10, 1982

8:30 A.M.–12:30 P.M. and 1:30 P.M.–3:30 P.M.—Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed reports to NRC regarding items considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information related to matters being discussed, information involved in an adjudicatory proceeding, and information the premature release of which would be likely to seriously inhibit the Committee in the performance of its statutory function.

3:30 P.M.–4:00 P.M.: New ACRS Members (Closed)—The Members will discuss the qualifications of candidates proposed for nominations as ACRS members.

This session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1981 (46 FR 47903). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, it consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)] applicable to the matters being discussed, preliminary information the release of which would be likely to significantly frustrate performance of the Committee's statutory function [5 U.S.C. 552b(c)(9)(B)], and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: June 22, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82–17401 Filed 6–25–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is

hereby given of a meeting of the RTCA Executive Committee to be held on July 16, 1982 in the RTCA First Floor Conference Room, 1717 H Street, NW., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Meeting Held on May 13, 1982; (3) Chairman's Report on RTCA Administration and Activities; (4) Special Committee Activities Report for May and June, 1982; (5) Consideration of Establishing New Special Committees; (6) Report of Future Planning Group; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on June 18, 1982.

Karl F. Bierach,

Designated Officer.

[FR Doc. 82-17104 Filed 6-25-82; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS-82-11]

Louisiana Southern Railway Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and section 211.9, notice is hereby given that the Louisiana Southern Railway (LSR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the LSR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The LSR seeks this exemption so that is can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the docket number, Docket Number HS-82-11, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before August 10, 1982 will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 6 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d))

Issued in Washington, D.C. on June 21, 1982.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 82-17217 Filed 6-25-82; 8:45 am]

BILLING CODE 4730-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

[Delegation Order No. 196]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Authorizes the chief, Collection Branch, Compliance Division, in the service center to file tax liens.

EFFECTIVE DATE: June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Dean Perry, 1111 Constitution Avenue, NW., Room 7539, OP:C:O, Washington, DC 20224; (202) 566-4445 (Not a toll free telephone number).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

William Wauben,

Acting Assistant Commissioner (Collection).

Delegation of Authority To File Tax Liens

Date of issue: June 28, 1982.

Effective Date: June 28, 1982.

The authority vested in the Commissioner of Internal Revenue by TDO 150-37, and 26 CFR 301.6323(f)-(1) to file tax liens is hereby delegated to the Chief, Collection Branch in the Compliance Division Service Center.

This authority may be redelegated only to GS-9 and above Collection Branch personnel in either the GS-1169 series or in supervisory positions.

James I. Owens,

Acting Commissioner.

[FR Doc. 82-17457 Filed 6-25-82; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

Senior Executive Service (SES) Bonuses

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of schedule for awarding SES bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: D. S. Burckman, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220; Telephone: 566-2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives for the performance appraisal period ending June 30, 1982, with payouts by September 30, 1982. Such bonuses are authorized by section 407 (a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454), codified in 5 U.S.C. 5384, and section 303 of the Supplemental Appropriations and Rescission Act, 1980 (Pub. L. 96-304).

This notice does not meet the Department's criteria for significant regulations.

Cora P. Beebe,

Assistant Secretary (Administration).

[FR Doc. 82-17443 Filed 6-25-82; 8:45 am]

BILLING CODE 4810-25-M

[Amdt. to Department Circular; Public Debt Series—No. 16-82]

Treasury Notes of June 30, 1986, Series H-1986; Auction

June 23, 1982.

Department of the Treasury Circular, Public Debt Series—No. 16-82, dated June 10, 1982, descriptive of Treasury Notes of Series H-1986, is hereby amended, effective June 22, 1982. The notes will be auctioned Tuesday, June 29, 1982, and will accrue interest from Tuesday, July 6, 1982.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series—No. 16-82, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2.1. The securities will be dated July 6, 1982, and will bear interest from that date, payable on a semiannual basis on December 31, 1982, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m. Eastern Daylight Saving time, Tuesday, June 29, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 28, 1982, and received no later than Tuesday, July 6, 1982.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Tuesday, July 6, 1982. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, July 1, 1982. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

The foregoing amendment was effected under authority of Sections 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-17503 Filed 6-24-82; 3:34 pm]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a special meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101 will be held in the Research Conference Room, Building 1, Boston VA Medical Center, 150 South Huntington Ave., Boston, Massachusetts 92130 on August 10, 1982. The meeting will be for the purpose of reviewing a proposed twin study related to environmental health (Agent Orange) and advising the Veterans Administration on the relevance and feasibility of the study, the adequacy of the protocol, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 9:00 to 9:30 a.m. on August 10th to discuss the general concept of the proposed study. To assure adequate accommodation, those who plan to attend should contact Dr. Matthew A. Kinnard, Special Assistant to the Director, Medical Research Service, Veterans Administration Central Office, Washington, DC (202-389-2124) prior to July 23, 1982.

This meeting will be closed from 9:30 a.m. until review of the specific proposal in question has been completed on August 10, in accordance with provision

set forth in subsection 10(d) of Pub. L. 92–463, as amended by section 5(c) of Pub. L. 94–409, and subsections (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the study as well as the feasibility of the study and its perceived impact on the well being of our veteran population. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: June 21, 1982.

By direction of the Administrator.

Larry R. Moen,

Deputy Assistant Deputy Administrator, Office of Public and Consumer Affairs.

[FR Doc. 82-17436 Filed 6-25-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 124
Monday, June 28, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Deposit Insurance Corporation	2
Federal Energy Regulatory Commission	3
Federal Home Loan Bank Board	4
Federal Mine Safety and Health Review Commission	5
Nuclear Regulatory Commission	6

1

COMMODITY FUTURES TRADING COMMISSION:

TIME AND DATE: 10 a.m., Wednesday, June 30, 1982.

PLACE: 2033 K Street, NW., Washington, D.C. Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Final Rules on Low Volume and Dormant Contracts.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–943–82 Filed 6–26–82; 1:06 pm]

BILLING CODE 6351–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that the following matter is expected to be added to the "Discussion Agenda" for consideration by the Corporation's Board of Directors at its open meeting to be held at 2:00 p.m. on Monday, June 28, 1982:

Memorandum and Resolution re: Proposed amendments to Parts 303, 304, and 347 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, and Notices of Acquisition of Control," "Forms, Instructions, and Reports," and "Foreign Activities of Insured State Nonmember Banks," respectively, which would expedite the processing of applications for consent to establish foreign and domestic branches (including remote service facilities) and to relocate offices.

No earlier notice of the change in the subject matter of the meeting was practicable.

Dated: June 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–945–82 Filed 6–24–82; 3:39 pm]

BILLING CODE 6714–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

Notice of Meeting

June 22, 1982.

TIME AND DATE: 9 a.m., June 29, 1982.

PLACE: Room 9306, 825 North Capitol Street, NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda—752nd Meeting, June 29, 1982, Regular Meeting (9 a.m.)

CAP–1. Project No. 4919–002, City of Gillette, Wyoming; Project No. 3749–000, Mitchell Energy Co., Inc., Project No. 4210–000, Energenics Systems, Inc., Project No. 5006–000, Central Montana Generation & Transmission Cooperative, Inc.

CAP–2. Project No. 3943–002, Village of Channahon, Illinois; Project No. 3569–000, Mitchell Energy Co., Inc.; Project No. 4484–000, Village of Winnetka, Illinois; Project No. 4212–000, City of Morris, Illinois; Project No. 4491–000, Commonwealth Edison Co.

CAP–3. Project Nos. 4309–002 and 1061–000, Tuolumne Regional Water District

CAP–4. Project No. 6091–001, Western Hydro Electric, Inc. and Skate Creek Hydro Electric Project

CAP–5. Project No. 6151–001, Rainsong Co. Application for Exemption—Cabin Creek Project

CAP–6. Project No. 5677–001, Swanson Mining Corp. and Walter M. Gleason

CAP–7. Project No. 5295–001, the Public Utility Commission of the City and County of San Francisco, California

CAP–8. Project No. 4805–005, Victor W. and Laverta W. Page; (b) Project No. 4805–006, Victor W. and Laverta W. Page

CAP–9. Project No. 450–000, Union Electric Co.

CAP–10. Project No. 3855–000, the Fluid Energy Systems, Inc.; Project No. 4123–000, the Kern County Water Agency

CAP–11. Project No. 5972–000, Dundee Water Power & Land Co.

CAP–12. Project No. 5699–000, City of Bonney Lake, Washington

CAP–13. Omitted.

CAP–14. Docket No. ER82–375–000, Gulf States Utilities Co.

CAP–15. Docket No. ER82–493–000 and ER82–494–000, Pennsylvania Power & Light Co.

CAP–16. Docket Nos. ER82–492–000, ER81–679–000 and ER82–271–000, Pacific Gas & Electric Co.

CAP–17. Docket No. ER82–515–000, American Electric Power Service Corp. and Carolina Power & Light Co.

CAP–18. Docket No. ER82–435–000, Central Louisana Electric Co.

CAP–19. Docket Nos. ER76–828–002, 003, 004 and 005, Nantahala Power and Light Co.; Docket Nos. EL78–18–002, 003, 004 and 005, Town of Highlands, North Carolina, et al. v. Nantahala Power & Light Co.

CAP–20. Docket No. ER82–159–001, Central Power & Light Co.

CAP–21. Docket No. ER82–301–001, Connecticut Light & Power Co.

CAP–22. Docket No. ER76–320–003, Connecticut Light & Power Co.

CAP–23. Docket No. ER79–121–005 and ER79–121–006, Utah Power & Light Co.

CAP–24. Docket No. ER81–550–000, Duke Power Co.

CAP–25. Docket No. ER82–105–000, Sierra Pacific Power Co.

CAP–26. Docket No. ER82–79–000, Ohio Edison Co.

CAP–27. Docket No. ER82–160–000, Centel Corp.

CAP–28. Docket Nos. ER82–258–000 and ER82–300–000, Northeast Utilities Co.—Connecticut Light & Power Co. and Hartford Electric Light Co.

CAP–29. Docket No. ER81–557–000, Lake Superior District Power Co.

CAP–30. Docket No. ER82–188–000, Wisconsin Power & Light Co.

CAP–31. Docket No. EL82–1–000, Delmarva Power & Light Co.

CAP–32. Project No. 5359–001, Hydroelectric Power Engineers; Project No. 5446–000, Modesto Irrigation District; Project No. 5843–001, Tranquillity Irrigation District

Consent Miscellaneous Agenda

CAM–1. Docket No. RM79–76–085 (Texas–20), high-cost gas produced from tight formations

CAM–2. Docket No. RM79–76–104 (Texas–3 addition III), high-cost gas produced from tight formations
CAM–3. Docket No. RM79–76–105 (Texas–11 addition II), high-cost gas produced from tight formations
CAM–4. Docket No. GP82–23–000, Colorado Oil & Gas Conservation Commission, Section 108 NGPA Determination, Northwest Pipeline Corp., Bondad 33–10 #18 Well, Docket No. 80262, FERC No. JD81–8426
CAM–5. Docket No. GP82–24–000, Railroad Commission of Texas, Section 102 Determinations, Petroleum Management, Inc., Yturria Cattle Co. Nos. B–1 and B–3 Wells, RRC Docket Nos. F–04–13668 and F–04–13669, FERC Nos. JD80–58697 and JD80–58696
CAM–6. Docket No. GP80–35–001, Southern Natural Gas Co.
CAM–7. Docket No. SA82–16–001, Southern Union Gathering Co.
CAM–8. Docket No. RO81–61–000, Dalton J. Woods

Consent Gas Agenda

CAG–1. Docket No. RP82–59–001, Panhandle Eastern Pipeline Co.; Docket No. RP82–60–001, Trunkline Gas Co.
CAG–2. Docket Nos. RP82–57–002 and 003, United Gas Pipe Line Co.
CAG–3. Docket No. RP82–96–000, Southwest Gas Corp.
CAG–4. Docket No. TA82–2–13, Gas Gathering Corp.
CAG–5. Docket No. TA82–2–11, United Gas Pipeline Co.
CAG–6. Docket No. TA82–2–10, Tennessee Natural Gas Lines Inc.
CAG–7. Docket No. RP82–97–000, United Gas Pipeline Co.
CAG–8. Docket No. TA82–2–9, Tennessee Gas Pipeline Co.
CAG–9. Docket No. TA82–2–5, Midwestern Gas Transmission Co.
CAG–10. Docket No. TA82–2–2, East Tennessee Natural Gas Co.
CAG–11. Docket No. TA82–2–6, Sea Robin Pipeline Co.
CAG–12. Docket No. RP82–99, et al., East Tennessee Natural Gas Co., et al.
CAG–13. Docket No. TA82–2–13, Distrigas of Massachusetts
CAG–14. Docket No. TA82–2–4, Granite State Gas Transmission Inc.
CAG–15. Docket No. TA82–2–1, Alabama Tennessee Natural Gas Co.
CAG–16. Docket No. TA82–2–7, and RP 82–103, Southern Natural Gas Co.
CAG–17. Docket No. RP82–98, Texas Gas Transmission Corp.
CAG–18. Omitted
CAG–19. Docket No. RP82–57–004, United Gas Pipe Line Co.
CAG–20. Docket No. RP81–137–000, Pacific Gas Transmission Co.
CAG–21. Docket No. RP81–97–000, Great Lakes Gas Transmission Co.
CAG–22. Docket No. OR78–1, Trans Alaska Pipeline System
CAG–23. Docket No. CI80–30–001, Mobil Oil Corp.; Docket No. CI82–223–001, Tenneco Oil Co.; Docket No. CI82–228–001, Pennzoil Oil & Gas, Inc.; Docket No. CI82–227–001, Pennzoil Oil & Gas Inc.; Docket No. CI80–26–003, Mobil Oil Corp.; Docket No. CI82–214–001, Marathon Oil Co.; Docket No. CI82–229–001, McMoran Offshore Production Co.; Docket No. CI82–204–002, Cities Service Co.
CAG–24. Docket No. CI80–492–001, Mobil Oil Exploration & Producing Southeast Inc.
CAG–25. Docket Nos. CP63–174–000, CP76–517–001 and CP78–175–002, Natural Gas Pipeline Co. of America.
CAG–26. Docket No. CP82–23–000, Transcontinental Gas Pipe Line Corp. and Gasdel Pipeline System Inc.; Docket No. CP82–148–000, Gasdel Pipeline System, Inc. and Transcontinental Gas Pipe Line Corp.
CAG–27. Docket No. CP82–237–000, Kansas-Nebraska Natural Gas Co., Inc.
CAG–28. Docket No. CP82–292–000, Arkansas Louisiana Gas Co.
CAG–29. Docket No. CP82–143–000, Transcontinental Gas Pipe Line Corp. and Tennessee Gas Pipeline Co., a Division of Tenneco Inc.,
CAG–30. Docket No. CP76–492–021, National Fuel Gas Supply Corp. and Penn-York Energy Corp.
CAG–31. Docket No. RP82–58–000, Panhandle Eastern Pipe Line Co.

I. Licensed Project Matters

P–1. Project No. 5234–001, County of Calaveras, California
P–2. Docket No. 2409–001, Calaveras County Water District
P–3. Docket No. 2030–005, Portland General Electric Co.
P–4. Docket No. 3118–000, Franklin Falls Hydro Electric Corp.; Project No. 3170–000, Public Service Co. of New Hampshire

II. Electric Rate Matters

ER–1. Docket No. ER80–71–000, Central Illinois Public Service Co.
ER–2. Docket No. ER81–577–000, Arkansas Power & Light Co.
ER–3. Docket Nos. ER82–257–001 and ER82–257–002, Kansas Gas & Electric Co.
ER–4. Docket Nos. ER82–294–000, ER82–295–000, and ER82–318–001, Philadelphia Electric Co., Philadelphia Electric Power Co., the Susquehanna Electric Co., and the Susquehanna Power Co.
ER–5. Omitted
ER–6. Docket No. ER82–412–000, Kansas Gas & Electric Co.
ER–7. (a) Docket Nos. EF81–2011–000 and EF81–2021–000, Bonneville Power Administration; (b) Docket No. EF80–2011–000 (remand), U.S. Secretary of Energy, Bonneville Power Administration
ER–8. Docket No. EF81–5021–000, Western Area Power Administration
ER–9. Docket Nos. EF81–5121–001 and 002, Western Area Power Administration, Central Valley Project—Pacific Gas & Electric Co.
ER–10. Docket Nos. EF80–5011–001, 002 and 003, Western Area Power Administration

Miscellaneous Agenda

M–1. Reserved
M–2. Reserved
M–3. Docket Nos. RM79–40–000, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011 and 012, determination of alternative fuels for essential agricultural users
M–4. Omitted
M–5. Docket No. GP80–9–000, Equitable Gas Co.
M–6. Docket No. SA80–40, RJB Gas Pipeline Co.
M–7. Docket No. SA80–72–000, Humko Chemical, a Division of Witco Chemical Corp.

Gas Agenda

I. Pipeline Rate Matters

RP–1. Reserved

II. Producer Matters

CI–1. Reserved

III. Pipeline Certificate Matters

CP–1. Docket No. CP82–204–000, Columbia Gas Transmission Corp.
CP–2. Docket No. CP82–22–002, Pacific Interstate Transmission Co.; Docket No. CP82–337–000, Northwest Pipeline Corp. vs. Pacific Interstate Transmission Co.
CP–3. Docket Nos. CP82–185–000, CP82–185–001, CP76–254–006, CP76–254–007, CP77–274–005, CP77–274–006, CP78–270–002, and CP78–270–003, Michigan Consolidated Gas Co.—Interstate Storage Division

Kenneth F. Plumb,
Secretary.

[S–941–82 Filed 6–24–82; 9:06 am]
BILLING CODE 6718–02–M

4

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, July 1, 1982.

PLACE: Board room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

MATTERS TO BE CONSIDERED:

Modification of Condition—Bel Air Savings and Loan Association (in organization) Los Angeles, California
Merger and Retention of Facilities—First Community Federal Savings and Loan Association, Arkadelphia, Arkansas *into* Firstsouth Federal Savings and Loan Association, Pine Bluff, Arkansas
Service Corporation Activity—Great American Federal Savings and Loan Association, San Diego, California

[No. 44, June 24, 1982]

[S–942–82 Filed 6–24–82; 11:11 am]
BILLING CODE 6720–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 23, 1982.

TIME AND DATE: 10 a.m., Wednesday, June 30, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Monterey Coal Company, Docket Nos. LAKE 80–413–R and LAKE 81–59. (Issues include whether the judge erred in vacating a citation alleging a violation of 30 CFR 77.216(c), dealing with impoundments.)
2. Mathies Coal Company, Docket Nos. PENN 80–260–R and PENN 81–35. (Issues include whether the judge properly concluded that the operator violated 30 CFR 75.1722(a), which deals with the safeguarding of machine parts that may cause injury to persons.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5632.

[S-944-82 Filed 6-24-82; 1:57 pm]

BILLING CODE 6735-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 28, 1982.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED:

Tuesday, June 29:

2:00 p.m.:
Discussion of Full Power Operating License for LaSalle-1 (Public Meeting) (Tentative)

Wednesday, June 30:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6)

2:00 p.m.:
Briefing on PWR Steam Generator Problems (Public Meeting)

Thursday, July 1:

3:00 p.m.:
Affirmation/Discussion Session (Public Meeting)
Affirmation and/or Discussion and Vote:
a. License Fees—Proposed Schedule
b. S–3 Policy Statement
c. Amendment to 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements"

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters scheduled for June 23 to be held June 24.

A portion of the June 22 meeting, discussion of Full Power Operating License for LaSalle-1 was closed.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

June 22, 1982.

Walter Magee,

Office of the Secretary.

[S-940-82 Filed 6-24-82; 8:45 am]

BILLING CODE 7590-01-M

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federal register

Monday
June 28, 1982

Part II

Department of the Interior

Minerals Management Service

Outer Continental Shelf Gulf of Mexico; Proposed Oil and Gas Lease Sale 69

BILLING CODE: 4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Minerals Management Service

Outer Continental Shelf
Gulf of Mexico

Proposed Oil and Gas Lease Sale 69

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to Sec. 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed notice of sale. The following is a proposed notice of sale for Sale 69 in the offshore waters of the Gulf of Mexico. This notice is hereby published as a matter of information to the public.

Director, Minerals Management Service
Harold E. Doley, Jr.

Date: 6/22/82

Approved:

Secretary of the Interior
Donald P. Hodel

Proposed Notice of Sale
Oil and Gas Lease Sale 69

1. Authority. This notice is published pursuant to the Outer Continental Shelf (OCS) Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).

2. Filing of Bids. Sealed bids will be received by the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, by mail, at P.O. Box 7944, Metairie, Louisiana 70010; or, if delivered in person, at 434 Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70002. Bids may be delivered to the above addresses until 4:15 p.m., October 18, 1982; or by personal delivery to the Marriott Hotel, Grand Ballroom, 3rd Floor, 555 Canal St., New Orleans, Louisiana, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., October 19, 1982. Bids received by the Minerals Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Minerals Manager prior to 9:30 a.m., c.s.t., October 19, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published at 47 FR 14785, April 6, 1982.

3. Method of Bidding. A separate bid must be submitted for each tract. Each bid must be placed in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., October 19, 1982." A suggested bid form appears in 43 CFR Part 3300, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and that tract numbers are not the same as block numbers found on leasing maps or official protraction diagrams. All bids received shall be

All leases awarded under this system will provide for a minimum

maps or official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of five decimal places after the decimal point, e.g., 50.12345%, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of $3 per acre or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share: Bids on tracts 69-148, 69-149, and 69-270 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a capital recovery factor of 1.00. The net profit share payment shall be calculated according to regulations currently codified in 10 CFR 390.

(b) Bonus Bidding with a 12½ Percent Royalty: Bids on tracts 69-133 through 69-147, 69-150 through 69-153, and 69-266 through 69-269, must be submitted on a cash bonus basis with a fixed royalty of 12½ percent.

All leases awarded under this system will provide for a minimum annual royalty payment of $3 per acre or fraction thereof.

(c) Bonus Bidding with a 16 2/3 Percent Royalty: Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus bid basis with a fixed royalty of 16 2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of $3 per acre or fraction thereof.

5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., October 19, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973) and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Item 14, "Information to Lessees."

6. Bid Opening. Bids will be opened on October 19, 1982, beginning at 10:00 a.m., c.s.t., at the last address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, October 19, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in a suspense account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.

9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) the bidder has complied with all requirements of this notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof.

10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.

11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Minerals Manager, Gulf of Mexico OCS Region, at the Metairie, Louisiana, address stated in paragraph 2.

(a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8. These maps are arranged in two sets; Nos. 1 through 4 (7 maps), which sell for $5 per set; and Nos. 5 through 8 (9 maps), which sell for $7 per set.

(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for $17.

(c) Outer Continental Shelf Official Protraction Diagrams:

NH 16-4 Mobile
NH 16-5 Pensacola
NH 16-7 Viosca Knoll
NH 16-8 Destin Dome
NH 16-10 Mississippi Canyon
NG 15-2 Garden Banks
NG 15-3 Green Canyon
NG 14-6 Port Isabel
NG 16-6
NG 17-4 Charlotte Harbor

These sell for $2 each.

12. Tract Descriptions. The tracts offered for bids are as follows: Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice. Some of the blocks are included in prior environmental impact statements rather than the environmental impact statement for this sale.

PROPOSED TRACT LIST
OCS SALE 69

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4

PROPOSED TRACT LIST
OCS SALE 69

OCS LEASING MAP, SOUTH PADRE ISLAND AREA, TEXAS MAP NO. 1
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–1	1027	1/	1640
69–2	1028	All	5760
69–3	(1043		
	(1044	1/	5670
69–4	1049	1/	3825
69–5	1063	All	5760
69–6	1064	1/	2176
69–7	1069	1/	548.56
69–8	1070	1/	5742

OCS LEASING MAP, NORTH PADRE ISLAND AREA TEXAS MAP NO. 2
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–9	949	All	5760
69–10	954	All	5760
69–11	999	All	5760
69–12	1000	All	5760
69–13	1007	1/	5460
69–14	1008	All	5760
69–15	1021	All	5760
69–16	1022	1/	3675

OCS LEASING MAP, MUSTANG ISLAND AREA, TEXAS MAP NO. 3
(Approved July 16, 1954; Revised October 30, 1961)

Tract	Block	Description	Acreage
69–17	A-2	All	5760
69–18	A-15	All	5760
69–19	A-17	All	5760
69–20	A-18	All	5760
69–21	A-25	All	5760

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–22	518	1/	5675
69–23	666	All	5760
69–24	682	All	5760
69–25	688	All	5760
69–26	A-3	All	5760

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–27	517	All	5760
69–28	577	All	5760
69–29	A-15	All	5760
69–30	A-16	All	5760

OCS LEASING MAP, BRAZOS AREA, SOUTH ADDITION, TEXAS MAP NO. 5B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–31	A-73	All	5760
69–32	A-74	All	5760

OCS LEASING MAP, GALVESTON AREA, TEXAS MAP NO. 6
(Approved July 16, 1954)

Tract	Block	Description	Acreage
69–33	151	2/	4803.90
69–34	181	All	5760
69–35	189	3/	1818
69–36	A-3	All	5760
69–37	A-10	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 7A
(Approved January 23, 1967; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–38	45	All	4367.10
69–39	A-184	All	2919.68

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–40	A-577	All	5760
69–41	A-592	All	5760
69–42	A-593	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, SOUTH EXTENSION, TEXAS MAP NO. 7C
(Approved September 24, 1959; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–43	A-295	All	5760
69–44	A-296	All	5760
69–45	A-306	All	5760
69–46	A-308	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–47	202	All	5000
69–48	236	All	5000
69–49	248	All	5000
69–50	250	All	5000
69–51	252	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–52	338	All	4034.34

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–53	466	All	5000
69–54	474	All	5000
69–55	475	All	5000
69–56	566	All	5000
69–57	570	All	5000
69–58	588	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
69–59	35	All	5000
69–60	36	All	5000
69–61	230	All	5000

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–62	241	All	5000
69–63	242	All	5000
69–64	303	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–65	32	All	5000
69–66	70	All	5000
69–67	114	All	5000
69–68	115	All	5000
69–69	116	All	5000
69–70	128	All	5000
69–71	129	All	5000
69–72	225	W½NE¼; W½; W½SE¼; SE¼SE¼ NE¼NE¼; E½NW¼NE¼; S½NE¼; E½SE¼NW¼; E½NE¼SW¼; S½SW¼; SE¼	4062.50 3281.25
69–73	226		

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–74	332	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, LOUISIANA MAP NO. 3A
(Approved August 7, 1959)

Tract	Block	Description	Acreage
69–75	19	All	5000
69–76	20	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–77	147	All	5000
69–78	158	All	2715.55
69–79	159	All	2692.87

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION, LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
69–80	280	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–81	83	All	5000
69–82	84	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–83	298	All	5000
69–84	347	All	5000
69–85	393	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–86	134	All	5000
69–87	164	All	4981.68
69–88	188	All	5027.24
69–89	210	All	5000
69–90	211	All	5050.02

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–91	356	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
69–92	94	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
69–93	251	All	5000
69–94	262	All	5000
69–95	263	All	5000
69–96	264	All	5000
69–97	266	All	3772.18

OCS LEASING MAP, GRAND ISLE AREA, LOUISIANA MAP NO. 7
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–98	62	All	4539.89
69–99	73	All	4539.89

OCS LEASING MAP, WEST DELTA AREA, SOUTH ADDITION, LOUISIANA MAP NO. 8A
(Approved September 8, 1959; Revised November 24, 1961)

Tract	Block	Description	Acreage
69–100	113	All	5000
69–101	123	All	5000
69–102	124	All	5000

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–103	86	All	4994.55
69–104	87	All	4994.55
69–105	88	All	4994.55
69–106	89	All	4994.55
69–107	90	All	4994.55
69–108	94	All	4994.55
69–109	95	All	4994.55
69–110	96	All	4994.55
69–111	97	All	4994.55
69–112	101	All	4994.55
69–113	146	All	4560.81
69–114	149	All	4999.96

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–115	158	All	4994.55
69–116	160	All	4994.55
69–117	161	All	4994.55
69–118	162	All	4994.55
69–119	163	All	4994.55

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION, LOUISIANA MAP NO. 10A
(Approved September 8, 1959)
OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–120	308 813 814	All	5585.30

OCS OFFICIAL PROTRACTION DIAGRAM, PENSACOLA NH 16-5
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–121	926	All	5760
69–122	927	All	5760
69–123	929	All	5760
69–124	970	All	5760
69–125	972	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–127	815	All	5278.75

OCS OFFICIAL PROTRACTION DIAGRAM, DESTIN DOME NH 16-8
(Approved October 10, 1972; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–128	2	All	5760
69–129	3	All	5760
69–130	4	All	5760
69–131	5	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–132	310	All	5760
69–133	662	All	5760
69–134	663	All	5760
69–135	706	All	5760
69–136	707	All	5760
69–137	750	All	5760
69–138	751	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GARDEN BANKS NG 15-2
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–139	286	All	5760
69–140	287	All	5760
69–141	327	All	5760
69–142	328	All	5760
69–143	330	All	5760
69–144	371	All	5760
69–145	372	All	5760
69–146	416	All	5760
69–147	417	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–148	104	All	5760
69–149	105	All	5760
69–150	914	All	5760
69–151	915	All	5760
69–152	958	All	5760
69–153	959	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, PORT ISABEL NG 14-6
(Approved June 5, 1974; Revised January 27, 1976)

Tract	Block	Description	Acreage
69–154	33	All	5760
69–155	77	All	5760
69–156	120	All	5760
69–157	121	All	5760
69–158	164	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, NG 16-6
(Approved June 5, 1974; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–159	479	All	5760
69–160	480	All	5122.89
69–161	522	All	5760
69–162	523	All	5760
69–163	524	All	5392.11
69–164	566	All	5760
69–165	657	All	437.27
69–166	696	All	5760
69–167	698	All	5760
69–168	699	All	5760
69–169	700	All	5760
69–170	701	All	704.83
69–171	740	All	5760
69–172	741	All	5760
69–173	742	All	5760
69–174	743	All	5760
69–175	744	All	5760
69–176	745	All	971.98
69–177	785	All	5760
69–178	786	All	5760
69–179	787	All	5760
69–180	788	All	5760
69–181	789	All	1238.72
69–182	829	All	5760
69–183	830	All	5760
69–184	831	All	5760
69–185	832	All	5760
69–186	833	All	1505.05
69–187	875	All	5760
69–188	876	All	5760
69–189	877	All	1770.97
69–190	921	All	2036.47

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–191	311	All	5760
69–192	312	All	5760
69–193	313	All	5760
69–194	354	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
69–195	355	All	5760
69–196	356	All	5760
69–197	357	All	5760
69–198	441	All	5760
69–199	442	All	5760
69–200	443	All	5760
69–201	485	All	5760
69–202	486	All	5760
69–203	487	All	5760
69–204	529	All	5760
69–205	530	All	5760
69–206	531	All	5760
69–207	532	All	5760
69–208	573	All	5760
69–209	574	All	5760
69–210	575	All	5760
69–211	576	All	5760
69–212	617	All	5760
69–213	618	All	5760
69–214	619	All	5760
69–215	620	All	5760
69–216	661	All	5760
69–217	662	All	5760
69–218	663	All	5760
69–219	664	All	5760
69–220	705	All	5760
69–221	706	All	5760
69–222	707	All	5760
69–223	708	All	5760
69–224	749	All	5760
69–225	750	All	5760
69–226	751	All	5760
69–227	752	All	5760
69–228	793	All	5760
69–229	794	All	5760
69–230	795	All	5760
69–231	796	All	5760
69–232	837	All	5760
69–233	838	All	5760
69–234	839	All	5760
69–235	840	All	5760
69–236	881	All	5760
69–237	882	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR, NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
69–238	883	All	5760
69–239	884	All	5760
69–240	925	All	5760
69–241	926	All	5760
69–242	927	All	5760
69–243	928	All	5760
69–244	969	All	5760
69–245	970	All	5760
69–246	971	All	5760
69–247	972	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, TEXAS MAP NO. 7
(Approved July 16, 1954; Revised August 1955)

Tract	Block	Description	Acreage
69–248	20	1/	3515

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
69–249	A-565	All	5760

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955, Revised January 30, 1957; Revised October 19, 1981)

Tract	Block	Description	Acreage
69–250	289	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–251	17	4/	1603.55
69–252	145	All	5000
69–253	158	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION,

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–254	77	All	5000
69–255	176	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISISNA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–256	28	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–257	38	5/	2149.94

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
69–258	277	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION, LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
69–259	225	All	5000
69-260	314	All	5000

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
69–261	78	All	5000

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
69–262	138	All	4994.55

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)
(See below on this page for additional tracts in this Diagram)

Tract	Block	Description	Acreage
69–263	826	6/	1429.64
69–264	828	6/	3089.81
69–265	905	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69–266	825	All	5760
69–267	826	All	5760
69–268	869	All	5760
69 -269	870	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
69-270	143	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)

Tract	Block	Description	Acreage
69-271	819	6/	2928
69-272	820	6/	3180

FOOTNOTES

1/ That portion of the lease block seaward of the Three Marine League Line.

2/ That portion of the lease block seaward of the Three Marine League Line measured from the historic shoreline described in the United States vs. Louisiana, No. 9 Original (394 U.S. 836).

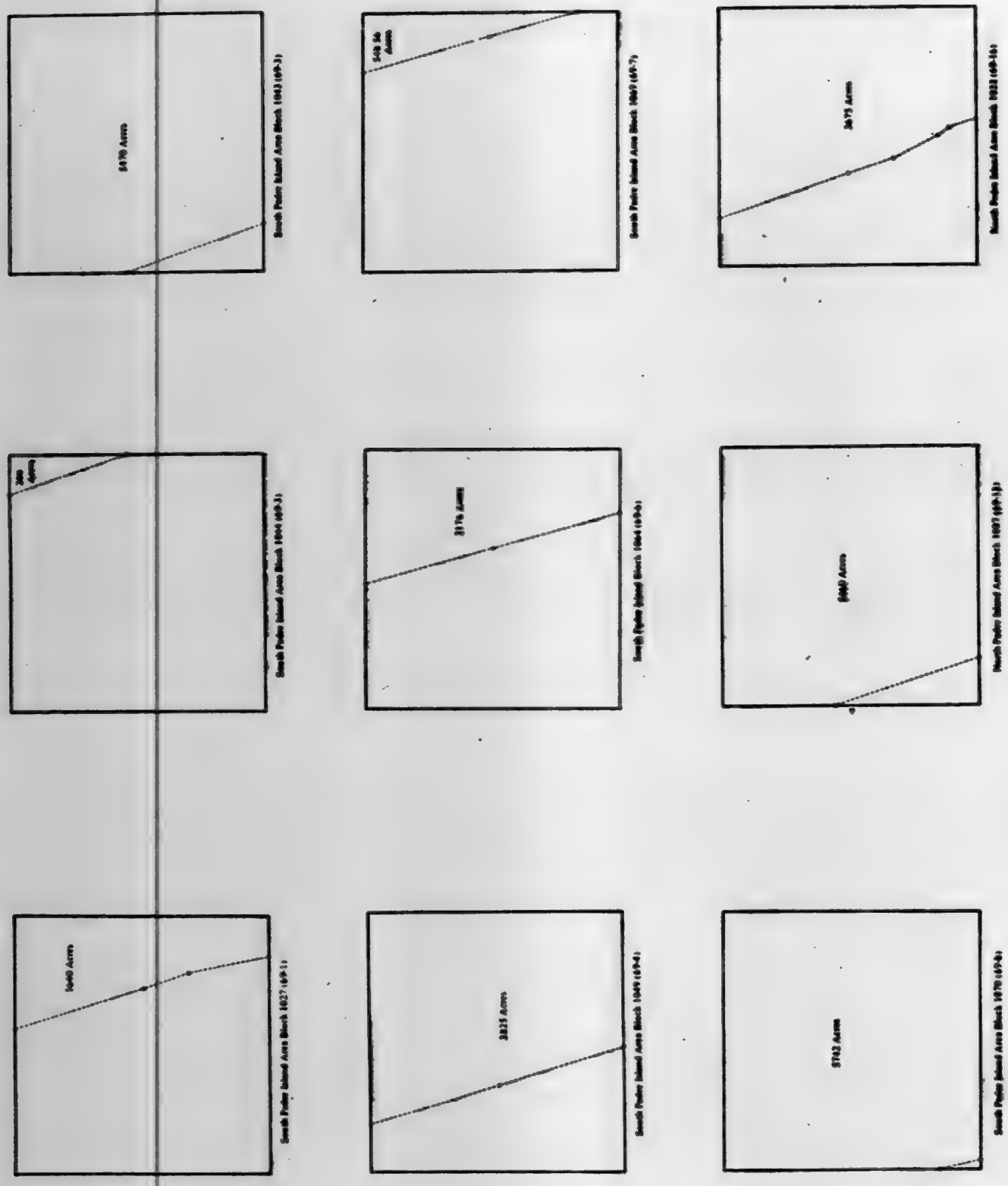
3/ That portion of the lease block seaward of the Three Marine League Line, excluding the SE¼.

4/ That portion of the lease block which is more than three geographical miles seaward from from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 423 U.S. 13) and/or the Zone 1-3 line.

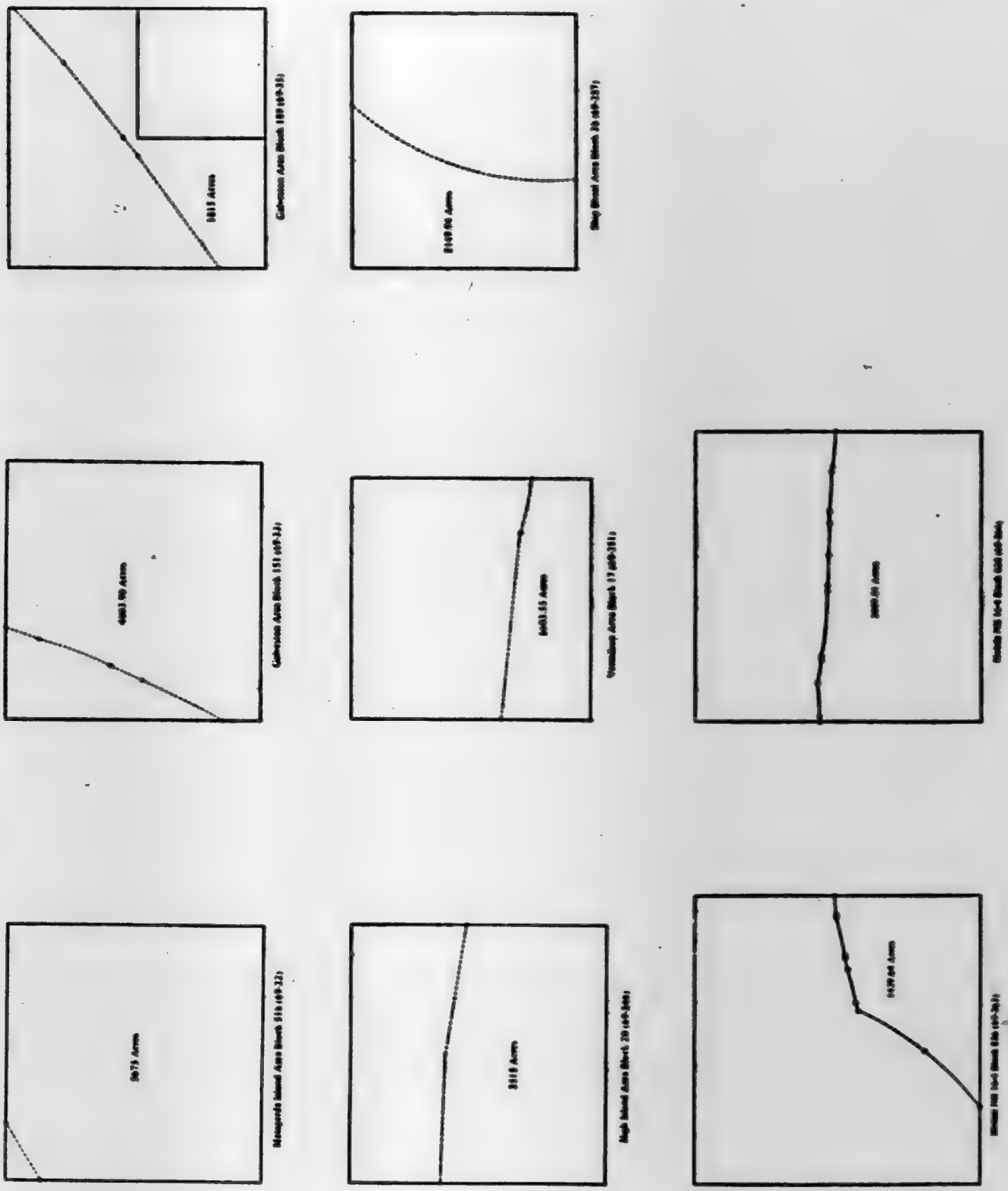
5/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 423 U.S. 13).

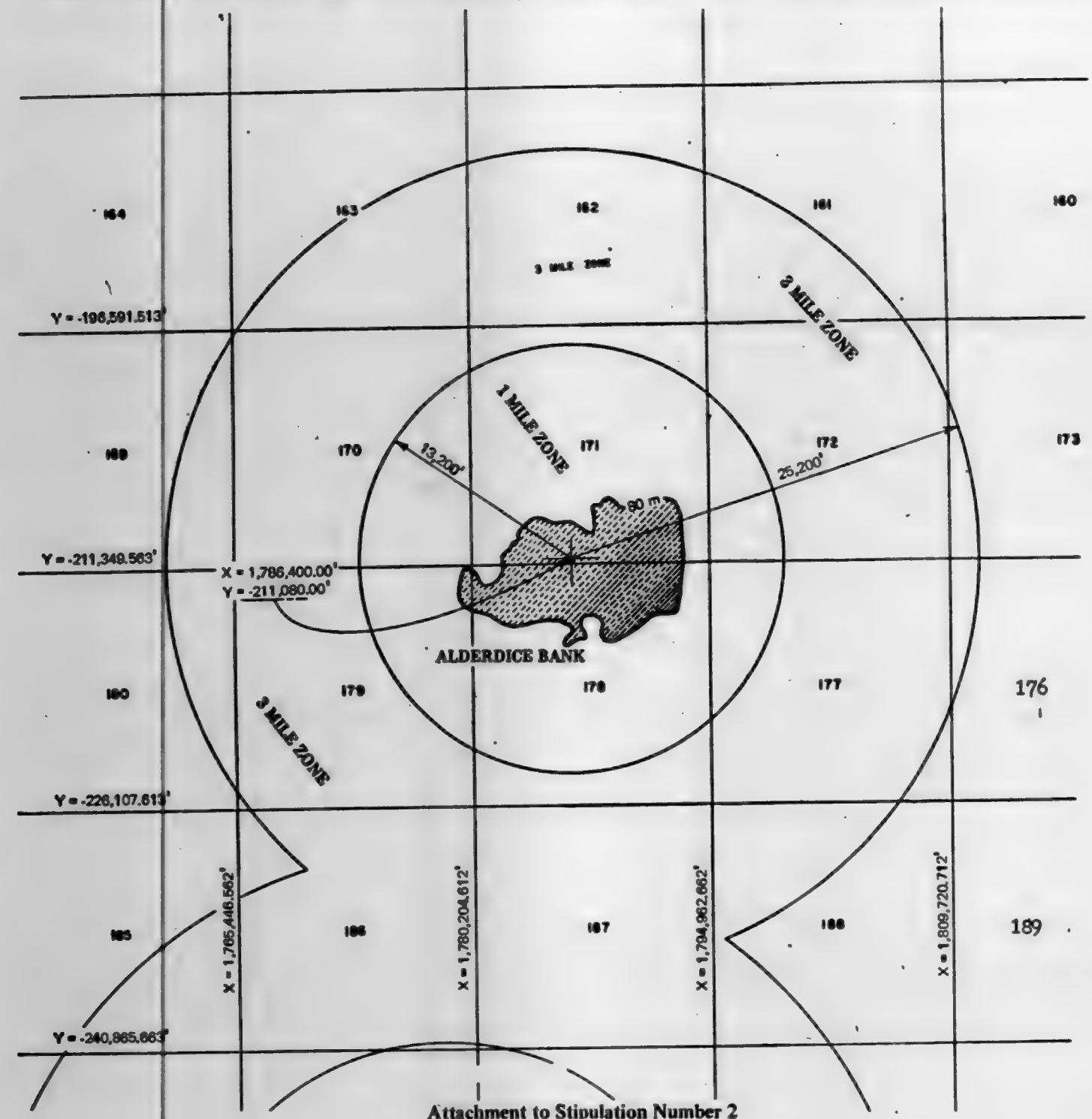
6/ That portion of the lease block which is more than three geographical miles seaward from the low water line off the coast of Alabama.

Representation of Configuration of Tracts Indicated (Not to Scale)

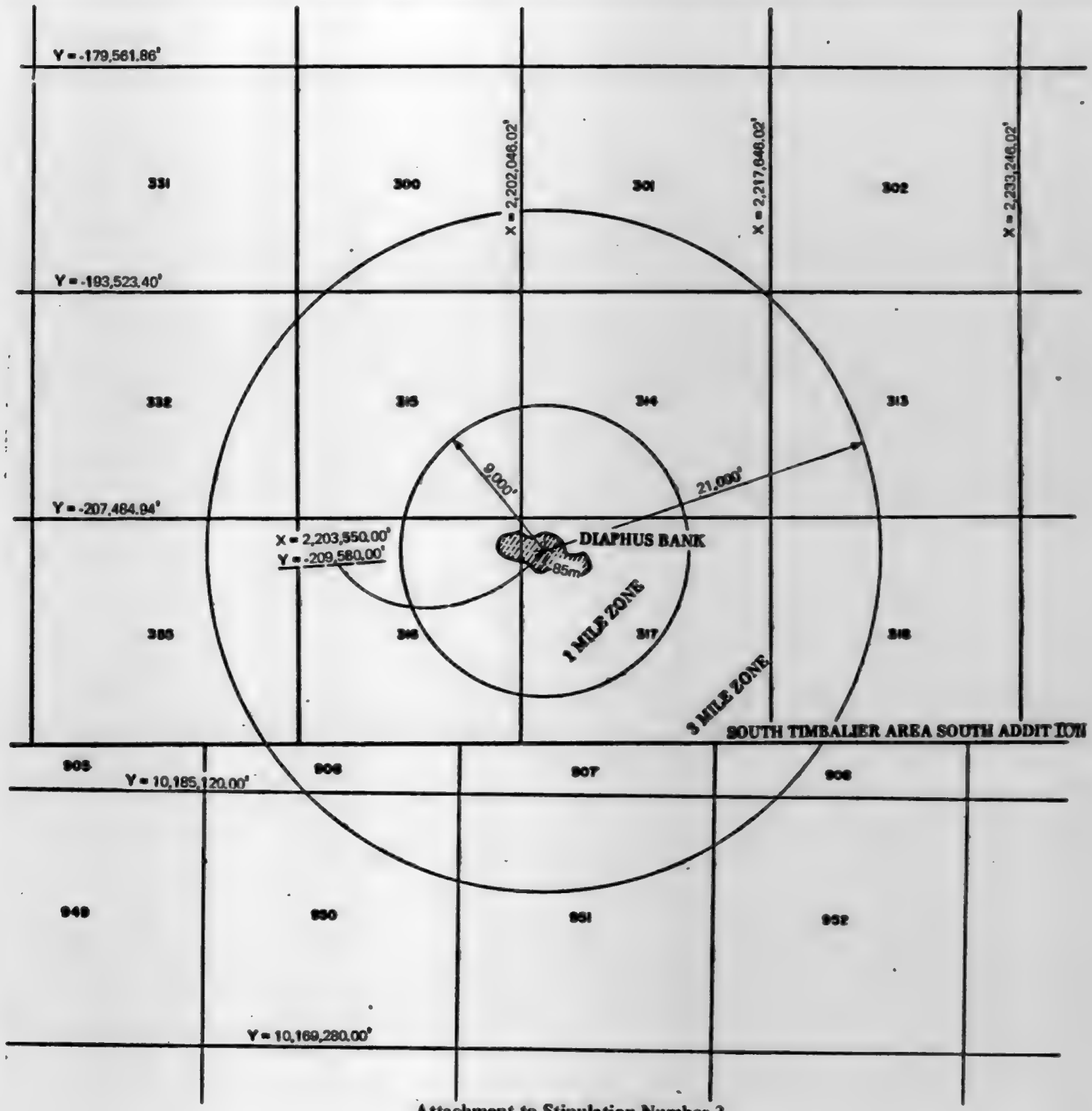


Representation of Configuration of Tracts Indicated (Not to Scale)

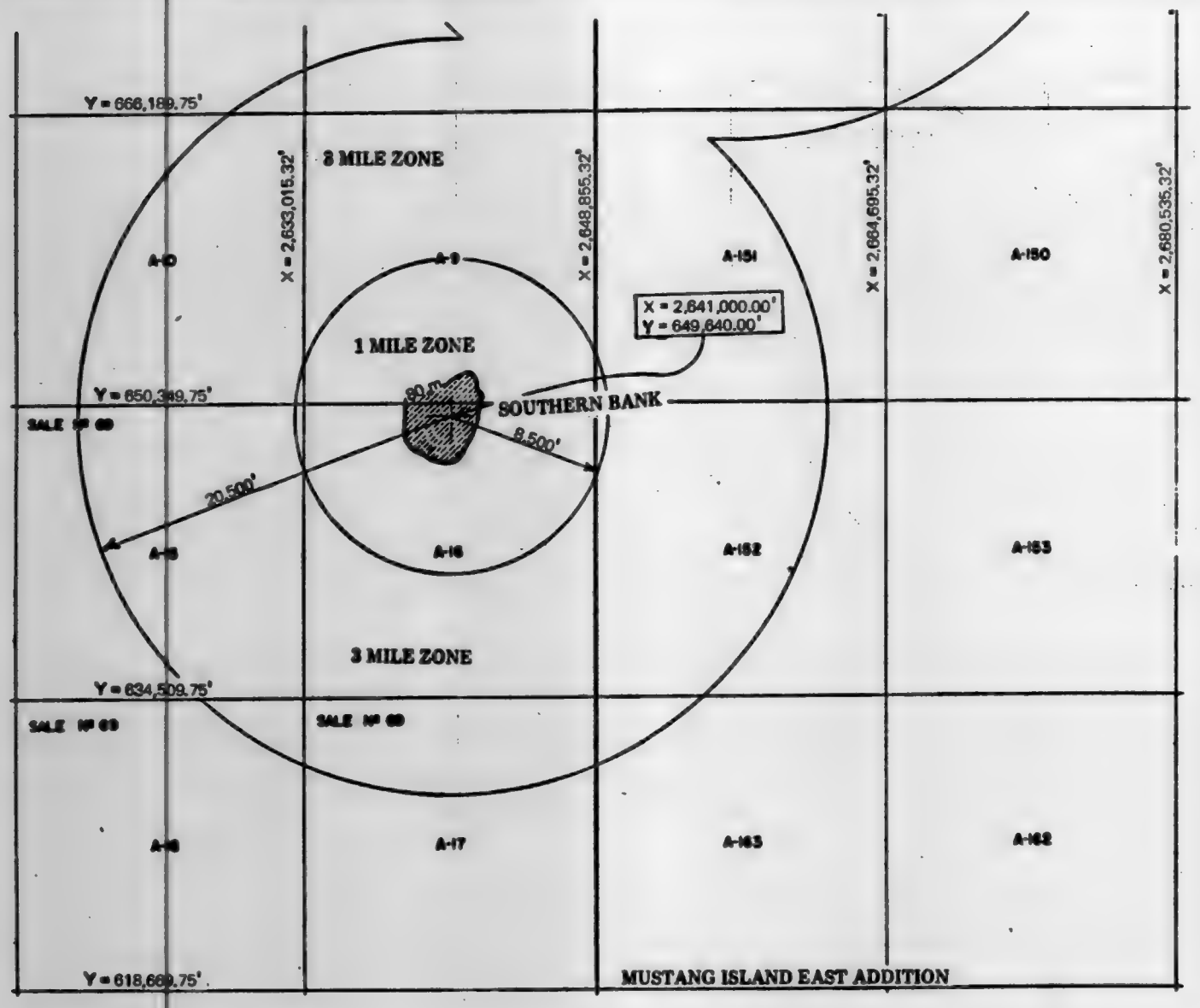




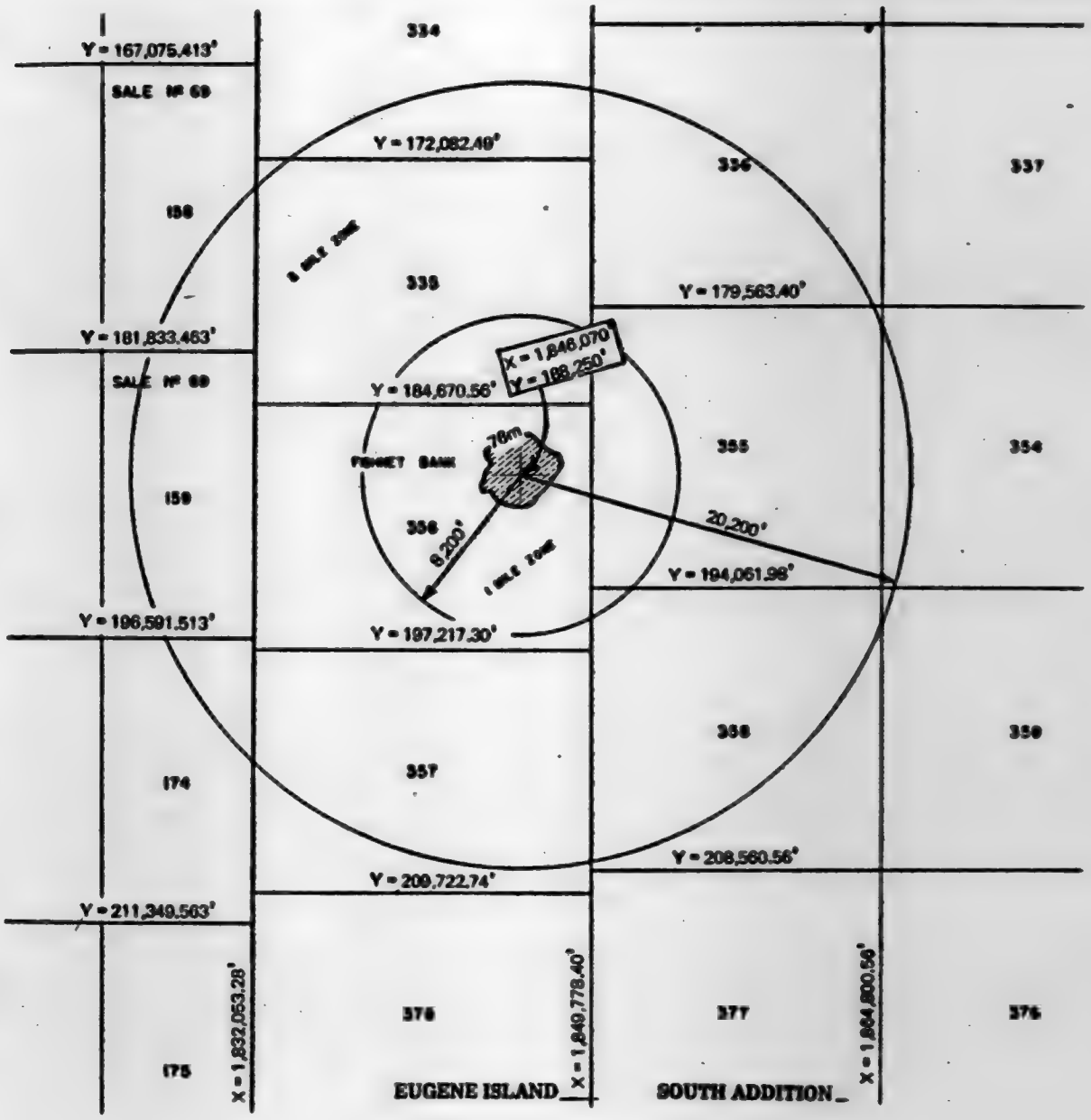
Attachment to Stipulation Number 2
FIGURE 1. Alderdice Bank



Attachment to Stipulation Number 3
FIGURE 2. Diaphus Bank



Attachment to Stipulation Number 4
FIGURE 3. Southern Bank



Attachment to Stipulation Number 5
FIGURE 4. Fishnet Bank

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale for tracts 69-150, 69-151, 69-152 and 69-153 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Minerals Manager, Gulf of Mexico OCS Region at the first address stated in paragraph 2.

(b) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4 (a), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5 Minimum Royalty. Hereby deleted.

Sec. 6 Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of 40 percent with a 1.00 capital recovery factor, calculated pursuant to 10 CFR 390.

(c) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term MM refers to the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service (MMS).

Stipulation 1

If the MM has reason to believe that a site, structure, or object of historical or archaeological significance, hereinafter referred to as "cultural resource," may exist in the lease area, and gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements.

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the MM for review.

If such cultural resource indicators are present the lessee shall: (a) locate the site of such operation so as not to adversely affect the identified location; or (b) establish, to the satisfaction of the MM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the MM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the MM for review. Should the MM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the MM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the MM and make every reasonable effort to preserve and protect the cultural resource from damage until the MM has given directions as to its preservation.

Stipulation 2

(To be included only in the lease resulting from this sale for tract 69-255.)

Operations within the area of Alderdice Bank shown as "3 Mile Zone" in Figure 1 (attached to and made a part of this lease) shall be restricted as specified in either (a) or (b) below at the option of the lessee.

(a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that ter-

scientific personnel and these personnel and all required

(a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(b) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation 3

(To be included only in the lease resulting from this sale for tract 69-260.)

(a) Operations within the area of Diaphus Bank shown as "1 Mile Zone" in Figure 2 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(b) Operations within the area of Diaphus Bank shown as "3 Mile Zone" in Figure 2 shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 4

(To be included only in leases resulting from this sale for tracts 69-18, 69-19, and 69-20.)

(a) Operations within the area of Southern Bank shown as "1 Mile Zone" in Figure 3 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.

(b) All production and development operations within the areas shown as "3 Mile Zone" in Figure 3 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.

Stipulation 5

(To be included only in leases resulting from this sale for tracts 69-78 and 69-79.)

Operations within the area of Fishnet Bank shown as "3 Mile Zone" in Figure 4 (attached to and made a part of this lease) shall be restricted as specified in either (1) or (2) below at the option of the lessee.

(1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

(2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the MM on a schedule established by the MM or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings present no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the MM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 6

(To be included only in leases resulting from this sale for tracts 69-121 through 69-125, 69-128 through 69-131, 69-191 through 69-197, 69-200, 69-203, 69-206, 69-207, 69-210, 69-211, 69-214, 69-215, 69-218, 69-219, 69-222, 69-223, 69-226, 69-227, 69-230, 69-231, 69-234, 69-235, 69-238, 69-239, 69-243, 69-247, 69-263 through 69-265, 69-271, and 69-272.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the MM a bathymetry map, prepared utilizing remote sensing and/or survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the MM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that the live bottom areas might be adversely impacted by the proposed activities, then the MM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

(a) the relocation of operations to avoid live bottom areas;
(b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
(c) the transportation of drilling fluids and cuttings to approved disposal sites;
(d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation 7

(To be included only in leases resulting from this sale for tracts 69-114, 69-120, 69-127, 69-132 through 69-147, 69-149 through 69-158, and 69-266 through 69-270.)

All or portions of this tract may be subject to mass-movement of sediments, unstable slopes, active faulting or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease block unless or until the lessee has demonstrated to the Minerals Manager's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease block.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all slump blocks or mass movement of sediment in the lease block must be mapped. The Minerals Manager may also require soil testing before exploration and production operations are allowed.

Stipulation 8

(To be included only in leases resulting from this sale for tracts 69-159 through 69-247.)

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically

of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same

incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. The lessor's decision regarding the selected means of transportation will be made within the context of an intergovernmental planning process for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of federal, state, and local government and the industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the MMS. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), as amended.

Stipulation 9

(To be included only in leases resulting from this sale for tracts listed below.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the appropriate military installation, listed below.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability, or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the appropriate military installation to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within designated warning areas

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the appropriate military installation on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

The appropriate military installations and affected tracts are:

(1) Naval Air Training Command
Naval Air Station
Corpus Christi, Texas
(Tracts 69-1 through 69-21; 69-23 through 69-26; 69-134 through 69-138.)

(2) Director of Training
Deputy Chief of Staff, Operations
Headquarters Strategic Air Command
Offutt Air Force Base, Nebraska 68113
(Tracts 69-40 through 69-42; and 69-249.)

(3) Training Wing Six
Naval Air Station
Pensacola, Florida 32508
(Tracts 69-121 through 69-125; 69-128 through 69-131; 69-263; and 69-264.)

(4) Naval Air Station
New Orleans, Louisiana 70146
(Tracts 69-150 through 69-153; and 69-260.)

(5) Armament Division
Eglin Air Force Base, Florida
(Tracts 69-159 through 69-181; 69-191 through 69-194; 69-195 through 69-227; 69-265; 69-271; and 69-272.)

Stipulation 10

(To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(a) of this notice.)

The net profit share payment specified in Section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16 2/3 percent of the production from the lease area may be taken in amount, except as provided in Section 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

14. Information to Lessees. The Department of the Interior will seek the advice of the states of Texas, Louisiana, Mississippi, Alabama, and Florida, and other federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely affected by the proposed activities, then the Minerals Manager, Gulf of Mexico OCS Region, MMS, after appropriate consultation with the Regional Director, U.S. Fish & Wildlife Service; the states; the Environmental Protection Agency (EPA); and other federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the OCS Lands Act of 1953, as amended, to undertake any measures to protect live bottom areas.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with Section 4(e) of the OCS Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with Section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

Bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an endangered species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other state and federal laws and regulations. On October 22, 1979 (44 FR 60963), Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire state of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became

acceptable bid, and the revised regulations' requirements will be deemed

state of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became effective on June 23, 1976.

For those tracts listed in paragraph 13(a) above providing for leases with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to MMS either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

Bidders on tracts 69-8, 69-123 and 69-128 are advised that these tracts contain artificial fishing reefs permitted by the U. S. Army, Corps of Engineers. Permitted areas comprise less than one percent of each tract. Oil and gas lessees should exercise due diligence while operating near these reef structures.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

[FR Doc. 82-17288 Filed 6-25-82; 8:45 am]
BILLING CODE 4310-84-C

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federal register

Monday
June 28, 1982

Part III

Department of Commerce

Patent and Trademark Office

Patents and Trademarks; Fee Revision

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Document No. 2616-108]

37 CFR Parts 1 and 3

Revision of Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend the rules of practice in patent cases to establish procedures and fees in amounts which comply with the requirements of Pub. L. 96-517 or which would apply with enactment of H.R. 6260 as a Public Law A separate rulemaking proposal is being published relating to trademark fees.

DATES: Comments must be submitted on or before July 9, 1982; a public hearing will be held July 9, 1982, 9:30 a.m.; requests to present oral testimony should be received prior to July 9, 1982.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Attention: R. Franklin Burnett, Room 3-11A13, Washington, D.C. 20231. The hearing will be held in Room A of Suite 1006 on the 10th floor of Building 5, Crystal Square, located at 1755 South Jefferson Davis Highway, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This proposed rule change is designed primarily to implement the Patent and Trademark Office fees which are provided for by Pub. L. 96-517, or which would be set in, or provided for by, H.R. 6260.

Public Law 96-517

Pub. L. 96-517 presently requires that fees be established by the Commissioner for the processing of patent applications from filing through issuance or abandonment, for maintaining a patent in force, and for providing all other services and materials related to patents. Pub. L. 96-517 requires that by October 1, 1982, fees for the processing of patent applications, other than design patents, be set by the Commissioner to recover in aggregate 25 per centum of the estimated average cost to the Office of such processing. Similarly, fees for processing design patents are to be set to recover in aggregate 50 per centum of the estimated average cost to the Office of such processing. By October 1, 1982, fees for all other services or materials related to patents are to be set to recover the estimated average cost to the Office of performing the service or furnishing the material.

Pub. L. 96-517 also requires that fees be set for maintaining all patents filed on or after December 12, 1980, other than design patents, in force. It also requires that maintenance fees must recover 25 per centum of the estimated cost to the Office of processing patent applications, other than design patent applications, by the fifteenth fiscal year following December 12, 1980. Under Pub. L. 96-517, the maintenance fees are due 3½, 7½, and 11½ years after grant of the patent.

Pub. L. 96-517 is presently effective and this rule change is designed to implement the fee provisions of that law if it remains fully effective on October 1, 1982. However, on June 8, 1982, the House of Representatives passed H.R. 6260. This rule change proposal is also designed to permit the implementation of the fee provisions of H.R. 6260. This proposed rule change is intended to obtain comments which would enable a final rulemaking to be adopted based on Pub. L. 96-517 and/or on H.R. 6260, without a further notice of proposed rulemaking. Accordingly, comments on proposed rule changes which are common to Pub. L. 96-517 and to H.R. 6260 are requested herein as well as comments on alternative rule changes which are specific to Pub. L. 96-517 (Alternative A) and to H.R. 6260 (Alternative B).

H.R. 6260

H.R. 6260 would establish a number of statutory fees which the Commissioner is required to charge. Among the more significant of these are fees for filing, issuing, and maintaining a patent in force. The fees for filing and issuing a patent would be set forth in section 41(a) of Title 35, United States Code, as proposed to be amended by H.R. 6260. Certain other fees, such as appeal fees, the fee for filing a disclaimer, and fees for filing petitions seeking to revive an abandoned application and for extensions of time, would also be set in section 41(a) of Title 35, United States Code. Sction 41(b) of Title 35, United States Code, as proposed to be amended by H.R. 6260, would set forth the fees for maintaining a patent in force. These fees would be due 3½, 7½ and 11½ years after grant of the patent or within a grace period of six months thereafter. Section 41(c) of Title 35, United States Code, as proposed to be amended by H.R. 6260, would provide for the acceptance of maintenance fees after the statutory grace period under certain conditions and with certain effects.

H.R. 6260 would also provide for the reduction by 50 per centum in the fees paid under section 41 (a) and (b) of Title 35, United States Code, by independent inventors, small business concerns, and nonprofit organizations, who meet the definitions established, and to be established therefor.

Section 41(d) of Title 35, United States Code, as proposed to be amended by H. R. 6260, would also provide that the Commissioner establish fees for all other processing, services, or materials related to patents which are not covered in section 41 (a)-(c) of Title 35, United States Code, to recover the estimated average cost to the Office of the processing, services, or materials. H.R. 6260 includes other provisions which would be the subject of other proposals for rulemaking.

This proposed rulemaking places into the appropriate sections of Title 37, Code of Federal Regulations, the various fees which are due on filing, during the pendency of a patent application, or during the term of a patent. A number of significant changes are proposed in order to implement either Pub. L. 96-517 or H.R. 6260.

Under H.R. 6260, and Alternative B of this proposed rulemaking, fees under section 41 (a) and (b) of Title 35, United States Code, would be reduced by 50 per centum for independent inventors, small business concerns, and nonprofit organizations. H.R. 6260 would give the Commissioner authority to establish regulations defining independent inventors and nonprofit organizations. H.R. 6260 defines small business concerns by reference to section 3 of the Small Businesss Act and regulations established by the Small Business Administration. This proposed rulemaking proposes implementation of the fee system which would be established by H.R. 6260 and lists all applicable fees.

Another significant change contained in this proposal relates to fees established under Pub. L. 95-517 and which would be established by H.R. 6260 for petitions for extensions of time to take action required by the Commission in an application. H.R. 6260 would establish a fee of $50 for filing a petition for a first one-month extension of time, an additional fee of $100 for

filing a petition for a second one-month extension of time which would expire two months after the end of the time period set for taking action, and an additional fee of $200 for filing a petition for a third one-month extension of time which would expire three months after the end of the time period set for taking action. A fourth one-month extension with an additional fee of $200 could be requested if additional time was available under the statute. Under H.R. 6260, the Commissioner would have authority to issue regulations providing when, within any maximum time period permitted by statute, petitions for extensions of time, and the required fee therefor, may be filed. The Commissioner would also not be precluded by H.R. 6260 from waiving the fee for filing a petition for an extension of time where the Office extends the period due to equity considerations or sufficient cause. This proposed rulemaking proposes to implement the extension of time provisions of H.R. 6260 by permitting applicants in the majority of situations to file the petition for an extension of time and the fee at the time of and along with the filing of the response for which a non-statutory or shortened statutory time period has been set. This would reduce the amount of paperwork involved and should significantly reduce the expense of applicants and the Office since resources now devoted to the separate processing of petitions for extensions of time would no longer be required to be expended thereon. The fees are set to provide a proper control on the number of extensions of time given. This proposal would establish, under Pub. L. 96–517, the same procedures relating to extensions of time which would be established under H.R. 6260.

Another significant change contained in this proposal relates to the implementation of the fees for revival of an unintentionally abandoned application which would be authorized under H.R. 6260. H.R. 6260 would establish two different fees for filing petitions with different standards to revive abandoned patent applications. The same two fees would be applicable to petitions to accept the delayed payment of the fee for issuing a patent. Under H.R. 6260, a fee of $50 would be established in § 1.17(1) for filing a petition for revival under sections 133 or 151 of Title 35, United States Code, in accordance with standards presently in effect where the delay resulting in the abandonment, or the delay in payment of the issue fee, was unavoidable. Under H.R. 6260, a fee of $500 would be established in § 1.17(m) for filing each petition for revival, or for acceptance of the delayed payment of an issue fee, where the abandonment or the failure to pay the issue fee was unintentional. A mere statement that abandonment was unintentional plus the $500 fee is all that would be required in this case for this purpose. Under H.R. 6260 and the proposed rulemaking an applicant would have a choice of which petition and fee to file seeking revival depending on the circumstances involved.

The proposed rulemaking also provides for fees for filing certain petitions which have, in some cases, heretofore, been decided without a charge. These fees are proposed under Pub. L. 96–517 and are provided for by the amendment of section 41(d) of Title 35, United States Code, which would be introduced by H.R. 6260. Under section 41 of Title 35, United States Code, as amended by Pub. L. 96–517 or as it would be amended by H.R. 6260, fees are provided for the processing of various petitions desiring certain actions to be taken regarding patent applications, for the recording of assignments, for reexamination of patents, and for the processing of international applications under the Patent Cooperation Treaty. In general, fees are not being proposed for those petitions which are supervisory in nature. For example, where applicants are petitioning from an allegedly improper action of the examiner, it is felt that such petitions should be processed and decided without charge since they are not asking for any special privilege but are attempting to correct an allegedly incorrect Office holding.

Many of the fees currently set forth in § 1.21 are proposed to be increased to reflect the cost of currently performing that service.

Discussion of Specific Sections Proposed To Be Changed

The sections proposed to be changed are grouped in this proposal under three different categories. Those changes which are common to Pub. L. 96–517 and H.R. 6260 appear first and are numbered 1–56. Those changes which relate only to Pub. L. 96–517 appear as Alternative A and are numbered 57–63. Those changes which are dependent upon enactment of H.R. 6260 appear as Alternative B and are numbered 64–74.

Proposed Rule Changes Common to Pub. L. 96–517 and H.R. 6260

The following sections are proposed to be changed under either Pub. L. 96–517 or H.R. 6260:

Section 1.11, if amended as proposed, would change the reference for the reexamination request fee to that proposed in this change.

Section 1.12, if amended as proposed, would break the section into four paragraphs. Proposed paragraph (a) maintains current practice but adds specific reference to § 1.19(a)(5) which sets the cost of copies. Proposed paragraph (b) maintains current wording except for changing "his" to "applicant's". Proposed paragraph (c) includes new language relating to obtaining copies of assignment records not open to the public. Access can be obtained only with the applicant's permission or by petition with fee to the Commissioner for such access in particular situations.

No change in the showing required by petition to obtain access is intended by this proposal. Proposed paragraph (d) contains present language except for reference to the specific rule which sets forth the charge for time consumed in making assignment searches.

Proposed new paragraph (e) of § 1.14, if added as proposed, would set forth the two ways in which access can be obtained to patent applications which are not open to the public. The two ways are (1) by petitioning and paying the petition fee and approval of the Commissioner of such petition and (2) by obtaining written approval from the applicant.

Proposed new § 1.19 would provide fees for copies of various documents supplied by the Office. The fees have been grouped into 5 paragraphs. Proposed new paragraph (a) provides fees for uncertified copies. Proposed subparagraphs (a) (1) and (2) indicate the prices of printed patent copies. Proposed subparagraph (a)(3) would provide a single fee for a copy of an application, as filed, for each 50 pages, or fraction thereof. This practice should make it much easier to determine the amount of the required fee. Proposed subparagraph (a)(4) would set a single fee for a copy of each 100 pages, or fraction thereof, of a patent file wrapper. Proposed subparagraph (a)(5) would provide for a charge of 30 cents per page for copies of Office records other than those covered by proposed subparagraphs (a) (3) and (4). Proposed subparagraph (a)(6) would provide a fee for a microfiche copy of a microfiche.

Proposed paragraph (b) of § 1.19 sets fees for certified copies of Office documents. Subparagraph (b)(1) sets a fee for certifying Office records. Subparagraph (b)(2) provides a single fee for searching assignment records, preparing an abstract of the title and certification thereof. Subparagraph (b)(3) provides a fee for comparing

copies not prepared by the Office prior to certification in order to provide basis for certification. Proposed § 1.19(c) sets the fees for subscribing to all of the patents issued annually in particular subclasses. This charge is in addition to the normal copy charge under § 1.19(a)(1) and (2). Proposed § 1.19(d) sets the fee for providing patent copies to libraries under 35 U.S.C. 13. Proposed § 1.19(e) provides fees for lists of United States patents in particular subclasses.

Section 1.21, if amended as proposed, would contain those miscellaneous fees which do not relate to the topics covered in proposed §§ 1.16–1.20. Current § 1.21 has not been reproduced to show deletions in view of the length of the present rule. All of the fees in § 1.21 are proposed under the authority given the Commissioner by 35 U.S.C. 41(d) as amended by Pub. L. 96–517 or as proposed in H.R. 6260. Proposed § 1.21(a) would establish fees for admission to the examination for registration to practice, registration, reinstatement and issuance of certificates of good standing of patent attorneys and agents. Proposed § 1.21(b)(1) sets forth the fee for establishing and reinstating deposit accounts, while § 1.21(b)(2) set forth the fee due when the balance at the end of each month is below $40. Proposed § 1.21(c) sets the fee for filing a disclosure document. Proposed § 1.21(d) sets the fee for renting a delivery box. Proposed § 1.21(e) sets the fee for an international-type search report. Although all national applications now receive what is known as an international-type search, if a report thereof is desired in addition to an Office action, the fee set in § 121(e) is required. Proposed § 1.21(f) sets a fee for searching Office records for purposes not otherwise specified. Proposed § 1.21(g) sets the fee for tokens for copying machines. Proposed § 1.21(h) would set the fee for recording assignments, agreements, and other documents. Proposed § 1.21(i) would set forth the fee for publishing a notice of availability of a patent for licensing or sale in the *Official Gazette*. Proposed § 1.21(j) would set the fee for the Office providing a duplicate or replacement of a permanent Office user pass. Proposed § 1.21(k) would indicate that the Commissioner may specify charges for items and services not otherwise specified at a level to recover the actual cost of providing such a service by the Office.

Section 1.24 is proposed to be revised so that the denomination of coupons sold by the Office will be in more convenient amounts for fees as proposed.

Section 1.25, if amended as proposed, would provide in paragraph (a), a reference to the fee for establishing a deposit account and a service charge if the end of the month balance is below $40.00. Paragraph (b) is proposed to be amended by revising the present sentence to refer to post-issuance fees and by adding a second sentence which would specifically provide in the regulations for the possibility of an applicant giving a general authorization to charge any fee due under §§ 1.16–1.18 in a particular application to a deposit account during the entire pendency of the application. This general authorization would not apply after the patent issues, e.g., to maintenance fees. The last sentence of paragraph (b) would permit fees during reexamination to be charged to a deposit account by filing an authorization with the request for reexamination.

Section 1.26, if amended as proposed, would provide in paragraph (a) that a withdrawal of a request for an oral hearing would not entitle appellant to a refund. Proposed § 1.26(a) would also raise the amount which would not be refunded without specific request from fifty cents to one dollar. Present paragraph (b) relating to refunds of international search fees during subsequent examination of a national application would be deleted since such refunds have been found to be without a sound financial basis and cause difficulties in administration. The time difference required to prepare international search reports with and without a prior application has been found to be very small and the effort required to process refunds has been found to be quite large. Accordingly, it is proposed that paragraph (b) be deleted. Paragraph (c) is proposed to be amended to bring the spelling of "requester" into conformance with that used in other sections of the regulations.

Section 1.45, if amended as proposed, would provide in paragraphs (b) and (c) for a petition and petition fee to be filed to correct misjoinder of inventorship situations in pending applications. The fee would cover the additional time required by the Office to process such applications.

Section 1.47, if amended as proposed, would provide for petitions and fees for filing applications signed by less than all inventors.

Section 1.51, if amended as proposed, would refer to the filing fees in proposed new § 1.16 and add a new paragraph (c) indicating that applicants may file authorizations to charge fees required under any of §§ 1.16–1.18 to deposit accounts.

Section 1.52, if amended as proposed, would add a reference in paragraph (a) to proposed new paragraph (d). Proposed new paragraph (d) would provide in the rules for filing an application in a language other than English if a verified English translation and fee under § 1.17(k) are timely submitted.

Section 1.55, if amended as proposed, would amend paragraph (b) to require a petition and fee for processing priority papers submitted after the issue fee is paid.

Section 1.75, if amended as proposed, would add a reference to proposed § 1.16 and a sentence referring to the fee for multiple dependent claims set forth in proposed § 1.16(d).

Section 1.85, if amended as proposed, would delete the sentence relating to mounting of informal drawings.

Section 1.86, if removed as proposed, would delete the reference to the Office draftsman making drawings since such service is no longer available.

Section 1.102, if amended as proposed, would amend paragraph (a) and add new paragraphs (c) and (d). Revised paragraph (a) would refer to paragraph (b) and added paragraphs (c) and (d). Proposed paragraph (c) requires a petition but no fee where the basis for the petition to make special is the applicant's age or health or the impact of the invention on improving the environment or conservation of energy. Proposed paragraph (d) would require a petition and the fee set forth in § 1.17(i) for petitions to make special on grounds other than those above.

Section 1.103, if amended as proposed, would amend paragraph (a) to provide for filing a petition and the fee set forth in § 1.17(i) for a suspension of action except that no fee would be required where the reason for the suspension is the fault of the Patent and Trademark Office. Paragraph (b) is amended to clearly indicate that suspensions are directed to actions by the Office and not responses by the applicant.

Section 1.104, paragraph (d), if amended as proposed, would change the fee reference to correspond to proposed § 1.21(e).

Section 1.134, if added as proposed, would indicate that unless applicant is notified of any non-statutory or shortened statutory period in an Office action, a maximum period for response of six months is allowed.

Section 1.135, if amended as proposed, would provide that if no response is filed within the time set in the Office action under proposed § 1.134 or as it

may be extended under proposed § 1.136, the application would be abandoned unless an Office action would indicate that another consequence, such as disclaimer, would take place. Paragraph (b), as proposed, would include a reference to paragraph (a). Paragraph (c), as proposed to be amended, would add that applicant's reply must be a bona fide attempt to respond as well as to advance the case to final action in order for applicant to be given an opportunity to supply any omission.

Section 1.136, if amended as proposed, would revise the title and provide for two distinct procedures to extend the period for action or response in particular situations. The procedure which is available for use in a particular situation would depend upon the circumstances. Paragraph 1.136(a), as proposed, would permit an applicant to file a petition for extension of time and a fee as proposed in § 1.17 (a), (b), (c), or (d) up to four months after the end of the time period to take action except (1) where prohibited by statute, (2) in interference proceedings, or (3) where applicant has been notified otherwise in an Office action. The petition and fee could be filed prior to or with the response. The filing of the petition and fee would extend the time period to take action up to four months dependent on the amount of the fee paid except in those circumstances noted above. Proposed § 1.136(a) would effectively reduce the amount of paperwork required by applicants and the Office since the extension would be effective upon filing of the petition and without acknowledgment or action by the Office and since the petition and fee could be filed with the response. Proposed paragraph (b) provides for requests for extensions of time upon a showing of sufficient cause when the procedure of proposed paragraph (a) is not available. Although the petition and fee procedure of § 1.136(a) would normally be available within 4 months after a set period for response has expired, an extension request for cause under § 1.136(b) must be filed during the set period for response. If paragraph (b) is amended as proposed, the sentence relating to who may grant an extension under paragraph (b) would be eliminated thereby providing additional flexibility to designate persons to act on requests under paragraph (b). Extensions of time in interference proceedings are governed by § 1.245.

Section 1.165, paragraph (b), if amended as proposed, would have deleted therefrom the last sentence which refers to a fee for mounting copies. Since little or no need has been found for this provision in the rules, it is being proposed to be deleted.

Section 1.171, as proposed, would add a reference to proposed § 1.19(b)(2) which sets forth the fee for title reports.

Section 1.177, if amended as proposed, would require a petition and fee as set forth in proposed § 1.17(i) where it is desired that divisions of a reissue on different dates.

Section 1.181, if amended as proposed, would indicate in paragraph (d) that if a petition to the Commissioner is filed under the provisions of a section which requires a petition fee and the required fee is not paid, the petition will be dismissed. The proposed amendment to paragraph (g) would delete the reference to § 1.183.

Section 1.182, if amended as proposed, would add a sentence requiring any petition filed under this section to be accompanied by the petition fee set forth in § 1.17(h).

Section 1.183, if amended as proposed, would specifically provide for the inherent authority of the Commissioner to suspend or waive the rules at the Commissioner's initiative. The proposed amendment also recognizes the Commissioner's authority to designate others to act for the Commissioner in appropriate circumstances. The proposed rule language would also require the payment of the petition fee set forth in § 1.17(h) if a petition to suspend or waive the rules is filed.

Section 1.191, if amended as proposed, would change the fee reference for filing a notice of appeal to proposed § 1.17(e) and would delete the word "primary" since some actions which are subject to appeal are not made by a "primary" examiner.

Section 1.192, paragraph (a), if amended as proposed, would refer to the fee for filing an appeal brief set forth in proposed § 1.17(f) and the fee for an oral hearing set forth in proposed § 1.17(g). It is also proposed to remove from § 1.192(a) the present language requiring a showing of sufficient cause for extensions of time for filing the brief. Under the proposed amendment to § 1.192(a), the provisions of § 1.136 would apply to extensions of time for filing the brief.

Section 1.194, if amended as proposed, would revise paragraphs (b) and (c) to refer to the fee for oral hearing in proposed § 1.17(g).

Section 1.197, paragraph (b), if amended as proposed, would modify the last sentence relating to extensions of time to make the provisions of § 1.136 applicable thereto. Section 1.197(b) is also proposed to be amended to limit requests for rehearing, reconsideration or modification of a Board decision to one. This would not significantly change present practice since such requests are now required to be filed within thirty days from the date of the original decision.

Section 1.231, paragraph (a)(1), if amended as proposed, would change the reference to the fee for filing a request for reexamination to § 1.20(c).

Sections 1.245 and 1.246, if amended as proposed, would indicate that the provisions of proposed § 1.136 do not apply to time periods in interferences.

Section 1.263, if amended as proposed, would add a reference to the proposed fee for filing a disclaimer contained in proposed § 1.20(d).

New Section 1.288, if added as proposed, would provide a rule relating to the filing of interference settlement agreements. The rule generally follows 35 U.S.C. 135(c) and provides for filing of petitions and fees in proposed § 1.288 (b) and (c).

Section 1.292, paragraph (a), if amended as proposed, would require the payment of the fee set forth in proposed § 1.17(j) with any petition for the institution of public use proceedings.

Section 1.304, paragraph (a), if amended as proposed, would provide for extension of the time period for filing an appeal or civil action to be subject to the proposed provisions of § 1.136 and refer to the Court of Appeals for the Federal Circuit rather than to the Court of Customs and Patent Appeals.

Section 1.311, if amended as proposed, would designate the present section as paragraph (a) and revise it in several ways. Proposed paragraph (a) would indicate that the notice of allowance would be sent to the correspondence address as indicated under § 1.33. The issue fee (§ 1.18) would be indicated as being due 3 months from the date of mailing of the notice of allowance. Proposed § 1.311(b) would permit an authorization to be filed either before or after the mailing of the notice of allowance to charge the issue fee to a deposit account.

Section 1.312, if amended as proposed, would divide the section into two paragraphs and would require a petition and payment of the fee under § 1.17(i) for any amendment filed after payment of the issue fee.

Section 1.313, if amended as proposed, would provide in paragraph (a) clear basis for the Office withdrawing applications from issue on its own initiative or upon petition by applicant accompanied by the petition fee set forth in proposed § 1.17(i). Any accompanying amendment must comply

with the requirements of proposed § 1.312. Proposed paragraph (b) clarifies when an application will be withdrawn from issue after assignment of the issue date and patent number.

Section 1.314, if amended as proposed, would revise the wording in view of the proposed issue fees and would add reference to the possibility that an application in which the issue fee was paid could be withdrawn from issue under § 1.313 or the issuance thereof deferred pursuant to a petition by the applicant and the payment of the petition fee under § 1.17(i).

Section 1.317, paragraph (a), is proposed to be amended to show that it applies only to applications in which the issue fee was paid prior to October 1982. Issue fees paid on or after that date will be in accordance with § 1.18.

Section 1.321, if amended as proposed, would include references in both paragraphs (a) and (b) to the statutory disclaimer fee in proposed § 1.20(d) and delete the reference to § 1.21.

Section 1.324, if amended as proposed, would include reference to the fee in proposed § 1.20(b) and change the word "application" to "petition".

Section 1.331, paragraph (a), if amended as proposed, would have a new sentence which gives the citation of the fee for recording assignments and indicates that instruments recorded on the Government register under Part 7 of Title 37, Code of Federal Regulations do not require payment of such fee.

Section 1.332, if amended as proposed, would refer to the proposed fee in § 1.21(h) for recording an assignment.

Section 1.334, if amended as proposed, would divide the rule into three paragraphs and would also require an address of the assignee so that correspondence could be directed to the assignee if required. Proposed new paragraph (c) would provide for filing a petition and the fee set in proposed § 1.17(i) seeking to have the patent issue to the assignee where such assignment was not recorded at the time the issue fee was paid.

Section 1.341, paragraph (h), if amended as proposed, would refer to the proposed fee set forth in § 1.21(a)(2) for registration of an attorney or agent.

Section 1.347, if amended as proposed, would add a sentence referring to the proposed fee set forth in § 1.21(a)(3) for reinstatement of an attorney or agent.

Section 1.445, if amended as proposed, would increase the PCT transmittal fee and search fee to a level needed to cover the cost of performing the required functions. The supplemental search fee for inventions in addition to the first, where lack of unity of invention has been found, is being proposed to be reduced since the present fee is more than is required to cover the costs. The national fee amount is proposed to be the same as the national application filing fees in proposed § 1.16 (a)–(d).

Section 1.446, if amended as proposed, would delete paragraph (b) which provides for refunds of PCT search fees where such search is based in part on an earlier application. Experience has shown that the value of the earlier search and the cost of processing refunds do not warrant the substantial refund provisions and that the refund provisions are difficult to administer equitably.

Section 1.451, if amended as proposed in paragraph (b), would revise the citation of the fees for a certified copy.

Section 1.510, if amended as proposed, would cite the proposed section which sets forth the fee for requesting reexamination. There is no change in the amount of this fee.

Part 3, if deleted as proposed, would eliminate all of the patent forms from the Code of Federal Regulations. The Patent and Trademark Office has prepared a booklet entitled "Patent and Trademark Forms Booklet" which is available from the Superintendent of Documents and includes full size copies of substantially all of the forms in Part 3. since the forms are not mandatory, no need is seen to retain them in the Code of Federal Regulations.

Alternative A—Proposed Rule Changes Under Only Pub. L. 96–517

The following sections are proposed to be changed under only Pub. L. 96–517:

Proposed new § 1.16 relates to application filing fees. Proposed paragraph (a) sets a basic filing fee of $150 which would be required in all original patent applications. The term "original" as used in the regulations means "non-reissue". An "original" application could be a first filing, a division, a continuation, or a continuation-in-part application. Proposed § 1.16 (b) provides for an additional fee of $15 for each independent claim in excess of 3 in an original application. Proposed new § 1.16(c) would provide for an additional fee of $5 for each claim in excess of 20, whether independent or dependent. A multiple dependent claim will be considered to be that number of claims to which direct reference is made. Also, any claim which refers to a multiple dependent claim will be considered for fee calculation purposes to be the number of claims to which direct reference is made in the multiple dependent claim. Proposed § 1.16(d) provides for a new fee of $50 in each application which contains one or more multiple dependent claims. The note following proposed paragraph 1.16(d) is intended to clearly indicate that the applicant, attorney, or agent may pay any additional fees required under proposed paragraphs (b), (c) and (d) of § 1.16, or cancel such claims without payment of such additional fees, either at the time of filing or by the time a response is due to any notice of fee deficiency mailed by the Office. If the fees are not paid or the claims cancelled by the end of the period set for response to the notice to fee deficiency, the application would be held abandoned. Section 1.16(e) would be reserved under this Alternative (Alternative A). Proposed new § 1.16(f) provides for a filing fee of $63.00 for a design application.

Proposed § 1.16 (g) and (h) would establish the filing fees for plant and reissue applications.

Proposed § 1.16 (i) and (j) would set forth the additional claim fees required in reissue applications based on claims in excess of those in the original patent.

Proposed new § 1.17 relates to patent application processing fees which are normally due during the time a patent application is pending. Proposed new paragraphs (a), (b), (c) and (d) provide for the payment of an extension fee for obtaining an automatic extension of time upon filing a petition as provided for in proposed § 1.136(a). The extension fee could be paid during the period for which an extension of time to respond is desired, or after the original period for response has expired, provided that any maximum statutory period which may apply has not expired. The fees set forth in proposed § 1.17 are the total fees required under § 1.136(a) for the periods indicated and any extension fee previously paid to extend a particular period is credited toward the total extension fee required. Proposed paragraph (e) would set forth the fee for filing a notice of appeal to the Board of Appeals. Proposed paragraph (f) would set forth the fee for filing an appeal brief by appellant. Proposed paragraph (g) would provide for a new fee for requesting an oral hearing before the Board of Appeals. Proposed paragraphs (h) and (i) would set forth fees which would be required with petitions to the Commissioner under those sections of the regulations which specifically indicate that such petition fees are required. The amounts of the fees are set at two levels based on the degree of complexity of the petitions in order to recover the estimated average cost to the Office of processing the petitions. Proposed paragraph (j) would provide for a fee to be paid with any petition for

institution of a public use proceeding to cover the estimated average cost of such a proceeding. Proposed new paragraph (k) would set forth a new fee for processing an application filed with a non-English language specification. The fee would cover the additional processing costs involved in such applications. Proposed new paragraph (l) would incorporate into the regulations the fee which would be charged for filing a petition to revive or to accept late payment of the issue fee where the delay was unavoidable.

Proposed new § 1.18 would set the amount of the issue fees pursuant to the authority contained in Pub. L. 96–517. Proposed new paragraph (a) would establish an issue fee of $250.00 for all original and reissue patents except for designs and plants. Proposed new paragraph (b) would set the amount of the issue fee for a design patent at a uniform $88.00 even though terms of 3½, 7, or 14 years may be requested. Proposed new paragraph (c) would establish the issue fee for a plant patent.

Proposed new § 1.20 would set fees for various post-issuance functions performed by the Office. Proposed new paragraph (a) would set forth a fee for providing a certificate of correction of an applicant's mistake. Proposed new paragraph (b) would set a fee to accompany a petition to correct inventorship in a patent under § 1.324. Proposed new paragraph (c) would transfer the $1,500.00 fee for requesting reexamination from present § 1.21(x) to this new section. Proposed new paragraph (d) would provide for a fee for filing a disclaimer under § 1.321. Maintenance fees required by Pub. L. 96–517 are placed in this section. Specific maintenance fees, which are required by Pub. L. 96–517, for those patents resulting from applications filed on and after December 12, 1980 and up to the date of enactment of H.R. 6260 are being proposed at this time in § 1.20 (e)–(g). The fees proposed in § 1.20 (e)–(g) are only set at one level because they are proposed under Pub. L. 96–517 and are not subject to reduction for small entities. The details implementing the payment of maintenance fees are not being proposed at this time.

Section § 1.137, as proposed, would designate the existing section as paragraph (a), add a reference to the proposed new fee under § 1.17(l) for a petitition for revival where the delay which resulted in abandonment was unavoidable, and state when the showing that the delay was unavoidable must be verified. Section 1.137(b) would be reserved under this Alternative (Alternative A). Proposed paragraph (c) would require that any petition for revival under paragraph (a) of § 1.137 be promptly filed and that a terminal disclaimer, equivalent to the period of abandonment of the application, be filed with any petition filed more than six months after the date of abandonment.

Section 1.155, if amended as proposed, would refer in paragraph (a) to proposed § 1.18(b) which sets forth the issue fee for a design application as being $88.00. Section 1.155(b), as proposed, would include a reference to the fee for delayed payment of the issue fee set forth in § 1.17(l) where the delay in payment was unavoidable and state when showings that the delay was unavoidable must be verified. Section 1.155(c) would be reserved under this Alternative (Alternative A). Section 1.155(d) is proposed to be added to require a terminal disclaimer equivalent to the period of abandonment of the application where any petition under this section is not filed within six months of the date of abandonment.

Section 1.316 is proposed to be amended to clarify the language and to delete reference to the fee specified in the notice of allowance. Paragraph (b) is proposed to be amended to provide for petitions for revival with the fee in proposed § 1.17(l) where the delay in payment was unavoidable and to state when showings that the delay was unavoidable must be verified. Paragraph (c) would be reserved under this Alternative (Alternative A). Paragraph (d) is proposed to be added to require a terminal disclaimer equivalent to the period of abandonment of the application where any petition under this section is not filed within six months of the date of abandonment.

Alternative B—Proposed Rule Changes Under H.R. 6260

The following sections are proposed to be changed under H.R. 6260:

Section 1.9, if amended as proposed, would add new paragraphs (c)–(f) which define independent inventor, small business concern, and nonprofit organization as used in 37 CFR, Chapter I. Each of these would be identified as a "small entity" for purposes of paying fees which would be set under section 41 (a) and (b) of Title 35, United States Code, as amended by H.R. 6260.

H.R. 6260 would authorize the Commissioner to establish regulations defining independent inventors and nonprofit organizations. Proposed § 1.9(c) would define an independent inventor as any inventor who (1) has not assigned, granted, conveyed, or licensed, and (2) is under no obligation to assign, grant, convey, or license, any rights in the invention, including (i) the right to make, use or sell the invention, and (ii) the right to exclude others from making, using, or selling the invention, to any person who could not likewise be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under § 1.9. Once an individual sole inventor, or one of several joint inventors, has assigned, granted, conveyed, or licensed, or comes under an obligation to assign, grant, convey, or license, any rights to the invention to anyone who could not likewise obtain status as a small entity, the inventor(s) would no longer be entitled to pay fees in the amounts established for an independent inventor (§ 1.9(c)). Proposed § 1.9(c) would permit an individual inventor to make an assignment, grant, conveyance, or license of partial rights in the invention to another individual or individuals who could qualify as an independent inventor or inventors if they had made the invention. In addition, proposed § 1.9(c) would permit an individual inventor to make an assignment, grant, conveyance, or license of partial rights in the invention to a small business concern or nonprofit organization. Under the circumstances described in the previous two sentences the individual inventor could still qualify as an independent inventor. However, if the independent inventor assigned, granted, conveyed, or licensed, or came under an obligation to assign, grant, convey, or license, any rights to the invention to any individual or organization which could not qualify as a small entity (§ 1.9(f)), then the inventor would no longer qualify as an independent inventor. Proposed §1.9(d) would define a small business concern by reference to regulations established by the Small Business Administration. This requirement would be established by enactment of H.R. 6260. Proposed § 1.9(e) would define a nonprofit organization by utilizing the definition contained in 35 U.S.C. 201(i). Since a nonprofit organization has already been defined in Title 35, United States Code, that definition is used in this proposal. Proposed § 1.9(f) would identify an independent inventor, a small business concern or a nonprofit organization as a "small entity" for purposes of paying fees set under section 41 (a) and (b) of Title 35, United States Code, as amended by H.R. 6260. Fees established under § 41 (c) or (d) of Title 35, United States Code, would not be reduced for small entities since such a reduction is not permitted or authorized by H.R. 6260. Proposed paragraphs (c)–(f) of

§ 1.9 should be read together with proposed new §§ 1.27 and 1.28 which deal with establishing status as a small entity and the effect thereof.

Section 1.16, as proposed in Alternative B, would establish in the regulations those statutory fees which would be charged by the Commissioner for filing patent applications under H.R. 6260. Section 1.16 also includes additional filing fees set in 35 U.S.C. 41(a)(1) to cover the cost of examining complexities presented by certain applications, e.g., applications containing more than a specified number of claims and any application containing a multiple dependent claim. Proposed § 1.16 also provides that fees will be charged when the number of claims is increased above the specified number or when a multiple dependent claim is first presented, whether on filing or at a later point in processing.

Under 35 U.S.C. 41(a) as it would be amended by H.R. 6260, the filing fee for an original patent, except in design or plant cases, is $300. In addition, on filing or on presentation at any other time, $30 is due for each claim in independent form which is in excess of three, $10 is due for each claim (whether independent or dependent) which is in excess of twenty, and $100 is due for each application containing a multiple dependent claim. The latter fee is a one-time charge per application due the first time a multiple dependent claim is presented for examination. For the purpose of computing fees, a multiple dependent claim as referred to in section 112 of Title 35, United States Code, or any claim depending therefrom, will be considered as separate dependent claims in accordance with the number of claims to which reference is made.

The fees proposed in § 1.16 are reduced by 50 percentum for applications filed by independent inventors, nonprofit organizations and small business concerns in accordance with H.R. 6260. Therefore, two fees are listed under each proposed paragraph.

Proposed new § 1.16 relates to application filing fees. Proposed paragraph (a) sets a basic filing fee of $300 which would be required in all original patent applications. The term "original" as used in the regulations means "non-reissue". An "original" application could be a first filing, a division, a continuation, or a continuation-in-part application. Proposed § 1.16(b) provides for an additional fee of $30 for each independent claim in excess of 3 in an original application. Proposed new § 1.16(c) would provide for an additional fee of $10 for each claim in excess of 20, whether independent or dependent. A multiple dependent claim will be considered to be that number of claims to which direct reference is made. Also, any claim which refers to a multiple dependent claim will be considered for fee calculation purposes to be the number of claims to which direct reference is made in the multiple dependent claim. Proposed § 1.16(d) provides for a new fee of $100 in each application which contains one or more multiple dependent claims. The note following proposed 1.16(d) is intended to clearly indicate that the applicant, attorney, or agent may pay any additional fees required under proposed paragraphs (b), (c) and (d) of § 1.16, or cancel such claims without payment of such additional fees, either at the time of filing or by the time a response is due to any notice of fee deficiency mailed by the Office. If the fees are not paid or the claims cancelled by the end of the period set for response to the notice of fee deficiency, the application would be held abandoned. Proposed new § 1.16(e) would establish the amount of the surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application. This fee is being proposed at this time, but would only be made effective when the statutory authority for the late filing of the fee or the oath or declaration becomes effective under 35 U.S.C. 111, as it would be amended by H.R. 6260. Proposed new § 1.16(f) provides for a filing fee of $125.00 for a design application.

Proposed § 1.16(g) and (h) would incorporate into the regulations the filing fees for plant and reissue applications.

Proposed § 1.16 (i) and (j) would set forth the additional claim fees required in reissue applications based on claims in excess of those in the original patent.

Proposed new § 1.17 relates to patent application processing fees which are normally due during the time a patent application is pending. Proposed new paragraphs (a), (b), (c) and (d) provide for the payment of an extension fee for obtaining an automatic extension of time upon filing a petition as provided for in proposed § 1.136(a). The extension fee could be paid during the period for which an extension of time to respond is desired, or after the original period for response has expired, provided that any maximum statutory period which may apply has not expired. The fees set forth in proposed § 1.17 are the total fees required under § 1.136(a) for the periods indicated and any extension fee previously paid to extend a particular period is credited toward the total extension fee required. Proposed paragraph (e) would set forth the fee for filing a notice of appeal to the Board of Appeals. Proposed paragraph (f) would set forth the fee for filing an appeal brief by appellant. Proposed paragraph (g) would provide for a new fee for requesting an oral hearing before the Board of Appeals. Proposed paragraphs (h) and (i) would set forth fees which would be required with petitions to the Commissioner under those sections of the regulations which specifically indicate that such petition fees are required. The amounts of the fees are set at two levels based on the degree of complexity of the petitions in order to recover the estimated average cost to the Office for processing the petitions. Proposed paragraph (j) would provide for a fee to be paid with any petition for institution of a public use proceeding to cover the estimated average cost of such a proceeding. Proposed new paragraph (k) would set forth a new fee for processing an application filed with a non-English language specification. The fee would cover the additional processing costs involved in such applications. Proposed new paragraph (l) would incorporate into the regulations the fee which would be charged for filing a petition to revive or to accept late payment of the issue fee where the delay was unavoidable. Proposed new paragraph (m) would incorporate into the regulations the fee which would be established in 35 U.S.C. 41(a) 7, as amended by H.R. 6260, to be charged for a petition for the revival of an unintentionally abandoned application for patent or for the unintentionally delayed payment of an issue fee.

Since proposed § 1.17 (h), (i), (j) and (k) are proposed under the authority given the Commissioner under 35 U.S.C. 41(d) as it would be amended by H.R. 6260, only one level of fee is proposed. H.R. 6260 would only provide for the reduction of fees charged to small entities of those fees established in 35 U.S.C. 41 (a) and (b).

Proposed new § 1.18 would set the amount of the issue fees specified by H.R. 6260. Proposed new paragraph (a) would establish an issue fee of $500.00 for all original and reissue patents except for designs and plants. Proposed new paragraph (b) would set the amount of the issue fee for a design patent. Proposed new paragraph (c) would set forth the issue fee for a plant patent. All fees proposed in § 1.18 would be reduced by 50 per centum for small entities.

Proposed new § 1.20 would set fees for various post-issuance functions performed by the Office. Proposed new

paragraph (a) would set forth a fee for providing a certificate of correction of an applicant's mistake. Proposed new paragraph (b) would set a fee to accompany a petition to correct inventorship in a patent under § 1.324. Proposed new paragraph (c) would transfer the $1,500.00 fee for requesting reexamination from present § 1.21(x) to this new section. Proposed new paragraph (d) would provide for a fee for filing a disclaimer under § 1.321. Maintenance fees required by Pub. L. 96–517 and which would be set in H.R. 6260 are placed in this section. Specific maintenance fees, which are required by Pub. L. 96–517, for those patents resulting from applications filed on and after December 12, 1980 and up to the date of enactment of H.R. 6260 are being proposed at this time in § 1.20 (e)–(g). Proposed new § 1.20 (h)–(j) would incorporate into the regulations the maintenance fees which would be provided in 35 U.S.C. 41(b) by H.R. 6260. The fees proposed in § 1.20 (a)–(c) are only set at one level because they are proposed under 35 U.S.C. 41(d). The fees proposed in § 1.20 (e)–(g) are only set at one level because they are proposed under Pub. L. 96–517 and are not subject to reduction for small entities. The details implementing the payment of maintenance fees are not being proposed at this time.

Proposed new § 1.27 would provide in paragraph (a) that any person seeking to establish status as a small entity as defined in proposed §1.9(f) for the purpose of paying reduced fees must file a statement to that effect prior to or with the payment of such fees. Proposed § 1.27(b) provides specifically for inventors filing statements claiming status as independent inventors. Proposed § 1.27(c) would provide for claiming status as a small business concern. Proposed § 1.27(d) would provide for claiming status as a nonprofit organization. Under proposed § 1.27, as long as all of the rights remain in small entities, the fees for a small entity can be paid. This would include circumstances where the rights were divided between an independent inventor, a small business concern and a nonprofit organization or any combination thereof.

Proposed new § 1.28 would provide guidance as to the effect of failure to establish, or notify the Office of any change from, small entity status. Proposed § 1.28(a) would also provide that once status as a small entity has been established in an application or patent, the status remains in that application or patent without the filing of a further verified statement pursuant to § 1.27, unless the status is changed. Under proposed § 1.28(a), status as a small entity in one application or patent does not affect any other application or patent. Proposed § 1.28(b) requires that notification of any change in status resulting in loss of entitlement to small entity status be filed in the application or patent prior to paying, or at the time of paying, any fee due after the date on which status as a small entity is no longer appropriate. Proposed § 1.28(b) would also provide that the payment of any fee in an application or patent as a small entity, once small entity status has been established, would serve as a representation that such payment as a small entity is proper at the time the payment is made. Section 1.28 would provide guidance as to the effect of improperly establishing status as a small entity. The intent of the reduced fees for small entities is to soften the impact of the fee increases under section 41(a) and (b) of Title 35, United States Code, as such sections would be amended by H.R. 6260, upon those who are least able to absorb the increased fees without overall damage to their ability to participate in the patent system through the filing, issuing and maintaining of patents. Accordingly, any attempt to improperly establish status as a small entity would be viewed as a serious matter by the Office and proposed § 1.28(d) indicates that any attempt to fraudulently establish status as a small entity or pay fees as a small entity will be considered as a fraud practiced or attempted on the Office. Likewise, improperly and through gross negligence establishing status as a small entity or paying fees as a small entity will be considered as a fraud practiced or attempted on the Office. Normally, the Office will not question a claim to status as a small entity. However, if the Office must resolve such an issue in a question arising before it, the Office will look to the actual or practical status of the individual or organization claiming status as a small entity rather than the professed or apparent status.

Section 1.66, if amended as proposed, would provide for the use of an apostille of a foreign official to attest to oaths or affirmations made in foreign countries in accordance with 35 U.S.C. 115 and 261, as amended by H.R. 6260.

Section 1.137, as proposed, would designate the existing section as paragraph (a), add a reference to the proposed new fee under § 1.17(l) for a petition for revival where the delay which resulted in abandonment was unavoidable, and state when the showing that the delay was unavoidable must be verified. Proposed new § 1.137(b) would provide for filing a statement and a fee under proposed § 1.17(m) for revival of an application which was unintentionally abandoned. Proposed paragraph (c) would require that any petition for revival under paragraphs (a) or (b) of § 1.137 be promptly filed and that a terminal disclaimer, equivalent to the period of abandonment of the application, be filed with any petition filed more than six months after the date of abandonment.

Section 1.155, if amended as proposed, would refer in paragraph (a) to proposed § 1.18(b) which sets forth the issue fee for a design application. Section 1.155(b), as proposed, would include a reference to the fee for delayed payment of the issue fee set forth in § 1.17(l) where the delay in payment was unavoidable and state when showings that the delay was unavoidable must be verified. Proposed new § 1.155(c) would provide for acceptance of the late payment of the issue fee where the delay was unintentional upon petition and payment of the fee set forth in proposed § 1.17(m). Section 1.155(d) is proposed to be added to require a terminal disclaimer equivalent to the period of abandonment of the application where any petition under this section is not filed within six months of the date of abandonment.

Section 1.316, if amended as proposed, would implement the statutory provisions of 35 U.S.C. 41(a) with regard to petition fees for revival of applications abandoned for failure to pay the issue fee. Paragraph (b) is proposed to be amended to provide for petitions for revival with the fee in proposed § 1.17(l) where the delay in payment was unavoidable and to state when showings that the delay was unavoidable must be verified. Paragraph (c) is proposed to be added to provide for petitions for revival with the fee in proposed § 1.17(m) where the delay was unintentional. Paragraph (d) is proposed to be added to require a terminal disclaimer equivalent to the period of abandonment of the application where any petition under this section is not filed within six months of the date of abandonment.

Environmental, energy, and other considerations: The proposed rule change will not have a significant impact on the quality of the human environment or the convervation of energy resources.

The proposed rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) for several reasons. The fees proposed under Pub. L. 96–517 are set to

recover 50% of patent processing costs rather than full costs and generally the rate of increase in the fees in less than that of inflation since the last increase in fees in 1965. Under H.R. 6260 and this proposed rulemaking, small entities would be able to pay reduced fees for filing, issuance, and maintenance in force of patents. In general, the rule change will also expedite proceedings before the Patent and Trademark Office, changing existing procedures where they can be simplified.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule change would not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et. seq.*, since no additional record keeping or reporting requirements are placed upon the public.

List of Subjects in 37 CFR Parts 1 and 3

Administration practice and procedure, Colleges and universities, Courts, Fraud, Inventions and patents, Lawyers, Nonprofit organizations, Small businesses.

Proposed Amendment of Regulations

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations as set forth below.

It is proposed to amend 37 CFR Parts 1 and 3, as follows with deletions indicated by brackets and additions by arrows with the exception that present § 1.21 and deleted Part 3 are not shown.

Proposed Rule Changes Common to Public Law 96–517 and H.R. 6260

PART 1—RULES OF PRACTICE IN PATENT CASES

1. Section 1.11 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.11 Files open to the public.

* * * * *

(c) All requests for reexamination for which the fee under § [1.21(x)] ►1.20(c)◄ has been paid, will be announced inthe *Official Gazette*. Any reexaminations at the initiative of the Commissioner pursuant to § 1.520 will also be announced in the *Official Gazette*. The announcement shall include at least the date of the request, if any, the reexamination request control number or the Commissioner initiated order control number, patent number, title, class and subclass, name of the inventor, name of the patent owner of record, and the examining group to which the reexamination is assigned.

* * * * *

2. Section 1.12 is proposed to be revised to read as follows:

§ 1.12 Assignment records open to public inspection.

►(a)◄ The assignment records, relating to original or reissue patents, including digests and indexes, ►and assignment records relating to pending or abandoned trademark applications and to trademark registrations,◄ are open to public inspection and copies of any instrument recorded may be obtained upon ►request and◄ payment of the fee ►set forth in § 1.19(a)(5)◄ [therefor].

►(b)◄ Assignment records, digests, and indexes, relating to any pending or abandoned application are not available to the public. Copies of any such assignment records and information with respect thereto shall be obtainable only upon written authority of the applicant or ►applicant's◄ [his] assignee or attorney or agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules.

►(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in secrecy under §1.14, or any information with respect thereto, must (1) be in the form of a petition accompanied by the petition fee set forth in §1.17(i) or (2) include written authority granting access to the member of the public to the particular assignment records from the applicant or applicant's assignee or attorney or agent of record.◄

►(d)◄ An order for a copy of an assignment should give the identification of the record. If identified only by the name of the patentee and number of the patent, or in the case of a trademark registration by the name of the registrant and number of the registration, or by name of the applicant and serial number or international application number of the application, an extra charge ►as set forth in § 1.21(f)◄ will be made for the time consumed in making a search for such assignment.

3. Section 1.14 is proposed to be amended by adding a new paragraph (e) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

►(e) Any request by a member of the public seeking access to, or copies of, any pending or abandoned application preserved in secrecy pursuant to paragraphs (a) and (b) of this section, or of any papers relating thereto, must (1) be in the form of a petition and be accompanied by the petition fee set forth in § 1.17(i) or (2) include written authority granting access to the member of the public in that particular application from the applicant or the applicant's assignee or attorney or agent of record.◄

4. A new § 1.19 is proposed to be added which reads as follows:

►§ 1.19 Document supply fees.

The Patent and Trademark Office will supply copies of the following documents upon payment of the fees indicated:

(a) Uncertified copies of Office documents: (1) Printed copy of a patent, including a design patent, or defensive publication document, except color plant patent, $1.00; (2) Printed copy of a plant patent in color, $8.00; (3) Copy of patent application as filed, each 50 pages or fraction thereof, $18.00; (4) Copy of patent file wrapper and contents, each 100 pages or fraction thereof, $30.00; (5) Copy of Office records, except as provided in subparagraphs (3) and (4) of this paragraph, per page, $0.30; (6) Microfiche copy of microfiche, per microfiche, $2.00.

(b) Certified copies of Office documents: (1) For certifying Office records, per certificate, $3.50; (2) For a search of assignment records, abstract of title and certification, per patent, $12.00; (3) For comparing copies not prepared by the Office with the original, prior to certification of the copies, per page, $0.10.

(c) Subscription services: (1) Subscription orders for printed copies of patents as issued, annual service charge for entry of order and one subclass; $4.00; (2) For annual subscription to each additional subclass in addition to the one covered by the fee under

subparagraph (1) of this paragraph, per subclass, $0.40.

(d) Library service (35 U.S.C. 13) For providing to libraries copies of all patents issued annually, per annum, $50.00.

(e) Lists of patents in subclass: (1) For list of all United States patents in a subclass, per 100 patent numbers or fraction thereof, $2.00; (2) For list of United States patents in a subclass limited by date or patent number, per 50 patent numbers or fraction thereof, $2.00.◄

5. Section 1.21 is proposed to be revised to read as follows:

►**§ 1.21 Miscellaneous fees and charges.**

The Patent and Trademark Office has established the following fees for the services indicated:

(a) Registration of attorneys and agents: (1) For admission to examination for registration to practice, fee payable upon application, $75.00; (2) On registration to practice, $50.00; (3) For reinstatement to practice, $25.00; (4) For certificate of good standing as an attorney or agent, $10.00.

(b) Deposit accounts: (1) For establishing or reinstating a deposit account, $10.00; (2) Service charge for each month when the balance at the end of the month is below $40, $2.00.

(c) Disclosure document: For filing a disclosure document, $10.00.

(d) Delivery box: Local delivery box rental, per annum, $24.00.

(e) International-type search reports: For preparing an international-type search report of an international-type search made at the time of the first action on the merits in a national patent application, $25.00.

(f) Search of Office records: For searching Patent and Trademark Office records for purposes not otherwise specified, per one-half hour or fraction thereof, $10.00.

(g) Copy machine tokens: Token for copying machine, each, $0.20.

(h) Recording of documents: (1) For recording each assignment, agreement or other paper relating to the property in a patent or application, $20.00; (2) Where a document to be recorded under subparagraph (1) of this paragraph refers to more than one patent or application, for each additional patent or application, $5.00.

(i) Publication in *Official Gazette:* For publication in the *Official Gazette* of a notice of the availability of an application or a patent for licensing or sale, each application or patent, $8.00.

(j) For a duplicate or replacement of a permanent Office user pass (There is no charge for the first permanent user pass), $5.00.

(k) For items and services, that the Commissioner finds may be supplied, for which fees are not specified by statute or by this section, such charges as may be determined by the Commissioner with respect to each such item or service, actual cost.◄

6. Section 1.24 is proposed to be revised to read as follows:

§1.24 Coupons.

Coupons in [denominations] ►the denomination◄ of [twenty cents and fifty-cents] ►one dollar◄ are sold by the Patent and Trademark Office for the convenience of regular purchasers of U.S. patents [, designs,] and trademark registrations; these coupons may not be used for any other purpose. [The 20-cent coupons are sold individually and in books of 50 with stubs for record for $10.] The [50-cent] ►one dollar◄ coupons are sold individually [and in pads of 10 for $5] and in books of 50 with stubs for record for [$25] ►$50◄. These coupons are good until used; they may be transferred but cannot be redeemed.

7. Section 1.25 is proposed to be revised to read as follows:

§1.25 Deposit accounts.

(a) For the convenience of attorneys, agents, and the general public ►in paying any fees due,◄ in ordering services offered by the Office, copies of records, etc., [special] deposit accounts may be established in the Patent and Trademark Office ►upon payment of the fee for establishing a deposit account (§1.21(b)(1))◄. A minimum deposit of $50 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all services, copies, etc., requested must always be on deposit. A service charge ►(§1.21(b)(2))◄ will be assessed for each month that the balance at the end of the month is below $40.

(b) Filing, issue, appeal, international-type search report, international application processing [and] petition ►, and post-issuance◄ fees may be charged against these accounts. ►A general authorization to charge all fees, or only certain fees, set forth in §§1.16 to 1.18 to a deposit account may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed. An authorization to charge to a deposit account the fee for a request for reexamination pursuant to §1.510 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination.◄

8. Section 1.26 is proposed to be revised to read as follows:

§1.26 Refunds.

(a) Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw [his] ►an◄ application ►,◄[or to withdraw] an appeal, ►or a request for oral hearing,◄ will not entitle a party to demand such a return. Amount of ►one dollar◄[fifty cents] or less will not be returned unless specifically demanded within a reasonable time, nor will the payer be notified of such amount; amounts over [fifty cents but less than] one dollar may be returned [in postage stamps, and other amounts] by check or, if requested, by credit to a deposit account.

(b) [Refund of a portion of any international search fee paid to the Patent and Trademark Office may be made where the prior art search made during the subsequent examination of a national application is wholly or partly based on the earlier international search made in the international application for which the search fee was paid. The amount of the refund will be as determined by the examiner according to the value of the prior international search made by the Patent and Trademark Office as an International Searching Authority, as 90 percent, 45 percent, or 0 percent of the international search fee. If the amount of the refund is not a multiple of $5, it will be rounded to the next higher multiple of $5. (Note §1.446 for refund of the search fee in an international application.)] ►[Reserved]◄

(c) If the Commissioner decides not to institute a reexamination proceeding, a refund of $1,200.00 will be made to the [requestor] ►requester◄ of the proceeding. Reexamination [requestors] ►requesters◄ should indicate whether any refund should be made by check or by credit to a deposit account.

9. Section 1.45 is proposed to be amended by revising paragraphs (b) and (c) to read as follows:

§ 1.45 Joint inventors.

* * * * *

(b) If an application for patent has been made through error and without any deceptive intention by two or more persons as joint inventors when they

were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing ►of a petition including◄ a statement of the facts verified by all of the original applicants, ►the required fee (§ 1.17(h)),◄ and an oath or declaration as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

(c) If an application for patent has been made through error and without any deceptive intention by less than all the actual joint inventors, the application may be amended to include all the joint inventors upon filing ►of a petition including◄ a statement of the facts verified by, and an oath or declaration as required by § 1.65 executed by, all the actual joint inventors, ►along with the required fee (§ 1.17(h)),◄ provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

10. Section 1.47 is proposed to be revised to read as follows:

§ 1.47 Filing ►when an◄ [by other than] inventor ►refuses to sign or cannot be reached◄.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself ►or herself◄ and the omitted inventor. [Such] ►The oath or declaration in such an◄ application must be accompanied by ►a petition including◄ proof of the pertinent facts ►and by the required fee (§ 1.17(h))◄ and must state the last known address of the omitted inventor. The Patent and Trademark Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The omitted inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.65. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he ►or she◄ had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. [Such] ►The oath or declaration in such an◄ application must be accompanied by ►a petition including◄ proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, ►and by the required fee (§ 1.17(h))◄ and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent and Trademark Office. The Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the *Official Gazette*. The inventor may subsequently join in the application on filing an oath or declaration of the character required by § 1.65. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

11. Section 1.51 is proposed to be amended by revising paragraph (a)(4) and by adding a new paragraph (c) to read as follows:

§ 1.51 General requisites of an application.

(a) Applications for patents must be made to the Commissioner of Patents and Trademarks. A complete application comprises:

* * * * *

(4) The prescribed filing fee[. (See 35 U.S.C. section 41 for filing fees.) ►, see § 1.16.◄

* * * * *

►(c) Applicants may desire and are permitted to file with, or in, the application an authorization to charge, at any time during the pendency of the application, any fees required under any of §§ 1.16 to 1.18 to a deposit account established and maintained in accordance with § 1.25.◄

12. Section 1.52 is proposed to be amended by revising paragraph (a) and by adding a new paragraph (d) to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The application, any amendments or corrections thereto, and the oath or declaration must be in the English language except as provided for in § 1.69 ►and paragraph (d) of this section◄, or be accompanied by a verified translation of the application and a translation of any corrections or amendments into the English language. All papers which are to become a part of the permanent records of the Patent and Trademark Office must be legibly written, typed, or printed in permanent ink or its equivalent in quality. All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing, typing, or printing thereon to permit the direct [production] ►reproduction◄ of readily legible copies in any number by use of photographic, electrostatic, [photooffset] ►photo-offset◄, and microfilming processes. If the papers are not of the required quality, substitute typewritten or printed papers of suitable quality may be required.

* * * * *

►(d) An application including a signed oath or declaration may be filed in a language other than English if it is accompanied by the fee set forth in § 1.17(k). A verified English translation of the non-English language application is required to be filed with the application or within such time as may be set by the Office.◄

13. Section 1.55 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.55 Serial number and filing date of application.

* * * * *

(b) An applicant may claim the benefit of the filing date or a prior foreign application under the conditions specified in 35 U.S.C. 119. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.65. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of interference (§ 1.224); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. ►If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting

their entry and the fee set forth in § 1.17(i).◄

* * * * *

14. Section 1.75 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.75 Claim(s).

* * * * *

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes ►under §1.16◄, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes, also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. ►In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in § 1.16(d).◄ Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

* * * * *

15. Section 1.85 is proposed to be revised to read as follows:

§ 1.85 Informal drawings.

The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for reproduction, may be admitted but in such case the drawing must be corrected or a new one furnished, as required. [The necessary corrections or mounting will be made by the Office upon applicant's request or permission and at his expense. (See §§ 1.21 and 1.165.)]

16. Section 1.86 is proposed to be removed:

[§ 1.86 Draftsmen to make drawings.

(a) Applicants are advised to employ competent draftsmen to make their drawings.

(b) The Office may furnish the drawings at the applicant's expense as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them. (See § 1.21.)]

17. Section 1.102 is proposed to be amended by revising paragraph (a) and adding new paragraphs (c) and (d) to read as follows:

§ 1.102 Advancement of examination.

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon ►filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with◄ a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

* * * * *

►(c) A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.◄

►(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the petition fee set forth in §1.17(i).◄

18. Section 1.103 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.103 Suspension of action.

(a) Suspension of action by the Office will be granted [at the request of the applicant] for good and sufficient cause and for a reasonable time specified ►upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(i). Action will not be suspended when a response by the applicant to an Office action is required◄. [Only one suspension may be granted by the primary examiner; any further suspension must be approved by the Commissioner.]

(b) If action ►by the Office◄ on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

* * * * *

19. Section 1.104 is proposed to be amended by revising paragraph (d) to read as follows:

§ 1.104 Nature of examination; examiner's action.

* * * * *

(d) Any national application may also have an international-type search report prepared thereon at the time of the national examination on the merits, upon specific written request therefor and payment of the international-type search report fee. See §1.21[(w)] ►(e)◄ for amount of fee for preparation of international-type search report.

20. Section 1.134 is proposed to be added and reads as follows:

►§ 1.134 Time period for response to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for response to an Office action. Unless the applicant is notified in writing that response is required in less than six months, a maximum period of six months is allowed.◄

21. Section 1.135 is proposed to be amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 1.135 Abandonment for failure to respond within time ►period◄ [limit].

(a) If an applicant ►of a patent application◄ fails to ►respond within the time period provided under §§ 1.134 and 1.136◄ [prosecute his application within six months after the date when the last official notice of any action by the Office was mailed to him, or within such shorter time as may be fixed (§ 1.136)], the application will become abandoned ►unless an Office action indicates otherwise◄.

(b) Prosecution of an application to save it from abandonment ►pursuant to paragraph (a) of this section◄ must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsible to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to ►respond and to◄ advance the case to final action, and is substantially a complete response to the [examiner's] ►Office◄ action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

* * * * *

22. Section 1.136 is proposed to be revised to read as follows:

§ 1.136 ► Filing of timely responses with petition and fee for extension of time and extensions of time for cause. ◄ [Time less than six months.]

(a) ►If an◄ [An] applicant ►is◄ [may be] required to ►respond within a

non-statutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in § 1.17 are filed prior to or with the response, unless (1) applicant is notified otherwise in an Office action or (2) the application is involved in an interference declared pursuant to § 1.207. The date on which the response, the petition, and the fee have been filed is the date of the response, and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available.◄ [prosecute his application in a shorter time than six months, but not less than thirty days, whenever such shorter time is deemed necessary or expedient. Unless the applicant is notified in writing that response is required in less than six months, the maximum period of six months is allowed.]

(b) ►When a response with petition and fee for extension of time cannot be filed pursuant to paragraph (a) of this section, the time for response◄ [The time for reply, when a time less than six months has been set,] will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. [Only one extension may be granted by the primary examiner in his discretion; any further extension must be approved by the Commissioner.] In no case can any extension carry the date on which response to an ►Office◄ action is due beyond [six months from the date of the action.] ►the maximum time period set by statute or be granted when the provisions of paragraph (a) of this section are available. See § 245 for extension of time in interference proceedings.◄

23. Section 1.165 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.165 Drawings.

* * * * *

(b) The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent water color or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. Permanently mounted color photographs are acceptable. The paper in any case must correspond in size, weight and quality to the paper required for other drawings. See § 1.84 [Nonpermanently mounted copies will be correctly mounted at applicant's expense, § 1.21(v)].

24. Section 1.171 is proposed to be revised to read as follows:

§ 1.171 Application for reissue.

An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report ►accompanied by the fee set forth in § 1.19(b)(2)◄, to be placed in the file, and by an offer to surrender the original patent (§ 1.178).

25. Section 1.177 is proposed to be revised to read as follows:

§ 1.177 Reissue in divisions.

The Commissioner may, in his ►or her◄ discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner ►upon petition and payment of the fee set forth in § 1.17(i)◄, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

26. Section 1.181 is proposed to be amended by revising paragraphs (d) and (g) to read as follows:

§ 1.181 Petition to the Commissioner.

* * * * *

(d) ►Where a◄ [No] fee is required for a petition to the Commissioner ►the appropriate section of this part will so indicate◄ [except in the case of a petition to revive an abandoned application (§ 1.137) or for the delayed payment of an issue fee (§ 1.317)]. ►If any required fee does not accompany the petition, the petition will be dismissed.◄

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions [under this section, with the exception of petitions under § 1.183].

27. Section 1.182 is proposed to be revised to read as follows:

§ 1.182 Questions not specifically provided for.

All cases not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing. ►Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).◄

28. Section 1.183 is proposed to be revised to read as follows:

§ 1.183 Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner [in person] ►or the Commissioner's designee, sua sponte, or◄ on petition of the interested party, subject to such other requirements as may be imposed. ►Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).◄

29. Section 1.191 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.191 Appeal to Board of Appeals.

(a) Every applicant for a patent or for reissue of a patent, or every owner of a patent under reexamination, any of the claims of which have been twice rejected, or who has been given a final rejection (§ 1.113), may, upon the payment of the fee ►set forth in § 1.17(e)◄ [required by law], appeal from the decision of the [primary] examiner to the Board of Appeals within the time allowed for response.

* * * * *

30. Section 1.192 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the notice of appeal under § 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a

brief in triplicate. The brief must be accompanied by the requisite fee ►set forth in § 1.17(f)◄ and must set forth the authorities and agruments on which the appellant will rely to maintain the appeal. The brief must include a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved. Appellant must also indicate at the time of filing the brief if an oral hearing is desired ►and submit therewith the fee set forth in § 1.17(g). The time periods set forth herein are subject to the provisions of § 1.136◄. [Upon a showing of sufficient cause, the Commissioner may grant extensions of time for filing the brief. The determination of such requests may be delegated by the Commissioner to appropriate Patent and Trademark Office officials. All requests for extensions must be filed prior to the expiration of the period sought to be extended. The filing of a request for extension of time does not stay any period unless and until granted.]

* * * * *

31. Section 1.194 is proposed to be amended by revising paragraphs (b) and (c) to read as follows:

§ 1.194 Oral hearing.

* * * * *

(b) If appellant requests an oral hearing ►and submits therewith the fee set forth in § 1.17(g)◄, an oral argument may be presented by, or on behalf of, the primary examiner if considered desirable by either the primary examiner or the Board.

(c) If no request ►and fee◄ for oral hearing ►have◄ [has] been ►filed◄ [made] by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing ►and has submitted the fee set forth in § 1.17(g)◄, a day of hearing will be set, and due notice thereof given to the appellant and to the primary examiner. Hearing will be held as stated in the notice, and oral argument will be limited to twenty minutes for the appellant and fifteen minutes for the primary examiner unless otherwise ordered before the hearing begins.

32. Section 1.197 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.197 Action following decision.

* * * * *

(b) ►A single◄ [Any] request for rehearing or reconsideration, or modification of the decision, [must] ►may◄ be ►made if◄ filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals so states. Such time may be extended [by the Board of Appeals upon a showing of sufficient cause] ►under the provisions of § 1.136◄.

* * * * *

33. Section 1.231 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 1.231 Motions before the primary examiner.

(a) Within the period set in the notice of interference for filing motions any party to an interference may file a motion seeking:

(1) To dissolve as to one or more counts, except that such motion based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications will not normally be considered. A motion to dissolve an interference in which a patentee is a party on the ground that the claims corresponding to the counts are unpatentable to the patentee over patents or printed publications will be considered through reexamination if it complies with the requirements of § 1.510(b) and is accompanied by the fee for requesting reexamination set in § ► 1.20(c)◄ [1.21(x)]. Otherwise, a motion to dissolve an interference in which a patentee is a party will not be considered if it would necessarily result in the conclusion that the claims of the patent which correspond to the counts are unpatentable to the patentee on a ground which is not ancillary to priority. Where a motion to dissolve is based on prior art, service on opposing parties must include copies of such prior art. A motion to dissolve on the ground that there is no interference in fact will not be considered unless the interference involves a design or plant patent or application or unless it relates to a count which differs from the corresponding claim of an involved patent or of one or more of the involved applications as provided in §§ 1.203(a) and 1.205(a).

* * * * *

34. Section 1.245 is proposed to be revised to read as follows:

§ 1.245 Extension of time.

Extensions of time in any [case] ► interference proceeding◄ not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension. ►The provisions of § 1.136 do not apply to time periods in interferences.◄

35. Section 1.246 is proposed to be revised to read as follows:

§ 1.246 Late papers.

A motion or other paper belatedly filed will not normally be considered except upon a showing, under oath or in the form of a declaration (§ 1.68), of sufficient cause as to why such motion or paper was not timely presented. ► The provisions of § 1.136 do not apply to time periods in interferences.◄

36. Section 1.263 is proposed to be revised to read as follows:

§ 1.263 Statutory disclaimer by patentee.

The disclaimer referred to in § 1.262, when made by a patentee is interference is not a disclaimer under 35 U.S.C. 253. If a disclaimer under the statute ►and the fee set forth in § 1.20(d)◄ (see § 1.321) cancelling claims involved in the interference from the patent, is made by the patentee, including all assignees as shown by the record of the Patent and Trademark Office, the interference will be dissolved pro forma as to such claims.

37. Section 1.268 is proposed to be added and to read as follows:

►§ 1.268 Filing of interference settlement agreements.

(a) Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, must be in writing and a true copy thereof filed in the Patent and Trademark Office, directed to the Board of Patent Interferences, before the termination of the interference as between the said parties to the agreement or understanding.

(b) If any party filing the agreement or understanding pursuant to paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee forth in § 1.17(i) and on a showing of good cause.

(c) Failure to file the copy of the agreement or understanding pursuant to paragraph (a) of this section, will render permanently unenforceable such agreement or understanding and any patent of the parties involved in the interference or any patent subsequently issued on any application of the parties so involved. The Commissioner may, however, upon petition accompanied by the fee set forth in § 1.17(h) and on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as

between the parties to the agreement or understanding.◄

38. Section 1.292 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.292 Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations ►and the fee set forth in § 1.17(j)◄ is filed by one having information of the pendency of an application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his ►or her◄ preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by §§ 1.271 to 1.288. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

* * * * *

39. Section 1.304 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of [Customs and Patent] Appeals ►for the Federal Circuit◄ ([section] ►§◄ 1.302) or for commencing a civil action ([section] ►§◄ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a request for rehearing or reconsideration, or modification of the decision, is filed within the time [specified in section] ►provided pursuant to §◄ 1.197(b) or ►§◄ 1.256(b), [or within any extension of time granted thereunder,] the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. The [sixty and thirty day] ►time◄ periods [may be extended by the Commissioner upon a showing of sufficient cause.] ►set forth herein are subject to the provisions of § 1.136.◄

* * * * *

40. Section 1.311 is proposed to be revised to read as follows:

§ 1.311 Notice of allowance.

►(a)◄ If, on examination, it shall appear that the applicant is entitled to a patent under the law, a notice of allowance will be sent to [him, his attorney or his agent] ►applicant at the correspondence address indicated in § 1.33◄, calling for the payment of a specified sum constituting the issue fee ►(§ 1.18)◄, [or a portion thereof,] which shall be paid within 3 months from the date of the ►mailing of the◄ notice of allowance.

►(b) An authorization to charge the issue fee (§ 1.18) to a deposit account may be filed in an individual application, either before or after mailing of the notice of allowance. Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of the notice of allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance.◄

41. Section 1.312 is proposed to be revised to read as follows:

§ 1.312 Amendments after allowance.

►(a) No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment pursuant to this paragraph filed before the payment of the issue fee may be entered◄ [Amendments after the notice of allowance of an application will not be permitted as a matter of right. However, such amendments may be made if filed not later than the date the issue fee is paid,] on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

►(b) Any amendment pursuant to paragraph (a) of this section filed after the date the issue fee is paid must be accompanied by a petition including the fee set forth in § 1.17(i) and a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.◄

42. Section 1.313 is proposed to be revised to read as follows:

§ 1.313 Withdrawal from issue.

(a) ►Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. Any such petition by the applicant must include a showing of good and sufficient reasons why withdrawal of the application is necessary and, if the reason for the withdrawal is not the fault of the Office, must be accompanied by the fee set forth in § 1.17(i). If the application is withdrawn from issue◄ [After the notice of allowance of an application is sent, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the Office], a new notice of allowance will be sent if the application is again allowed. ►Any amendment accompanying a petition to withdraw an application from issue must comply with the requirements of § 1.312.◄

(b) When the issue fee [or that portion thereof specified in the notice of allowance] has been paid, and the patent to be issued has received its ►issue◄ date and ►patent◄ number, the application will not be withdrawn from issue [on account of any mistake or change of purpose of the applicant, his attorney or his agent, not for the purpose of enabling the inventor to procure a foreign patent, nor] for any [other reasons] ►reason◄ except ►(1)◄ mistake on the part of the Office, [or because of fraud] ►(2) a violation of § 1.56◄ or illegality in the application, ►(3) unpatentability of one or more claims,◄ or ►(4)◄ for interference.

43. Section 1.314 is proposed to be revised to read as follows:

§ 1.314 Issuance of patent.

If payment of the issue fee [or that portion thereof specified in the notice of allowance] is timely made, the patent will issue in regular course ►unless (2) the application is withdrawn from issue (§ 1.313) or (2) issuance of the patent is deferred. Any petition by the applicant requesting deferral of the issuance of a patent must be accompanied by the fee set forth in § 1.17(i) and must include a showing of good and sufficient reasons why it is necessary to defer issuance of the patent◄.

44. Section 1.317 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.317 Lapsed patents; delayed payment of balance of issue fee.

(a) ►If the issue fee was paid prior to October 1, 1982, any◄ [Any] remaining balance of the issue fee is to be paid within three months from the date of notice thereof and, if not paid, the patent will lapse at the termination of the three month period.

* * * * *

45. Section 1.321 is proposed to be revised to read as follows:

§ 1.321 Statutory disclaimer.

(a) A disclaimer under 35 U.S.C. 253 must ►be accompanied by the fee set forth in § 1.20(d) and◄ identify the patent and the claim or claims which are disclaimed, and be signed by the person making the disclaimer, who shall state

therein the extent of his ►or her◄ interest in the patent. A disclaimer which is not a disclaimer of a complete claim or claims may be refused recordation. A notice of the disclaimer is published in the *Official Gazette* and attached to the printed copies of the specification. In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

(b) A terminal disclaimer, when filed in an application to obviate a double patenting rejection, must ►be accompanied by the fee set forth in § 1.120(d) and◄ include a provision that any patent granted on that application shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection. [See § 1.21 for fee.]

46. Section 1.324 is proposed to be revised to read as follows:

§ 1.324 Correction of [error in joining inventor] ►inventorship in patent◄.

Whenever a patent is issued and it appears that there was a misjoinder or nonjoinder of inventors and that such misjoinder or omission occurred by error and without deceptive intention, the Commissioner may, on ►petition◄ [application] of all the parties and the assignees and satisfactory proof of the facts ►and payment of the fee set forth in § 1.20(b)◄, or on order of a court before which such matter is called in question, issue a certificate deleting the misjoined inventor from the patent or adding the non-joined inventor to the patent.

47. Section 1.331 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.331 Recording of assignments.

(a) Assignments, including grants and conveyances, of patents, national applications, or international applications which designate the United States of America, will be recorded in the Patent and Trademark Office under 35 U.S.C. 261. Other instruments affecting title to a patent, a national application, or an international application which designates the United States of America, and licenses, even though the recording thereof may not serve as constructive notice under 35 U.S.C. 261, will be recorded as provided in this section or at the discretion of the Commissioner. ►Any instrument to be recorded, except those under Part 7 of this title, must be accompanied by the fee set forth in § 1.21(h).◄

* * * * *

48. Section 1.332 is proposed to be revised to read as follows:

§ 1.332 Receipt and recording.

Assignments are recorded in regular order as promptly as possible, and then transmitted with the date and identification of the record stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the [full legal] fee [for recording specified in 35 U.S.C. 41(a)10.] ►set forth in § 1.21(h).◄

49. Section 1.334 is proposed to be revised to read as follows:

§ 1.334 Issue of patent to assignee.

►(a)◄ In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee. If the assignee should hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee. If it is desired that the patent so issue ►,◄ the assignment in either case must first have been recorded, and at a day not later than the date payment is made of the issue fee [or portion thereof specified in the notice of allowance].

►(b)◄ At the time of payment of the issue fee, a statement must be furnished indicating whether or not an assignment has been filed with the Patent and Trademark Office. In the event an assignment has been filed, such statement must include the name ►and address◄ of the assignee and indicate whether or not an acknowledgement of a recorded assignment has been received from the Patent and Trademark Office.

►(c) If the assignment is recorded after the date of payment of the issue fee, the assignee may petition that the patent issue to the assignee as recorded. Any such petition must be accompanied by the fee set forth in § 1.17(i).◄

50. Section 1.341 is proposed to be amended by revising paragraph (h) to read as follows:

§ 1.341 Registration of attorneys and agents.

* * * * *

(h) *Oath and registration fee.* Before his ►or her◄ name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his ►or her◄ application is approved, subscribe and swear to an oath or make a declaration prescribed by the Commissioner of Patents and Trademarks and pay the prescribed registration fee. (See § 1.21[(h)] ►(a)(2)◄.)

* * * * *

51. Section 1.347 is proposed to be revised to read as follows:

§ 1.347 Removing names from registers.

Attorneys and agents, registered to practice before the Patent and Trademark Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person desires to remain on the register. The name of any person failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the *Official Gazette*. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate. ►Any request for reinstatement must be accompanied by the fee set forth in § 1.21(a)(3).◄

52. Section 1.445 is proposed to be amended by revising paragraphs (a)(1)–(4) to read as follows:

§ 1.445 International application filing and processing fees.

(a) The following fees and charges are established by the Patent and Trademark Office under the authority of 35 U.S.C. 376:

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)–[$35]►$125.00◄.

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16)–[$300] ►$500.00◄.

(3) A supplemental search fee when required (see PCT Art. 17(3)(a) and PCT Rule 40.2)–[$200] ►$125.00◄ per additional invention.

(4) The national fee, that is, the amount set forth as the filing fee under [35 U.S.C. 41(a)(1)] ►§ 1.16(a)-(d)◄.

* * * * *

53. Section 1.446 is proposed to be amended by removing paragraph (b).

§ 1.446 Refund of international application filing and processing fees.

* * * * *

(b) [Refunds of a portion of the search fee may be made if the international search report is wholly or partly based on an earlier international or international-type search (PCT Rules 16 and 41). The amount of the refund will be as determined by the examiner according to the value of the prior

international-type search or international search as 90%, 45% or 0% of the international search fee. If the amount of the refund is not a multiple of $5, it will be rounded to the next higher multiple of $5. See § 1.26 for refund of a portion of the international search fee during subsequent national examination of the application.] ►[Reserved]◄

* * * * *

54. Section 1.451 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.451 The priority claim and priority document in an international application.

* * * * *

(b) Whenever the priority of an earlier United States national application is claimed in an international application, the applicant may request in a letter of transmittal accompanying the international application upon filing with the United States Receiving Office, that the Patent and Trademark Office prepare a certified copy of the national application for transmittal to the International Bureau (PCT Art. 8 and PCT Rule 17). The fee for preparing a certified copy is stated in § [1.21(b) and 35 U.S.C. 41(11).] ►1.19(a)(4) and (b)(1).◄

* * * * *

55. Section 1.510 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.510 Request for reexamination.

(a) Any person may, at any time during the period of enforceability of a patent, file a request for reexamination by the Patent and Trademark Office of any claim of the patent on the basis of prior art patents or printed publications cited under § 1.501. The request must be accompanied by the fee for requesting reexamination set in § [1.21(x).] ►1.20 (c).◄

* * * * *

PART 3—[REMOVED]

56. Part 3 is proposed to be removed.

Alternative A—Proposed Rule Changes Under Only Public Law 96-517

57. A new § 1.16 is proposed to be added which reads as follows:

►§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except design or plant cases, $150.00.

(b) In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3, $15.00.

(c) In addition to the basic filing fee in an original application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.), $5.00.

(d) In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s), per application, $50.00.

(If the additional fees required by paragraphs (b), (c) and (d) are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)

(e) [Reserved]

(f) For filing each design application, $63.00.

(g) Basic fee for filing each plant application, $100.00.

(h) Basic fee for filing each reissue application, $150.00.

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent, $15.00.

(j) In addition to the basic filing fee in a reissue application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 and also in excess of the number of claims in the original patent, (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee purposes.), $5.00.

(Note, see § 1.445 for international application filing and processing fees.).◄

58. A new § 1.17 is proposed to be added which reads as follows:

►§ 1.17 Patent application processing fees.

(a) Extension fee for response within first month pursuant to § 1.136(a), $50.00.

(b) Extension fee for response within second month pursuant to § 1.136(a), $150.00.

(c) Extension fee for response within third month pursuant to § 1.136(a), $350.00.

(d) Extension fee for response within fourth month pursuant to § 1.136(a), $550.00.

(e) For filing a notice of appeal from the examiner to the Board of Appeals, $58.00.

(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal, $58.00.

(g) For filing a request for an oral hearing before the Board of Appeals, $50.00.

(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph, $120.00.

§ 1.45 for correction of inventorship
§ 1.47 for filing by other than all the inventors
§ 1.182 for decision on questions not specifically provided for
§ 1.183 to suspend the rules
§ 1.288 for late filing of interference settlement agreement

(i) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph, $80.00.

§ 1.12 for access to an assignment record
§ 1.14 for access to an application
§ 1.55 for entry of late priority papers
§ 1.102 to make application special
§ 1.103 to suspend action in application
§ 1.177 for divisional reissues to issue separately
§ 1.288 for access to interference settlement agreement
§ 1.312 for amendment after payment of issue fee
§ 1.313 to withdraw an application from issue
§ 1.314 to defer issuance of a patent
§ 1.334 for patent to issue to assignee, assignment recorded late

(j) For filing a petition to institute a public use proceeding under § 1.292, $750.00.

(k) For processing an application filed with a specification in a non-English language (§ 1.52(d)), $20.00.

(l) For filing a petition (1) for the revival of an abandoned application under 35 U.S.C. 133, or (2) for delayed payment of the issue fee under 35 U.S.C. 151, $120.00.◄

59. A new § 1.18 is proposed to be added which reads as follows:

►§ 1.18 Patent issue fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent, $250.00.

(b) Issue fee for issuing a design patent for a 3½, 7 or 14 year term, $68.00.

(c) Issue fee for issuing a plant patent, $125.00.◄

60. A new § 1.20 is proposed to be added which reads as follows:

►§ 1.20 Post-issuance fees.

(a) For providing a certificate of correction of applicant's mistake (§ 1.323), $40.00.

(b) Petition for correction of inventorship in patent (§ 1.324), $120.00.

(c) For filing a request for reexamination (§ 1.510(a)), $1,500.00.

(d) For filing each statutory disclaimer (§ 1.321), $50.00.

(e) For maintaining an original or reissue patent, except a design patent,

based on an application filed on or after December 12, 1980, in force beyond 4 years; the fee is due by three years and six months after the original grant, $200.00.

(f) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980, in force beyond 8 years; the fee is due by seven years and six months after the original grant, $400.00.

(g) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980, in force beyond 12 years; the fee is due by eleven years and six months after the original grant, $800.00.◄

61. Section 1.137 is proposed to be revised to read as follows:

§ 1.137 Revival of abandoned application.

►(a)◄ An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a [verified] showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee ►set forth in § 1.17(1). Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office◄.

►(b) (Reserved)◄

►(c) Any petition filed pursuant to paragraph (a) of this section must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.

62. Section 1.155 is proposed to be revised to read as follows:

§ 1.155 Issue and term of design patents.

(a) If, on examination, it shall appear that the applicant is entitled to a design patent under the law, a notice of allowance will be sent to ►the applicant, or applicant's◄ [him, his] attorney or [his] agent, calling for the payment of ►the◄ [an] issue fee ►(§1.18(b))◄ [in an appropriate amount dependent on the duration of the term desired by the applicant]. If this issue fee is not paid within 3 months of the date of the notice of allowance, the application shall be regarded as abandoned.

(b) The Commissioner may accept the [late] payment of the ►issue◄ fee [specified in the notice of allowance] later than three months after the mailing of the notice ►of allowance◄ as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be accompanied by ►(1)◄ the issue fee [or portion thereof specified in the notice of allowance], unless it has been previously submitted, ►(2)◄ the fee for delayed payment ►(§ 1.17(1))◄, and ►(3)◄ a showing [in the form of an oath or declaration as to the causes of] ►that◄ the delay ►was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office◄.

►(c) [Reserved]◄

►(d) Any petition filed pursuant to paragraph (b) of this section must be promptly filed after the applicant is notified or, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.◄

63. Section 1.316 is proposed to be revised to read as follows:

§ 1.316 Application abandoned for failure to pay issue fee.

(a) If the ►issue◄ fee [specified in the notice of allowance] is not paid within 3 months from the date of the notice ►of allowance,◄ the application will be regarded as abandoned. Such an abandoned application will not be considered as pending before the Patent and Trademark Office.

(b) The Commissioner may accept the [late] payment of the ►issue◄ fee [specified in the notice of allowance] later than three months after the mailing of the notice ►of allowance◄ as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be accompanied by ►(1)◄ the issue fee [or portion thereof specified in the notice of allowance], unless it has been previously submitted, ►(2)◄ the fee for delayed payment ►(§ 1.17(1)◄, and ►(3)◄ a showing [in the form of an oath or declaration as to the causes of] ►that◄ the delay ►was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office◄.

►(c) [Reserved]◄

►(d) Any petition filed pursuant to paragraph (b) of this section must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.◄

Alternative B—Proposed Rule Changes Under H.R. 6200.

64. Section 1.9 is proposed to be amended by adding new paragraphs (c)–(f) to read as follows:

§ 1.9 Definitions.

* * * * *

►(c) An independent inventor as used in this chapter means any inventor who (1) has not assigned, granted, conveyed, or licensed, and (2) is under no obligation under contract, law, or otherwise, to assign, grant, convey, or license, any rights in the invention, including (i) the right to make, use, or sell the invention, and (ii) the right to exclude others from making, using, or selling the invention, to any person who could not likewise be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section.◄

►(d) A small business concern as used in this chapter means any business concern which, including affiliates as defined in 13 CFR 121.3–2(a), meets the standards for a small business concern as defined in regulations established by the Small Business Administration.◄

►(e) A nonprofit organization as used in this chapter means (1) a university or other institution of higher education; (2) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)); or (3) any nonprofit scientific or educational organization qualified under a nonprofit organization statute of a state of this country (35 U.S.C. 201(i)).◄

►(b) A small entity as used in this chapter means an independent inventor, a small business concern or a nonprofit organization as defined in this section.◄

65. A new § 1.16 is proposed to be added which reads as follows:

►§ 1.16 National application filing fees.

(a) basic fee for filing each application for an original patent, except design or

plant cases: By a small entity (§ 1.9(f)), $150.00; by other than a small entity, $300.00.

(b) In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3: By a small entity (§ 1.9(f), $15.00; by other than a small entity, $30.00.

(c) In addition to the basic filing fee in an original application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20:

(Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.) By a small entity (§ 1.9(f), $5.00; by other than a small entity, $10.00.

(d) In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s), per application: By a small entity (§ 1.9(f), $50.00; by other than a small entity, $100.00.

(If the additional fees required by paragraphs (b), (c) and (d) are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims canceled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)

(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application: By a small entity (§ 1.9(f)), $50.00; by other than a small entity, $100.00.

(f) For filing each design application: By a small entity (§ 1.9(f)), $62.50; by other than a small entity, $125.00.

(g) Basic fee for filing each plant application: By a small entity (§ 1.9(f)), $100.00; by other than a small entity, $200.00.

(h) Basic fee for filing each reissue application: By a small entity (§ 1.9(f)), $150.00; by other than a small entity, $300.00.

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent: By a small entity (§ 1.9(f)), $15.00; by other than a small entity, $30.00.

(j) In addition to the basic filing fee in a reissue application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 and also in excess of the number of claims in the original patent, (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee purposes.): By a small entity (§ 1.9(f)), $5.00; by other than a small entity, $10.00.

(Note.—see § 1.445 for international application filing and processing fees.).◄

66. A new § 1.17 is proposed to be added which reads as follows:

►**§ 1.17 Patent application processing fees.**

(a) Extension fee for response within first month pursuant to § 1.136(a): By a small entity (§ 1.9(f)), $25.00; by other than a small entity, $50.00.

(b) Extension fee for response within second month pursuant to § 1.136(a): By a small entity (§ 1.9(f)), $75.00; by other than a small entity, $150.00.

(c) Extension fee for response within third month pursuant to § 1.136(a): By a small entity (§ 1.9(f)), $175.00; by other than a small entity, $350.00.

(d) Extension fee for response within fourth month pursuant to § 1.136(a): By a small entity (§ 1.9(f)), $275.00; by other than a small entity, $550.00.

(e) For filing a notice of appeal from the examiner to the Board of Appeals: By a small entity (§ 1.9(f)), $57.50; by other than a small entity, $115.00.

(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal: By a small entity (§ 1.9(f)), $57.50; by other than a small entity, $115.00.

(g) For filing a request for an oral hearing before the Board of Appeals: By a small entity (§ 1.9(f)), $50.00; by other than a small entity, $100.00.

(h) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph, $120.00

§ 1.45 for correction of inventorship
§ 1.47 for filing by other than all the inventors
§ 1.182 for decision on questions not specifically provided for
§ 1.183 to suspend the rules
§ 1.288 for late filing of interference settlement agreement

(i) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph, $60.00

§ 1.12 for access to an assignment record
§ 1.14 for access to an application
§ 1.55 for entry of late priority papers
§ 1.102 to make application special
§ 1.103 to suspend action in application
§ 1.177 for divisional reissues to issue separately
§ 1.288 for access to interference settlement agreement
§ 1.312 for amendment after payment of issue fee
§ 1.313 to withdraw and application from issue
§ 1.314 to defer issuance of a patent
§ 1.334 for patent to issue to assignee, assignment recorded late

(j) For filing a petition to institute a public use proceeding under § 1.292, $750.00.

(k) For processing an application filed with a specification in a non-English language (§ 1.52(d)), $20.00.

(l) For filing a petition (1) for the revival of an abandoned application under 35 U.S.C. 133, or (2) for delayed payment of the issue fee under 35 U.S.C 151: By a small entity (§ 1.9(f)), $25.00; by other than a small entity, $50.00.

(m) For filing a petition (1) for revival of an unintentionally abandoned application or (2) for the unintentionally delayed payment of the fee for issuing a patent: By a small entity (§ 1.9(f)), $250.00; by other than a small entity , $500.00.◄

67. A new § 1.18 is proposed to be added which reads as follows:

►**§ 1.18 Patent issue fees.**

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent: By a small entity (§ 1.9(f)), $250.00; by other than a small entity, $500.00.

(b) Issue fee for issuing a design patent: By a small entity (§ 1.9(f)), $87.50; by other than a small entity, $175.00.

(c) Issue fee for issuing a plant patent: By a small entity (§ 1.9(f)), $125.00; by other than a small entity, $250.00.◄

68. A new § 1.20 is proposed to be added which reads as follows:

►**§ 1.20 Post-issuance fees.**

(a) For providing a certificate of correction of applicant's mistake (§ 1.323) $40.00.

(b) Petition for correction of inventorship in patent (§ 1.324), $120.00.

(c) For filing a request for reexamination (§ 1.510(a)), $1,500.00.

(d) For filing each statutory disclaimer (§ 1.321): By a small entity (§ 1.9(f)), $25.00; by other than a small entity, $50.00.

(e) For maintaining an original or reissue patent, except a design patent, based on an application filed on or after December 12, 1980 and before (*date of enactment*), in force beyond 4 years; the fee is due by three years and six months after the original grant, $200.00.

(f) For maintaining an original or reissue patent, except a design patent, based on the application filed on or after December 12, 1980 and before (*date of enactment*), in force beyond 8 years; the fee is due by seven years and six months after the original grant, $400.00.

(g) For maintaining an original or reissue patent, except a design patent, based on the application filed on or after December 12, 1980 and before (*date of*

enactment), in force beyond 12 years; the fee is due by eleven years and six months after the original grant, $600.00.

(h) For maintaining an original or reissue patent, except a design or plant patent, based on the application filed on or after (*date of enactment*), in force beyond 4 years; the fee is due by three years and six months after the original grant: By a small entity (§ 1.9(f)), $200.00; by other than a small entity, $400.00.

(i) For maintaining an original or reissue patent, except a design or plant patent, based on the application filed on or after (*date of enactment*), in force beyond 8 years; the fee is due by seven years and six months after the original grant: By a small entity (§ 1.9(f)), $400.00; by other than a small entity, $800.00.

(j) For maintaining an original or reissue patent, except a design or plant patent, based on the application filed on or after (*date of enactment*), in force beyond 12 years; the fee is due by eleven years and six months after the original grant: By a small entity (§ 1.9(f)), $600.00; by other than a small entity, $1,200.00.

69. Section 1.27 is proposed to be added to read as follows:

►§ 1.27 Statement of status as small entity.

(a) Any person seeking to establish status as a small entity (§ 1.9(f)) for purposes of paying fees in an application or a patent must file a verified statement in the application or patent prior to or with a fee paid as a small entity. Such a verified statement need only be filed once in an application or patent and remains in effect until changed.

(b) Any verified statement filed pursuant to paragraph (a) of this section on behalf of an independent inventor must be signed by the independent inventor except as provided in §§ 1.42, 1.43, or 1.47, and must aver that the inventor qualifies as an independent inventor in accordance with § 1.9(c). Where there are joint inventors in an application, each inventor must file a verified statement establishing status as an independent inventor in order to qualify as a small entity. Where any rights have been assigned, granted, conveyed, or licensed, or there is an obligation to assign, grant, convey, or license, any rights to a small business concern, a nonprofit organization, or any other individual, a verified statement must be filed by the individual, or a person entitled to act on behalf of the small business concern or nonprofit organization averring to their status.

(c) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a small business concern must (1) be signed by the person entitled to act on behalf of the concern; (2) aver that the concern qualifies as a small business concern as defined in § 1.9(d); and (3) aver that the exclusive rights to the invention have been conveyed to and remain with the concern or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the small business concern as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such.

(d) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a nonprofit organization must (1) be signed by the person entitled to act on behalf of the organization; (2) aver that the organization qualifies as a nonprofit organization as defined in § 1.9(e) specifying under which one of § 1.9 (e)(1), (e)(2) or (e)(3) the organization qualifies; and (3) aver that exclusive rights to the invention have been conveyed to and remain with the organization or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the nonprofit organization as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such.◄

70. Section 1.28 is proposed to be added to read as follows:

►§ 1.28 Effect on fees of failure to establish status, or change in status, as a small entity.

(a) The failure to establish status as a small entity (§§ 1.9(f) and 1.27) in any application prior to paying, or at the time of paying, any fee (1) precludes payment of the fee in the amount established for small entities; and (2) precludes a refund pursuant to § 1.28 of any portions of fees paid prior to establishing status as a small entity. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, or at the time of paying, the fee. Status as a small entity must be specifically established by a verified statement filed in each application in which the status is available and desired. Once status as a small entity has been established in an application or patent, the status remains in that application or patent without the filing of a further verified statement pursuant to § 1.27 unless changed, but does not affect any other application or patent, including applications or patents which are directly or indirectly dependent upon the application or patent in which the status has been established.

(b) Once status as a small entity has been established in an application or patent, notification of any change in status resulting in loss of entitlement to small entity status must be filed in the application or patent prior to paying, or at the time of paying, any fee due after the date on which status as a small entity is no longer appropriate pursuant to § 1.9. The payment of any fee in an application or patent as a small entity, once small entity status has been established, shall serve as a representation that such payment as a small entity is proper at the time the payment is made. The notification may be signed by the applicant, any person authorized to sign on behalf of the assignee, or an attorney or agent of record or acting in a representative capacity pursuant to § 1.34(a).

(c) If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error or that through error the Office was not notified of a change in status as required by paragraph (b) of this section, the error will be excused if (1) any deficiencies between the amounts paid and the amounts due are promptly paid and (2) the payment of the deficiencies is accompanied by a verified statement explaining how the error in good faith occurred and how and when it was discovered.

(d) Any attempt to fraudulently (1) establish status as a small entity or (2) pay fees as a small entity shall be considered as a fraud practiced or attempted on the Office. Improperly and through gross negligence (1) establishing status as a small entity or (2) paying fees as a small entity shall be considered as a fraud practiced or attempted on the Office. See §§ 1.56(d) and 1.555.◄

71. Section 1.68 is proposed to be revised to read as follows:

§ 1.68 Officers authorized to administer oaths.

(a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths [, or, when] ►. An oath◄ made in a foreign country ►may be made◄ [,] before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant

may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, ►or by an apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States.◄ [the] ►The◄ oath [being] ►shall be◄ attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. Such oath or affirmation shall be valid as to execution if it complies with the laws of the State or country where made. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, ►any accompanying◄ [all the] application papers, except the drawings, must be attached together ►with the oath◄ and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

72. Section 1.137 is proposed to be revised to read as follows:

§ 1.137 Revival of abandoned application.

►(a)◄ An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a [verified] showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee ►set forth in § 1.17(1). Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office◄.

►(b) An application unintentionally abandoned for failure to prosecute may be revived as a pending application if the delay was unintentional. A petition to revive an unintentionally abandoned application must be accompanied by (1) a statement that the abandonment was unintentional, (2) a proposed response unless it has been previously filed, and (3) a petition fee as set forth in § 1.17(m). Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the abandonment was unintentional.◄

►(c) Any petition filed pursuant to paragraph (a) or (b) of this section must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.◄

73. Section 1.155 is proposed to be revised to read as follows:

§ 1.155 Issue and term of design patents.

(a) If, on examination, it shall appear that the applicant is entitled to a design patent under the law, a notice of allowance will be sent to ►the applicant, or applicant's◄ [him, his] attorney or [his] agent, calling for the payment of ►the◄ [an] issue fee ►(§ 1.18(b))◄ [in an appropriate amount dependent on the duration of the term desired by the applicant. If this issue fee is not paid within 3 months of the date of the notice of allowance, the application shall be regarded as abandoned.

(b) The Commissioner may accept the [late] payment of the ►issue◄ fee [specified in the notice of allowance] later than three months after the mailing of the notice ►of allowance◄ as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be accompanied by ►(1)◄ the issue fee [or portion thereof specified in the notice of allowance], unless it has been previously submitted, ►(2)◄ the fee for delayed payment ►(§ 1.17(1))◄, and ►(3)◄ a showing [in the form of an oath or declaration as to the cause of] ►that◄ the delay ►was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office◄.

►(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for unintentionally delayed payment (§ 1.17(m)), and (3) a statement that the delay was unintentional. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.◄

►(d) Any petition filed pursuant to paragraph (b) or (c) of this section must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.◄

74. Section 1.316 is proposed to be revised to read as follows:

§ 1.316 Application abandonded for failure to pay issue fee.

(a) If the ►issue◄ fee [specified in the notice of allowance] is not paid within 3 months from the date of the notice ►of allowance,◄ the application will be regarded as abandoned. Such an abandoned application will not be considered as pending before the Patent and Trademark Office.

(b) The Commissioner may accept the [late] payment of the ►issue◄ fee [specified in the notice of allowance] later than three months after the mailing of the notice ►of allowance◄ as though no abandonment had ever occurred if upon petition the delay in payment is shown to have been unavoidable. The petition to accept the delayed payment must be accompanied by ►(1)◄ the issue fee [or portion thereof specified in the notice of allowance], unless it has been previously submitted, ►(2)◄ the fee for delayed payment ►(§ 1.17(1))◄, and ►(3)◄ a showing [in the form of an oath or declaration as to the causes of] ►that◄ the delay ►was unavoidable. Such showing must be a verified showing if made by a person not registered to practice before the patent and Trademark Office◄.

►(c) The Commissioner may, upon petition, accept the payment of the issue fee later than three months after the mailing of the notice of allowance as though no abandonment had ever occurred if the delay in payment was unintentional. The petition to accept the delayed payment must be accompanied by (1) the issue fee, unless it has been previously submitted, (2) the fee for unintentionally delayed payment (§ 1.17(m)), and (3) a statement that the delay was unintentional. Such statement

must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.◄

►(d) Any petition filed pursuant to paragraph (b) or (c) of this section must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment. Any such petition not filed within six months of the date of abandonment must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application.◄

Dated: June 21, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-17324 Filed 6-25-82; 8:45 am]

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37 CFR Parts 2 and 4

[Document No. 2616-111]

Trademark Fee Revision

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendments of the rules of practice in trademark cases to establish fees in amounts authorized by Pub. L. 96-517, or as they would be authorized under H.R. 6260.

DATES: Comments must be submitted on or before July 9, 1982. A public hearing will be held July 9, 1982, beginning at 2:00 PM. Requests to present oral testimony should be received prior to July 9, 1982.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attention: Miss Maude Williams. The hearing will be held in Room A of Suite 1006 on the 10th floor of Building 5, Crystal Square, located at 1755 South Jefferson Davis Highway, Arlington, Virginia. Written comments and a transcript of the hearing will be available for public inspection in Room 11E-10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Miss Maude Williams by telephone at (703) 557-2222 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The proposed amendments will establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for providing all other services and materials relating to trademarks and other marks.

Public Law 96-517 authorizes the Commissioner to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for providing all other services and materials relating to trademarks and other marks. Public Law 96-517 requires that by October 1, 1982, fees for the filing and processing of an application for the registration of a trademark or other mark be set to recover in the aggregate 50 percent of the estimated average cost to the Office of such processing. Also by October 1, 1982, fees for providing all other services and materials relating to trademarks and other marks are to be set to recover the estimated average cost to the Office of performing the service or furnishing the material.

The proposed rule changes are designed to implement the fee provisions of Pub. L. 96-517 on October 1, 1982. However, on June 8, 1982, the House of Representatives passed H.R. 6260. This bill would amend the fee provisions to be implemented on October 1, 1982. This rule change proposal therefore is also designed to implement the fee provisions as they would be amended by H.R. 6260.

The rule change proposal is intended to obtain comments which will enable adoption of final rule changes based on Pub. L. 96-517 and/or H.R. 6260 without further notice of proposed rulemaking. Accordingly, comments are solicited on proposed rule changes which are common to Pub. L. 96-517 and H.R. 6260, as well as alternative rule changes which are specific to Pub. L. 96-517 (Alternative A) and to H.R. 6260 (Alternative B).

H.R. 6260 would repeal the provisions in Pub. L. 96-517 requiring that filing and processing fees be set to recover in the aggregate 50 percent of the estimated average cost of such processing to the Office, and that fees for providing all other services and materials relating to trademarks and other marks be set to recover the estimated average cost to the Office of performing the service or furnishing the material. Instead, in passing H.R. 6260, the House of Representatives recommended a fee schedule to the Commissioner for fiscal year 1983. The fee proposal in Alternative B adopts the House recommendation.

This rule change proposal does not include rule changes for implementing provisions of Pub. L. 96-517 or H.R. 6260 other than the fee provisions. Rule changes for implementing provisions other than the fee provisions will be published in a later rulemaking proposal.

The specific rules for which changes are proposed are §§ 2.6, 2.85, 2.101, 2.146, 2.162 and 2.167.

Proposed Rule Changes Common to Pub. L. 96-517 and H.R. 6260

Paragraph (3) of § 2.85 is proposed to be amended to add reference to the fee, not previously charged, for filing a section 15 affidavit.

Section 2.101, paragraph (c) is proposed to be amended to delete the reference to a service charge which will not longer be charged for late-filed fees on oppositions.

Section 2.146(b) is proposed to be changed to add a fee for petitioning the Commissioner. Paragraph (f) of this section is proposed to be deleted.

Section 2.162, paragraph (d) is proposed to be amended to remove the reference to a service charge for late-filed fees on § 8 affidavits.

Section 2.167, paragraph (g) is proposed to be added to establish procedures relating to the fee for affidavits under section 15, 15 U.S.C. 1065, and to state the Office's action when no fee or an insufficient fee is filed.

Part 4 is proposed to be deleted to eliminate all of the trademark forms from the Code of Federal Regulations. The Patent and Trademark Office has prepared a booklet entitled "Patent and Trademark Forms Booklet" which is available from the Superintendent of Documents and includes full size copies of all of the forms in Part 4. Since the forms are not mandatory, no need is seen to retain them in the Code of Federal Regulations.

Alternative A—Proposed Rule Change only under Pub. L. 96-517

Section 2.6 is proposed to be revised to establish the fees authorized by Pub. L. 96-517 for filing and processing applications for the registration of trademarks or other marks and for providing services and materials relating to trademarks or other marks.

Alternative B—Proposed Rule Change only Under H.R. 6260

Section 2.6 is proposed to be revised to establish the fees recommended by the House of Representatives under H.R. 6260 for filing and processing applications for the registration of trademarks or other marks and for providing services and materials relating to trademarks or other marks. The $10 fee recommended by the House

for certified copies appears in paragraphs (m) and (n) as a fee of $6.50 for a copy of a registered mark showing title and/or status and a fee of $3.50 for the certificate.

Other Considerations

The Patent and Trademark Office has determined that the proposed amendments are not major rules under Executive Order 12291. The annual effect on the economy will be less than $100 million. Although the proposed fees are higher than current fees, the effect will be offset by a reduction in the level of taxpayer support. Competition, employment investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets will not be adversely affected to any significant degree.

The proposed amendments will not have significant adverse economic effect on a substantial number of small entities. (Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*). The application filing fee has been kept as low as possible to foster use of the Federal registration system.

The proposed amendments do not impose a reporting or record keeping burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* No additional information is required from the public and no additional records are required to be maintained by the Patent and Trademark Office.

Environmental, energy, and other considerations: The proposed amendments will not have a significant impact on the quality of the human environment or the conservation of energy resources.

List of Subjects in 37 CFR Parts 2 and 4

Administrative practice and procedure, Trademarks.

Proposed Amendment of Regulations

Notice is hereby given that pursuant to the Commissioner's authority under sections 31 and 41 of the Trademark Act of July 5, 1946, 15 U.S.C. 1113, and 1123, the Patent and Trademark Office proposes to amend Parts 2 and 4 of Title 37 of the Code of Federal Regulations as set forth below with deletions indicated by brackets and additions by arrows, with the exception that deleted Part 4 is not shown.

It is proposed to amend 37 CFR Parts 2 and 4 as follows:

Proposed Rule Changes Common to Pub. L. 96-517 and H.R. 6260

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. Section 2.85 is proposed to be amended by revising paragraph (e) to read as follows:

§ 2.85 Classification schedules.

* * * * *

(e) Where the amount of the fee received on filing an appeal in connection with an application or on filing an affidavit under Section 8(a) or (8b) ►or Section 15◄ or on an application for renewal or in connection with an opposition or petition for cancellation is sufficient for at least one class of goods or services but is less than the required amount because multiple classes in an application or registration are involved, the appeal or the affidavit or renewal application or opposition or petition for cancellation will not be refused on the ground that the amount of the fee was insufficient if the required additional amount of the fee is received in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office, or if action is sought only for the number of classes equal to the number of fees submitted.

* * * * *

2. Section 2.101 is proposed to be amended by revising paragraph (c) to read as follows:

§ 2.101 Filing an opposition.

* * * * *

(c) If no fee, or a fee insufficient to cover at least one class, is filed within 30 days after publication of the mark to be opposed or within an extension of the time for filing an opposition, the opposition will not be refused if the required fee(s) [and service charge (see § 2.6(g) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office.

* * * * *

3. Section 2.146 is proposed to be amended by revising paragraph (b) to read as follows, and by removing paragraph (f):

§ 2.146 Petition to the Commissioner.

* * * * *

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested ►and the requisite fee◄.

* * * * *

[(f) No fee is required for a petition to the Commissioner.]

4. Section 2.162 is proposed to be amended by revising paragraph (d) to read as follows:

§ 2.162 Requirements for affidavit or declaration during sixth year.

* * * * *

(d) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed before the expiration of the sixth year following the date of registration or of publication under § 12(c) of the Act, the affidavit or declaration will not be refused if the required fee(s) [and service charge] (See § 2.6 ([g] ►h◄)) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. In situations where a notice of deficiency is sent because no fee, or a fee insufficient to cover at least one class, is filed, § 2.85(e) may not be utilized. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.

* * * * *

5. Section 2.167 is proposed to be amended to add a paragraph (g) as follows:

§ 2.167 Affidavit or declaration under Section 15.

* * * * *

►(g) Include the required fee for each class to which the affidavit or declaration pertains in the registration. If no fee, or a fee insufficient to cover at least one class, is filed at an appropriate time, the affidavit or declaration will not be refused if the required fee(s) (see § 2.6(i)) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. In situations where a notice of deficiency is sent because no fee, or fee insufficient to cover at least one class, is filed, § 2.85(e) may not be utilized. If insufficient fees are included to cover all classes in the registration, the particular class or classes to which the affidavit or declaration pertains should be specified.◄

* * * * *

PART 4—FORMS FOR TRADEMARK CASES [REMOVED]

6. Part 4 is proposed to be removed.

Alternative A—Proposed Rule Change Only Under Pub. L. 96-517

7. Section 2.6 is proposed to be revised to read as follows:

§ 2.6 Trademark fees.

[In addition to the fee prescribed by statute, the] ►The◄ following fees and charges are established by the Patent and Trademark Office for trademark cases:

[(a) For each printed copy of a registration with data entered of record as of date of mailing, relating to renewal, cancellation, publication under section 12(c), of the 1946 Trademark Act and affidavits or declarations under sections 8 and 15 of such act: Omitting title, $1.70; showing title, $3.70.

(b) For photocopies or other reproductions of records, drawings, or printed material, per page of material copied, $0.30.

(c) [Reserved]

(d) For making drawings, when facilities are available, the cost of making the same: Rate per hour, $12.00; minimum charge per sheet, $10.00.

(e) For correcting drawings, the cost of making the correction: Rate per hour (including a photoprint of the uncorrected drawing), $12.00; minimum charge, $3.00.

(f) For abstracts of title to each registration or application: For the search, one hour or less, and certificate, $5.00; each additional hour or fraction thereof, $2.50; for each brief from the digest of assignments, of 200 words or less, $2.00; each additional 100 words or fraction thereof, $0.20.

(g) For the special service of handling late filed fees in connection with an: Affidavit or declaration under § 8, $10.00; opposition, $25.00].

►(a) For filing an application, per class, $88.00.

(b) For filing an application for renewal of a registration, per class, $150.00.

(c) For filing to publish a mark under § 12(c), per class, $50.00.

(d) For issuing a new certificate of registration upon request of assignee, $50.00.

(e) For a certificate of correction of registrant's error, $50.00.

(f) For filing a disclaimer to a registration, $50.00.

(g) For filing an amendment to a registration, $50.00.

(h) For filing an affidavit under § 8 of the Act, per class, $50.00.

(i) For filing an affidavit under § 15 of the Act, per class, $50.00.

(j) For petitions to the Commissioner, $50.00.

(k) For filing petition to cancel or notice of opposition, per class, $100.00.

(l) For ex parte appeal to the Trademark Trial and Appeal Board, per class, $50.00.

(m) For printed copy of registered mark: Copy only, $0.40; copy showing title and/or status, $6.50.

(n) For certifying trademark records, per certificate, $3.50.

(o) For photocopies or other reproductions of records, drawings, or printed material, per page of the material copied, $0.30.

(p) For recording trademark assignment, per document, $20.00; for each mark in addition to 1 assigned in the same document, $5.00.

(q) For abstracts of title to each registration or application, including the search, $12.00.

(r) For special service handling of late filed fees in connection with a renewal, $50.00.

(s) For items and services that the Commissioner finds may be supplied, for which fees are not specified, such charges as may be determined by the Commissioner with respect to each item or service, actual cost.◄

Alternative B—Proposed Rule Change Only Under H.R. 6280

8. Section 2.6 is proposed to be revised to read as follows:

§ 2.6 Trademark fees.

[In addition to the fee prescribed by statute, the] ►The◄ following fees and charges are established by the Patent and Trademark Office for trademark cases:

[(a) For each printed copy of a registration with data entered of record as of date of mailing, relating to renewal, cancellation, publication under section 12(c), of the 1946 Trademark Act and affidavits or declarations under sections 8 and 15 of such act: Omitting title, $1.70; showing title, $3.70.

(b) For photocopies or other reproductions of records, drawings, or printed material, per page of material copied, $0.30.

(c) [Removed]

(d) For making drawings, when facilities are available, the cost of making the same: Rate per hour, $12.00; minimum charge per sheet, $10.00.

(e) For correcting drawings, the cost of making the correction: Rate per hour (including a photoprint of the uncorrected drawing), $12.00; minimum charge, $3.00.

(f) For abstracts of title to each registration or application: For the search, one hour or less, and certificate, $5.00; each additional hour or fraction thereof, $2.50; for each brief from the digest of assignment, of 200 words or less, $2.00; each additional 100 words or fraction thereof, $0.20.

(g) For the special service of handling late filed fees in connection with an: Affidavit or declaration under § 8, $10.00; opposition, $25.00].

►(a) For filing an application, per class, $175.00.

(b) For filing an application for renewal of a registration, per class, $300.00.

(c) For filing to publish a mark under § 12(c), per class, $100.00.

(d) For issuing a new certificate of registration upon request of assignee, $100.00.

(e) For a certificate of correction of registrant's error, $100.00.

(f) For filing a disclaimer to a registration, $100.00.

(g) For filing an amendment to a registration, $100.00.

(h) For filing an affidavit under § 8 of the Act, per class, $100.00.

(i) For filing an affidavit under § 15 of the Act, per class, $100.00.

(j) For petitions to the Commissioner, $100.00.

(k) For filing petition to cancel or notice of opposition, per class, $200.00.

(l) For ex parte appeal to the Trademark Trial and Appeal Board, per class, $100.00.

(m) For printed copy of registered mark: Copy only, $1.00; copy showing title and/or status, $6.50.

(n) For certifying trademark records, per certificate, $3.50.

(o) For photocopies or other reproductions of records, drawings, or printed material, per page of the material copied, $0.30.

(p) For recording trademark assignment, per document, $100.00; for each mark in addition to 1 assigned in the same document, $20.00.

(q) For abstracts of title to each registration or application, including the search, $12.00.

(r) For special service handling of late filed fees in connection with a renewal, $100.00.

(s) For items and services that the Commissioner finds may be supplied, for which fees are not specified, such charges as may be determined by the Commissioner with respect to each such item or service, actual cost.◄

Dated: June 21, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-17335 Filed 6-25-82; 8:45 am]

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Public Benefits Programs
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Federal Register

Vol. 47, No. 124

Monday, June 28, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24
27537-27842.....25
27843-28066.....28

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

January 29, 1859
(Revoked by PLO 6260).....26131
January 29, 1867
(Revoked in part by PLO 6287).....27292
July 2, 1875
(Revoked by PLO 6270).....27285
July 27, 1875
(Revoked by PLO 6271).....27285
May 8, 1889
(Revoked by PLO 6257).....26130
May 28, 1889
(Revoked in part by PLO 6255).....26129
April 1, 1895
(See PLO 6260).....26131
April 30, 1896
(See PLO 6260).....26131
August 16, 1911
(Revoked in part by PLO 6280).....27287
February 5, 1912
(Revoked by PLO 6283).....27290
July 3, 1913
(Revoked in part by PLO 6280).....27287
December 11, 1914
(Revoked in part by PLO 6280).....27287
November 10, 1917
(Revoked in part by PLO 6259).....26130
February 25, 1919
(Revoked in part by PLO 6282).....27289
November 26, 1921
(Revoked in part by PLO 6274).....27286
November 21, 1923
(Revoked in part by PLO 6266).....26133
June 8, 1926
(Revoked in part by PLO 6252).....26133
April 17, 1926
(See PLO 6284).....27290
December 22, 1927
(Revoked by PLO 6263).....26132
April 23, 1929
(Revoked by PLO 6263).....26132
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4364 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
12133 Revoked by EO 12368).....27843
12367.....26119
12368.....27843

Proclamations:

1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805
4949.....27537

5 CFR

307.....27539
316.....27539
1260.....26369
1261.....26369

Proposed Rules:

340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101, 27539
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
226.....27540
272.....27544
273.....27544
277.....25496
301.....23682, 23683, 26121
371.....25001, 27234
411.....27058
439.....27059
724.....27546
725.....27547
726.....27548
760.....24689
905.....25935
908.....24137, 25113, 26122, 27234
910.....24251, 25319, 26370, 27548
916.....23913

917 23913
923 23684
979 24109
981 25001
1032 25113
1040 26370
1106 25505
1701 24251
1900 24539
2900 25319

Proposed Rules:

28 26637
52 25366
54 23725
235 25368
272 ..... 24968, 26639, 26840, 27038
273 ..... 24968, 26639, 26840, 27038
276 ..... 26639, 27038
932 26394
1001 27080
1006 27342
1011 26656
1012 27342
1013 27342
1033 27342
1036 27342
1040 27342
1046 26656
1065 26840
1071 26665
1073 26665
1098 26656
1104 26665
1106 26665
1124 27342
1125 27342
1126 26665
1132 26665
1133 27342
1134 ..... 27299, 27342
1135 27342
1136 ..... 27299, 27342
1137 ..... 27299, 27342
1139 27342
1200 ..... 23733, 24338
1701 ..... 25371, 26841, 27565
1807 27366
1872 27366
1901 27366
1910 27366
1940 27366
1941 27366
1943 27366
1944 27366
1945 27366
1962 27366
1990 27366

8 CFR

100 ..... 25002, 27549

Proposed Rules:

214 ..... 24596, 27565
248 ..... 24596, 27565

9 CFR

92 24540
317 26371
318 26371
319 26371

Proposed Rules:

166 26841
318 23941
381 23941

10 CFR

30 27060
40 27060
70 27060
456 27752
508 ..... 25729, 26615

Proposed Rules:

50 27371
430 26143
456 ..... 26148, 27803
485 25535
501 25153

12 CFR

9 27833
217 ..... 24252, 27244
265 27845
303 25733
546 26807
563 26807
563b 24252
611 27060
614 27060
701 ..... 23685, 26808
707 26808
708 26808
745 26808

Proposed Rules:

Ch. VII 23747, 26842
9 27833
29 ..... 23944, 26157
202 ..... 23738, 23741, 25019
350 23743
614 25535
701 23750
721 23751

13 CFR

122 24110

14 CFR

39 ..... 25114, 25115, 27244–27248, 27845–27848
71 ..... 25506, 25507, 26615, 27249, 27252, 27849, 27850
73 26123
75 ..... 26615, 27252, 27253
91 ..... 25116, 25508
95 27253
97 ..... 25510, 27851
298 25935
323 26809
382 25936

Proposed Rules:

21 24596
29 27866
39 ..... 23691–23698, 24138, 24541
71 ..... 23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373 27374
75 24597
91 ..... 26112, 26158, 27866
97 23703
183 27472
202 25019
203 25019
204 25019
208 25019
211 25019
212 25019
213 25019
215 25019
231 23949
250 24689
294 25019
298 ..... 23949, 25019
323 27081
399 24598

15 CFR

376 ..... 25118, 27250
379 ..... 25118, 27250
385 ..... 25118, 27250
806 23705
930 27062
970 24948

16 CFR

13 ..... 24113, 25118
1201 27853

Proposed Rules:

Ch. II 24034
13 25157
436 25372
455 24542
1025 25512
1145 27867
1632 25159

17 CFR

3 27550
140 ..... 24113, 26810
145 27550
200 ..... 26818, 26820
201 26818
202 26820
203 26820
210 25120
211 ..... 23915, 23916
229 25126
230 26818
231 25120
239 ..... 25126, 26818
240 ..... 23919, 26161
249 ..... 25120, 26818
259 26818
260 26818
269 26818
274 26818
279 26818

Proposed Rules:

21 23951
201 25372
230 25372
240 ..... 24338, 25372, 26161
250 25372
260 25372
270 25372
275 25372

18 CFR

1 24691
3 24691
157 24254
271 ..... 25132, 25133
282 ..... 24117, 27857
284 24254
375 ..... 24524, 24691

Proposed Rules:

1 ..... 24691, 27375
3 27375
271 ..... 23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274 24726
284 24726
375 ..... 24726, 27375
381 ..... 24726, 27375

19 CFR

10 27260
18 27260
114 27260
143 27260
148 24117
210 25134

Proposed Rules:

134 24344
177 25975

20 CFR

416 24274

Proposed Rules:

404 ..... 23954, 25376
651 23754
654 23754

21 CFR

5 ..... 23705, 25733, 26822
12 ..... 25733, 26375
13 26375
14 26375
15 26375
16 26375
20 24277
74 ..... 24278, 27551
80 24691
81 ..... 24278, 24285, 27551
82 ..... 24278, 27551
137 24692
146 24286
172 ..... 26823, 27808
177 24288
178 26824
182 27806–27815
184 27806–27815
193 ..... 25950, 25951, 27062
436 23707
440 23711
442 23707
444 ..... 23707, 25320
448 23707
449 23707
450 23707
510 ..... 26375, 26376
520 ..... 25320, 25734, 26376, 26377
524 26377
544 24290
548 24693
556 25320
558 ..... 23712, 24694, 24695, 26378, 26379, 26825
561 ..... 25952–25954, 27063, 27084
573 24292
610 ..... 24696, 27552
630 ..... 24696, 27552
801 26982
1308 26616

Proposed Rules:

101 ..... 25379, 26580
105 26580
155 26843
172 26843
182 27818
184 ..... 27817, 27818
186 27817
201 24735
680 27566

22 CFR

41 24293

514 24119

23 CFR

625 25268

Proposed Rules:

655 25541

24 CFR

Proposed Rules:

201 27867
203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
882 27869
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:

250 23755

26 CFR

1 25139
6a 24701
26a 24127

Proposed Rules:

1 ..... 24112, 24737, 25026, 26665, 26854

27 CFR

9 ..... 24293, 24295, 25517
18 ..... 23920, 25003
240 ..... 23920, 25003

Proposed Rules:

9 24344
240 26399

28 CFR

2 ..... 25735, 25736
549 27218
552 27219

Proposed Rules:

2 27567

29 CFR

5 ..... 24296, 24297
6 24702
40 24702
580 24702
697 26825
1601 ..... 24542, 24703
1910 ..... 25323, 26557
1952 ..... 25323, 25327

Proposed Rules:

1904 24346
1910 ..... 24751, 26560

30 CFR

250 ..... 24751, 25330
251 25330
730 26356
731 26356
732 26356
733 26356
736 26356
906 25332
913 ..... 23858, 23886
920 25955
943 24130
944 26827

Proposed Rules:

Ch. VII 25405
211 26856
221 26856
226 25252
231 ..... 24128, 26856
250 26856
270 ..... 24129, 26856
700 ..... 25092, 27688
701 ..... 24954, 25092, 25486, 26592, 26754, 27688–27734
731 27744
732 27744
736 25278
740 25092
741 25092
742 25092
743 25092
744 25092
745 25092
746 25092
760 25278
761 25278
762 25278
764 25278
765 25278
769 25278
770 27694
771 27694
773 27694
775 27694
778 27694
779 27712
780 ..... 27712, 27734
782 27694
783 27712
784 ..... 27712, 27734
785 ..... 25486, 27688
786 27694
787 27694
788 27694
795 27744
816 ..... 24954, 26592, 26754, 26760, 27688, 27712, 2727734
817 ..... 24954, 26592, 26754, 26760, 27688, 27712, 2727734
822 25486
826 26760
827 27688
906 25979
910 25981
913 25164
914 ..... 26406, 26857
916 ..... 23766, 26165
922 26779
925 ..... 23767, 26164
931 23898
934 26769
935 26406
936 27383
937 26786
938 25383
942 25165
947 26794
951 25029

31 CFR

209 24131
408 27552
535 25003

Proposed Rules:

51 25029
53 25543
55 25543
81 25543
90 25543
92 25543
93 25543
120 25543
121 25543
122 25543
127 25543

32 CFR

242b 24297
505 27262
536 26616
706 ..... 24131, 24132
763 27753
806b 26617
1665 24542
2001 27836

Proposed Rules:

293 26857
1656 24599
1660 24599

33 CFR

1 25519
3 27263
100 ..... 25139–25142, 27264
117 ..... 24543, 24544, 26125–26127, 27265
127 ..... 25519, 27858
137 27478
150 27478
157 24547
162 27265
175 24548

Proposed Rules:

110 26165
126 26166
154 26166
156 26166
161 26166
167 ..... 26167, 27870

34 CFR

642 24938
643 24938
644 24938
645 24938
646 24938

36 CFR

7 2429
50 ..... 24299, 24302
800 24306
811 25520

Proposed Rules:

1 24143
2 24143
3 24143
4 24143
5 24143
6 24143
7 24143
9 23768
12 24143
219 24348

37 CFR

201 25004

Proposed Rules:

1 28042
2 18063
3 28042
4 28063

38 CFR

3 24549
17 27858

Proposed Rules:

1 23954
21 24603

39 CFR

111 ..... 25957, 27266
233 26831
3001 23712
3002 25523

40 CFR

1 25006
51 27554
52 ..... 23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26388, 26618–26623, 26832, 26833, 27065–27073, 27267, 27554
60 25524
61 24703
62 25335
81 ..... 25016, 27267
122 ..... 24918, 27520
123 27273
125 ..... 24918, 25963, 27075
162 23928
180 ..... 23931–23935, 25017, 25741, 25957–25963
256 26835
264 27520
265 27520
401 24534
420 24554
710 27075
712 26992
723 24306
762 ..... 23713, 23717
763 25145

Proposed Rules:

Ch. I 25743, 26859
4 24755
30 26564
50 26407
52 ..... 23773, 23778, 24755 25745, 27870–27874
60 26750
62 26169
81 24755
122 ..... 24144, 25546, 27516
123 ..... 23955, 25546, 26170
124 ..... 24921, 25546
125 ..... 24921, 25981
141 24756
158 26171
162 25030
180 ..... 23955, 23957, 24604, 25031, 25032, 25746–25750, 25981
264 27516
425 23958
440 25682
704 27206
712 26992
761 ..... 24976, 25555
790 24348

41 CFR

Ch. 1 ..... 25018, 27859, 27860
Ch. 9 26390
Ch. 18 ..... 27274, 27283

7-1 25964
7-6 25964
7-7 25964
7-30 25964
8-2 26127
8-4 25525
8-75 25525
Proposed Rules:
9 23780
101-8 25337
101-41 24357

42 CFR

51a 27824
51d 27824
51f 27824
53 27860
435 27076
436 27076
Proposed Rules:
405 27084

43 CFR

2 26390
4 26390
2650 26390
3300 25967
Public Land Orders:
548 (Revoked in part by PLO 6252) 24133
619 (Revoked by PLO 6256) 26129
648 (Revoked in part by PLO 6272) 27285
651 (Revoked in part by PLO 6275) 27286
1409 (Revoked by PLO 6254) 23935
1461 (Revoked by PLO 6261) 26131
4395 (See PLO 6287) 27292
4913 (Revoked by PLO 6276) 27287
5345 (Amended PLO 6253) 24133
5791 (Corrected by PLO 6264) 26132
5976 (Corrected by PLO 6281) 27288
6200 (Corrected by PLO 6265) 26133
6252 24133
6253 24133
6254 23935
6255 26129
6256 26129
6257 26130
6258 26130
6259 26130
6260 26131
6261 26131
6262 26132
6263 26132
6264 26132
6265 26133
6266 26133
6267 27283
6268 27283
6269 27284
6270 27285
6271 27285
6272 27285
6273 27285
6274 27286
6275 27286
6276 ..... 27078, 27287
6277 27079
6279 27079
6280 27287
6281 27288
6282 27289
6283 27290
6284 27290
6285 27290
6286 27291
6287 27292
Proposed Rules:
Subtitle A 25384
Subtitle B 25384
4 27086
3140 25720
3830 24144

44 CFR

64 ..... 25018, 25145, 25146, 26133
65 ..... 23718, 23719
67 ..... 23720, 24321
Proposed Rules:
67 ..... 23780-23785, 24357

45 CFR

302 24716
303 24716
304 24716
305 24716
306 24716
1611 25148
Proposed Rules:
2 26860
97 26104

46 CFR

Ch. II 25530
42 25148
50 24554
66 27490
67 27490
68 27490
69 27490
71 24554
91 24554
107 24554
153 27293
189 24554
510 ..... 24555, 25530
530 27861
536 25532
548 27861
Proposed Rules:
Ch. I 26667
7 24604
25 25166
26 25166
35 25166
58 25166
78 25166
97 25166
111 25166
112 25166
162 25166
196 25166
502 24377
507 27875

47 CFR

1 26393
2 ..... 24557, 25342
13 25972
22 24557
64 27293
67 24720
73 ..... 24572-24580, 25342-25346, 26624, 26836, 26838, 27861
74 ..... 24580, 24723
81 23722
87 23722
90 ..... 23722, 24581, 26631
Proposed Rules:
1 27384
2 27875
Ch. I 24612, 25033, 26668, 27087
2 ..... 25033, 25982
21 25033
73 ..... 24144, 24613, 26408, 26861-26868, 27385, 27572
74 25033
90 26677
94 25033

48 CFR

Proposed Rules:
19 25034
53 26679

49 CFR

1 24581
171 24582
172 24582
173 ..... 24582, 26633
175 24582
215 27293
385 26135
512 24587
571 ..... 25149, 26138
575 ..... 24593, 25930, 26139
1033 ..... 23723, 24332, 25347, 27561
1039 26634
1090 26634
1110 24594
1125 25973
1136 26142
1201 26634
1300 26634
Proposed Rules:
172 24157
173 ..... 24157, 25167, 26172, 27876
177 27876
178 ..... 25167, 26172, 27876
192 25555
396 26172
571 ..... 25169, 26174
1032 26409
1039 27573
1102 25035
1248 26870

50 CFR

17 27295
26 25150
91 26635
285 ..... 25350, 26393
371 24723
611 ..... 23936, 25018, 27862
661 ..... 24134, 24136
672 ..... 23936, 27862
674 24724
Proposed Rules:
17 26878
20 25922
602 27228

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/RSPA			DOT/RSPA	
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DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

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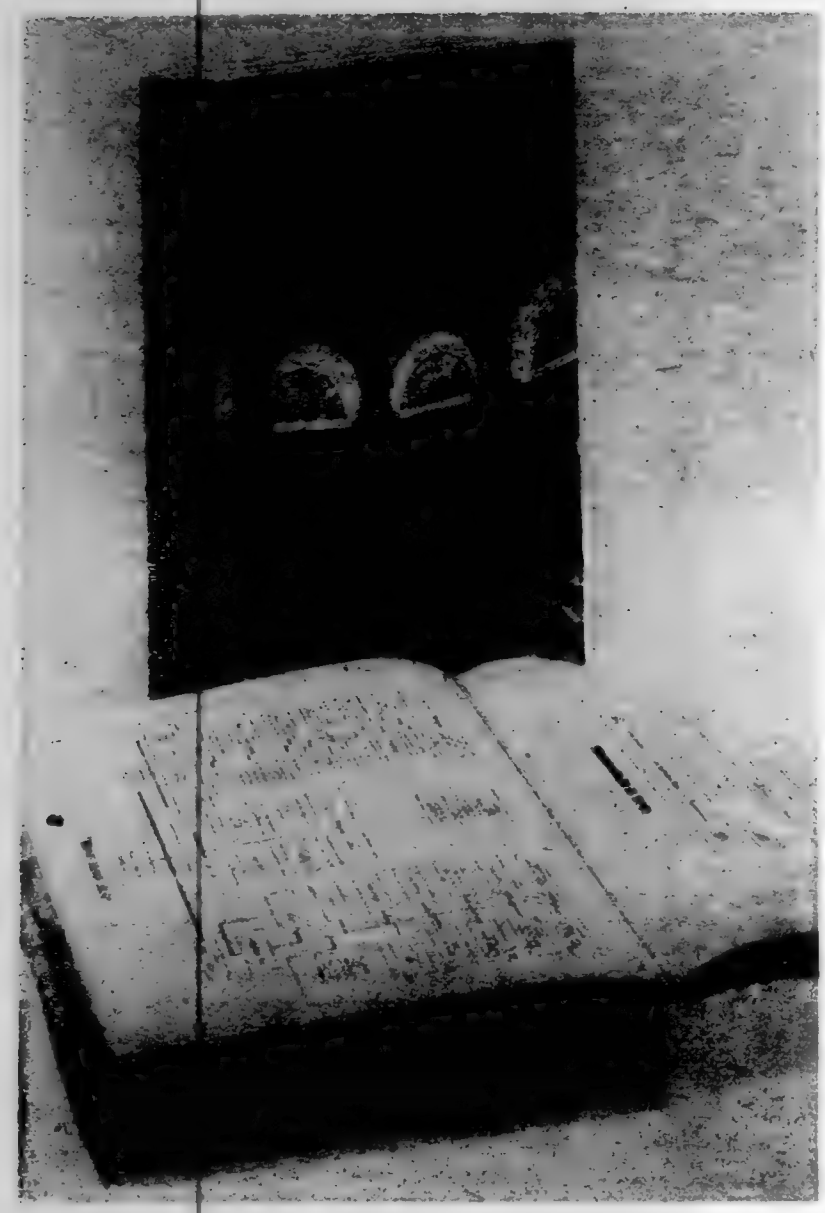
Last Listing June 25, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 5432 / Pub. L. 97-201 To authorize the presentation on behalf of the Congress of a specially struck gold medal to Admiral Hyman George Rickover. (June 23, 1982; 96 Stat. 126) Price: $1.75.

H.R. 5566 / Pub. L. 97-202 Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes. (June 24, 1982; 96 Stat. 128) Price: $1.75.

H.R. 5659 / Pub. L. 97-203 To authorize the Smithsonian Institution to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington. (June 24, 1982; 96 Stat. 129) Price: $1.75.



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Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished or transferred subsequent to March 4, 1933.

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federal register

Tuesday
June 29, 1982

Selected Subjects

Administrative Practice and Procedure
Interstate Commerce Commission

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Civil Aeronautics Board
Federal Deposit Insurance Corporation

Banks, Banking
Federal Deposit Insurance Corporation

Coal Mining
Surface Mining Reclamation and Enforcement Office

Drugs
Nuclear Regulatory Commission

Fisheries
National Oceanic and Atmospheric Administration

Food Additives
Food and Drug Administration

Food Labeling
Food Safety and Inspection Service

Food Stamps
Food and Nutrition Service

Loan Programs—Energy
Rural Electrification Administration

Migrant Labor
Farmers Home Administration

Mobile Homes
Federal Housing Commissioner—Office of Assistant Secretary for Housing

CONTINUED INSIDE

Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Mortgages
Internal Revenue Service

National School Lunch Program
Food and Nutrition Service

Organization and Functions (Government Agencies)
Federal Communications Commission

Over-the-Counter Drugs
Food and Drug Administration

Postal Service
Postal Service

Radio
Federal Communications Commission

Trademarks
Patent and Trademark Office

Veterans
Veterans Administration

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 47, No. 125
Tuesday, June 29, 1982

Agriculture Department
See Commodity Credit Corporation; Farmers Home Administration; Food and Nutrition Service; Food Safety and Inspection Service; Rural Electrification Administration; Soil Conservation Service.

Arts and Humanities, National Foundation
NOTICES
Meetings:
28183 Humanities Advisory Panel; cancellation

Civil Aeronautics Board
RULES
Organization, functions, and authority delegation:
28088 Data Systems Management Division, Chief, Office of Comptroller; release of confidential commuter origin and destination data; removal
PROPOSED RULES
Terminations, suspension, and reductions of service:
28111 Notification requirement; correction

Commerce Department
See also International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; Patent and Trademark Office.
NOTICES
Committees; establishment, renewals, terminations, etc.:
28123 Minority Enterprise Development Advisory Committee

Commodity Credit Corporation
RULES
Loan and purchase programs:
28069 Peanuts; warehouse storage loans and handler operations; interim rule and request for comments

Commodity Futures Trading Commission
RULES
28089 Conflict of interests; ethics in Government requirements, post employment restrictions, etc.; correction

Conservation and Renewable Energy Office
Editorial Note: For a document on the emergency energy conservation program, see Energy Department.

Consumer Product Safety Commission
NOTICES
Consent agreements:
28124 Fountainhead Group Inc. et al.
28202 Meetings; Sunshine Act

Defense Department
See also Defense Logistics Agency.
NOTICES
Meetings:
28126 Electron Devices Advisory Group
28126 Science Board (2 documents)
28126, 28127 Science Board task forces (2 documents)

Defense Logistics Agency
NOTICES
28125 Agency forms submitted to OMB for review

Economic Regulatory Administration
NOTICES
Remedial orders:
28127 Shore Oil Co., Inc.

Education Department
NOTICES
Meetings:
28127 Postsecondary Education Improvement Fund, National Board; cancellation

Employment and Training Administration
NOTICES
Adjustment assistance:
28177 Aileen, Inc., et al.
28177 Jackie Stuart, Inc.
28178 James Textile Corp. et al.

Energy Department
See also Economic Regulatory Administration.
PROPOSED RULES
28107 Emergency energy conservation program; State program submissions; grant procedures and requirements; withdrawn
NOTICES
Industrial energy conservation program:
28351 Corporations, exempt and adequate reporting programs
28346 Corporations; industrial energy efficiency improvement and recovered materials utilization reporting

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
28099 California
Air quality implementation plans; approval and promulgation; various States, etc.:
28096 Florida
28097 Ohio
Air quality planning purposes; designation of areas:
28100 California
Water pollution; effluent guidelines for point source categories:
28260 Inorganic chemicals manufacturing; pretreatment and new source performance standards
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
28112 Michigan
NOTICES
Air pollution; standards of performance for new stationary sources:
28130 New Mexico

Toxic and hazardous substances control:
28130, 28131 Premanufacture notification requirements; test marketing exemption approvals (2 documents)
Water pollution; discharge of pollutants (NPDES):
28127 South Dakota

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
28161 Southridge Village Planned Residential Community, Fontana, Calif.

Equal Employment Opportunity Commission
NOTICES
28202 Meetings; Sunshine Act

Farm Credit Administration
RULES
Loan policies and operations:
28088 Farm credit system institutions; clarification and update; correction

Farmers Home Administration
RULES
28082 Farm labor housing, seasonal; guidelines

Federal Communications Commission
RULES
Organization, functions, and authority delegations:
28102 Private Radio Bureau; reorganization
28103 Science and Technology Office; reorganization
Radio services, special:
28103 Amateur service; repeater operation, ERP limitations
PROPOSED RULES
Radio services, special:
28113 Aviation services; elimination of unnecessary reporting and recordkeeping requirements
NOTICES
Hearings, etc.:
28132 Hubbard, Cecil W., et al.
Meetings:
28134 Telecommunications Industry Advisory Group Steering Committee
28202, 28203 Meetings; Sunshine Act (2 documents)
28133 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Deposit Insurance Corporation
RULES
Interest on deposits:
28087 Nondeposit obligations; insured State nonmember banks permitted to continue offering repurchase agreements in less than $100,000 denominations with maturities of 90 days or more
PROPOSED RULES
Authority delegations:
28106 Board of Review et al.; section 8 enforcement matters and procedural motions
NOTICES
28203 Meetings; Sunshine Act (2 documents)

Federal Home Loan Bank Board
PROPOSED RULES
Federal savings and loan system:
28110 Service corporations; permitted activities; correction

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Manufactured home construction and safety standards, etc.:
28091 "Manufactured home," definition

Federal Maritime Commission
NOTICES
28134 Agreements filed, etc.
Energy and environmental statements; availability, etc.:
28135 North Atlantic, South Atlantic and Gulf Coasts and International Longshoremen's Association; steamship carriers
28203 Meetings; Sunshine Act

Federal Reserve System
NOTICES
Applications, etc.:
28138 Chemical First State Corp. et al.
28137 Chemical New York Corp. et al.
Bank holding companies; proposed de novo nonbank activities:
28135 Chemical New York Corp. et al.
28138 Citicorp
28203 Meetings; Sunshine Act

Food and Drug Administration
RULES
Food additives:
28089 Esterase-lipase enzyme derived from mucor miehei
PROPOSED RULES
Human drugs:
28306 Boil ointment drug products (OTC); advance notice
28312 Pediculicide drug products (OTC); monograph establishment; advance notice
NOTICES
Food additives, petitions filed or withdrawn:
28159 Union Carbide Corp.
Human drugs:
28156 Single-entity coronary vasodilators; drug efficacy study implementation; withdrawn
28141 Marihuana and its components; scheduling status; proposed recommendations to Drug Enforcement Administration, and hearing
Meetings:
28153 Advisory committees, panels, etc.
Radiological health:
28158 Potassium iodide as thyroid-blocking agent use during emergency; final recommendations; availability
Sunlamps variance approvals, etc.:
28155 Sun Industries, et al.
X-ray systems variance approvals, etc.:
28154 CGR Medical Corp.

Food and Nutrition Service
RULES
Food stamp program:
28067 Northern Mariana Islands, nutrition assistance
PROPOSED RULES
Child nutrition programs:
28106 School lunch program; meat alternates, minimum required equivalencies

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
28214 Mechanically separated (species) and products using it; standards and labeling requirements

Health and Human Services Department
See Food and Drug Administration; National Institutes of Health.

Housing and Urban Development Department
See Environmental Quality Office, Housing and Urban Development Department; Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
RULES
Income taxes:
28094 Mortgage subsidy bonds, interest; tax-exempt status; temporary

International Trade Administration
NOTICES
Countervailing duties:
28121 Steel products from Belgium

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
28115 Redesignation and revision
NOTICES
28166 Agency forms submitted to OMB for review
Motor carriers:
28168 Permanent authority applications
28167 Permanent authority applications; restriction removals
Rail carriers; contract tariff exemptions:
28176 Southern Pacific Transportation Co.
Railroad operation, acquisition, construction, etc.:
28176 New York State Department of Transportation
28175 Sidney & Lowe Railroad, Inc.

Labor Department
See also Employment and Training Administration; Mine Safety and Health Administration; Pension and Welfare Benefit Programs Office.
RULES
28094 Reporting and recordkeeping requirements; correction

Land Management Bureau
NOTICES
Exchange of public lands for private land:
28161 Arizona
28162 California
Opening of public lands and survey plat filings:
28163 Nevada
Recreation management restrictions, etc.:
28163 Nestucca River, Oreg.; overnight camping prohibition
Survey plat filings:
28163 Michigan

Mine Safety and Health Administration
RULES
28095 Nomenclature changes, etc. and corrections

Minerals Management Service
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
28164 Gulf Oil Exploration & Production Co.

National Bureau of Standards
NOTICES
Information processing standards, Federal;
28121 Parallel recorded magnetic tape cartridge for information interchange

National Institutes of Health
NOTICES
Committees; establishment, renewals, terminations, etc.:
28160 Aging Review Committee et al.
28160 Cancer Regional Studies Review Committee et al.
Meetings:
28161 Acquired Immunodeficiency and Kaposi's Sarcoma International Workshop
28159 Cancer Center Support Review Committee
28160 Cancer National Advisory Board
28160 Heart, Lung, and Blood Institute, National; Clinical Applications and Prevention Advisory Committee

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
28105 Gulf of Alaska groundfish; foreign and domestic fishing; correction
28105 Ocean salmon off coasts of Calif., Oreg., and Wash.
NOTICES
Fishermen's contingency fund:
28122 Claims notification

National Park Service
NOTICES
Historic Places National Register; pending nominations:
28164 Alabama et al.

Nuclear Regulatory Commission
RULES
Byproduct material, human uses:
28087 Reagent kits; uses for preparation of radiopharmaceutical technetium-99m labeled succimer
NOTICES
Applications, etc.:
28184 Commonwealth Edison Co.
28185 Illinois Power Co. et al.
28185 Kansas Gas & Electric Co. et al.
28185 Northern Indiana Public Service Co.
Environmental statements; availability, etc.:
28185 Kansas Gas & Electric Co. et al.; Wolf Creek Generating Station Unit 1, Kans.

28184 Export license applications for nuclear facilities or materials (Mitsui & Co. et al.)

Patent and Trademark Office
PROPOSED RULES
Trademark cases:
28324 Applications and examination, interference, concurrent use, opposition and cancellation, and post-registration proceedings

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans; prohibited transaction exemptions:
28178 Cargill Group Life Insurance
28182 Graphic Arts International Union, Local 109-B
28180 W. A. Taylor Co., Inc.

Postal Service
PROPOSED RULES
International mail:
28111 Mexico; express mail rates
NOTICES
28204 Meetings; Sunshine Act

Rural Electrification Administration
RULES
Electric borrowers:
28080 Supplemental financing for loans (Bulletin 20-14)
NOTICES
Loan guarantee, proposed:
28120 Continental Telephone Co. of Kentucky

Securities and Exchange Commission
NOTICES
Hearings, etc.:
28191 ML Venture Partners, I, L. P., et al.
28194 Mutual Life Insurance Co. of New York et al.
28198 Investment advisers; cancellation of registrations; correction
28204 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
28186, 28190 American Stock Exchange, Inc. (2 documents)
28195, 28196 National Association of Securities Dealers, Inc. (2 Documents)
Self-regulatory organizations; unlisted trading privileges:
28191 Midwest Stock Exchange, Inc.
28195 Pacific Stock Exchange, Inc.

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
28120 New Hampshire Critical Area Treatment RC&D Measures
28120 St. Mary's City Critical Area Treatment RC&D Measure, Md.

State Department
NOTICES
Fishing permits, applications:
28198 Union of Soviet Socialist Republics et al.

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent and interim regulatory programs:
28359 Support and transportation facilities, utility installations, and coal processing plants; correction
NOTICES
28166 Agency forms submitted to OMB for review

Tennessee Valley Authority
NOTICES
28199 Agency forms submitted to OMB for review

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
28123 Singapore

Trade Representative, Office of United States
NOTICES
Import quotas and exclusions, etc.:
28201 Color television receivers and printed circuit boards from Korea and Taiwan

Treasury Department
See also Internal Revenue Service.
NOTICES
Notes, Treasury:
28199 E-1989 series

Veterans Administration
RULES
Adjudication; pensions, compensation, dependency, etc.:
28096 Marriage and birth documentary evidence submission by claimants

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
284.....28067
317.....28214
318.....28214
319.....28214
1446.....28069
1701.....28080
1924.....28082
1944.....28082
Proposed Rules:
210.....28106

10 CFR
35.....28087
Proposed Rules:
477.....28107

12 CFR
329.....28087
611.....28088
614.....28088
Proposed Rules:
303.....28108
308.....28108
545.....28110

14 CFR
385.....28088
Proposed Rules:
323.....28111

17 CFR
140.....28089

21 CFR
173.....28089
Proposed Rules:
310.....28306
358.....28312

24 CFR
3280.....28091
3282.....28091
3283.....28091

25 CFR
6a.....28094

29 CFR
570.....28094

30 CFR
11.....28095
33.....28095
46.....28095
48.....28095
49.....28095
57.....28095
70.....28095
71.....28095
74.....28095
75.....28095
77.....28095
Proposed Rules:
816.....28359

37 CFR
Proposed Rules:
2.....28324

38 CFR
3.....28096

39 CFR
Proposed Rules:
10.....28111

40 CFR
52 (2 documents).....28096, 28097
62.....28099
81.....28100
415.....28260
Proposed Rules:
52.....28112

47 CFR
0 (2 documents).....28102, 28103
97.....28103
Proposed Rules:
87.....28113

49 CFR
Proposed Rules:
Ch. X.....28115

50 CFR
661.....28105
672.....28105

[illegible]

Rules and Regulations

Federal Register
Vol. 47, No. 125
Tuesday, June 29, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 284

[Amendment Number 203]

Food Stamp Program; Provision of Nutrition Assistance for the Commonwealth of the Northern Mariana Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On April 9, 1982, the department published a proposed rule at 47 FR 15346 concerning nutrition assistance for the Commonwealth of the Northern Mariana Islands (CNMI). The proposal allowed program specifics to be negotiated between the Department and the CNMI and set forth in a memorandum of understanding as required by Pub. L. 96–597. This final rule provides a nutrition assistance program for the CNMI and allows the memorandum of understanding which has been negotiated between the Department and the CNMI, to be signed.

EFFECTIVE DATE: The rule is effective June 29, 1982 to allow implementation of the CNMI's nutrition assistance program as close to July 1, 1982 as possible.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; phone (703) 756–3429.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291. Because of the limited amount of assistance to be provided to the CNMI, it has been determined that the rule will not have:

—An annual effect on the economy of $100 million or more; or

—A major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or

—A significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, the rule has been classified as a non-major rule.

The rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96–354. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities. The provisions affect only the CNMI. Therefore, only one local government will be affected.

Background

The action taken in these regulations is generally taken pursuant to the Food Stamp Act of 1977, as amended, and to legislation enacted on March 24, 1976, approving and reiterating the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", Public Law 94–241 and Pub. L. 96–597. The CNMI and this Department are currently involved in litigation concerning family nutrition in the CNMI. *Commonwealth of the Northern Mariana Islands v. United States, et. al.*, U.S.D.C.D. Northern Mariana Islands, Civil Action No. 81–035. This action is intended to facilitate mutually acceptable disposition of this litigation.

On April 9, 1982, the Department published a proposed rule at 47 FR 15346 which permitted the CNMI to design a nutrition assistance program for needy persons tailored to the CNMI's unique circumstances. The April 9, 1982, proposal had a 45 day comment period during which six comments were received. Four of the comments were in support of the rule as written. One commenter updated for the record statements found in the background section to the rule and one commenter suggested changes in the rule based on the Federal Grant and Cooperative Agreement Act of 1977.

FNS provides broad guidelines in these final regulations which give the CNMI maximum program flexibility. Program specifics will be negotiated between FNS and the CNMI and will be set forth in a memorandum of understanding as required by Pub. L. 96–597. The memorandum of understanding will implement the particular terms of the nutrition assistance program and will also serve as the plan of operation for the CNMI's nutrition assistance program. Upon execution of the memorandum of understanding FNS will phase out the food distribution program for needy families currently in operation in the CNMI. The target date for implementation of CNMI's nutrition assistance program is July 1, 1982.

Except as discussed below, 7 CFR Part 284 remains unchanged from the proposed rule.

The proposed rule required that the memorandum of understanding contain an outline of specific reporting and recordkeeping requirements consistent with OMB Circular A–102. The final rule references instead the Department's Uniform Federal Assistance Regulations, 7 CFR Part 3015, 46 FR 55636, which establishes Department-wide guidelines for administration of grants and cooperative agreements. These Uniform Federal Assistance Regulations primarily implement OMB Circulars A–102 and A–110 which standardize the administration of grants and cooperative agreements and specify the principles for determining allowable costs under USDA grants and cooperative agreements.

In response to comments from USDA's Office of Finance and Management the final rule has incorporated OMB guidelines by referencing the Uniform Federal Assistance Regulations, requiring that the head of the assisting agency, the Comptroller General, or any of their duly authorized representatives have access to any books, documents, papers and records of the recipient and their subgrantees which are pertinent to the transaction for the purpose of making audits, examinations, excerpts and transcripts.

Since issuing the proposal the Department has developed financial management guidelines for nutrition assistance programs and has added to the final rule provisions found in the

Commonwealth of Puerto Rico nutrition assistance program grant regulations covering offsets to funding, reviews, audits, year end financial reports and failure to comply.

List of Subjects in 7 CFR Part 284:

Administrative practice and procedure, Food assistance programs, Grant programs—Social programs, Health, Nutrition.

For the reasons set forth in the preamble, Part 284 is adopted as final and added to 7 CFR Chapter II to read as follows:

PART 284—PROVISION OF A NUTRITION ASSISTANCE PROGRAM FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI)

Sec.

284.1 General purpose and scope.
284.2 Authority.
284.3 Memorandum of understanding.
284.4 Failure to comply.
284.5 Technical assistance.

Authority: 90 Stat. 263–279 (48 U.S.C. 1681 note); 91 Stat. 958 (7 U.S.C. 2011–2027); 94 Stat. 3479–3480.

§ 284.1 General purpose and scope.

This part describes the general terms and conditions under which Food Stamp Program funds shall be provided by the Food and Nutrition Service (FNS) to the Commonwealth of Northern Mariana Islands (CNMI) for the purpose of providing a nutrition assistance program for needy persons. The CNMI's program for nutrition assistance shall be targeted to the most needy and shall assure more nutritious diets, provide work incentives, develop CNMI self-sufficiency, and stimulate economic development and local food production. Specific program requirements will be negotiated between FNS and the CNMI and documented in a memorandum of understanding.

§ 284.2 Authority.

(a) The Secretary shall, consistent with the memorandum of understanding required by § 284.3, make a nutrition assistance program available to the CNMI.

(b) FNS has the authority to approve or disapprove the memorandum of understanding or any amendments thereto. FNS approval of the memorandum of understanding or any amendments thereto shall be based, in part, on an assessment that the nutrition assistance program, as defined in the memorandum of understanding or amendment, is:

(1) Sufficiently detailed to permit analysis and review;

(2) Adequately targeted to those with the lowest incomes;

(3) Supported by the assessment of the people's food and nutrition needs;

(4) Effective in its impact on the diets of needy persons;

(5) Reasonable in terms of the budget requested; and

(6) Effective and efficient in the use of Federal funds.

(c) Unless the memorandum of understanding is approved by FNS, no nutrition assistance funds will be provided by FNS to the CNMI.

(d) FNS may recover from the CNMI through offsets to funding during any fiscal year, funds previously paid to the CNMI and later determined by the Secretary to have been overpayments. Funds which may be recovered include, but are not limited to:

(1) Costs not included in the approved memorandum of understanding;

(2) Unallowable costs discovered in audit or investigation findings; and

(3) Amounts owed to FNS which have been billed to the CNMI and which the CNMI has failed to pay without cause acceptable to FNS.

(e) Those provisions of the Food Stamp Program regulations with which the nutrition assistance program described in the memorandum of understanding approved by FNS does not comply are hereby waived.

§ 284.3 Memorandum of understanding.

(a) Nutrition assistance for any fiscal year in the CNMI shall be based upon the memorandum of understanding as approved by FNS. This memorandum of understanding shall be submitted for FNS approval prior to the time the program created by it is to be implemented. Amendments to the memorandum of understanding may be submitted by either party to the other for approval at any time during a fiscal year.

(b) The memorandum of understanding shall include the following:

(1) Designation of a single agency which shall be responsible for the administration, or supervision of the administration of the nutrition assistance program.

(2) A description of the needy persons residing in the CNMI and an assessment of the food and nutrition needs of these persons. The description and assessment shall demonstrate that the nutrition assistance program is directed toward the most needy persons in the CNMI.

(3) A description of the program for nutrition assistance including:

(i) A description of the eligibility standards and the nutrition assistance to be provided to needy persons, and any agencies designated to provide such assistance.

(ii) A description of how eligibility will be determined and the amount of benefits to be provided to individuals and if the benefits vary, the basis of such variations and how the variations will be determined;

(iii) A description of the certification process;

(iv) A description of plans for program monitoring and corrective action procedures;

(v) A description of program issuance and accounting procedures;

(vi) Agreement to comply with the provisions and requirements of Part 3015 of this title and other specific procedures, reporting and/or recordkeeping requirements as FNS may require.

(4) A budget and an estimate of the amount of expenditures necessary for the provision of the nutrition assistance and related administrative expenses;

(5) Other information as FNS may require;

(6) CNMI's agreement to provide an audit of expenditures in compliance with the requirements in Part 3015 of this title at least once every two years. The findings of such audit shall be reported to FNS no later than 120 days from the end of the fiscal year in which the audit is made; and

(7) CNMI's agreement to provide FNS, within 120 days of the end of each fiscal year, a statement of:

(i) whether the grant funds received for that fiscal year exceeded the valid obligations made that year for which payment is authorized, and if so, by how much, and

(ii) such additional related information as FNS may require.

§ 284.4. Failure to comply.

Funds may be withheld in whole or in part, or denied, if there is a substantial failure by the CNMI to comply with the requirements of these regulations or to comply with program requirements detailed in the memorandum of understanding. FNS shall notify the CNMI that further payments shall not be made until FNS is satisfied that there will no longer be any such failure to comply.

§ 284.5 Technical Assistance.

FNS may extend technical assistance to the CNMI to assist in the development of the memorandum of understanding and in the operation of

the program detailed in the memorandum of understanding.

(90 Stat. 263–279 (48 U.S.C. 1681 note); 91 Stat. 958 (7 U.S.C. 2011–2027); 94 Stat. 3479–3480)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Date: June 24, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-17517 Filed 6-28-82; 8:45 am]

BILLING CODE 3410-30-M

Commodity Credit Corporation

7 CFR Part 1446

General Regulations Governing 1982 Through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim Rule.

SUMMARY: This interim rule provides the terms and conditions under which producers acting through area marketing associations may receive price support on eligible peanuts through warehouse storage loans for the 1982 through 1985 crops of peanuts. These regulations are necessary so that the price support program may be administered in accordance with the provisions of the Agricultural Adjustment Act of 1938, and the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, Pub. L. 97–98.

DATES: Interim rule effective June 29, 1982; comments must be received on or before August 30, 1982.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David Kincannon (ASCS), 202–382–0154. The Final Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures, Executive Order 12291, and Secretary's Memorandum No. 1512–1, and has been classified "not major." It has been determined that this interim rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this rule applies to are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance. This rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

James M. Davis, Director, Tobacco and Peanuts Division, ASCS, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period. Regulations presently in effect for the 1979 and subsequent crops of peanuts do not contain a number of changes required by the Agriculture and Food Act of 1981 and other related policy changes necessary to properly and effectively administer the peanut price support program. In addition, warehouse storage contracts must be entered into between the peanut associations and warehousemen so that adequate storage will be available on August 1, 1982, to store 1982 loan collateral peanuts.

Accordingly, it is determined that compliance with the public rulemaking requirements of Secretary's Memorandum No. 1512–1 and 5 U.S.C. 553 is impractical and contrary to the public interest. Comments are requested until August 30, 1982. This interim rule will be scheduled for review so that a final document discussing comments received and any amendment of this interim rule which may be required may be published in the Federal Register as soon as possible.

These regulations are basically the same as the regulations governing the 1981 and prior crop years, which are presently codified at 7 CFR 1446.1 through 1446.17. Therefore, the administration of warehouse storage loans and handler operations will change relatively little from the previous program. However, a number of modifications have been made in order to reflect changes required by the Agriculture and Food Act of 1981 and to improve the overall administration of the program.

The most significant changes in the general regulations governing warehouse storage loans and handler operations for the 1982 through 1985 crops of peanuts are as follows:

1. *Definitions.* (a) The term "additional peanuts" includes all peanuts marketed from a farm for which no poundage quota has been established.

(b) The definition of crushing now includes peanuts processed into flakes for any use except traditional domestic edible uses.

(c) Domestic edible use is defined to exclude seeds of peanuts which are unique strains that are not commercially available and which are used to produce green peanuts.

(d) Green peanuts are defined as peanuts used exclusively as boiled peanuts.

2. *Completion date for contracting additional peanuts for crushing or export.* The Agriculture and Food Act of 1981 mandates that contracts between handlers and producers be submitted for approval to county ASCS offices prior to April 15 of the year in which the crop is produced.

3. *Availability of warehouse storage loans.* The Agriculture and Food Act of 1981 requires the Secretary to make warehouse storage loans available in each of the three traditional producing areas through area marketing associations. Therefore, loans will be made available in the following areas through the following associations:

(1) GFA Peanut Association, Camilla, Georgia, in the Southeastern area consisting of the States of Alabama, Georgia, Mississippi, Florida, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(2) The Southwestern Peanut Growers Association, Gorman, Texas, in the Southwestern area consisting of the States of Arizona, Arkansas, California, Louisiana, New Mexico, Oklahoma, and Texas;

(3) The Peanut Growers Cooperative Marketing Association, Franklin, Virginia, in the Virginia-Carolina area consisting of the States of Missouri, North Carolina, Tennessee, Virginia, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers;

Warehouse storage loans will be available to producers of additional peanuts grown outside the traditional peanut producing areas. However, such peanuts must be delivered to warehouses within the areas described above. Warehouse storage loans for the following States will be available

through the marketing associations indicated:

(1) Alaska, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming will be included in the Southwest marketing area;

(2) Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin will be included in the Virginia-Carolina marketing area; and

(3) Puerto Rico will be included in the Southeast marketing area.

Regulations governing farm-stored loans for all areas of the country will be issued at a later date.

5. *Supervision of contract additional peanuts.* Nonphysical supervision of contract additional peanuts will no longer be available to handlers of such peanuts. Nonphysical supervision was permitted for the 1981 crop of peanuts by Amendment 2 to the General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, 7 CFR 1446.10 (46 FR 45111). However, experience with this method of supervision has shown several serious flaws. First, handlers have realized shelled outturn that differs from the obligation for export or crushing as determined by a sample shelling of farmer stock peanuts at time of loadout. Particularly, more splits resulted from the commercial shelling process which allowed handlers to substitute different qualities of peanuts between the domestic and export markets. Second, the nonphysical supervision option allows handlers to designate shelled lots for export or crushing without regard to whether such lots were originally designated as quota or as contract additional peanuts. Thus, whenever lots, irrespective of their origin, fail quality standards or are lost or damaged, handlers have designated these lots as contract additional peanuts. Therefore, CCC can no longer verify that contract additional peanuts are not entering the domestic edible market through substitution of qualities.

It is proposed in this rule that all phases of handling and disposition of contract additional peanuts for the 1982 through 1985 crops of peanuts will be supervised by a representative of the association. This returns to the method of supervision that was in effect for the 1980 and prior crop years of peanuts.

6. *Immediate buyback of additional peanuts.* Regulations found at 7 CFR 1446.7, as amended by Amendment 3 to the general regulations (46 FR 47759), require that in order for additional peanuts to be purchased under the "immediate buyback" provision, the applicable Inspection Certificate and Sales Memorandum must be signed by the producer to indicate that the peanuts are available for immediate buyback. Experience has shown that it is often an inconvenience for the producer to sign the Inspection Certificate and Sales Memorandum for each "buyback" purchase. To expedite the delivery of additional peanuts which are available for "immediate buyback" purchase, eligibility for "immediate buyback" will be established by the farm operator when application is made for the marketing card (ASCS–1002). The stamp "eligible for buyback" shall be placed on the marketing card when issued only with the approval of the farm operator, or a properly authorized agent if a Power of Attorney (ASCS–211) is on file. Multiple marketing cards may be issued when producers wish only a portion of their additional peanuts to be available for "immediate buyback" purchase. Producers may also apply for supplemental cards if, after having been issued a marketing card, the producer decides to change the eligibility status of any remaining additional peanuts to be marketed.

8. *Procedures for the Assessment of Penalties Against Handlers.* The 1981 Act requires that penalties be assessed against handlers who fail to comply with the statutory or regulatory requirements for the handling and disposition of additional peanuts. The procedures for the assessment and collection of such penalties, as well as the appeal rights of handlers, have been clarified.

Interim Rule

PART 1446—PEANUTS

Accordingly, 7 CFR Part 1446 is amended as set forth below:

Subpart—General Regulations Governing 1979 Through 1981 Peanut Crop Warehouse Storage Loans and Handler Operations

1. a. The title "Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations" is revised to read "Subpart—General Regulations Governing 1979 through 1981 Crop Peanut Warehouse Storage Loans and Handler Operations".

b. The text of 7 CFR 1446.1(a), is revised to read as follows:

§ 1446.1 General statement.

a. *Scope.* This subpart sets forth conditions under which producers and handlers may trade in the 1979, 1980, and 1981 crops of peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1979, 1980, and 1981 crops of farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged to Commodity Credit Corporation (CCC) for loans. Annual supplements to this subpart will specify support prices, and other terms and conditions not contained in this subpart which are applicable to the warehouse storage loan program for peanuts of a particular crop.

* * * * *

c. Section 1446.3(w) is revised to read as follows:

§ 1446.3 Definitions.

* * * * *

(w) *Marketing quota regulations.* The Allotment and Marketing Quota Regulations, Part 729 of this title described in 7 CFR Part 729 (1981 ed.)

* * * * *

d. Section 1446.8(d)(1) is amended to read as follows:

§ 1446.8 Compliance by handlers of contract additional peanuts.

* * * * *

(d) *Penalty rate for unintentional marketing errors.*—(1) *Penalty rate.* The penalty rate for unintentional marketing errors for the 1978 through 1981 crops of peanuts shall be 40 percent of the basic quota support rate for the crop year in which the peanuts were produced. The penalty rate shall remain at 120 percent of the basic quota support rate in any case where the handler marketed a larger quantity or higher grades than could reasonably have been produced from the quantity of peanuts having the grade kernel content and quality of quota farmers stock peanuts purchased by the handler for domestic edible use during the applicable marketing year, whether or not additional peanuts were acquired by the handler.

* * * * *

2. A new subpart is added to 7 CFR Part 1446, as follows:

Subpart—General Regulations Governing 1982 through 1985 Crops Peanut Warehouse Loans and Handler Operations

General

Sec.

1446.50 General statement.
1446.51 Administration.
1446.52 Definitions.

Handler Operations

1446.53 Handler responsibilities.
1446.54 Contracts for additional peanuts for crushing and exportation.
1446.55 Commingling quota and additional peanuts.
1446.56 Use of additional peanuts as domestic edible peanuts.
1446.57 Compliance by handlers of contract additional peanuts.
1446.58 Supervision and handling of contract additional peanuts.
1446.59 Assessment of penalties.

Warehouse Storage Loans

1446.60 Availability of warehouse storage loans.
1446.61 Pooling and distribution of net gains.
1446.62 Producer indebtedness.
1446.63 Eligible producer.
1446.64 Eligible peanuts.
1446.65 Disposition of Segregation 3 peanuts and liquidated damages.
1446.66 Producer transfers of additional loan stocks to quota pools.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 108A, 401 *et seq.*, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421 *et seq.*); Sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359), unless otherwise noted.

Subpart—General Regulations Governing 1982 through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations

General

§ 1446.50 General statement.

(a) *Scope.* This subpart sets forth the terms and conditions under which producers and handlers may trade in the 1982 through 1985 crops of peanuts. This subpart also sets forth the terms and conditions under which eligible producers acting collectively through specified marketing associations (referred to severally in this subpart as "the association") may obtain price support on their 1982 through 1985 crops of farmers stock peanuts. Eligible farmers stock peanuts produced by eligible producers which are quota peanuts shall be eligible for price support at the quota support rate. Farmers stock peanuts which are not quota peanuts are considered additional peanuts and shall be eligible for price support at the additional support rate. Additional peanuts may only be marketed through contracts with handlers or by being pledged as collateral for price support loans under the terms of this subpart. Annual Notices of Determination will specify support rates, and annual supplements to this subpart will specify other terms and conditions not contained in this subpart which are applicable to the warehouse storage loan program for peanuts of a particular crop.

(b) *Price support advances.* Producers may obtain price support at the rates specified in the applicable annual Notice of Determination through the applicable association. Each association will make appropriate price support loan advances on peanuts delivered to it by producers at warehouses operating under peanut receiving and warehouse contracts with the association. CCC will make a loan (referred to in this subpart as a "warehouse storage loan") to the association. Such loan will be secured by peanuts received by the association.

(c) *Farm storage loans and purchases from producers.* Regulations containing the terms and conditions under which CCC will make farm storage loans directly to producers and purchases directly from producers for any crop of farmers stock peanuts will be published separately in the **Federal Register.**

§ 1446.51 Administration.

(a) *Responsibility.* Under the general direction and supervision of the Executive Vice President, CCC, the Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service (ASCS), will administer this subpart.

(b) *Limitation of authority.* State and county committees or their employees and the associations have no authority to modify or waive any of the provisions of this subpart or any amendment or supplements thereto.

(c) *Supervisory authority.* No delegation of authority in this subpart shall preclude the Executive Vice President, CCC, or the Executive Vice President's designee, from determining any questions arising under the regulations or from reversing or modifying any determinations made pursuant to such delegation.

§ 1446.52 Definitions.

As used in this subpart, and in instructions and documents in connection herewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) *Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

(b) *Additional support rate.* The price support rate applicable to additional peanuts.

(c) *ASCS.* The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(d) *Association.* An area marketing association which is operated primarily for the purpose of conducting loan activities and which is selected and approved for such activities by the Secretary.

(e) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture.

(f) *Compliance regulations.* The regulations in Part 718 of this title, Determination of Acreage and Compliance, issued by the Administrator, ASCS, and effective for the applicable crop.

(g) *Contract additional peanuts.* Additional peanuts for crushing or exportation, or both, on which a contract has been entered into between a handler and producer in accordance with § 1446.54.

(h) *County committee.* Persons elected within a county as the county committee under the regulations governing the selection and functions of Agricultural Stabilization and Conservation (ASC) county and community committees in Part 7 of subtitle A of this title, except that for Puerto Rico and the Virgin Islands, the Caribbean Area Agricultural Stabilization and Conservation Committee shall, insofar as applicable, perform the functions of the county committee.

(i) *County office.* The office of the county ASC committee where records for the farm are kept.

(j) *Crushing.* The processing of peanuts: (1) To extract oil for food uses and meal for feed uses; or (2) into flakes for domestic food uses other than peanut butter, candy, confections or other traditional domestic edible uses.

(k) *Domestic edible use.* Domestic edible use means, for the purpose of regulations found in this part: (1) Use for milling to produce domestic food products (including the processing of peanuts into flakes for traditional domestic edible uses); (2) use of peanuts for seed, excluding unique strains which are not commercially available and which are used for the production of green peanuts; and (3) use of peanuts on a farm.

(l) *Edible export standard for contract additional peanuts.* Raw shelled or inshell peanuts of any crop exported for human consumption meeting such U.S. grade requirements, or modifications thereof, or requirements as to wholesomeness, as are specified in the outgoing quality regulations for such crop in the Marketing Agreement for Peanuts No. 146: *Provided,* that peanuts shown by the applicable Federal-State Inspection Certificate to deviate from these requirements shall be considered as meeting such requirements if the handler certifies to the association that such deviations are acceptable (i) to the export buyer and (ii) under the Marketing Agreement.

(m) *Effective farm poundage quota.* The effective farm poundage quota for the applicable crop of peanuts as defined in the poundage quota regulations, Part 729 of this title.

(n) *Eligible country.* Any destination outside the United States, except that neither Canada nor Mexico shall be considered an eligible country for the exportation of peanut products other than treated seed peanuts.

(o) *Export and exportation.* A shipment of peanuts or peanut products from the United States directed to a destination outside the United States and upon which a consignee receipt or other similar document was obtained and made available to the association or CCC.

(p) *Extra large kernels.* Shelled Virginia type peanuts which are "whole" and free from "minor defects" and "damage" as such terms are defined in the U.S. Standards for shelled Virginia type peanuts effective on the date of inspection and which will not pass through a screen having 21.5/64 by 1 inch openings.

(q) *Farm.* A farm, as defined in Part 719 of this title, Reconstitution of Farms, Allotments, Normal Crop Acreage and Preceding Year Planted Acreage.

(r) *Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels removed by producers from farmers stock peanuts.

(s) *Flaked peanuts.* Raw contract additional peanuts which are colloid milled (finely ground), stabilized to prevent rancidity, and drum dried into flake form. Flaked peanuts may only be used in approved products. Products approved for use include, but are not limited to, bases for meat and cheese flavored sandwich spreads, meat analogs, extenders for certain types of luncheon meats, extenders for scrambled eggs, and other products as approved by CCC or the association.

(t) *Form ASCS–1007 and Form FV–95.*—(1) *Form ASCS–1007.* Inspection Certificate and Sales Memorandum for farmers stock peanuts.

(2) *Form FV–95.* Federal-State Inspection Service, Peanut Inspection Note Sheet.

(u) *Fragmented peanuts.* Peanuts not more than 20 percent of which are whole kernels which will not pass through the following openings, by type: Spanish 15/64 x ¾ inch slot; Runner 15/64 x ¾ inch slot, and Virginia 15/64 x 1 inch slot.

(v) *Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

(w) *Handler.* Any person or firm registered with ASCS for the purpose of acquiring peanuts for domestic consumption, exportation, or crushing through a business of buying and selling peanuts.

(x) *Inspector.* A Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture.

(y) *Loan value.* The amount of the price support loan advance which may be obtained by a producer from the association under this subpart on a lot of eligible farmers stock peanuts, computed for quota or additional peanuts, as applicable, on the basis of weight, quality, and the support values announced for such type.

(z) *Lot.* That quantity of farmers stock peanuts for which one ASCS–1007 or other inspection certificate is issued. For farmers stock peanuts delivered to the association for a price support loan advance, a lot shall consist of not more than the contents of one vehicle, or two or more vehicles containing approximately 24,000 pounds.

(aa) *Marketing card.* Form ASCS–1002 issued each year in accordance with Part 729 of this title by ASCS county offices to producers for use in marketing peanuts of the applicable crop. Each Form ASCS–1002 shall indicate: (1) The farm operator's eligibility for quota price support; (2) the pounds that may be marketed as quota peanuts; (3) the pounds of additional peanuts contracted and the handler number of the contracting handlers; and (4) the eligibility of additional peanuts for immediate buyback.

(bb) *Marketing penalties.* The penalties prescribed in the marketing regulations, Part 729 of this title, which shall be computed and collected in accordance with those regulations.

(cc) *Marketing regulations.* The Poundage Quota Regulations for Peanuts, Part 729 of this title.

(dd) *Marketing year.* The period beginning on August 1 of the year in which the peanuts of the applicable crop are planted and ending on July 31 of the following year.

(ee) *Net weight.* That weight of farmers stock peanuts obtained by deducting from the gross scale weight of the peanuts: (1) Foreign material; and (2) moisture in excess of seven percent in the Southwestern and Southeastern areas, and eight percent in the Virginia-Carolina area and all other areas.

(ff) *Peanut meal.* Any meal, cake pellets, or other forms of residue remaining after extraction or expulsion of oil from peanut kernels, but not including pressed peanuts.

(gg) *Peanut products.* Any products manufactured or derived from peanuts such as, but not limited to, peanut candy, peanut butter, and peanut granules.

(hh) *Peanut receiving and warehouse contract.* Form CCC–1028, Identity Preserved, Form CCC–1028–A, Commingled Storage, or any other form approved by CCC for the purpose of receiving and warehousing peanuts.

(ii) *Peanut segregations*—(1) *Segregation 1.* Farmers stock peanuts which: (i) Have at least 99 percent peanuts of one type; (ii) have not more than two percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay, nor more than 0.5 percent freeze damage; (iii) are free from any offensive odor; and (iv) are free from visible Aspergillus flavus mold.

(2) *Segregation 2.* Farmers stock peanuts which are free from visible Aspergillus flavus mold and which either: (i) Have less than 99 percent peanuts of one type; or (ii) have more than two percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay, or more than 0.5 percent freeze damage; or (iii) have an offensive odor: *Provided however,* If such peanuts are placed under additional loan and purchased under the immediate buyback procedure, as provided in § 1446.56 of these regulations, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(3) *Segregation 3.* Farmers stock peanuts which have visible Aspergillus flavus mold: *Provided however,* If such peanuts are placed under additional loan and purchased under the

immediate buyback procedure as provided in § 1446.56, such peanuts shall be considered Segregation 1 additional peanuts for loan pool accounting purposes.

(jj) *Pools.* Accounting pools established by the association and on which complete and accurate records are maintained by area, by type, and by segregation for quota peanuts and additional peanuts not under contract.

(kk) *Quota peanuts.* For purposes of the regulations found in this subpart, peanuts which are: (1) Eligible for domestic edible uses; and (2) marketed or considered marketed from a farm as quota peanuts, but not in excess of the farm poundage quota.

(ll) *Quota support rate.* The price support rate applicable to quota peanuts.

(mm) *Raw peanuts.* Inshell peanuts, shell peanuts, or blanched peanuts which have not passed through any other processing operations.

(nn) *Sound mature kernels.* Kernels which are free from "damage" and "minor defects" as defined in the U.S. Standards for the applicable type of peanuts effective on the date of the inspection, and which will not pass through screens with the following openings:

Runner type: 13/64 x ¾ inch slot;
Spanish type: 13/64 x ¾ inch slot;
Virginia type: 13/64 x 1 inch slot.

(oo) *Type.* The generally known types of peanuts (i.e. Runner, Spanish, Valencia, and Virginia), as defined in the poundage quota regulations, Part 729 of this title.

(pp) *United States.* The 50 States of the United States, Puerto Rico, the territories and possessions of the United States, and the District of Columbia.

(qq) *United States government agency.* Any corporation wholly owned by the Federal Government, and any department, bureau, administration, or other agency of the Federal Government.

(rr) *Valencia type peanuts produced in the Southwest suitable for cleaning and roasting.* Valencia type peanuts produced in the Southwest containing not more than 25 percent shells damaged by: (1) Discoloration; (2) cracks or broken ends; or (3) both.

Handler Operations

§ 1446.53 Handler responsibilities.

(a) *Examination of producers' marketing cards.* All handlers shall examine producers' marketing cards and record each purchase or delivery of peanuts as required in Part 729 of this title and in accordance with procedures established by ASCS. Any peanuts delivered by producers under an additional peanut contract (Form CCC-1005) in excess of the provisions of such contract shall be considered as having been marketed as quota peanuts. No peanuts shall be handled from any producer who does not present a marketing card and farm identification card at the time of delivery.

(b) *Purchase records*—(1) *Purchases of quota peanuts on which an ASCS-1007 is prepared.* Each handler shall maintain records of the peanuts purchased and sold. The records shall contain, at a minimum, the following information: (i) the State and county code; (ii) the farm number of the farm on which the peanuts were produced or the registration number of the seller if the seller is a handler; (iii) the quantity and type of peanuts; (iv) the date of purchase; and (v) the applicable ASCS-1007 serial number. The handler shall imprint forms ASCS-1007 and FV-95 with the farm identification card, the peanut buyers card, and the buying point card.

(2) *Purchases of quota peanuts from producers on which an ASCS-1007 is not prepared.* The handler shall immediately transmit a record of such purchase to CCC. Such record shall show the name and address of the producer, State and county code, farm number, the handler's name, address and registration number, buying point, any marketing penalty collected, the type and quantity of peanuts purchased, and the date of purchase.

(c) *Sales and disposal records.* Each handler shall maintain records of all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, to whom sold, whether sold as edible peanuts or for crushing, and any other information required by this subpart.

(d) *Method of keeping records.* Handler records shall be maintained by a handler in such a manner that will enable representatives of the Secretary to readily reconcile the quantities, grades, and qualities of all peanuts acquired and disposed of by such a handler. Records concerning the acquisition and disposal of contract additional peanuts must also be kept in such a manner that representatives of the Secretary can readily determine compliance with the provisions of this subpart.

(e) *Retention of records.* All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

§ 1446.54 Contracts for additional peanuts for crushing and export.

(a) *Contracts between handlers and producers.* Handlers who have a U.S. address may contract with producers on Form CCC-1005 to buy additional peanuts from producers for crushing or exportation, or both. All such contracts shall be completed and submitted to the county office for approval prior to April 15 of the year in which the crop is produced. Such contracts cannot be sold or traded, except under the terms and conditions specified in paragraph (b) of this section. Contracts shall include at least the following provisions.

(1) Name and address of the farm operator, State and county code of the farm, and the farm serial number of the farm.

(2) Name, and address of the handler, and registration number.

(3) Amount of Segregation 1 peanuts in pounds by type.

(4) Contract price shown as a percentage of quota peanut support rate.

(5) Requirement for disclosure by the producer of any liens on the peanuts on date of delivery.

(6) A provision that the producer shall not be liable for failure to deliver against such contract an amount of peanuts in excess of the actual production of such type and quality on the farm: *Provided,* That in the case of harvested peanuts that are lost or damaged, such loss or damage resulted solely from an external source such as drought, fire, lighting, inherent explosion, windstorm, tornado, flood or other acts of God, or any other condition beyond the control of the producer.

(7) Signature of the farm operator.

(8) Signature of the producer if different from the farm operator.

(9) Signature of the handler or authorized agent of the handler.

(10) The following agreement by the handler:

> I agree that I will either export, crush, or transfer to another registered domestic handler for exportation or crushing, the peanuts delivered under this contract as provided in 7 CFR Part 1446, Subpart—General Regulations Governing 1982 through 1985 Crops Peanut Warehouse Storage Loans and Handler Operations.

(b) *Contract transfers and delivery of contracted peanuts to other handlers.* If a handler is unable to perform under contracts with producers for the purchase of additional peanuts because of conditions beyond the handler's control, including but not limited to insolvency, bankruptcy, death, or destruction of warehouse facilities, the handler and the producer may agree to the delivery of the peanuts to other

handlers under the terms of the original contract or under modified terms. Such transfers shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such transfer will not impair the effective operation of the peanut program.

(c) *Contract transfers and transfer of delivery obligations to other producers.* If a producer is unable to perform under a contract with a handler for the purchase of additional peanuts because of farm reconstitutions (combinations and divisions), the handler and the new producer may agree to the delivery of the additional peanuts under the terms of the original contract. In such case, the farm number and the operator may change as a result of the reconstitution. Such transfer of contract obligations shall not be valid without the prior written approval of the Deputy Administrator, State and County Operations, ASCS. A transfer shall be approved by the Deputy Administrator only if it is determined by the Deputy Administrator that such transfer will not impair the effective operation of the peanut program.

(d) *Deliveries under optional provisions of the contract.* Contracts may also include provisions under which a specified quantity of Segregation 1 peanuts in excess of the quantity specified in accordance with paragraph (a) of this section may be delivered under the contract. However, such provisions shall not be effective unless the quantity of Segregation 1 peanuts specified in accordance with paragraph (a) of this section has been delivered and the producer, if otherwise eligible, retains the right to market the Segregation 1 peanuts as quota peanuts to the extent that the producer's farm poundage quota has not been filled. Contracts may also provide for delivery of a specified quantity of Segregations 2 and 3 peanuts.

(e) *Contracts between handlers.* Handlers may contract with other handlers to transfer liability for exporting or crushing contract additional peanuts. Such contracts must contain the agreement specified in paragraph (a)(10) of this section and an agreement that such agreement will be included in all subsequent contracts covering resale of such peanuts.

(f) *Inspection of contract additional peanuts.* The type and quality of each lot of contract additional peanuts delivered under contract shall be determined by an inspector when such peanuts are delivered by a producer.

(g) *Contracts for 1982 crop additional peanuts.* Contracts between producers and handlers for 1982 crop additional peanuts entered into prior to April 15, 1982, and meeting the requirements of the regulations then in effect (Subpart—General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, 7 CFR 1446), shall be considered as having met the requirements for such contracts which are set forth in this subpart. However, such contracts and the peanuts which are the subject of such contracts shall be governed by the terms and conditions set forth in this subpart. All references contained in such contracts to the General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations, or portions thereof, shall be deemed to be references to this subpart.

§ 1446.55 Commingling of quota and additional peanuts.

Quota and additional farmers stock peanuts of like type and segregation may be commingled and exchanged on a dollar value basis to facilitate handling and marketing. The dollar value basis shall be determined on the basis of the quota support rate. The handler shall receive, store, and deliver all such peanuts in accordance with good commercial practices and instructions provided by CCC. For each lot of quota and/or additional peanuts stored commingled, the records of the handler shall show at all times the date and place received, name and address of the producer, the type, segregation, pounds, and dollar-value-in. The handler shall keep such other accounts and records and furnish such information and reports relating to the dollar-value-out and disposition of such peanuts as may be prescribed by the association or CCC.

§ 1446.56 Use of additional peanuts as domestic edible peanuts.

(a) *"Immediate Buyback" purchase.* During harvest season, a handler shall have the right to purchase additional peanuts from the association for domestic edible use at buying points owned or controlled by such handler at prices equal to 100 percent of the quota loan value of such peanuts plus handling charges. The purchase (i.e., the "immediate buyback" purchase) may be made only from the association and only on the date such peanuts were delivered by the producer as collateral for a price support loan. The "immediate buyback" purchase shall be valid and accepted by the association only if the marketing card (ASCS–1002) is stamped "eligible for buyback". The handler shall: (1) As an agent for the association, advance to the producer price support for the peanuts at the additional loan rate; (2) pay to the producer any agreed premiums for the delivery of such peanuts by the producer to the handler; and (3) forward to the association a check payable to CCC for the peanuts in an amount equal to the quota loan value of the peanuts, as well as any handling charges. The check and applicable ASCS–1007 will identify the peanuts as additional peanuts that may be used for domestic edible use and must be transmitted to the association (as evidenced by a postmark) not later than the third workday (excluding Saturdays, Sundays, and Federal holidays) following the day the peanuts were inspected. Such receipts will be credited to the additional loan pool for such peanuts.

(b) *Purchases Subsequent to Delivery.* Handlers may also purchase additional peanuts from the loan pool for domestic edible use after delivery by producers to the association, under terms and conditions established by the association and CCC. The minimum price for such purchases shall be the applicable carrying charges plus: (1) Not less than 105 percent of the quota loan value of the peanuts if paid for not later than December 31 of the marketing year; or (2) not less than 107 percent of the quota loan value if paid for after December 31 of the marketing year.

§ 1446.57 Compliance requirements for handlers of contract additional peanuts.

(a) *Records.* All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or exportation to an eligible country in accordance with the conditions set forth in this subpart. All handler's records shall be subject to a review by CCC or other representatives of the Secretary of Agriculture (Secretary) to determine compliance with the provisions of this subpart. Refusal to make such handler's records available to the Secretary or the failure of such records to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart for which a penalty may be assessed against the handler in accordance with § 1446.59 of this subpart. Reviews shall be made by the association in accordance with guidelines established by CCC.

(b) *Excess marketings of quota peanuts.* A handler will be subject to a penalty for noncompliance if it is determined by CCC that he marketed

from any crop, for domestic edible use, a larger quantity, or higher grades or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of quota farmers stock peanuts purchased by the handler during the applicable marketing year and of those purchased under § 1446.56, regardless of whether additional peanuts were acquired by the handler. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on that quantity of farmers stock peanuts determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts sold. Such penalty shall be assessed in accordance with the provisions of § 1446.59 of this subpart.

(c) *Storage requirements for contract additional peanuts prior to processing.*—(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan, and contract additional peanuts. In such case, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage, except when such peanuts are purchased from the association for domestic edible use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia-type peanuts and 3.5 percent for all other types, except that if the additional contract peanuts are graded out and accounted for prior to February 1, the adjustment of the dollar value shall be 3.5 percent for Virginia-type and 3.0 percent for all other peanuts.

(2) *Identity preserved storage.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts at time of grade out and settled on a dollar value basis. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices and instructions provided by CCC.

(3) *Penalties.* Failure to store and account for peanuts in accordance with the requirements of this paragraph shall constitute noncompliance with this subpart for which a penalty may be assessed in accordance with § 1446.59 of this subpart.

(d) *Disposition of contract additional peanuts.*—(1) *Disposition.* Handlers shall dispose of all contract additional peanuts, either by exportation, crushing, or substitution, in accordance with the requirements and procedures of § 1446.58 of this subpart.

(2) *Final disposition date.* Handlers shall dispose of all contract additional peanuts by August 31 of the year following the calendar year in which the crop was grown.

(3) *Etension of final disposition date.* The final disposition date shall be extended to November 30 of the year following the calendar year in which the crop was grown if the handler, by August 31:

(i) Furnishes information to the association showing that the contract additional peanuts have been milled and positive lot identified;

(ii) Furnishes the association the name and location of the contract additional peanuts; and

(iii) Provides a written statement of agreement to the association to pay any supervision costs incurred on the contract additional peanuts after August 31.

The identical contract additional peanuts with respect to which a request for extension of the final disposition date has been granted must be disposed of by exportation or crushing in conformity with the requirements of § 1446.58 of this subpart. Such contract additional peanuts may not be disposed of through the substitution procedures set forth in § 1446.58(d) of this subpart.

(4) *Penalties.* The failure of a handler to dispose of contract additional peanuts by the final date for disposition in accordance with the requirements of this subpart shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed against the handler in accordance with the provisions of § 1446.59.

§ 1446.58 Supervision and handling of contract additional peanuts.

The association will conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, milling, blanching, weighing, and shipping.

(a) *Access to facilities.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that authorized representative(s) of CCC and the association:

(1) May enter and remain upon any of the premises of the handler when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, milled, blanched, crushed, packaged, shipped, sized, processed into flaked peanuts or other products, or otherwise handled;

(2) May inspect such peanuts and the oil, meal, and other products thereof; and

(3) May inspect the premises, facilities, operations, books, and records of the handler to the extent necessary to determine that such peanuts have been handled in accordance with this subpart.

(b) *Notifying the association.* Before moving or processing any contract additional peanuts, the handler (or cleaner, sheller, or processor under contract with the handler) shall notify the association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the association so that supervision can be arranged.

(c) *Processing.* The contract additional peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, exportation, processing into peanut flakes, or processing into peanut products to be exported. Except as otherwise authorized by the association, such peanuts will be considered as having been crushed or exported only if positive lot identity has been maintained in the following manner.

(1) *Transportation.* The peanuts shall be transported from the storage location in a covered vehicle, such as a truck or railroad car. The vehicle shall be sealed unless the association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* The peanuts shall be stored in separate building(s) or bin(s) which can be sealed or which the association determines will satisfactorily maintain lot identity.

(d) *Substitution of quota and additional peanuts.*—(1) *Substitution of quota peanuts which have been exported or crushed.*

(i) *Farmers stock peanuts.* The identical contract additional farmers stock peanuts shall be handled in accordance with this section, except that with prior notification and approval of the association, farmers stock quota peanuts of the same crop, type, quality, and area may be exported or crushed in place of such additional peanuts.

(ii) *Milled peanuts.* The identical contract additional milled peanuts shelled under supervision of the association shall be disposed of in accordance with this section, except that with prior notification and approval

of the association, such peanuts may be used to replace, in domestic edible use, quota peanuts of the same crop, type, area, and screen size, which have been previously crushed or exported. The quota peanuts crushed or exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts.

(2) *Use of additional peanuts for domestic edible uses prior to substitution.* Additional peanuts may be used for domestic edible use with prior notification and approval of the association and upon presentation to the association of an irrevocable letter of credit in an amount not less than 120 percent of the quota support rate for any portion of the lot for which substitution has not been approved in accordance with paragraph (d)(1) of this section. Such letter of credit shall be issued in a form and by a bank acceptable to CCC. The handler shall subsequently deliver to the association satisfactory evidence that a like amount of quota peanuts of appropriate screen sizes have been handled as contract additional peanuts and exported in accordance with these regulations. Such evidence must be submitted no later than 30 days after August 31 of the year following the calendar year in which the peanuts were grown. If satisfactory evidence is not presented by such date, CCC may authorize the association to draw against the letter of credit the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this subpart.

(3) *Time limitations.* Substitution may not be requested or approved with respect to contract additional peanuts for which the final disposition date has been extended in accordance with § 1446.57(c) of this subpart.

(e) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(f) *Domestic sale or transfer of contract additional peanuts.*

(1) *Farmers stock peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the association for written approval. Such approval must be granted prior to any physical movement of the peanuts by the handler from the buying point. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush (includes processing into flakes) or export the contract additional peanuts as raw peanuts or peanut products in accordance with the terms and conditions of this subpart. Approval of such contracts may be made before or after delivery of the peanuts by the producer.

(2) *Milled peanuts.* The handler must submit contracts (CCC–1006) covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the association for written approval. Approval must be obtained prior to any physical movement of the peanuts by the handler. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush (includes processing into flakes) or export the contract additional peanuts in accordance with the terms and conditions of this subpart.

(g) *Disposal of contract additional peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exportation to an eligible country as follows:

(1) All kernels may be crushed domestically; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels: (i) Crushed domestically, or (ii) exported for crushing, if fragmented; or

(4) all of the peanuts may be exported as farmers stock peanuts; or

(5) the peanuts may be exported as peanut products if such peanuts meet edible export standards; or

(6) the peanuts may be processed into peanut flakes for approved domestic uses if such peanuts meet domestic edible quality standards and have been approved by the association for such use; or

(7) the peanuts may be exported as milled or inshell peanuts.

(h) *Disposal of meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement:

> This shipment consists of lots of meal which contains aflatoxin ranging from —— to —— PPB and averaging —— PPB.

(i) *Final dates for scheduling supervision.* Contract additional farmers stock peanuts shall be scheduled for supervision by the Association during the normal marketing period but not later than July 31 of the calendar year following the calendar year in which the crop was grown, unless prior approval of a later date has been made by the association.

(j) *Exportation provisions.*—(1) *Exportation to a U.S. Government agency.* Except for the exportation of raw peanuts to the military exchange services for processing outside the United States, the exportation of peanuts in any form by or to a United States Government agency shall not be considered exportation to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency for International Development are not considered sales to a United States Government agency, if the peanuts are not purchased by the foreign buyer for transfer to a United States agency.

(2) *Exportation of contract additional peanuts.* All contract additional peanuts which are not crushed domestically (including processing into flakes) and which are eligible for exportation shall be exported in accordance with the provisions of this subpart to an eligible country as peanuts or peanut products.

(3) *Reentry transshipment and liquidated damages.*—(i) *Reentry transshipment.* Peanuts and peanut products which have been exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be diverted or transshipped to other than an eligible country in any form or product. If such peanuts or peanut products are reentered, the handler shall be subject to liquidated damages as specified in paragraph (j)(3)(ii) of this section.

(ii) *Liquidated damages.* The handler, by entering into contracts to receive contract additional peanuts, shall be deemed to have agreed that CCC may incur serious and substantial damages to its program to support the price of quota peanuts if additional contract peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, the amount by which the national quota support rate exceeds the

national additional support rate, on a per pound basis for each pound of peanuts or peanut products reentered. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshipment.

(iii) *Waiver or reduction of liquidated damages.* The liquidated damages specified in paragraph (j)(3)(ii) of this section may be reduced or waived if the Deputy Administrator, State and County Operations, ASCS, determines that such waiver or reduction will not impair the effective operation of the peanut price support program. Such reduction or waiver may contain such terms and conditions as the Deputy Administrator determines to be appropriate and necessary for effectuating the purposes of the peanut price support program.

(4) *Evidence of exportation.* The handler shall furnish the association with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after the final disposition date provided in 1446.57(d).

(i) *Exportation by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exporter, and the country of destination. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Exportation by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts or peanut meal or products exported), supplemented by a copy of the Shipper's Export Declaration or other documentation acceptable to the association. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(iii) *Exportation by air.* A copy of the Airway Bill (showing the weight of the peanuts, peanut meal, or peanut products exported, consignee and shipper) and other documentation acceptable to the association.

(iv) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee.

(k) *Penalties.* Failure to obtain required supervision from the association, or failure to handle and dispose of contract additional peanuts in accordance with the provisions of this section, shall constitute noncompliance with the provisions of this subpart for which a penalty may be assessed in accordance with § 1446.59 of this subpart.

§ 1446.59 Assessment of penalties and liquidated damages against handlers.

(a) *Penalty liability.* A handler shall be subject to the penalty provisions of this subpart for any or all of the following violations:

(1) Failure to keep or make available records in accordance with § 1446.57(a);

(2) Excess marketings of quota peanuts, as set forth in § 1446.57(b);

(3) Failure to store and account for contract additional peanuts in accordance with the requirements of § 1446.57(c);

(4) Failure to dispose of contract additional peanuts in accordance with this subpart by the final disposition date in accordance with § 1446.57(d);

(5) Failure to obtain supervision of or to handle contract additional peanuts as required by § 1446.58.

(b) *Liquidated damages.* The liability for, and the amount of liquidated damages, shall be determined in accordance with § 1446.58(j)(3) of this subpart.

(c) *Penalty rate and amount.* The penalty rate shall be equal to 120 percent of the basic quota support rate expressed in pounds for the type of peanuts involved in the violation for which the penalty is being assessed. The amount of the penalty shall be equal to the penalty rate times the quantity of peanuts: (1) For which records have not been properly kept or made available; (2) marketed as excess quota marketings; (3) not properly stored; (4) not properly disposed of; or (5) not properly supervised or handled.

(d) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty or liquidated damages by the Director, Tobacco and Peanuts Division, ASCS. Such notice shall state the basis for the assessment of the penalty or liquidated damages, and shall advise the handler of the handler's appeal rights under this subpart.

(e) *Appeals.* A handler may appeal the assessment of a penalty or liquidated damages by submitting a written notice of appeal to the Deputy Administrator, State and County Operations, within 45 days of the issuance of a notice of assessment by the Director, Tobacco and Peanuts Division. Except as otherwise provided herein, such appeal shall be conducted in accordance with the appeal regulations set forth in Part 780 of this title.

(f) *Request for reductions of penalties or liquidated damages.*—(1) *Form of request.* A handler may request that the amount of the penalties or liquidated damages that have been assessed be reduced. Such a request shall be treated as an appeal under paragraph (e) of this section, and must comply with the requirements of that section. The handler may simultaneously contest liability for the penalty or liquidated damages and, in the alternative, request that the penalty or liquidated damages be reduced.

(2) *Reduction criteria.* (i) *Liquidated damages.* The criteria for reducing liquidated damages shall be those which are set forth in § 1446.58(j)(3)(iii).

(ii) *Penalties.* A penalty may be reduced if the Deputy Administrator, State and County Operations, ASCS, determines that the violation for whch the penalty was assessed was done unintentionally or unknowingly by the handler and that a reduction in the amount of the penalty would not impair the effective operation of the price support program for peanuts. The provisions of this paragraph shall be applicable only to handlers who made a good faith effort to comply fully with the terms and conditions of the program.

(3) *Limitations.* The amount of a penalty may not be reduced to less than an amount equal to 40 percent of the basic quota support rate times the quantity of peanuts involved in the violation. There shall be no limitation on the amount by which an assessment of liquidated damages may be reduced.

Warehouse Storage Loans

§ 1446.60 Availability of warehouse storage loans.

(a) *Loans to associations.* CCC will make warehouse storage loans to the associations specified in paragraph (b) of this section which contract with CCC to arrange for the storing and handling of farmers stock peanuts, make price support advances to producers on such peanuts, and use such peanuts as collateral for loans to be obtained from CCC. Loans on quota peanuts shall be made on the basis of the quota support rate, and loans on additional peanuts shall be made on the basis of the additional support rate. Such loans will mature on demand.

(b) *Associations and areas.* Price support advances will be available through:

(1) GFA Peanut Association, Camilla, Georgia, in the Southeastern area consisting of Puerto Rico, the States of Alabama, Florida, Georgia, Mississippi, and that part of South Carolina south and west of the Santee-Congaree-Broad Rivers;

(2) The Southwestern Peanut Growers Association, Gorman, Texas, in the

Southwestern area consisting of the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming;

(3) The Peanut Growers Cooperative Marketing Association, Franklin, Virginia, in the Virginia-Carolina area consisting of the States of Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and that part of South Carolina north and east of the Santee-Congaree-Broad Rivers.

(c) *Where available.* Price support advances will be available to eligible producers at warehouses which have entered into peanut receiving and warehouse contracts with the association. Such contracts will require the warehouseman to inform producers that price support advances are available and to make advances to producers on eligible peanuts tendered for price support as provided in paragraph (g) of this section. The contracts will require warehousemen to: (1) Examine the producers' marketing cards to determine price support eligibility; (2) make entries on the marketing card as required by Part 729 of this title; and (3) record each delivery as to quota or additional peanuts and date of delivery. If quota peanuts or contract additional peanuts are delivered, the balance of the quota or contract additional peanuts must be shown on the marketing card after each delivery. The names and locations of such warehouses may be obtained from the office of the appropriate association or from a State or county ASCS office.

(d) *Time.* Price support advances to eligible producers on peanuts of any crop will be available from the beginning of harvest through the following January 31 or such later date as may be established by the Executive Vice President, CCC. If the final date of availability falls on a nonworkday for the association, the applicable final date shall be the next workday.

(e) *Inspection.* The type and quality of each lot of farmers stock peanuts delivered to an association for a price support advance shall be determined by an inspector when such peanuts are received at a warehouse under contract with an association.

(f) *Producer agreement.* To obtain a price support advance, the producer shall, in writing, authorize the association to pledge the peanuts delivered to the association by the producer to CCC as collateral for a warehouse storage loan and relinquish any right to redeem or obtain possession of such peanuts.

(g) *Advance to the producer.* For each lot of peanuts delivered, the association will make a price support advance to the producer in an amount equal to the support value of such peanuts, in accordance with procedures established by CCC. However, in addition to marketing quota penalties and the deductions specified in § 1446.62, any assessments or excise taxes imposed by State law will be deducted from such advances and paid over to the proper State authorities. In addition, the Southwestern Peanut Growers Association may, upon the prior agreement of the producer, deduct from such advance an amount approved by CCC, not to exceed $1 per net weight ton of peanuts upon which such advance was made, to be used in financing its peanut related activities outside the price support program.

(h) *Fraud by the producer.* The making of any fraudulent representation by a producer in the loan documents or in obtaining a price support loan advance shall render him subject to criminal prosecution under Federal law. The producer shall be personally liable to CCC, aside from any additional liability under criminal or civil fraud statutes, for the amount of such advance and for all costs which CCC would not have incurred but for the producer's fraudulent representation, together with interest upon such amounts at the rate per annum equal to the rate of interest which was charged CCC by the Treasurer of the United States on the date the price support loan advance was made: *Provided,* That the producer shall be given credit for the proceeds received by CCC upon sale of the peanuts upon which such advance was made.

(i) *Ineligible peanuts.* Any person who causes ineligible peanuts, as defined in § 1446.64, to be placed in the loan program, shall pay to CCC, as liquidated damages, the amount by which the average quota or additional loan rate (whichever is applicable) for that type of peanuts exceeds the market price for such type for crushing, as determined by CCC. Such person shall pay such amount to CCC promptly upon demand. Liquidated damages may be reduced by the Executive Vice President, CCC, or his designee based upon a consideration of the following factors: (1) Whether the person causing ineligible peanuts to be placed in the loan program made a good faith effort to ensure that ineligible peanuts were not pledged for loan; (2) the degree of damage or potential damage to the price support program; (3) the nature and circumstances of the violation; (4) the extent of the violation; and (5) any other pertinent information.

§ 1446.61 Pooling and distribution of net gains.

The association shall establish separate pools by area, type, and segregation or quality of peanuts and maintain separate, complete and accurate records for quota peanuts under loan and for additional peanuts under loan. Net gains on peanuts in each pool shall be distributed to each producer in proportion to the value of peanuts placed in the pool by the producer, except that any distribution of net gains on additional pools of any type to a producer shall be reduced to the extent of any loss incurred by CCC on quota peanuts of a different type placed under loan by the same producer. In addition, the proceeds due to any producer from any pool shall be reduced by the amount of any losses to CCC on peanuts transferred from an additional loan pool to a quota loan pool under the provisions of this subpart.

(a) *Quota pool.* Net gains from peanuts in the quota pool consists of:

(1) The net gains over and above the loan indebtedness on quota peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a producer, plus

(2) An amount from the net gains on additional peanuts sold into domestic food and related uses equal to the losses incurred on disposing of an equal quantity of quota peanuts of the same type and segregation in the same production area, considering sales of quota peanuts for export first and then as necessary, sales for crushing.

(b) *Additional pool.* Net gains for peanuts in the additional pool consists of:

(1) The net gains over and above the loan indebtedness on additional peanuts and other costs or losses incurred by CCC on such peanuts placed in the pool by a grower, less

(2) An amount of the net gains from the additional pool allocated to the quota pool to offset any loss on that pool attributed to additional peanuts being used in domestic edible use.

§ 1446.62 Producer indebtedness.

(a) *Facility and drying equipment loans.* If an installment or installments on any loan made by CCC on farm storage facilities or drying equipment are payable under the provisions of the note evidencing such loan and the

amount due is recorded on the producer's marketing card, any amount due the producer under this subpart, after deduction of payments due prior lienholders, shall be applied to such installment(s).

(b) *Producers listed on county debt record.* If the producer is indebted to CCC, Farmers Home Adminstration, or to any other agency of the United States, and such indebtedness is listed on the county debt record and recorded on the producer's marketing card, amounts due the producer under this subpart, after deduction of amount due prior lienholders and on farm storage facilities or drying equipment, shall be applied to such indebtedness as provided in the Secretary's Setoff Regulations, Part 13 of this title.

§ 1446.63 Eligible producer.

(a) *Requirements.* An eligible producer is an individual, partnership, association, corporation, estate, trust, or other legal entity, and whenever applicable, a State, political subdivision of a State, or any agency thereof, producing peanuts as a landowner, landlord, tenant, or sharecropper on a farm. No producer on a farm for which the farm operator fails timely to file a report of crop or land use acreage as required by Part 718 of this title shall be eligible for price support at the quota loan rate unless the late-filed report was accepted by the county ASC committee. In addition, no producer shall be eligible for price support at the quota loan rate if the producer has filed an erroneous report of crop or land use acreage unless: (1) The determined acreage does not differ from the reported acreage by more than the tolerance established by Part 718 of this title; or (2) the county ASC committee determines that the producer acted in good faith in reporting the crop or land use acreage.

(b) *Estates and trusts.* A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate or of a ward or of an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian or trustees shall be considered to be the production of the person represented. Loan documents executed by any such person shall be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for price support only if such minor meets one of the following requirements: (1) The right of majority has been conferred on such minor by court proceedings or by statute; (2) a guardian has been appointed to manage such minor's property and the applicable price support documents are signed by the guardian; or (3) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had such minor been an adult.

§ 1446.64 Eligible peanuts.

Eligible peanuts shall be farmers stock peanuts of the applicable crop which were produced in the United States by an eligible producer.

(a) *Quota support.* Peanuts eligible for quota support are peanuts which meet the following requirements. The peanuts:

(1) Must be Segregation 1 peanuts;

(2) Must contain not more than 10 percent moisture and which, if mechanically dried, contain at least 6 percent moisture;

(3) Must contain no more than 10 percent foreign material;

(4) Must be free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained;

(5) If delivered to the Association in bags in the Southwestern area, must be in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, are free from holes and are finished at the top with either the selvage edge of the material, binding, or a hem, and which are of uniform size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession;

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

In addition to the above requirements, the beneficial interest in the peanuts must be in the producer who delivers them to the association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether his interest in the peanut complies with the requirements of this section should, before applying for price support, make available to the appropriate county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC.

(b) *Additional support.* Peanuts eligible for additional support are peanuts which meet the following requirements. The peanuts:

(1) Must contain not more than 10 percent moisture;

(2) Must contain not more than 10 percent foreign material, except that such peanuts may contain more than 10 percent foreign material if the handler agrees to purchase such peanuts for domestic edible use as provided in § 1446.56(a) of this part;

(3) If graded Segregation 2 or 3 and contain more than 10 percent moisture and/or foreign material, must meet the following ciriteria: (i) The level of moisture does not exceed a level determined to be appropriate by the association; (ii) short term temporary storage is available in the area, as determined by the association; (iii) the local crushing market for peanuts can crush the peanuts within a reasonable time, as determined by the association; and (iv) the producer has made a bona fide effort, as determined by the association, to clean and dry such peanuts prior to offering such peanuts for loan;

(4) Must be free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained;

(5) If delivered to the Association in bags in the Southwestern area, must be in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, which are free from holes, which are finished at the top with either the selvage edge of the material, binding, or a hem, and which are uniform in size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

In addition to the above requirements, the beneficial interst in the peanuts must

be in the producer who delivers them to the association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interests of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not constitute succession. Any producer in doubt as to whether his interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the appropriate county ASC committee all pertinent information which will permit a determination with respect to succession to be made by CCC.

§ 1446.65 Disposition of Segregation 3 peanuts and liquidated damages.

(a) *Disposition of Segregation 3 peanuts.* Any producer who has a lot of farmers stock peanuts classified by the inspector as Segregation 3 peanuts shall:

(1) Deliver the peanuts to the association for loan at the additional loan rate;

(2) Deliver such lot as contract additional peanuts under the provisions of § 1446.54;

(3) Sell such peanuts as quota peanuts to a handler who is a signer of the peanut marketing agreement: *Provided however,* seed peanuts produced under the auspices of a State agency may be sold to a handler who is not a signer of the peanut marketing agreement, but only if such handler has signed a supervision supplement to the warehousing contract with the area marketing association; or

(4) Retain the lot for seed. If the producer does not dispose of or market such peanuts as provided above on the date of inspection, such producer shall be ineligible for continued quota price support for the rest of the marketing year on all peanuts at the close of business on the day of the inspection. If the producer elects to retain a lot for seed, he shall designate such peanuts as quota peanuts, have the net weight of such peanuts determined and deducted from the farm marketing card, and advise the inspector that the peanuts are being retained for seed. The producer shall be given a copy of the ASCS–1007 as a record showing the quantity and quality factors of the peanuts and must store such peanuts separate from other peanuts on the farm. The producer shall notify CCC when such peanuts are used and otherwise account for the disposition of such peanuts. Should it later be determined that such peanuts are unfit for seed use, the producer may, after receiving prior approval from the county office, sell such peanuts for crushing as quota peanuts without benefit of price support.

(b) *Liquidated damages.* The producer, by participating in the loan program, shall be deemed to have agreed that CCC will incur serious and substantial damage to its program to support the price of peanuts if Segregation 3 peanuts are disposed of other than in the manner prescribed by CCC; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the producer shall, with respect to any lot of peanuts ineligible for quota support which are placed under quota loan, or any lot of peanuts which are placed under quota loan by a producer after he has disposed of any lot of Segregation 3 peanuts in any manner other than in the manner prescribed in paragraph (a) of this section, pay to CCC as liquidated damages and not as a penalty, the difference between the quota loan rate and the additional loan rate (on a per pound basis) per net pound of such peanuts. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer. The provisions of § 1446.60(i) relating to the producer's liability (aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

§ 1446.66 Producer transfers of additional loan stocks to quota pools.

Producers may transfer Segregation 2 and Segregation 3 additional loan peanuts to the quota loan pool after the producer has completed marketing and returned his marketing card to the county office. Such transfer may not exceed the smaller of the effective farm poundage quota minus the production of Segregation 1 peanuts on the farm, or the undermarketing of quota peanuts shown on the farm marketing card: *Provided:* That the pool proceeds due such producer from peanuts in any other pool shall be reduced by the amount of any losses to CCC on the peanuts so transferred. The support values for any Segregation 2 peanuts so transferred shall be the support value for quota peanuts minus the damage discount published in the quota support schedule and the support value for Segregation 3 peanuts shall be the support value for quota peanuts minus the applicable discount published in the quota support schedule. Producers eligible to transfer additional loan peanuts to the quota loan pool in accordance with this section may apply for such transfers with the county office. The county office shall determine the quantity of undermarketings of quota peanuts and the quantity of additional peanuts which are eligible for transfer. The producer may indicate to the county office the net weight and applicable Form ASCS–1007 numbers for the peanuts to be transferred. Such pounds shall be considered as marketing of quota peanuts, the applicable ASCS–1007 recomputed at the quota loan level, and the producer advanced the difference between the additional and quota support rates.

Signed at Washington, D.C., on June 24, 1982.

John R. Block,

Secretary.

[FR Doc. 82–17508 Filed 6–28–82; 8:45 am]

BILLING CODE 3410–05–M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final Rule.

SUMMARY: REA hereby amends Appendix A—REA Bulletins by adding an Attachment C to REA Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act. Attachment C amends this bulletin and all bulletins inconsistent herewith to provide that, except as otherwise determined by the Administrator, distribution and subtransmission purposes including warehousing and equipment service facilities will be given priority in the making of loans under sections 4 and 305 of the Rural Electrification Act. Generation and bulk transmission facilities will be eligible for financing through REA guaranteed loans. Other types of headquarters facilities, acquisitions and general plant equipment will be financed by the borrower from general funds or loans from supplemental lenders, subject to approval requirements set forth in REA Bulletin 103–2, Use and Approval of General Funds for Additions to Plant. Attachment C also sets forth a procedure for determining the supplemental proportions for concurrent loans to power supply borrowers.

Attachment C ensures that all distribution and power supply borrowers are treated consistently in the financing of subtransmission facilities and enables REA to make optimal use of available REA loan funds.

EFFECTIVE DATE: REA loan applications received after January 26, 1982.

FOR FURTHER INFORMATION CONTACT: Milton E. Wright, Chief, Borrowers Management Branch, Electric Loans and Management Division, Room 3338, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–1936.

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: REA regulations are issued pursuant to the Rural Electrification Act as amended (7 U.S.C. 901 et seq.). 7 CFR Part 1701, Appendix A—REA Bulletins, is hereby amended to provide for the addition of Attachment C of REA Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act.

The final action has been issued in conformance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined to be "not major". This action is not subject to the Regulatory Flexibility Act or to OMB Circular A–95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

The primary objective of this rule is to distribute available insured loans to ensure that all borrowers are treated consistently for financing of facilities most closely related to electric distribution.

Among the various options which REA considered was revising Bulletin 20–14 to specify that REA loans would be limited to distribution *facilities* only. REA also considered apportioning available loans to distribution *borrowers* only. These options would not ensure that all borrowers would be treated consistently for financing of facilities most closely related to electric distribution. In addition, the option selected makes optimal use of available REA loan funds for electric distribution and subtransmission facilities.

A notice of Proposed Rulemaking was published in the **Federal Register** on January 26, 1982, Volume 47, Number 15, page 3555.

Public comment responses were received from a number of REA borrowers, rural electric statewide associations, The National Rural Electric Cooperative Association, The National Rural Utilities Cooperative Finance Corporation (CFC) and one member of Congress.

The substance of the majority of comments regarding the proposed action concerned the limiting of available REA insured loan funds to distribution and subtransmission purposes. Of the letters received, approximately one-half concerned the availability of REA insured loans for such electric facilities as generation, transmission, headquarters, warehouse and other purposes necessary to operate an electric system. Some borrowers and their statewide associations indicated their concern by pointing out that generation and/or transmission facilities comprise a substantial portion of their total system because of their remote location (Alaska) or the lack of other power suppliers overlaying the service areas in parts of certain states (Nebraska).

After a review of the respondents' discussions of individual problems claimed as a result of the implementation of the proposed policy, consideration was given to developing further guidelines and parameters to accommodate special circumstances. An analysis of possible options in this regard led to the judgment that no reasonable guideline could be developed that could equitably apply to each of the widely differing regional and individual circumstances. For most borrowers, available REA funds will be allocated to finance facilities most directly related to the distribution of electric power. In cases where this may require generation of other facilities, the Administrator may so determine on a case-by-case basis.

Several respondents were particularly concerned about proposed headquarters buildings which would no longer be eligible for insured loans. In response to borrowers' comments REA has modified the original proposed rule regarding the financing of headquarters buildings so that warehousing and equipment service-type facilities for distribution and subtransmission purposes will be considered for REA insured loans. Except as otherwise determined by the Administrator general funds or loans from supplemental lenders should be used to finance other types of headquarters facilities, acquisitions and general plant equipment.

Another particular concern was that pending loan applications were currently being delayed and that the effective date of the policy would generally preclude REA insured financing of headquarters buildings or such other facilities already planned. As mentioned above appropriate warehousing and equipment service-type buildings will be considered for REA insured financing. In recognition of the validity of the factors upon which some respondents' concerns were based, particularly those involving headquarters buildings and certain transmission facilities, REA has responded by amending the effective date of this rule so that it will apply to applications received subsequent to January 26, 1982, when the proposed rule was made known to borrowers.

List of Subjects in 7 CFR Part 1701

Administrative practice and procedure, Electric utilities, Loan programs—energy.

The text of Attachment C is as follows:

Attachment C—Financing for Electric Facilities

I. *REA Loans:* Effective with applications received after January 26, 1982, except where the Administrator shall determine there are extenuating circumstances, priority will be given to applications for REA insured loans for the following purposes:

A. Distribution facilities.

B. Subtransmission facilities—those between (1) the high side voltage level of transformation to the applicable primary distribution voltage and (2) the low side of the next higher voltage transformation.

Loan guarantees will be available to borrowers for bulk transmission and generation facilities in accordance with REA Bulletin 20–22, Guarantee of Loans for Bulk Power Supply Facilities.

Warehousing and equipment service-type facilities for distribution or subtransmission related purposes will be considered for insured loans. Except as otherwise determined by the Administrator, borrowers should use general funds or loans from supplemental lenders for other types of headquarters facilities, acquisitions and general plant equipment. REA will consider accommodating the lien of its mortgage to facilitate financing from other lenders for such purposes.

II. *Supplemental Loan Proportions:*

A. *Distribution Borrowers:* Supplemental loan proportions for distribution borrowers are specified in Attachment A (or revisions thereof) of this bulletin.

B. *Power Supply Borrowers:* When a power supply borrower requests an REA insured loan, it will be required, unless otherwise

determined by the Administrator, to obtain a supplemental loan. The supplemental loan proportion for a power supply system will be the arithmetic mean of the supplemental loan proportions for which its distribution system members would qualify.

Example—A power supply borrower with four members with supplemental loan proportions as follows would have a supplemental loan proportion of 22.5%:

	REA proportion (percent)	Supplemental proportion (percent)
Member A	70	30
Member B	70	30
Member C	80	20
Member D	90	10
Total	90 ÷ 4 = 22.5	

Dated: June 16, 1982.

Jack Van Mark,

Acting Administrator.

[FR Doc. 82-17545 Filed 6-28-82; 8:45 am]

BILLING CODE 3410-15-M

Farmers Home Administration

7 CFR Parts 1924 and 1944

Guidelines for Seasonal Farm Labor Housing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding construction of farm labor housing to provide construction guidelines and minimum standards for farmworker housing that is occupied on a seasonal basis (up to 6 months per year). The intended effect of this action is to: (1) Provide decent, safe and sanitary housing for seasonal farmworkers; (2) amend regulations which restrict short term occupancy construction to comply with standards required for more permanent design and construction; and (3) furnish guidelines intended to be helpful to applicants in the design and construction of short term seasonal farmworker housing. This action is taken to comply with legislation.

EFFECTIVE DATE: June 29, 1982.

FOR FURTHER INFORMATION CONTACT: Richard H. Slater, Architect, Multi-Family Housing Processing Division, 202–382–9622, Farmers Home Administration, U.S. Department of Agriculture, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 which implements Executive Order 12291, and has been determined to be non-major. This action requires no increase in costs to the Government or public. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. The Exhibit is intended to provide guidance to developers of seasonal farm labor housing. The FmHA programs and projects which are affected by this Subpart are subject to State and local clearinghouse review in the manner delineated in Part 1901, Subpart H of this Chapter. The affected program is CFDA No. 10.405, Farm Labor Housing Loans and Grants. Charles W. Shuman, Administrator, Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because of the relatively small scope of the program and the short term of occupancy of the housing by migrant farmworkers.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. Law 91–190, an Environmental Impact Statement is not required.

Two major actions were considered: (1) Make no changes; and (2) amend FmHA Instructions to permit the financing of rental housing for farmworkers which would be occupied on a seasonal basis. Present regulations call for design and construction standards of farmworker housing on a par with rental housing for year-round occupancy. As such it requires costly features unnecessary for dwelling units which would be vacated approximately six months of the year. This regulation has served to inhibit the production of seasonal farm labor housing, thus depriving the seasonal farmworker of decent, safe and sanitary housing, and has been a deterrent to the grower in the recruitment of labor to harvest its crops. The Agency has decided to adopt option (2). It is believed that this selection is the most practical and cost effective, and benefits the farm laborer and the grower.

FmHA hereby amends Subpart A of Part 1924, and Subpart D of Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations. The change adds an Exhibit to the existing regulations that provides guidance for the construction of housing for seasonal or migrant farmworkers.

Seasonal labor housing is not intended for year-round occupancy but rather for use by families and individuals while employed away from their permanent homes. Since the housing will not be used as a permanent residence, it is not necessary to apply the same standards called for in the Department of Housing and Urban Development Minimum Property Standards (MPS) in constructing seasonal labor housing.

The guidelines have been made flexible to meet the differing housing needs in the nation. The guidelines are to be used in conjunction with applicable State and local building codes and health standards.

This Exhibit is needed so that construction of labor housing, while not required to meet the same standards as the MPS, will result in a project that is decent, safe, and sanitary to meet the special needs of the seasonal or migrant farmworker. The Exhibit, therefore, has a positive impact on the seasonal worker by providing the guidelines for decent, safe, and sanitary housing.

It also has a beneficial impact on the applicant. After initial review of the Exhibit with the FmHA staff, an applicant can use the Exhibit as a guide from the beginning to plan and construct the type of facility designed to meet the needs of the seasonal farmworker. This will reduce costs to the applicant by providing the minimum requirements, without the need for lengthy interpretation. Also, since the guidelines are flexible and do not require the same standards as the MPS in most cases, the applicant will be able to construct the housing at less cost than could be done if all of the MPS standards were required.

FmHA has developed these guidelines and minimum standards after receiving considerable input from farmworker housing organizations and other federal agencies. Shortly after passage of Public Law 96–153, FmHA began a series of meetings to develop the standards. Organizations involved included Housing Assistance Council, Inc., InterAmerica Research Associates, Migrant Legal Action Program, Inc., National Association of Farmworker Organizations, National Council of LaRaza, National Hispanic Housing Coalition, National Housing Law Project, National Rural Housing Coalition, Rural America, Inc., Community Services Administration, Department of Health and Human Services, Department of Housing and Urban Development and Department of

Labor. Subsequent to the development of general findings by representatives of the above groups, FmHA employed a task force of architects from FmHA State Offices to complete the guidelines.

A proposed rule was published in the Federal Register on December 2, 1981. That rule provided for a 60-day comment period through February 2, 1982. A total of 16 interested parties responded to the proposed rule within the allowed comment period.

The final rule contains revisions to the proposed rule which reflect FmHA's consideration of the comments received. The following is a discussion of the comments received:

§ 1924.5(d)(1). Six comments were received concerning the need to provide farm labor housing guidelines for those areas where the seasonal demand for farm labor extends from 6 to 9 months. FmHA believes there is merit in continuing its policy of requiring that projects to be occupied more than six months be in substantial conformance with Housing and Urban Development (HUD) Minimum Property Standards (MPS) for Multifamily Housing No. 4910.1 and be constructed to facilitate easy conversion to the MPS. This would provide some limited flexibility to FmHA to meet specific local farm labor housing needs where the seasonal standards are not sufficient or where building to the MPS is too costly. § 1924.5(d)(1)(iv) is revised to reflect that, where less than year round occupancy is anticipated, projects may be built in substantial conformance to the MPS and easily convertible to the MPS.

§ 1944.163. One comment received suggested rewording this section to emphasize that year-round labor housing be given funding priority to avoid building seasonal housing in areas where the need is for longer than seasonal occupancy. The intent of this section is to provide seasonal housing in areas of seasonal need. FmHA does not advocate funding seasonal housing in areas where the need is for year-round housing and feels that the emphasis is clear. No change will be made.

Exhibit I

Section 100. Four comments received suggested that the guidelines should be applicable to rehabilitation projects as well as new construction. This paragraph is reworded to include rehabilitation. Such rehabilitation projects will be in substantial conformance with the seasonal construction guidelines to allow the flexibility needed to avoid ineligibility of projects for only minor nonconformance.

Section 200. Three comments received requested that specific responsibilities for enforcing compliance with National, State, and local construction codes be added to this section. FmHA currently reviews for compliance at the architectural design stage of application processing. FmHA believes that it is inappropriate to incorporate enforcement guidelines into the seasonal construction guidelines. No change will be made.

Section 300–3. Five comments received suggested changing the requirement that 5 percent of the individual family units be designed to accommodate wheelchair occupants to be more responsive to actual needs. The rule has been changed to require construction or rehabilitation of at least 5 percent of the units in the project or one unit, whichever is greater, to be accessible to or adaptable for physically handicapped persons. This requirement may be modified if a recipient/borrower shows through a market survey acceptable by FmHA, that a different percentage of accessible or adaptable units is more appropriate for a particular project and its service area.

Section 301. One comment suggested that references to the MPS by section number be accompanied by a brief nontechnical explanation of the content of that section. FmHA believes that such an explanation would discourage the use of the MPS and may even preclude its use. These rules are not intended as a substitute for the MPS. No change will be made.

Section 301–4. Four comments received suggested that the meaning of the phrase "adequate electrical supply" be clarified. "Supply" is changed to "service" to indicate physical electrical components.
Standards for electrical services will be in accordance with Section 308–8 of these rules.

Section 301–8.1. Two comments received suggested that the requirement for handling garbage and refuse should be more flexible by allowing the recipient/borrower more discretion. FmHA believes that rules concerned with garbage and refuse storage should be specific and definitive for the safety and health of the occupants. No change will be made.

Section 302–1.1(a). Four comments received suggested that relating a minimum square footage requirement to the number of occupants is stringent and undesirable. FmHA agrees and the wording is changed to allow more flexibility so the minimum total net living unit size will be 400 square feet. This size assumes occupancy of four persons. This change has been made.

Section 302–1.1(c). Two comments received suggested that "cooking facilities" may encourage undesirable facilities. FmHA agrees and has changed the wording to "cooking range."

Section 302–1.1(e). Three comments received suggested raising the minimum bedroom size from 50 square feet to 60 or 70 square feet. FmHA believes that 50 square feet is adequate for the purpose and duration of seasonal occupancy. This suggestion will not be implemented. Also, one comment suggested requiring clothes hanging rods and shelf space. FmHA agrees and this requirement has been added.

Section 302–1.2(a). One comment suggested removing "if required" concerning provision of additional area for a second bathroom. Another comment suggested raising the minimum square footage. The wording has been changed to delete "if required" and include "when occupancy exceeds eight persons or if occupied by persons of both sexes". Also, FmHA agrees that a 590 square foot minimum is limiting and the wording is changed to "minimum total net unit area shall be 620 square feet".

Section 302–1.2(b). Two comments received expressed concern that guidelines are needed to prevent overcrowded use of kitchen facilities. FmHA agrees and the wording is changed to require adequate facilities, the size of which will be commensurate with the needs of the group living unit.

Section 302–1.3(a). Two comments received suggested the minimum sleeping area per occupant be reduced to 50 square feet. Another comment suggested increasing it to 100 square feet. FmHA believes that 72 square feet per occupant is adequate and meets the objectives of the program as this amount exceeds OSHA's standards. No change will be made.

Section 302–1.3(c). Three comments received suggested that the words "and a" be inserted after "water closet" to clarify that both a water closet and a bathtub or shower must be provided. As suggested these words are added to clarify the meaning. Another comment suggested that the ratios of fixtures per person were excessive. Specifically, one lavatory per ten persons was suggested. FmHA agrees that one lavatory per six is excessive but believes a ratio of one to eight is more appropriate. Fixtures per occupants was changed to a set of fixtures for every 12 occupants. It was also suggested that one urinal (for male occupants) be required for every three fixtures. FmHA believes this is excessive, however, the wording is changed to allow substitution of up to

one third of the water closets with urinals.

Section 302–13(d). One comment suggested eliminating the maximum distance allowed between sleeping quarters and kitchen/dining facilities. FmHA agrees that walks in excess of 200 feet may be tolerable in temperate areas of the country. However, it is necessary that a national guideline be responsive to the various seasonal and geographical differences that exist. No change will be made.

Section 302–22. Two comments received suggested that if adequate laundry facilities are available nearby they should not be required as part of the project. FmHA believes that facilities other than onsite facilities are unreliable and the wording is changed to require that laundry facilities shall be required on site.

Another comment suggested that the minimum ratio of washers to occupants should be 1 to 10 and dryers 1 to 20. FmHA believes that 1 washer per 20 occupants will meet the hygiene objectives of this program as this minimum exceeds OSHA standards. FmHA does agree, however, that the ratio of 1 dryer for every two washers is more appropriate than as 1 to 1 ratio. This change is implemented.

Section 302–23. Two comments received suggested that the manager's dwelling unit should meet the same standards as the project living units and not be required to meet MPS. FmHA agrees and the phrase "the Minimum Property Standards" is deleted from this Section.

Section 302–24. One comment suggested that this section be changed to allow FmHA funding for child care centers regardless of whether or not FmHA funds are used to build farm labor housing units. Unless constructed as part of a housing project to meet the occupant's needs, FmHA considers child care centers to be community facilities and ineligible for separate funding under the multiple family housing authorities of this agency. No change will be made.

Section 303–1. One comment suggested removing the requirement that exceptions to the MPS must be approved by the State Director since such discretion at the State level would result in wide disparities in the application of the MPS. FmHA agrees and the wording is changed to require National Office approval of any exceptions.

Section 303–7. Two comments suggested that the wording be changed to ensure that decisions on insulation requirements will be based on degree days. This section requires compliance with FmHA Instruction 1924–A, Exhibit D IV C 3 which is based on degree days and a change would be unnecessary and redundant.

Other comments suggested that this section be changed to require insulation where climatic conditions dictate a need for insulation even though heating and/or cooling are not installed. FmHA agrees and the change is implemented.

Section 303–8. Five comments received suggested changing "will" to "may" provide for separately metered utilities to allow more flexibility and discretion to the project owners. FmHA agrees and the change is implemented.

Other General Comments

(1) One comment suggested incorporating a section on seasonal housing tenant rights into these rules. No addition will be made for two reasons: (a) such an addition would be redundant as the Tenant Grievance and Appeals Procedures outlined in 7 CFR Part 1944, Subpart L specifies tenant rights and is applicable to farm labor housing, (b) such an addition to construction guidelines would be incongruous.

(2) One comment suggested the rules be changed to include specific project site location requirements and criteria which would support a policy of encouraging development of labor housing in, as part of, or adjacent to, established communities or rural growth centers. FmHA believes that specific site location requirements that limit development of farm labor housing to established communities or rural growth centers would eliminate or greatly reduce the flexibility needed to stimulate an increase in the supply of seasonal labor housing. Allowing this flexibility does not advocate or accept (a) the conversion of important farmlands and/or forestlands, or (b) urban/rural sprawl including low or high density residential development in open country. FmHA will allow such development only when there are no practical alternatives.

(3) Two comments suggested the addition of guidelines to these rules specifying FmHA enforcement procedures to insure that occupancy standards are met. FmHA recognizes the necessity for enforcement procedures but do not believe it appropriate to include such procedures in the seasonal construction guidelines. These suggestions will be carefully considered when changes in the appropriate FmHA regulation are enacted.

List of Subjects

7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing.

7 CFR Part 1944

Farm labor housing, Grant programs—Housing and community development, Loan programs—Housing and community development, Migrant labor, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing.

Therefore, Subpart A of Part 1924, and Subpart D of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations are amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

Subpart A—Planning and Performing Construction and Other Development

1. § 1924.5, paragraph (d)(1)(iv) is revised to read as follows:

§ 1924.5 Planning development work.

* * * * *

(d) *Construction.*

(1) * * *

(iv) Farm labor housing design and construction will meet or exceed the requirements of the following standards or guidelines.

(A) Family projects where the length of occupancy will be:

(*1*) Year-round will meet or exceed the MPS for Multifamily Housing No. 4910.1.

(*2*) Less than twelve months but more than six months must be in substantial conformance with the MPS for Multifamily Housing No. 4910.1 and be constructed to facilitate conversion to year-round occupancy standards.

(*3*) Six months or less may be less than the MPS for Multifamily Housing No. 4910.1 These projects will be constructed in accordance with Exhibit I of this Subpart, "Guidelines for Seasonal Farm Labor Housing."

(B) Dormitory and other non-family type projects where the length of occupancy will be:

(*1*) More than six months will be in substantial conformance with the MPS for Multifamily Housing No. 4910.1, and must be developed for use that meets or exceeds the requirements of the Department of Labor, Bureau of Employment Security.

(*2*) Six months or less will comply with § 1924.5(d)(1)(iv)(A)(*3*).

* * * * *

2. Exhibit I is added and reads as follows:

Exhibit I—Guidelines for Seasonal Farm Labor Housing

Section 100

General—This Exhibit sets forth the guidelines and minimum standards for planning and construction of new Labor Housing (LH) that will be occupied on a seasonal basis. Rehabilitation LH projects will be in substantial conformance with these guidelines and standards. A "seasonal basis" is defined as six months or less per year. Seasonal housing for the farm worker need not be convertible to year-round occupancy. However, the living units shall be designed for the intended type of tenant, the time of occupancy, the location, the specific site, and the planned method of operation. It is important that the design of the labor housing site and buildings will help to create a pleasing lifestyle which will promote human dignity and pride among its tenants.

Section 200

Codes and Regulations—Compliance is required with National, State and local codes or regulations affecting design, construction, mechanical, electrical, fire prevention, sanitation, and site improvement.

Section 300

Planning

300–1 Complete architectural/engineering services in accordance with this subpart will be required if a LH grant is involved or the LH loan will involve more than four individual family units, or any number of group living units, or dormitory units accommodating 20 or more persons.

300–2 Building and site design shall provide for a safe, secure, economical, healthful, and attractive living facility and environment suited to the needs of the domestic farm laborer and his/her family.

300–3 At least 5 percent of the individual family units in a project, or one unit, whichever is greater, and all common use facilities will be accessible to or adaptable for physically handicapped persons. This requirement may be modified if a recipient/borrower shows, through a market survey acceptable to FmHA, that a different percentage of accessible or adaptable units is more appropriate for a particular project and its service area.

Site design

301.1 General—The site design shall be arranged to utilize and preserve the favorable features and characteristics of the property and to avoid or minimize the potential harmful effect of unfavorable features. Particular attention is directed to Section 1944.164(k), (1) and (m) of Subpart D of Part 1944 of this Chapter with reference to compliance with Subpart G of Part 1901 of this Chapter. Some of the features which must be considered are the topography, drainage, access, building orientation to sun and breezes; and advantageous features, such as vegetation, trees, good views, etc., or disadvantageous features, such as offensive odors, noxious plants, noise, dust, health hazards, etc.

301.2 Drainage—Surface and subsurface drainage systems shall be provided in accordance with Section 311 of the MPS 4910.1 and Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

301–3 Water and Sewage Disposal—Water supply and sewage disposal installations shall comply with Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5), the Minimum Property Standards, 4910.1, and all governing State and local department of health requirements. Where environmentally and economically feasible, the labor housing facility shall connect to public water and waste disposal systems.

301–4 Electrical—Adequate electrical service shall be provided for exterior and interior lighting and for the operation of equipment.

301–5 Vehicular Access and Parking:

301–5.1 Safe and convenient all weather roads shall be provided to connect the site and its improvements to the off-site public road.

301–5.2 All weather drives and parking shall be provided for tenants, and for trucks and buses as needed within the site. Driveways, parking areas and walkway locations shall be in substantial conformance with the Minimum Property Standards.

301–6 Walks:

301–6.1 Walks shall be provided for safe convenient access to all dwellings and for safe pedestrian circulation throughout the development between locations and facilities where major need for pedestrian access can be anticipated, such as, laundry, parking to dwelling units, common dining rooms and other.

301–6.2 Walkways shall be hard surface such as concrete, asphalt or stabilized gravel and shall be adequately drained.

301–7 Building Location:

301–7.1 Side and rear, and distances between buildings shall conform to Sections 304–2 and 304–4 of the Minimum Property Standards, 4910.1.

301–8 Garbage and Refuse:

301–8.1 Garbage and refuse containers for individual units are required and shall be stored on durable functional racks or shall be located in a central screened area with easily cleaned surfaces. Single containers for multiple units shall be screened and in locations designed to accommodate collection vehicle functions.

301–9 Fencing:

301–9.1 Fencing used in the site design for project privacy or building security shall be harmonious in appearance with other fences and surrounding facilities which fall within the same view.

301–10 Outdoor Lighting:

301–10.1 All public areas where pedestrian use can be anticipated after sunset shall be adequately lighted for security purposes, such as walkways to common use facilities—laundry, dining halls, building entrances, parking areas, and the like.

301–11 Planting and Landscaping:

301–11.1 Planting and lawns or ground covers shall be provided as required to protect the site from erosion, control dust, for active and passive recreation areas, and provide a pleasant environment.

Building design

302–1 Living Units Design:

302–1.1 *Individual Family Unit*—One family or extended family to a unit which shall contain adequate space for living, dining, kitchen, bath and bedrooms. Multifamily type units are required whenever possible for economy of site and building construction.

a. The minimum total net living unit size shall be 400 square feet. This size assumes occupancy of four persons. Units planned for additional occupants shall include an additional 60 square feet of living area per person.

b. A living/dining area shall be provided to accommodate a table and chairs with adequate dining and circulation space for the intended number of occupants. The living/dining area should be combined with the kitchen area.

c. The kitchen shall contain a sink, cooking range and refrigerator. A minimum free countertop area of six square feet is required. A minimum of 40 square feet of shelf area is required.

d. Each bathroom shall contain adequate space and circulation for a bathtub and/or shower, water closet and lavatory. Access to the bathroom shall not be through another bedroom in dwelling units containing more than one bedroom.

e. Bedroom areas separate from living areas are required. The design of the unit shall provide for a minimum of 50 square feet of sleeping area per intended occupant including storage. Housing for families with children shall have a separate bedroom or sleeping area for the adult couples. A two foot by two foot shelf with a two foot long clothes hanging rod is required for each occupant.

302–1.2 *Group Living Unit*—A living unit designed for the occupancy of more than one family or for separate occupancy of male and/or female groups. Common bath spaces shall be contained in the same building. Group living units for families shall have separate bedrooms for each adult couple.

a. The design of the unit shall provide for a minimum of 620 square feet of total net living area for eight persons and an additional 80 square feet for each additional occupant. Additional area shall be planned for a second bathroom when anticipated occupancy will exceed eight persons, or if it will be occupied by persons of both sexes.

b. The kitchen shall contain an adequate sink, cooking range, refrigerator, and space the size of which is commensurate with the needs of the group living unit. A minimum of free countertop area of eight square feet is required. A minimum of 50 square feet of shelf area is required.

c. Refer to paragraph 302–1.1 b for living/dining requirements.

d. Each bathroom shall contain adequate space and circulation for comfortable access to, and use of, fixtures which will include a bathtub and/or shower, water closet and lavatory. In no case shall minimum fixtures be less than that required per paragraph 302–1.3 c below.

e. Refer to paragraph 302–1.1 e for bedroom requirements.

302–1.3 *Dormitory Living Unit*—A building which provides common sleeping quarters for persons of the same sex and may or may not contain kitchen and/or dining facilities in the same building as the sleeping quarters.

a. The design of areas for sleeping purposes, using single beds, shall provide for not less than 72 square feet per occupant including storage.

b. The design of areas for sleeping purposes, using double bunk beds, shall provide for not less than 40 square feet per occupant. Triple bunk beds will not be allowed.

c. The design of each dormitory building must include a water closet, and a bathtub or shower for each 12 occupants, and a lavatory for each 8 persons. Urinals may be substituted for men's water closets on the basis of one urinal for one water closet, up to maximum of one-third of the required water closets.

d. Adequate kitchen and dining facilities must be provided which may be in the dormitory building or detached at a distance of not more than 200 feet from the sleeping quarters. In either case, the space must contain adequate cooking ranges, refrigerators, sinks, countertop, food storage shelves, tables and chairs, and circulation space. These facilities will comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the "Food Service Sanitation Manual," U.S. Public Health Service Publication 934 (1965).

302–2 Other Facilities:

302–2.1 *General*—Other facilities authorized by Part 1944, Subpart D needed by farm workers may be provided in several ways: part of a living unit, located in the project, or, with the exception of laundry facilities, available nearby.

302–2.2 *Laundry Facilities*—Laundry facilities shall be required on-site. Drying yards shall be provided if dryer units are not provided. The design of washing facilities shall plan for a minimum rate of one washer for each 20 occupants. One drying unit may be provided for every two washers, if automatic dryers are customarily provided for rental housing in the community. Laundry facilities shall have adequate space for loading the units, circulation, and clothes folding.

302–2.3 *Office and Maintenance*—An office and maintenance space shall be provided or available, commensurate with the number of living units served, and shall meet the requirements of the Manual of Acceptable Practices. If necessary, the maintenance space shall have sufficient area to accommodate furniture storage.

302–2.4 *Child Care Center*—Where feasible, a child care center may be included to provide supervised activity and safety for children while the parents work. Supervisors and workers for such centers are sometimes enlisted on a volunteer basis and the cost borne by nonprofit associations or community organizations. Grants are sometimes available through Federal or State programs. Consequently, the design of the child care center should meet the requirements of those sources providing operational personnel and/or financing.

302–2.5 *Manager's Dwelling*—If a manager's dwelling unit is to be provided as a part of the FmHA loan or grant, it will meet these guidelines. However, if it is necessary to provide a year-round caretaker/manager dwelling unit with FmHA loan or grant funds, it will meet the requirements of MPS 4900.1.

302–2.6 *Recreation*—Outdoor recreation space is required and shall be commensurate with the needs of the occupants. Active and passive recreation areas will be provided, which may consist of outdoor sitting areas, playfields, tot lots and play equipment.

General requirements

303–1 Materials and Construction—All materials and their installation in a labor housing facility shall meet the MPS requirements. Any exceptions to these requirements for materials and their installation must be obtained with the approval of the FmHA National Office. Material should be selected that are durable and easily cleaned and maintained.

303–2 Fire Protection—Fire protection and egress shall be provided to comply with the requirements of the Minimum Property Standards, 4910.1, Section 405–4, and 405–6 except that lessor standards may be used if the state in which the facility is to be located is enforcing a nationally recognized building code.

303–3 Light, Ventilation, Screening—Natural light and ventilation requirements as specified in MPS 4900.1 or MPS 4910.1 shall be followed. Screening of all exterior openings is required.

303–4 Ceiling Heights—Ceiling heights of habitable rooms shall be a minimum of seven feet six inches clear, and seven feet in halls or baths in dwelling units. Public rooms shall have a minimum of eight feet clear ceiling height. Sloping ceilings shall have at least seven feet six inches for ½ the room with no portion less than five feet in height.

303–5 Heating and Cooling—Heating and cooling and/or air circulation equipment shall be installed as needed for the comfort of the tenants, considering the climate and time of year the facility will be in operation. Maximum feasible use of passive solar heating and cooling techniques shall be required. All equipment installed will be in accordance with MPS requirements to protect the health and safety of the occupants.

303–6 Plumbing—Plumbing materials and their installation shall meet MPS requirements. Hot water will be required to all living units, baths, kitchens and laundry facilities.

303–7 Insulation, Thermal Standards, Winterization—Insulation will be required where either heating or cooling is provided as per paragraph 303–5 above or when climatic conditions dictate a need for insulation. Insulation Standards will comply with FmHA Instruction 1924–A, Exhibit D, IV, C 3, or the State insulation standards, whichever is the more stringent.

303–8 Electrical—Electrical design, equipment and installation shall comply with the requirements of the latest edition of the National Electrical Code, and the MPS for materials and their installation. Individual family units may be separately metered; other types of dwelling units may be separately metered as required.

303–9 Security and Winterization—Adequate management and physical measures shall be provided as necessary to protect the facility during off-season periods, including adequate heating and insulation as required.

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

3. § 1944.163(e) is revised to read as follows:

§ 1944.163 Conditions under which an LH grant may be made.

* * * * *

(e) The housing must be durable and suitable for year-round use unless the need for such housing is seasonal and year-round occupancy is not practical and will not be needed. Construction of seasonal farm labor housing will be permitted upon a finding of persistent need for migrant farmworker housing in the area and such housing will be used solely by migrant farmworkers while they are away from their residence. Seasonal farm labor housing that will be occupied for six months or less per year by migrant farmworkers while they are away from their residence, will be constructed in accordance with Exhibit I to Subpart A of Part 1924. Farm labor housing that is to be occupied less than year-round but more than six months will be in substantial conformance with the MPS and be easily convertible to the MPS. Such projects that are to be occupied less than year-round but more than six months may be approved after review of the savings in construction costs, the plan for conversion to full MPS and the long term need for such housing.

* * * * *

4. Exhibit A–3, paragraphs II a 2 and II b 2 are revised and paragraph II b 3 is added.

Exhibit A–3—Labor Housing Construction Guidelines

* * * * *

II. *Types of housing and appropriate standards:*

a. * * *

2. All planning and construction other than for seasonal farm labor housing and housing

to be occupied less than year-round but more than six months shall be in conformance with the Minimum Property Standards (MPS) and applicable State and local codes.

b. * * *

2. Housing for seasonal occupancy (less than six months) shall be designed and constructed in accordance with Exhibit I to Subpart A of Part 1924 of this Chapter.

3. Housing to be occupied more than six months but less than year-round will be designed and constructed in substantial conformance with the MPS and easily convertible to the MPS requirements for year-round housing.

* * * * *

5. Exhibit B, paragraph 9 is revised to read as follows:

Exhibit B—Management Plans

* * * * *

9. *Maintenance and repairs.*

A schedule for preventive maintenance and the procedure for handling service requests from individual tenants, including procedures for the handling of emergency repairs on a 24 hour basis, should be outlined. Management plans for projects constructed for seasonal occupancy will include provisions for off-season maintenance and security.

* * * * *

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: May 21, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-17546 Filed 6-28-82; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

Group Licensing for Certain Medical Uses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add a new reagent kit, used to prepare the radiopharmaceutical technetium-99m labeled succimer, to its list of authorized radioactive drugs and reagent kits. NRC is taking this action because the Food and Drug Administration (FDA) recently approved a "New Drug Application" for this reagent kit.

EFFECTIVE DATE: June 29, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth G. Rodenbeck, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone 301-427-4580).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the amendment of the Nuclear Regulatory Commission's regulation, "Human Uses of Byproduct Material," 10 CFR Part 35.

Section 35.100 of 10 CFR Part 35 lists groups of medical uses of byproduct material that have similar requirements for user training and experience, facilities and equipment, and radiation safety procedures. The purpose of this grouping is to reduce administrative costs by eliminating the need for licensees to seek an amendment to their license each time they wish to use an additional radiopharmaceutical in a group for which they are licensed. As new radiopharmaceuticals, sources, devices, and uses are developed and approved by FDA, they are added to the appropriate group in § 35.100. The FDA has recently approved a "New Drug Application" for a reagent kit that is used to prepare the renal imaging radiopharmaceutical, technetium-99m labeled succimer (also known as DMSA), and the use of this reagent kit is hereby added to Group III.

As described in NRC's medical policy statement that was published in the **Federal Register** on February 9, 1979 (44 FR 8242), the NRC relies on FDA for approval of safety and effectiveness of radioactive drugs. The Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon, because it would be contrary to the public interest to delay the use of this FDA-approved product by group medical licensees. Since the amendment relieves licensees from restrictions under regulations currently in effect, it may become effective without the customary 30-day notice.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, the following amendments to Title 10 Chapter I, Code of Federal Regulations, Part 35 are published as a document subject to codification.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended by Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14 (b), (e) and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2), 35.25 and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C.2201(o)).

2. Section 35.100 is amended by removing the word "and" following paragraph (c)(4)(xii), and adding a new paragraph (c)(4)(xiii) to read as follows:

§ 35.100 Schedule A—Groups of medical uses of byproduct material.

* * * * *

(c) * * *

(4) * * *

(xiii) Succimer; and

* * * * *

Dated at Bethesda, MD, this 11th day of June 1982.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc 82-17504 Filed 6-28-82; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Amendment Relating to Restrictions on Nondeposit Obligations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends footnote 17a to Part 329 of FDIC regulations by extending from August 1, 1982 to March 31, 1986 the grandfather provision of paragraph 329.10(b)(2). The intended effect of this action is to permit insured State nonmember banks to continue to offer repurchase agreements in denominations of less than $100,000 with maturities of 90 days or more as long as the aggregate amount does not exceed that of such obligations outstanding on August 1, 1979.

EFFECTIVE DATE: July 29, 1982.

FOR FURTHER INFORMATION CONTACT: Carol Galbraith, Attorney, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429 (202-389-4171).

SUPPLEMENTARY INFORMATION: On July 30, 1979, FDIC adopted a final rule, § 329.10(b)(2) (12 CFR 329.10(b)(2)), that narrowed the preexisting exemption from the interest rate ceilings for obligations that evidence an indebtedness arising from a transfer of direct obligations of, or obligations that

are fully guaranteed as to principal and interest by, the United States or any agency thereof that the bank is obligated to repurchase, by requiring that such repurchase agreements be either (a) in denominations of $100,000 or more or (b) in denominations of less than $100,000, mature in less than 90 days and not be automatically renewed or extended (44 FR 46284, August 7, 1979). By a grandfather provision in footnote 17a of Part 329, this rule on repurchase agreements was made inapplicable to any bank having such obligations in denominations of less than $100,000 with maturities of 90 days or more until August 1, 1982, provided that the aggregate amount of such obligations not exceed the bank's total of such obligations outstanding on August 1, 1979.

At the time of the August 1979 amendment, certain repurchase agreement programs were viewed as substitutes for time deposits that avoided interest rate ceilings. Numerous pertinent changes have occurred in the financial environment since August 1979. In March 1980, the Depository Institutions Deregulation Act was enacted, mandating the extinction of interest rate ceilings by March 31, 1986. Thus, supervisory concerns shifted from the curtailing of programs created to avoid interest-rate ceilings to greater emphasis upon promoting competition and eliminating those ceilings. During 1981, a greatly increasing number of banks began marketing repurchase agreements in denominations of less than $100,000. Federal and State supervisory agencies began issuing specific guidance on the issuance of these retail repurchase agreements ("retail repos"). The FDIC adopted a statement of policy on retail repurchase agreements on September 28, 1981 (46 FR 49197, October 6, 1981). Given these changes, extending the grandfather period to March 31, 1986 reduces the hardship to banks which established retail repo programs before the 1979 amendment. The competitive effects of this amendment should be minor and positive because few banks are affected, affected banks will not have to terminate existing established programs and develop new programs, and affected banks are limited to their August 1, 1979 aggregate levels for such offerings.

Alternatives to this amendment that were considered are (1) creating an exception to the rule for individual banks on a case by case basis, (2) completely revising § 329.10(b)(2) to its pre-1979 status, and (3) taking no amendatory action. The adopted action is preferable to the first alternative because it treats a previously-recognized class of banks uniformly. The second alternative is impracticable in that it goes beyond the immediate issue, which requires timely action. The third alternative would result in undue hardship to affected banks and their customers.

This rule relieves a restriction and does not entail additional expense to any affected bank. To subject final issuance of this rule to a 60-day or even a 30-day comment period would preclude timely issuance of a final rule with unnecessary disruption to the offering of financial services by affected banks to bank customers. Therefore, FDIC for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. Because this amendment is issued as a final rule rather than as a proposed rule, the Regulatory Flexibility Act (5 U.S.C. §§ 601 *et seq.*) is not applicable. This rule does not entail any reporting or recordkeeping requirements; thus, the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501 *et seq.*) is not applicable.

List of Subjects in 12 CFR Part 329

Banks, banking.

For the reasons set forth in the preamble, 12 CFR Part 329 is amended by revising footnote 17a, which refers to section 329.10(b)(2), to read as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828); sec. 303, Pub. L. 96-221, 94 Stat. 146 (12 U.S.C. 1832).

§ 329.10 [Amended]

2. In Part 329, footnote 17a to paragraph 329.10(b)(2) is revised to read as follows:

"[17a] A bank with obligations in denominations of less than $100,000 with maturities of 90 days or more that evidence an indebtedness arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by the United States or any agency thereof that the bank is obligated to repurchase, may continue to issue such obligations until March 31, 1986, without regard to this subsection so long as the aggregate amount does not exceed its total of such obligations outstanding on August 1, 1979. Such obligations are subject to the FDIC's Statement of Policy on Retail Repurchase Agreements (BL-71-81, October 2, 1981).

By Order of the Board of Directors, June 21, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Acting Executive Secretary.

[FR Doc. 82-17476 Filed 6-28-82; 8:45 am]

BILLING CODE 6714-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611 and 614

Organization, Loan Policies and Operations

Correction

In FR Doc. 82-16973 appearing at page 27060 in the issue of Wednesday, June 23, 1982, the Farm Credit Administration adopted "regulations authorizing the incorporation of service organizations to perform services for or on behalf of Farm Credit system banks, and clarifying the delegations of supervisory and loanmaking authority by System banks." These regulations amended 12 CFR Parts 611 and 614. As submitted to the Office of the Federal Register, the document stated an effective date of July 22, 1982. That effective date was inadvertently omitted from the published text.

Therefore FR Doc. 82-16973 is corrected by inserting the following date immediately following the "Summary" paragraph on page 27060:

"EFFECTIVE DATE: July 22, 1982."

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR-198; Amdt. No. 125]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is changing its delegations of authority to eliminate a reference to another rule that has been removed. The Chief, Data Systems Management Division, Office of the Comptroller, has delegated authority to release confidential commuter origin and destination data. Since those data are no longer confidential, the delegation is removed.

DATES: Effective: June 29, 1982. Adopted: June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: In the Board's rules delegating authority to its staff, in 14 CFR 385.28(c), the Chief, Data Systems Management Division, Office of the Comptroller, has authority to release confidential commuter origin and destination data filed on Schedule T–1 of CAB Form 298–C. By ER–1148 (44 FR 51797, September 5, 1979), the Board eliminated the limited period of confidential treatment that had been given to commuter origin and destination data under 14 CFR 298.62. The Board stated that public policy favors disclosure of those data filed with the Board, and that since the same data are released for certificated carriers, confidential treatment could lead to an unfair competitive advantage.

Because those data are no longer kept confidential, there is no longer a need for delegated authority to the staff to release them. Section 385.28(c) is therefore removed.

Because this rule is about agency organization and procedure, removing a delegation of authority no longer needed, and failure to do so could cause public confusion, the Board finds for good cause that notice and public procedure are not necessary and that the rule may become effective less than 30 days after publication in the **Federal Register.**

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegation.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters,* as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771, 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386; Reorganization Plan No. 3 of 1961, 26 FR 5989.

§ 385.28 [Amended]

2. Paragraph (c) of § 385.28 is removed and reserved.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–17542 Filed 6–28–82; 8:45 am]

BILLING CODE 6320–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission

Correction

In FR Doc. 82–16781, appearing at page 26810 in the issue for Tuesday, June 22, 1982, please make the following corrections.

The footnotes appearing on pages 26815 through 26817 are incorrectly numbered:

(1) On page 26815, in the middle column, the text and reference to footnote 20 should be numbered 11.

(2) On page 26816, in the second and third columns the text and references to footnotes 21, 22, 23, 24, 25, and 26 should be renumbered 18, 19, 20, 21, 22, and 23 respectively.

(3) On page 26817, in the first column, the text and references to footnotes 27 and 28 should be renumbered 24 and 25.

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 76G–0117]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Esterase-Lipase Enzyme Derived From Mucor Miehei

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of esterase-lipase enzyme derived from nonpathogenic strains of *Mucor miehei* var. *Cooney et Emerson* as an aid in curing and developing flavor in the following foods: Cheese substitutes, imitation cheeses, edible oils (including shortening and margarine), natural cheeses, and milk products, provided that any relevant standards of identities permit such use. This action is in response to a petition filed by Travenol Laboratories, Inc. GB Fermentation Industries has subsequently assumed sponsorship of the petition.

DATES: Effective June 29, 1982; objections by July 29, 1982.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Bureau of Foods (HFF–355), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the procedures established in § 170.35 (21 CFR 170.35), Travenol Laboratories, Inc., Deerfield, IL 60015, submitted a petition (GRASP 6G0067) requesting affirmation that esterase-lipase enzyme derived from nonpathogenic strains of *Mucor miehei* var. *Cooney et Emerson* is generally recognized as safe for use as an aid in curing and developing flavor in the following foods: natural cheese, cheese substitutes, imitation cheeses, edible oils (including shortening and margarine), and milk products. FDA published a notice of filing in the **Federal Register** of May 7, 1976 (41 FR 18898), and offered interested persons an opportunity to review the petition and to submit comments to the Dockets Management Branch (address above). Subsequently, GB Fermentation Industries, Des Plaines, IL 60016, assumed sponsorship of the petition.

Esterase-lipase enzyme preparations are derived from nonpathogenic strains of *Mucor miehei* var. *Cooney et Emerson.* The enzyme is produced simultaneously with the milk-clotting enzyme used in the production of cheeses by a submerged pure culture fermentation. However, the milk-clotting enzyme is derived from the culture supernatant, whereas the esterase-lipase is derived from the microbial cells. The esterase-lipase is isolated by washing the cells with alkaline buffer (pH 10.5–11), concentrating the eluted enzyme and spray drying the product in the presence of a carrier (maltodextrin or sweet whey). The enzyme enhances the flavor of certain foods by catalyzing limited hydrolysis of the triglycerides in the product.

After Travenol Laboratories, Inc., submitted its GRAS affirmation petition, FDA placed it on file at the Dockets Management Branch as required under § 170.35 (21 CFR 170.35). The agency received one comment in response to the notice of filing.

The comment disagreed with a statement in the petition indicating that microbial rennet, derived from *Mucor miehei* and approved as a food additive under 21 CFR 173.150(a)(4), contains the esterase-lipase enzyme. According to the comment, microbial rennet contains

no esterase-lipase enzyme in any form. Thus, the comment contended that FDA should not use previous safety studies on microbial rennet to evaluate the safety of esterase-lipase enzyme, because the studies are not relevant. The comment contended that esterase-lipase enzyme, derived from *Mucor miehei*, is a new food additive whose safety must be demonstrated by toxicological studies on that enzyme system.

FDA has reviewed the petition, the data submitted in support of that petition, and the comment. The data demonstrate that the microbial rennet preparation does not contain active esterase-lipase enzyme, but does contain some inactive enzyme. Because the enzyme is inactive, studies that demonstrate the safety of microbial rennet do not adequately establish the safety of active esterase-lipase enzyme. Subsequently, after the petition was filed, the petitioner submitted two 90-day animal feeding studies and a reproductive study on active esterase-lipase enzyme. FDA concludes that these studies adequately demonstrate the safety of esterase-lipase enzyme.

After evaluating the information contained in the petition, FDA concludes that esterase-lipase enzyme cannot be considered GRAS based upon its common use in food before January 1, 1958. The agency also concludes that there are inadequate published studies or other information available to the scientific community to document that it is generally recognized as safe based on scientific procedures.

Thus, in accordance with §§ 170.35(b)(4) (21 CFR 170.35(b)(4)) and 170.38 (21 CFR 170.38), the agency has determined that the requested use of esterase-lipase enzyme cannot be considered GRAS based upon either common use in food or scientific procedures and the enzyme is a food additive subject to section 409 of the act (21 U.S.C. 348). FDA notified the petitioner of this conclusion and the firm agreed that esterase-lipase enzyme be evaluated as a food additive rather than as a GRAS ingredient.

FDA has evaluated data in the petition and other relevant material regarding the use of esterase-lipase as an aid in curing and developing flavor in the listed products and concludes that the food additive produces the intended technical effects and is safe under the proposed conditions of use. The agency is therefore amending the food additive regulations to provide for the requested uses, subject to restrictions imposed by relevant standards of identity.

Federal standards of identity for certain cheese and cheese products do not currently list microbial enzymes for use in curing and developing flavor in cheeses (21 CFR Part 133), or for use as a flavor modifier in dry whole milk (21 CFR 131.147) and margarine (21 CFR Part 166).

Note.—FDA proposed in the **Federal Register** of September 19, 1978 (43 FR 42127) to amend certain cheese standards to permit the use of microbial enzymes for clotting milk or for developing flavor, but to date the agency has not published final regulations. Unless and until these standards are amended by formal final action, microbial enzymes may not be used in curing such standardized cheeses as an aid in developing their flavor. The standards of identity for dry whole milk (§ 131.147) and margarine (Part 166) would also have to be amended to permit esterase-lipase use in these products.

There are no standards of identity for edible oils, shortening, imitation cheeses, and cheese substitutes. Consequently, this regulation will provide for this use with no limitation other than current good manufacturing practice. In addition, esterse-lipase is a safe and suitable enzyme for the production of enzyme modified cheese. The standards of identity for certain pasteurized processed cheese permit such a use (21 CFR Part 133).

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the evidence supporting this finding, contained in a statement of exemption under 21 CFR 25.1(f)(1)(iv), may be seen in the Dockets Management Branch.

List of Subject Terms in 21 CFR Part 173

Food additives, Food processing aids.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 173 is amended in Subpart B by adding new § 173.140, to read as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

§173.140 Esterase-lipase derived from Mucor miehei.

Esterase-lipase enzyme, consisting of enzyme derived from *Mucor miehei* var. *Cooney et Emerson* by a pure culture fermentation process, with sweet whey as a carrier, may be safely used in food in accordance with the following conditions:

(a) *Mucor miehei* var. *Cooney et Emerson* is classified as follows: Class, Phycomycetes; subclass, Zygomycetes; order, Mucorales; family, Mucoraceae; genus, *Mucor;* species, *miehei;* variety *Cooney et Emerson.*

(b) The strain of *Mucor miehei* var. *Cooney et Emerson* is nonpathogenic and nontoxic in man or other animals.

(c) The enzyme is produced by a process which completely removes the organism *Mucor miehei* var. *Cooney et Emerson* from the esterase-lipase.

(d) The enzyme is used as a flavor enhancer as defined in § 170.3(o)(12).

(e) The enzyme is used at levels not to exceed current good manufacturing practice in the following food categories: cheeses as defined in § 170.3(n)(5) of this chapter; fat and oils as defined in § 170.(3)(n)(12) of this chapter; and milk products as defined in § 170.(3)(n)(31) of this chapter. Use of this food ingredient is limited to nonstandarized foods and those foods for which the relevant standards of identity permit such use.

(f) The enzyme is used in the minimum amount required to produce its limited technical effect.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 29, 1982, submit to the Dockets Management Branch, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective June 29, 1982.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: June 23, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-17501 Filed 6-28-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 3280, 3282 and 3283

[Docket No. R82-927]

Manufactured Home Construction and Safety Standards; Manufactured Home Procedural and Enforcement Regulations; and Manufactured Home Consumer Manual Requirements

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule makes changes necessitated by the 1980 amendments to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* The amendments changed the definition of mobile home and changed references in the Act from "mobile home" to "manufactured home."

EFFECTIVE DATE: August 11, 1982.

FOR FURTHER INFORMATION CONTACT: James C. McCollom, Acting Director, Manufactured Housing Standards Division, Room 3244, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. (202) 755-5210. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 7, 1981, the Department published in the **Federal Register** a proposed revision of 24 CFR Parts 3280, 3282 and 3283 (46 FR 40498). That proposed revision reflected changes made in the National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), 42 U.S.C. 5401 *et seq.*, by section 308 of the Housing and Community Development Act of 1980, Pub. L. 96-399. Approximately 20 comments were received. All comments were given careful consideration, and some were adopted in whole or in part as reflected in this publication.

Generally, portions of the proposed rule which were not commented on are not discussed.

Changes made in the proposed rule which are reflected in this final rule:

1. A number of commenters urged that bay windows not be included in measuring the length of a manufactured home to determine whether it is covered by the Act. In the final rule, bay windows are excluded from the measurements used to determine whether a structure is a "manufactured home."

2. The Department received numerous comments which were critical of the proposal to do away with the "recreational vehicle" exemption contained in the present regulations at § 3282.8(g). In the 1980 amendments to the Act, Congress altered the size dimensions contained in the definition of manufactured home so as to include units of 320 or more square feet. However, the conference report on the 1980 amendments directed the Secretary to consider differing, more flexible standards for smaller manufactured homes (such as park models) whose square footage is between 320 and 400 square feet and are designed to be frequently transported. In commenting on the proposed rule, several manufacturers of smaller units (those between 320 and 400 square feet) outlined the problems that they would face to bring their products in compliance with the Federal Manufactured Home and Construction Safety Standards. A trade association representing park model manufacturers specifically identified eighteen different standards that would be either difficult or impossible to meet.

The evident intent of Congress as expressed in the Conference Report, plus the comments received from manufacturers of small units, indicate that the entire body of the existing Standards should not be applied to park models or other units of less than 400 square feet. That, however, would be the result of an immediate elimination of the recreational vehicle exemption. The Secretary has concluded, therefore, that it is necessary to continue the exemption for recreational vehicles of more than 320 but less than 400 square feet until Standards specifically applicable to these units can be prescribed. The Department notes, in this connection, that a comprehensive revision of the existing Standards is now in progress and a proposed rule expected to be published this year. The Department intends to address the question of Standards appropriate for application to smaller units, including park models in the near future, possibly as part of the foregoing general revision.

In continuing the recreational vehicle exemption, certain changes have been made. The principal substantive changes are to limit the availability of the exemption to units of 400 square feet or less and to eliminate the requirement that in order for the unit to qualify for the exemption, the plumbing, heating, and electrical systems contained therein may be operated without connection to outside utilities. As revised, § 3282.8(g) will exempt structures from the requirements of the Act if they are (1) Built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Under this definition virtually all park models will continue to be exempt from the requirements of the Act, pending development of standards specifically applicable to such units.

Comments Which Were Rejected

1. Comment: In calculating the length or width of a manufactured home, the thickness of the exterior walls should not be considered.

Response: Before Congress amended the Act, all measurements to determine a unit's length and width were based on exterior dimensions. Nothing in the legislative history evidences a Congressional desire to alter this method of measuring. In fact a provision in the Senate version of the amendments, which specified that interior dimensions were to be used, was deleted from the final version. This indicates that Congress intended for the Department to continue to use exterior dimensions when calculating length and width of manufactured homes.

2. Comment: The definition of "manufactured home" should not include air conditioning within the systems to be connected to outside utilities.

Response: Air conditioning is included in the statutory definition of "manufactured home" and the Department does not have the power to change it. The commenter was apparently concerned that all manufactured homes would be required to have air conditioning. The definition of "manufactured home" does not require units to contain on-board air conditioning systems which may be connected to outside utilities. The definition merely defines any air conditioning, whether self-contained or not, as part of the manufactured home. As a result, HUD may set standards for the air-conditioning as well as for the plumbing, heating and electrical systems

which are the other systems named in the definition.

3. Comment: Fifth-wheel travel trailers should be excluded from the definition of "manufactured home," or living space in the upper compartment of fifth-wheel trailers should be excluded when calculating the length of a "manufactured home."

Response: The Secretary finds no statutory basis upon which to exempt fifth-wheel trailers which otherwise meet the definition of "manufactured home." However, most fifth-wheel trailers do not meet the statutory definition of "manufactured home" and those that do are likely to be exempt under the revised recreational vehicle exemption.

4. Comment: The definitions of length and width of a manufactured home will cause higher costs to the consumer because of the additional man-hours and paperwork needed to make calculations for each model a manufacturer makes.

Response: HUD believes that only minimal work need be done to determine whether a unit is a "manufactured home." A unit's dimensions must be calculated when drafting floor plans or blueprints. Once these calculations are done, no additional work would be needed to determine whether a particular unit or model is a "manufactured home." As a matter of fact, the definition of length and width were selected, in part, because of their ease of application and clarity.

5. Comment: The last sentence in the definition of "manufactured home" should be deleted. This sentence states that manufactured homes are not necessarily eligible for HUD financing under 12 U.S.C. 1709(b). The commenter objects because, in California, manufactured homes are eligible for financing under this provision.

Response: The new definition of "manufactured home" does not preclude HUD from financing these units under 12 U.S.C. 1709(b). The definition merely states that there is no automatic entitlement to this benefit. Eligibility for this financing is determined by other factors.

6. Comment: The rule is a "major" one as defined in Executive Order 12291 since it will have an annual effect on the economy of $100 million or more, will cause a major increase in costs and prices for the consumer and will have a significant adverse impact on employment, investment and productivity.

Response: In response to this comment, the Department has made significant changes from the proposed rule to lessen the impact upon small businessmen, particularly park model manufacturers. As described above, this rule will exempt practically all park models. Since the rule will not change any standards for structures subject to the Act and will not require any additional structures to meet the standards, the rule has no significant economic impact.

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This final rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule was listed as item C)1. NVACP–1–81 under the Office of Neighborhoods, Voluntary Associations and Consumer Protection in the Department's Semiannual Agenda of Regulations published on August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Pursuant to the provisions at 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

(The catalog of Federal Domestic Assistance program number is 14.804 Manufactured Housing)

List of Subjects

24 CFR Part 3280

Fire prevention, Housing standards, Mobile homes.

24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Mobile homes.

24 CFR Part 3283

Mobile homes, Consumer protection, Warranties.

PART 3280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

PART 3283—MOBILE HOME CONSUMER MANUAL REQUIREMENTS

§§ 3282.2, 3282.3, and 3282.4 [Amended]

Accordingly, 24 CFR Parts 3280, 3282 and 3283 are revised as follows:

1. By changing the title "National Mobile Home Construction and Safety Standards Act of 1974", wherever it appears in Parts 3280, 3282 and 3283, to read "National Manufactured Housing Construction and Safety Standards Act of 1974."

2. By changing the title "Assistant Secretary for Neighborhood, Voluntary Associations and Consumer Protection", wherever it appears in §§ 3282.2, 3282.3, and 3282.4, to read "Assistant Secretary for Housing-Federal Housing Commissioner."

3. By changing the title "Office of Mobile Home Standards", wherever it appears in Parts 3280, 3282, and 3283, to read "Manufactured Housing Standards Division."

4. By revising § 3282.5 to read as follows:

§ 3282.5 Principal branches.

The following branches have been established within the Manufactured Housing Standards Division:

(a) Standards Branch.

(b) Enforcement Branch.

(c) State and Consumer Liaison Branch.

5. By changing the terms "Mobile Home(s)" and "mobile home(s)", wherever they appear in Parts 3280, 3282 and 3283 to read "Manufactured Home(s)" and "manufactured home(s)", respectively.

6. By revising § 3280.2(a)(13), (16) and (22) to read as follows:

§ 3280.2 Definitions.

(a) * * *

(13) "Length of a Manufactured Home" means its largest overall length in the traveling mode, including cabinets, and other projections which contain interior space. Length does not include bay windows, roof projections, overhangs, or eaves under which there

is no interior space, nor does it include drawbars, couplings or hitches.

* * * * *

(16) "Manufactured Home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures which meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to § 3282.13 and complies with the standards set forth in Part 3280. Nothing in this subsection should be interpreted to mean that a "manufactured home" necessarily meets the requirements of HUD's Minimum Property Standards (HUD Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b).

* * * * *

(22) "Width of a Manufactured Home" means its largest overall width in the traveling mode, including cabinets and other projections which contain interior space. Width does not include bay windows, roof projections, overhangs, or eaves under which there is no interior space.

* * * * *

7. By redesignating § 3282.7 (t) through (mm) as § 3282.7 (u) through (nn) and adding a new § 3282.7(t) to read as follows:

§ 3282.7 Definitions.

* * * * *

(t) [Same as § 3282.2(a)(13).]

* * * * *

8. By revising § 3282.7(v) to read as follows:

§ 3282.7 Definitions.

* * * * *

(v) [Same as § 3280.2(a)(16).]

* * * * *

9. By adding a new § 3282.7(oo) to read as follows:

§ 3282.7 Definitions.

* * * * *

(oo) [Same as § 3282.2(a)(22).]

10. By revising § 3283.2(k) to read as follows:

§ 3283.2 Definitions.

* * * * *

(k) [Same as § 3280.2(a)(16).]

* * * * *

11. By revising § 3282.8(g) to read as follows:

§ 3282.8 Applicability.

* * * * *

(g) Recreational vehicles. Recreational vehicles are not subject to this Part, Part 3280, or Part 3283. A recreational vehicle is a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

§ 3280.902 [Amended]

12. By removing § 3280.902(h).

13. By adding a new § 3282.13, to read as follows:

§ 3282.13 Voluntary certification.

(a) The purpose of this section is to provide a procedure for voluntary certification of non-conforming manufactured homes as required by 42 U.S.C. 5402(6) as amended by Section 308(d)(B) of the Housing and Community Development Act of 1980.

(b) Structures which meet all of the requirements of a "manufactured home" as set out in § 3282.7(u), except the size requirements, shall be "manufactured homes" if the manufacturer files with the Secretary a certification in the following form:

[Name of manufacturer and address where structures are to be manufactured] certifies that it intends to manufacture structures that meet all of the requirements of manufactured homes set forth at 42 U.S.C. 5402(6) except the size requirements. Such structures are to be treated as manufactured homes for the purposes of the National Manufactured Housing Construction and Safety Standards Act of 1974 and the regulations promulgated pursuant thereto. Such structures will be built in conformance with the Standards. [Name of manufacturer] further certifies that if, at any time it manufactures structures which are not manufactured homes, it will identify each such structure by a permanent serial number placed on the structure during the first stage of production and that the series of serial numbers for such structures shall be distinguishable on the structures and in its records from the series of serial numbers used for manufactured homes.

(c) Whenever a manufacturer which has filed a certification pursuant to 3282.13(b) produces structures which are not manufactured homes, it must identify each such structure by placing a permanent serial number on the structure during the first stage of production. The series of serial numbers placed on these structures shall be distinguishable on the structure and in the manufacturer's records from the series of serial numbers used for manufactured homes.

(d) A manufacturer may certify a structure as a manufactured home after having applied a serial number identifying it as a structure which is not a manufactured home. To do so, the manufacturer must secure the written consent of the IPIA. This consent may only be given after a DAPIA has approved the manufacturer's design and quality assistance manual in accordance with § 3282.361, and after the IPIA has thoroughly inspected the structure in at least one stage of production and after such removal of equipment, components or materials as the IPIA may require to assure that the structure conforms to the standards. After certification as a manufactured home has been approved, the manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(e) Once a manufacturer has certified under § 3282.13(b) that it intends to build structures which are manufactured homes in all respects except size, the manufacturer must then, with respect to those structures, comply with all of the requirements of the Act and its regulations. The structures may not thereafter be exempted under any other section of these regulations.

(Sec. 625 of the National Housing Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424; section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(o))

Dated: June 22, 1982.

Philip Abrams,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 82-17477 Filed 6-28-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 6a

[T. D. 7821]

Temporary Regulations Under Title II of the Omnibus Reconciliation Act of 1980; Modification of Regulations Relating to Mortgage Subsidy Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to the tax-exempt status of interest on mortgage subsidy bonds. These regulations affect all purchasers and governmental issuers of tax-exempt housing bonds. The changes made by these regulations are necessary to modify certain provisions contained in the present temporary regulations.

The regulations under § 6a.103A–2(i)(2)(ii)(E) are amended by deleting the rule which requires that prepayments of principal be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments. The amendment provides that prepayments are treated in the same manner as regular monthly payments.

DATE: These temporary regulations are effective for governmental obligations issued after April 24, 1979.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the temporary regulations relating to mortgage subsidy bonds under section 103A of the Internal Revenue Code of 1954. These amendments modify Treasury Decision 7780, published in the Federal Register for July 1, 1981 (46 FR 34311), which provided regulations under section 103A of the Code. Section 103A was enacted by the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499, 94 Stat. 2660). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 103A of the Internal Revenue Code of 1954 provides that a mortgage subsidy bond shall be treated as an obligation not described in section 103(a) (1) or (2). As such, the interest on a mortgage subsidy bond is not excludable from gross income. However, under section 103A(b)(2) a qualified mortgage bond and a qualified veterans' mortgage bond shall not be treated as a mortgage subsidy bond, and the interest thereon is excludable from gross income.

The regulations under § 6a.103A–2(i)(2)(ii)(E) are amended by deleting the rule which requires that prepayments of principal be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments. The amendment provides that prepayments are treated in the same manner as regular monthly payments.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Non-Application of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these temporary regulations is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans.

Adoption of Amendments to the Regulations

PART 6a—TEMPORARY REGULATIONS UNDER TITLE II OF THE OMNIBUS RECONCILLIATION ACT OF 1980

Accordingly, 26 CFR Part 6a is amended as follows:

Section 6a.103A–2 is amended by revising paragraph (i)(2)(ii)(E) to read as follows:

§ 6a.103A–2 Qualified mortgage bond.

* * * * *

(i) *Arbitrage and investment gain.* * * *

(2) *Effective rate of mortgage interest not to exceed bond yield by more than 1 percentage point.* * * *

(ii) *Effective rate of interest.* * * *

(E) The effective rate of interest on any mortgage shall be determined in a manner consistent with actuarial methods and shall take into account the discounted value of all amounts from the time received to an amount equal to the "purchase price" of the mortgage. Such discount rate is the effective rate of interest on the mortgages. The "purchase price" of a mortgage means the net amount loaned to the mortgagor. For example, if a mortgage loan is in the amount of $30,000 and the mortgagor is charged one point ($300) as an origination fee which amount is deducted from loan proceeds available to the mortgagor, the purchase price is $29,700. If interest on an issue is paid semiannually, all regular monthly mortgage payments and prepayments of principal may be treated as being received at the end of each semiannual debt service period. * * *

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved:

John E. Chapoton,

Assistant Secretary of the Treasury.

June 23, 1982.

[FR Doc. 82–17529 Filed 6–24–82; 4:31 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 570

Display of Office of Management and Budget Control Numbers for Recordkeeping Requirements; Correction

AGENCY: Office of the Secretary, Labor.

ACTION: Technical amendments; correction.

SUMMARY: This document corrects a legal citation contained in technical

amendments to various regulations administered by the Department of Labor which were made to comply with the Paper work Reduction Act of 1980 (Pub. L. 96–511). The incorrect citation appeared in the notice published on January 5, 1982 (47 FR 145).

FOR FURTHER INFORMATION CONTACT:
Paul Larson, Director, Office of Management Reports and Analysis, Directorate of Management and Policy Systems, Room S–5526, Francis Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone 202–523–6331.

SUPPLEMENTARY INFORMATION:

Text of Correction

The following correction should be made in table appearing on page 145 of the **Federal Register** of January 5, 1982

Under ESA, the citation reading "29 CFR 570.35(b)(3)(vi) . . . 1215–0121" should read "29 CFR 570.35a(b)(3)(vi) . . . 1215–0121."

(Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212)

Signed at Washington, D.C. this 21st day of June 1982.

Raymond J. Donovan,
Secretary of Labor.

[FR Doc. 82–17543 Filed 6–28–82; 8:45 am]
BILLING CODE 4510–23–M

Mine Safety and Health Administration

30 CFR Parts 11, 33, 46, 48, 49, 57, 70, 71, 74, 75, and 77

Nonsubstantive Organizational Amendments and Nomenclature Changes; Correction

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule; correction and nomenclature changes.

SUMMARY: This notice corrects the Mine Safety and Health Administration's organizational amendments related to the Agency's education and training functions which were published in the **Federal Register** on May 28, 1982 (47 FR 23640). In addition, it makes nomenclature changes to update regulations to reflect proper titles.

EFFECTIVE DATE: June 29, 1982.

FOR FURTHER INFORMATION CONTACT:
Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Blvd., Arlington, VA 22203; phone (703) 235–1910.

Dated: June 25, 1982.

Patricia W. Silvey,
Acting Director, Office of Standards, Regulations and Variances.

1. The following corrections are made in FR Doc. 82–14656, in the issue of May 28, 1982; page 23640:

On page 23640 lines 34 and 35 of Supplementary Information, strike the words "Office of Education and Policy Development" and insert the words "Office of Educational Policy and Development".

§§ 48.3, 48.23, and 49.8 [Amended]

On Page 23640, in the amendments set forth for § 48.3(h)(1) and on page 23641 in the amendments set forth for §§ 48.23(h)(1), 49.8(a) and 49.8(b)(4), strike the words "Office of Education and Policy Development" where they appear in the column designated *new wording* and insert the words "Office of Educational Policy and Development".

2. In addition, the Agency makes the following nomenclature changes to Chapter 1, Title 30, Code of Federal Regulations, Parts 11, 33, 46, 70, 71, 74, 75 and 77, as set forth below.

§ 11.3 [Amended]

30 CFR Part 11.3(h) is amended by removing the words "Atomic Energy Commission" and inserting, in their place, the words "Nuclear Regulatory Commission."

30 CFR Part 11.3(ee) is amended by removing the first occurrence of the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services".

§§ 11.3 and 11.33 [Amended]

30 CFR Part 11 is further amended by removing the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services" in the following places:
(a) 30 CFR 11.3(w)
(b) 30 CFR 11 33(b)

§ 11.90 [Amended]

The Note following 30 CFR Part 11.90(c) is amended by removing the abbreviation "DHEW" and inserting, in its place, the abbreviation "DHHS".

§ 33.6 [Amended]

30 CFR Part 33.6(a) is amended by removing the words "Mining Enforcement and Safety Administration" and inserting, in their place, the words "Mine Safety and Health Administration".

§ 46.3 [Amended]

30 CFR Part 46.3(a) is amended by removing the words "Health Education, and Welfare" and inserting, in their place, the words "Health and Human Services".

§ 70.2 [Amended]

30 CFR Part 70.2(n) is amended by removing the first occurrence of the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services".

§ 70.510 [Amended]

30 CFR Part 70.510(b)(3) is amended by removing the word "Assistant".

§§ 70.201, 70.204, 70.205, 70.300, 70.305, 70.504–2, 70.507, 70.508, 70.509, and 70.510 [Amended]

30 CFR Part 70 is further amended by removing the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services" in the following places:
(a) 30 CFR 70.201(a)
(b) 30 CFR 70.204 (b) and (c)
(c) 30 CFR 70.205(a)
(d) 30 CFR 70.300(a)
(e) 30 CFR 70.305
(f) 30 CFR 70.504–2
(g) 30 CFR 70.507(b)
(h) 30 CFR 70.508(a)
(i) 30 CFR 70.509(c)
(j) 30 CFR 70.510(b)(2)

§ 70.508 [Amended]

30 CFR Part 70.508(a) is amended by removing the words "Mining Enforcement and Safety Administration" and inserting, in their place, the words "Mine Safety and Health Administration".

§§ 71.802, 71.803, 71.804, and 71.805 [Amended]

30 CFR Part 71 is amended by removing the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services" in the following places:
(a) 30 CFR 71.802(b)
(b) 30 CFR 71.803(a)
(c) 30 CFR 71.804(c)
(d) 30 CFR 71.805(b)(2)

§§ 74.4, 74.6 and 74.9 [Amended]

30 CFR Part 74 is amended by removing the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services" in the following places:
(a) 30 CFR 74.4(a)
(b) 30 CFR 74.6(a)
(c) 30 CFR 74.9(b)

§ 75.2 [Amended]

30 CFR 75.2(k) is amended by removing the first occurrence of the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services".

§§ 75.523–1 and 75.1710–1 [Amended]

30 CFR Part 75 is amended by removing the words "Assistant Administrator—" and inserting in their place the words "Director of" wherever they occur in the following places:

(a) 30 CFR 75.523–1(c)

(b) 30 CFR 75.1710–1(f)

§ 75.1713 [Amended]

30 CFR Part 75.1713 is amended by removing the words "Health, Education, and Welfare" and inserting, in their place, the words "Health and Human Services".

§ 75.1719–1 [Amended]

30 CFR 75.1719–1(f) is amended by removing the word "Assistant".

§§ 77.1108–1 and 77.1900 [Amended]

30 CFR Part 77 is amended by removing the words "Mining Enforcement and Safety Administration" and inserting, in their place, the words "Mine Safety and Health Administration" in the following places:

(a) 30 CFR 77.1108–1(b)(4)

(b) 30 CFR 77.1900(a)(1)

[FR Doc. 82–17604 Filed 6–28–82; 8:45 am]

BILLING CODE 4510–43–M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Evidence of Marriage and Birth

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration has amended its adjudication regulations governing evidence of marriage and birth. These amendments require a claimant to submit documentary evidence of marriage and birth without exception. The need for this change results from our obligation to preserve the integrity of Veterans Administration benefit programs.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202–389–3005).

SUPPLEMENTARY INFORMATION: On pages 12362 and 12363 of the **Federal Register** of March 23, 1982, the Veterans Administration published proposed amendments of 38 CFR 3.205, 3.209. Interested persons were given until April 22, 1982, to submit comments, suggestions, or objections to the proposed amendments.

We received no comments, suggestions, or objections to the proposed amendment of §§ 3.205 and 3.209. The amendments are adopted as proposed.

The Administrator hereby certifies that these regulation amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these regulations deal with the type of evidence which must be submitted by individuals applying for Veterans Administration benefits. Any impact upon small entities would be incidental and slight. Pursuant to 5 U.S.C. 605(b), these regulation amendments are therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these regulation changes are nonmajor for the following reasons:

(1) They will not have an effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health Care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.104, 64.105, 64.109 and 64.110)

Approved: June 14, 1982.

Robert P. Nimmo,

Administrator.

PART 3—ADJUDICATION

1. Section 3.205 is amended as follows:

(a) By inserting the legal citation "(38 U.S.C. 210(c))" following paragraph (c).

(b) By revising the introductory portion of paragraph (a) preceding subparagraph (1) as set forth below:

§ 3.205 Marriage.

(a) *Proof of marriage.* Marriage is established by one of the following types of evidence:

* * * * *

2. Section 3.209 is amended as follows:

(a) By inserting the words "or she" following the word "he" in paragraph (e) and inserting the legal citation "(38 U.S.C. 210(c))" following paragraph (g).

(b) By revising the introductory portion preceding paragraph (a) as set forth below:

§ 3.209 Birth.

Age or relationship is established by one of the following types of evidence. If the evidence submitted for proof of age or relationship indicates a difference in the name of the person as shown by other records, the discrepancy is to be reconciled by an affidavit or certified statement identifying the person having the changed name as the person whose name appears in the evidence of age or relationship.

* * * * *

§ 3.210 [Amended]

3. Section 3.210 is amended by removing the words "his widow" and inserting the words "the veteran's surviving spouse" in paragraph (c)(1(i).

[FR Doc. 82–17570 Filed 6–28–82; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–4–FRL 2139–4]

Approval and Promulgation of Implementation Plans; Florida: Revision of Sulfur Dioxide Rule for Tampa Electric Company's Gannon Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces its approval of a state implementation plan (SIP) revision submitted and adopted by Florida to allow the Tampa Electric Company (TECO) Gannon Station to revert to coal firing in four of its six boilers. There will be no increase in actual emissions of sulfur dioxide from the plant as a result of the conversion. The conversion of oil-fired units back to coal is consistent with our nation's plan to reduce our reliance upon oil for generating electricity while preventing violations of the ambient air quality standards. EPA has reviewed and determined that the requested coal sampling and analytical testing procedures submitted by the Department of Environmental Regulation (DER) are acceptable and will ensure compliance with the emission limiting cap imposed on the plant. EPA proposed this action on September 8, 1981 (46 FR 44785), and received no comments.

EFFECTIVE DATE: This rule is effective July 29, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Lee, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: On December 3, 1980, DER submitted to EPA a SIP revision for the TECO Gannon Station which allows Units 1-4 to revert from burning fuel oil in the boiler to coal while a bubbled sulfur dioxide (SO_2) emission cap would be averaged weekly across the six units. Also, on February 16, 1982, DER submitted the coal sampling and analytical testing procedures needed to ensure continuous compliance with the applicable SO_2 emission limiting regulation through the use of coal analysis. EPA proposed approval of this revision on September 8, 1981 (46 FR 44785). No comments were received on the proposal.

Since the area is measuring ambient concentrations of sulfur dioxide close to the Florida Ambient Air Quality Standard (FAAQS) for sulfur dioxide (Note: The FAAQS is 260 $\mu g/m^3$, or approximately 71% of the National Ambient Air Quality Standard), no increase in actual emissions of sulfur dioxide was allowed as part of the conversion to coal. The requirements imposed on the plant include a SO_2 emission cap of 10.6 tons per hour (TPH) on a weekly average bubbled across the six units at the plant which is equivalent to current emissions, and a maximum unit limit of 2.4 lbs sulfur dioxide (SO_2) per million BTU (MBTU) heat input on a weekly average.

As the units were capable of burning coal prior to August 17, 1971, these units are not subject to the new source performance standard (NSPS) requirements nor are the units subject to the prevention of significant deterioration (PSD) requirements.

In the control strategy documentation submitted with the plan revision, compliance with the 24-hour ambient standard proved to be the most restrictive case. The modeling analysis performed indicated that the Florida 24-hour ambient SO_2 standard of 260 $\mu g/m^3$ could be exceeded in the vicinity of the plant at operating rates of 10,500 MBTU/hour or greater with all units operating at the SO_2 emission rate of 2.4 lbs/MBTU. Therefore, the compliance plan will incorporate into the operating permit for each unit at the plant a pre-daily fuel analysis and load shifting when peak loads are projected to exceed 10,500 MBTU/hour. This load projection and fuel analysis are designed to prevent violations of the Florida 24-hour standard when threatened by high operating rates. The SO_2 weekly emission average of 2.4 lbs/MBTU will prevail otherwise. To enforce the 2.4 lbs/MBTU limit, the operator will collect and store daily fuel samples. If the weekly average emission rate is in excess of 2.4 lbs/MBTU, the operator may be required to analyze the daily fuel samples stored to produce rolling 7-day average emission rates in excess of 2.4 lbs/MBTU, and, thus, determine the number of days of violation. Although Florida has adopted the plan revision to meet ambient standards more restrictive than the NAAQS, EPA's review only addressed its adequacy to meet the NAAQS.

The State has submitted a control strategy which demonstrates that the regulation, in its present form, will protect the 24-hour and 3-hour SO_2 NAAQS under worst case conditions. Given the margin of safety between the State's 24-hour standard of 260 $\mu g/m^3$ and the Federal standard of 365 $\mu g/m^3$, it is EPA's judgement that no violations of the short-term SO_2 NAAQS will occur.

After a 30-day comment period, in which no comments were received, and review of Florida's coal sampling scheme to ensure compliance by fuel analysis, EPA is approving the proposed SIP revision with no changes. The effective date of the State regulation is January 8, 1981.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Florida was approved by the Director of the Federal Register on July 1, 1981.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520 is amended by adding paragraph (c)(44) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(44) Revised SO_2 limits for the Gannon Station of Tampa Electric Company, submitted on December 3, 1980, and associated methods of coal sampling and analysis, submitted on February 16, 1982, by the Florida Department of Environmental Regulation.

[FR Doc. 82-17535 Filed 6-28-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-2140-7]

Ohio; Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: The EPA announces final rulemaking approving revisions to the Ohio State Implementation Plan (SIP) for ozone. The revision pertains to the State's strategy to control volatile organic compound (VOC) emissions from stationary industrial sources of VOC emissions addressed in EPA's Group I and II Control Technique Guidelines (CTGs). EPA's action is based upon a revision request which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on July 29, 1982.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses:

Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460
Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Sharon Reinders, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of Section 107 of the Act, the EPA designated certain areas in Ohio as not attaining the National Ambient Air Quality Standard (NAAQS) for ozone. Part D of the Act requires each State to revise its SIP for areas that have not attained the NAAQS. These SIP revisions must demonstrate attainment of the primary NAAQS by December 31, 1982, or in certain cases, by December 31, 1987. The Part D requirements for an approvable SIP are described in the April 4, 1979, **Federal Register** (44 FR 20372) as supplemented at 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979) and 44 FR 67182 (November 23, 1979).

An adequate SIP for ozone is one which provides for sufficient control of VOC from stationary and mobile sources to provide for attainment of the standard. For stationary sources, the plan must include legally enforceable requirements reflecting the application of reasonably available control technology (RACT) requirements for sources of VOC emissions for which EPA has published a CTG by January of the preceding year. In general, where the State regulations are not supported by the information in the CTG, the State must provide an adequate demonstration that the regulations represent RACT or amend the regulations to be consistent with the information in the CTG's.

Adoption and submittal of RACT regulations for sources addressed in a CTG published by January 1978 (Group I CTGs) were due July 1, 1979. Adoption and submittal of additional RACT regulations for sources covered by a CTG published between January 1978 and January 1979 (Group II CTGs) were due July 1, 1980 (44 FR 50371, August 28, 1979). The EPA revised the July 1, 1980 deadline to January 1, 1981 (45 FR 78121; November 25, 1980).

Summary of Ohio's Actions

The State of Ohio has amended the Ohio Administrative Code pertaining to control of emissions of organic compounds from existing stationary sources. In response to the requirements of Part D of the Act, the State submitted the amendents to the EPA as a SIP revision on February 12, 1981, and submitted supporting technical data, requested by the EPA on January 8, 1982. The revision consists of modifications to the State's existing VOC RACT regulations for refinery wastewater separators, Rule 3745-21-09(M), and vinyl coating lines Rule 3745-21-09(H), (Group I CTG source categories) and newly adopted RACT requirements for Group II CTG source categories: petroleum refinery fugitive emissions (leaks), pharmaceutical manufacture, rubber tire manufacture, surface coating of miscellaneous metal parts and products, graphic arts (printing), dry cleaning (perchloroethylene), gasoline tank trucks (leak prevention and vapor collections systems) and petroleum liquid storage (floating roof tanks). The regulations are embodied in Ohio Administrative Code as follows: Definitions Rule 3745-21-01, Attainment Dates and Compliance Time Schedule Rule 3745-21-04, Control of Emission of Organic Compounds From Stationary Sources Rule 3745-21-09, incorrectly printed as Rule 3474-21-09 in EPA's notice of proposed rulemaking (47 FR 15812), and Compliance Test Methods and Procedures Rule 3745-21-10.

On April 13, 1982, EPA proposed for public comment rulemaking approving Ohio's submittal (47 FR 15812). The reader is referred to the notice of proposed rulemaking for details.

EPA received one comment from industry on the proposal. The commenter submitted technical information pertaining to rule number 3745-21-09 (AA), perchloroethylene dry cleaning facilities. The commenter claims that requiring carbon adsorption is technically unachievable and economically unreasonable and believes that EPA should disapprove the State regulation.

Response

The States are free to choose the mix of controls, including emission limitations that represent reasonably available control technology, necessary to attain and maintain the standards, *Train* v. *NRDC, Inc.* 421 US 60 (1975). In doing so, States may consider technological and economic feasibility. Once the State chooses its mix of controls, EPA cannot disapprove that mix for reasons of economic and technological feasibility, *Union Electric* v. *USEPA*, 96 S. Ct. 2518 (1976). Carbon adsorption is a common method for control of emissions from perchloroethylene dry cleaning facilities. Any source that believes that economic and technical conditions preclude compliance with the Ohio rule may request a variance from the rule under Ohio provision 3745-35-03.

After reviewing the submitted comment, the EPA has determined that the proposed approval of rule number 3745-21-09 (AA) is appropriate. Therefore, EPA approves the Ohio rules controlling VOC emissions, as described at 47 FR 15812, and incorporates the rules into the Ohio SIP. Furthermore, final approval of Rule 3745-21-09(M) satisfies the EPA conditional approval published on October 31, 1980 (45 FR 72138) affecting refinery wastewater separators. Today's action does not address the other conditions of approval published as 45 FR 72138 pertaining to the Ohio SIP to control ozone.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: June 22, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Subpart KK—Ohio

1. Section 52.1870 is amended by adding paragraph (c)(43) as follows:

§ 52.1870 [Amended]

* * * * *

(c) Identification of plan.

* * * * *

(43) On February 12, 1981, the State of Ohio submitted adopted amended Ohio Administrative Code (OAC) Rules 3745-

21–01, 04, 09 and 10, Emission Standards and Technology Requirements for Certain Sources of Volatile Organic Compounds Emissions. The following portions of these rules were withdrawn by the State of Ohio on March 27, 1981; OAC Rule 3745–21–04(C)(19)(a) and 3745–21–09(R)(3)(a). On January 8, 1982, the State of Ohio submitted additional materials pertaining to OAC Rules 3745–21–09 (H), (U) and (X).

§ 52.1873 [Amended]

2. 40 CFR 52.1873 is amended as follows:

40 CFR 52.1873 is amended by removing the date "July 1, 1980" and inserting, in its place, the date "January 1, 1981".

§ 52.1885 [Amended]

3. 40 CFR 52.1885 is amended as follows:

Paragraph (b)(1) is removed and reserved.

[FR Doc. 82-17586 Filed 6-28-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 62

[A-9-FRL-2141-4]

California; Plans for the Control of Designated Pollutants from Existing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On July 2 and 23, 1980, EPA published notices of proposed rulemaking concerning California's plans for controlling fluoride emissions from existing phosphate fertilizer plants, and for controlling sulfuric acid mist emissions from existing sulfuric acid production units. Today's notice takes final action under Section 111(d) of the Clean Air Act to approve the California plans.

EFFECTIVE DATE: This action is effective July 29, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974–8058.

ADDRESS: A copy of the California State plans is located at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

SUPPLEMENTARY INFORMATION:

Background

On February 26 and July 16, 1979 and April 7, 1980, the State of California submitted portions of plans for controlling fluoride emissions from existing phosphate fertilizer plants and for controlling sulfuric acid mist emissions from existing sulfuric acid production units. These submittals were intended to meet certain requirements of Section 111(d) of the Clean Air Act. These plans consist of six local regulations, three covering each designated pollutant, and a citation of the State's legal authority to carry out these rules. On July 2 and 23, 1980 (40 FR 44970 and 49115), EPA published notices proposing to approve these portions of the plans as well as identifying portions of the plans which had not yet been submitted, but are required under Section 111(d). These notices should be used as references in reviewing today's notice.

EPA proposed approval of these plans except for the following:

- An emission inventory of designated facilities
- A list of witnesses who appeared at each public hearing
- Provisions requiring sources to maintain records on the nature and amount of emissions
- Provisions for sources to periodically report emission information to the State
- Provisions for correlating any compliance information obtained by the State applicable emission standards and making this data available to the public
- The Fresno County fluoride standard is less stringent than EPA's recommended standard
- Fresno and San Joaquin County have adopted rules for only one of the six source categories contained in the guideline documents; certification that no other sources exist is needed
- South Coast Air Quality Management District's rule definition for sulfuric acid mist needs clarification
- Bay Area Air Quality Management District's Regulation 2 lacks clarification on their emission limitation for sulfuric acid mist

Plan Supplements

On September 23 and October 31, 1980, and February 5, May 5, and July 6, 1981, the State submitted amendments to the sulfuric acid mist and fluoride emissions plans. The plans have been amended by providing information correcting all deficiencies noted by EPA.

In addition, EPA received District endorsed letters and technical reports from the Occidental Chemical Co. and Valley Nitrogen Producers Inc., dated September 9 and October 8, 1980 respectively, requesting that EPA review and approve a relaxation of rule 424, *Fluorides Phosphoric Acid Plants.* The State submitted letters to EPA on February 5 and July 6, 1981 supporting the Districts' proposal. The proposed rule amendment would change the flouride emission limit from .02 pounds per ton (lb/ton) to .10 per ton.

EPA reviewed the Occidental and Valley Nitrogen reports and, based on the technical and economic arguments presented, EPA has determined that the less stringent fluoride emission rate of 0.10 lb/ton is justified. This is because the facilities within the Districts differ significantly from the EPA model plant, which served as the basis for the standard. Since adequate justification has been provided, EPA is today approving amended Rule 424 for Fresno and San Joaquin Counties.

EPA's detailed evaluation of this supplemental material is available for public inspection at the Region 9 Office and EPA Library in Washington, D.C.

EPA Actions

EPA is taking final action under Section 111(d) of the Clean Air Act to approve the California plans to control sulfuric acid mist emissions from existing sulfuric acid production units, and to control fluoride emissions from existing phosphate fertilizer plants as proposed in the Federal Register notices and as amended by subsequent revisions. No comments were received on the proposal notices.

EPA finds that "good cause" exists to approve the above supplements to the California § 111(d) plan without prior proposal because the revisions are not controversial and merely correct deficiencies previously noted (see Administrative Procedure Act).

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under the Clean Air Act any petitions for judicial review of this notice must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

(Section 111 of the Clean Air Act, as amended (142 U.S.C. 74111))

List of Subjects in 40 CFR Part 62

Air pollution control aluminum, flouride, sulfur, administrative practice and procedure, intergovernmental relations, reporting requirements.

Dated: June 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Accordingly Subpart F is added to read as follows:

Subpart F—Plan for the Control of Designated Pollutants From Existing Facilities (§ 111(d) Plan)

Sec.

62.1100 Identification of plan.

Fluoride Emissions From Existing Phosphate Fertilizer Plants

62.1101 Identification of sources.

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Units

62.1102 Identification of sources.

Fluoride Emissions From Primary Aluminum Reduction Plants

62.1103 Identification of plan—negative declaration.

62.1104–62.1123 [Reserved]

Authority: Section 111 of the Clean Air Act, as amended (42 U.S.C. 74111).

§ 62.1100 Identification of plan.

(a) State of California Designated Facility Plan (§ 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of fluoride emissions from existing facilities at phosphate fertilizer plants, submitted on February 26 and July 16, 1979 and April 7, 1980 having been adopted by the Districts on December 1 and 6, 1979 and January 9, 1979. A letter clarifying the plan was submitted on March 27, 1979. Revisions to the plan were submitted on September 23, 1980 and February 5 and July 6, 1981.

(2) Control of sulfuric acid mist from existing facilities at sulfuric acid production units, submitted on February 26, July 16, and September 7, 1979 and April 7, 1980, having been adopted by the Districts on December 1 and 6, 1978 and January 9, 1979. Revisions to the plan were submitted on October 31, 1980, February 18, and May 1, 1981.

(c) Designated facilities: The plans apply to existing facilities in the following categories of sources:

(1) Existing phosphate fertilizer plants

(2) Existing sulfuric acid production units

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.1101 Identification of sources.

The plan applies to existing facilities at the following phosphate fertilizer plants:

(a) Occidental Chemical Company in San Joaquin County

(b) Simplot Company in Kings County

(c) Valley Nitrogen Products, Inc., in Fresno County

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Production Units

§ 62.1102 Identification of sources.

The plan applies to existing facilities at the following sulfuric acid production units:

(a) Allied Chemical Corporation in Alameda County

(b) Monsanto Company in Alameda County

(c) Occidental Chemical Company in Fresno County

(d) Stauffer Chemical Company in Alameda County

(e) Valley Nitrogen Products, Inc. in Kern County

Fluoride Emissions From Primary Aluminum Reduction Plants

§ 62.1103 Identification of plan—negative declaration

§§ 62.1104–1123 [Reserved]

[FR Doc. 82-17588 Filed 6-28-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-9-FRL 2141-5]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On November 12, 1981, EPA invited comments on California's attainment status designations and proposed action on six California Air Resources Board (ARB) redesignation requests. This is the first in a series of final actions that respond to the comments EPA received concerning the November 12 proposal.

In this notice, EPA confirms certain designations in California initially made on March 3, 1978, reduces the size of the carbon monoxide (CO) nonattainment area in Sacramento County, and finalizes action on the six ARB redesignation requests.

DATE: This action is effective July 29, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Air Programs Branch (A–2–3), Air Management Division, EPA Region 9, 215 Fremont Street, San Francisco, CA 94105, Tele: (415) 974–8061.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, under Paragraph 107(d)(2) of the Clean Air Act, as amended, EPA promulgated attainment status designations for all states (43 FR 8962). The Western Oil and Gas Association (WOGA) and others challenged EPA's designations for California in the Ninth Circuit Court of Appeals. The suit alleged that EPA had violated the notice and comment requirements of the Administrative Procedure Act by failing to provide an opportunity to comment prior to taking final action on the designations. The Court ruled that the present designations would be allowed to stand temporarily but ordered EPA to reconsider its original designations for California, after first providing public notice and opportunity for comments.

On November 12, 1981, EPA published a notice of proposed rulemaking inviting comments on all of California's designations and proposed action on six ARB redesignation requests. Because of strong public interest, EPA extended the public comment period to March 17, 1982 (extended to May 17, 1982 for the Monterey District). During this time EPA received a total of 41 comments from industry, environmental groups, local air pollution control districts, and the ARB. These comments included general policy issues, recommended boundary changes, and discussion of the six proposed actions.

To properly address such a diverse and complex set of comments, EPA has elected to issue a series of three rulemaking actions. Each action will focus on related subject areas and issues. This first notice establishes those areas where EPA has received no comments, takes final action on the six ARB redesignation requests, and in response to a comment, reduces the CO nonattainment area in Sacramento County. In the second notice, EPA plans to reaffirm those designations that it believes are correct, despite challenges from the comments. The third notice will revise those designations that EPA deems appropriate based on all available evidence.

Areas That Received No Comments

The list shown below identifies those areas and their respective designations that received no comments during the public response period. EPA is retaining the existing designations for these areas at this time.

Area	Pollutant(s)
North Coast Air Basin:	
Del Norte County	All.[1]
Humboldt County	All.
Mendocino County	CO, NO_2, SO_2, O_3.
Sonoma County (North Coast Air Basin Portion).	All.
Trinity County	All.
Lake County Air Basin	All.
San Francisco Bay Area Air Basin	NO_2, SO_2, TSP.
North Central Coast Air Basin	CO, NO_2, SO_2, TSP.
South Central Coast Air Basin	NO_2, SO_2.
South Coast Air Basin	All.
San Diego Air Basin	All.
San Joaquin Valley Air Basin:	
Fresno County	NO_2, SO_2.
Kern County (San Joaquin Valley Air Basin Portion).	NO_2, SO_2.
Kings County	NO_2, SO_2.
Madera County	All.
Merced County	All.
San Joaquin County	NO_2, O_3, SO_2.
Stanislaus County	NO_2, O_3, SO_2, TSP.
Tulare County	All.
Sacramento Valley Air Basin:	
Sacramento County	NO_2, SO_2, TSP.
Solano County (Sacramento Valley Air Basin Portion).	NO_2, SO_2, TSP.
Yolo County	NO_2, SO_2, TSP.
Butte County	NO_2, SO_2, TSP.
Colusa County	All.
Glenn County	All.
Shasta County (Sacramento Valley Air Basin Portion).	All.
Sutter County	NO_2, SO_2, TSP.
Tehama County	All.
Yuba County	NO_2, SO_2, TSP.
Great Basin Valleys Air Basin	All.
Northeast Plateau Air Basin	All.
Mountain Counties Air Basin	All.
Southeast Desert Air Basin:	
Kern County (Southeast Desert Air Basin Portion).	All.
Imperial County	All.
Los Angeles County (Southeast Desert Air Basin Portion).	CO, NO_2, SO_2, O_3.
Riverside County (Southeast Desert Air Quality Maintenance Area Portion).	CO, NO_2, SO_2, O_3.
San Bernardino County (Southeast Desert Air Quality Maintenance Area Portion).	CO[2], NO_2, SO_2, O_3.
Riverside County (non-AQMA Portion).	All.
San Bernardino County (non-AQMA Portion).	All.
Lake Tahoe Air Basin	All.

[1] All—Carbon Monoxide (CO), Nitrogen Dioxide (NO_2), Sulfur Oxides (SO_2), Total Suspended Particulate (TSP), and Ozone (O_3).

[2] Through public comment EPA learned that the designation listing for CO in the proposed notice and its technical support document was incorrect. San Bernardino County is attainment for CO.

Final Actions on Redesignation Requests

In the November 12 notice, EPA proposed action on six ARB redesignation requests. During the extended public comment period, EPA received comments on all of the proposed actions. These comments were considered along with all other pertinent evidence by EPA. Please refer to the Comment Technical Support Document (available at the Region 9 Office and EPA Headquarters in Washington, D.C.) for details on the evaluations.

In certain instances, the proposed actions were altered in response to the new information: Mendocino County, the Southeast Desert Air Quality Maintenance Area (SEDAQMA) portion of San Bernardino County, and the Southeast Desert Air Basin (SEDAB) portion of Los Angeles County. Based on revised evaluations, EPA is finalizing action on the six redesignation requests as follows:

(1) Revise the designation status of the SEDAQMA portion of Riverside County from nonattainment to unclassifiable for TSP.

(2) Reduce the nonattainment area for TSP from the entire SEDAQMA portion of San Bernardino County to a smaller area surrounding Victorville.

(3) Reduce the nonattainment area for TSP from the entire SEDAB portion of Los Angeles County to a smaller area including the City of Lancaster and the community of Quartz Hill.

(4) Revise the designation status of Mendocino County from nonattainment to attainment for TSP.

(5) Revise the designation status of northern Ventura County from unclassifiable to attainment for TSP.

(6) Revise the designation status of northern Ventura County from nonattainment for oxidant to attainment for ozone.

Sacramento County Carbon Monoxide Redesignation

On March 3, 1978, EPA designated Sacramento County nonattainment for CO because of measured violations of the 8-hour standard. As a result of the November 12 notice, EPA received comments recommending that the nonattainment area be reduced from the entire county to a smaller area. The comments included a modeling study that described the area where violations of the CO standards could be expected. The study entitled, "Technical Support Document for Revision of Carbon Monoxide Nonattainment Area for Sacramento County, California," was prepared by Environmental Research & Technology, Incorporated. EPA evaluated the study and found it to be accurate, complete and consistent with EPA policy. Based on the study and the comments, EPA is shrinking the nonattainment area to include only those portions of the City of Sacramento and adjacent suburbs where CO violations have been measured or modeled. The remainder of the County, outside this area, is redesignated to attainment.

Administration

As a result of the actions described above, the requirements contained in Title I, Part D (Plan Requirements for Nonattainment Areas) of the Clean Air Act, as amended, no longer apply to the areas redesignated to attainment or unclassified for their respective pollutants.

Under the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate district by August 30, 1982. This action may not be challenged later in proceedings to enforce its requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

(Secs. 107(d) and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7407(d) and 7601(a)))

List of Subjects in 40 CFR Part 81

Environmental Protection Agency, Air Pollution Control, National Parks, Wilderness Areas.

Dated: June 22, 1982.

Anne M. Gorsuch,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designation

1. In § 81.305 California, the attainment status designation tables are amended as follows:

A. The California—TSP table is amended as follows:

(1) In the North Coast Air Basin, the designation of Mendocino County is amended.

(2) In the South Central Coast Air Basin, the entries for Ventura County are amended.

(3) In the Southeast Desert Air Basin, entries for Los Angeles County (S.E. Desert Air Basin portion), Riverside County (S.E. Desert AQMA portion), and San Bernardino County (S.E. Desert AQMA portion) are amended.

B. The California—Ozone table is amended as follows:

(1) In the South Central Coast Air Basin, entries for Ventura County are amended.

C. The California—CO table is amended as follows:

(1) In the Sacramento Valley Air Basin, the entry for Sacramento County is amended.

The amended portions of the tables for § 81.305 California read as set forth below:

§ 81.305 California.

CALIFORNIA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
North Coast Air Basin:				
Mendocino County				X.
South Central Coast Air Basin:				
Ventura County:				
North of Los Padres National Forest southern boundary				X.
South of Los Padres National Forest southern boundary	X			
Southeast Desert Air Basin:				
Los Angeles County (Southeast Desert Air Basin portion):				
Lancaster Quartz Hill Area	X			
Non-Lancaster Quartz Hill Area			X	
Riverside County (S.E. Desert AQMA portion)			X	
San Bernardino County (S.E. Desert AQMA portion):				
Victorville Area	X			
Non-Victorville Area			X	

CALIFORNIA—OZONE

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
South Central Coast Air Basin:		
Ventura County:		
North of Los Padres National Forest southern boundary.		X.
South of Los Padres National Forest southern boundary.	X	

CALIFORNIA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
Sacramento Valley Air Basin (SVAB):		
Sacramento County:		
Sacramento Area	X	
Non-Sacramento Area		X.

[FR Doc 82-17533 Filed 6-28-82; 8:45 am]

BILLING CODE 6580-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 82-273]

Commission Organization; Amendment of the Commission's Rules To Reflect a Reorganization of the Private Radio Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate the reorganization of the Private Radio Bureau. This action is necessary to remove excess levels of supervision. It consolidates three existing divisions within the Private Radio Bureau into two divisions.

EFFECTIVE DATE: June 8, 1982.

ADDRESS: 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Annie O'Donoghue, Office of Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Adopted: April 5, 1982.
Released: June 15, 1982.

In the matter of Amendment of Part 0 of the Commission's Rules to reflect a reorganization of the Private Radio Bureau; order.

1. The Commission has before it for consideration proposed changes in the organization of the Private Radio Bureau. Implementation of the proposed changes would require amendments to § 0.132 of the Commission's Rules and Regulations.

2. To promote operational efficiency, the Commission is hereby approving the consolidation of three existing divisions within the Private Radio Bureau into two divisions, to be known as the Land Mobile and Microwave Division and the Special Services Division. The Licensing Division will remain the same. The Nation-wide Land Mobile Task Force and the Associate Bureau Chief positions will be abolished. The new structure will improve the operating efficiency of the Bureau by removing excess levels of supervision and eliminating conflicts between existing divisions. The reorganization will also be reflective of the tremendous growth in the land mobile communication industry in comparison to the aviation, marine, personal and other services handled by the Bureau. Part 0 of the Rules and Regulations is being amended to reflect these changes.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act are therefore inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, IT IS ORDERED, effective June 8, 1982 that Part 0 of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—COMMISSION ORGANIZATION

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.132 is amended to read:

§ 0.132 Units in the Office.

The Private Radio Bureau is comprised of the following units:

(a) Office of the Bureau Chief;

(b) Administration and Management Staff;

(c) Planning Staff;

(d) Land Mobile and Microwave Division;
(e) Licensing Division; and
(f) Special Services Division.

[FR Doc. 82-17571 Filed 6-28-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 0

[FCC 82-272]

Commission Organization; Amendment of the Commission's Rules To Reflect a Reorganization of the Office of Science and Technology

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the Commission's Rules to incorporate the reorganization of the Office of Science and Technology. The reorganization was necessary to add some refinements to the organizational structure and functions that resulted from the 1980 reorganization, based on two years of operating experience and advancements in technology. This reorganization will more accurately reflect the work of some units.

EFFECTIVE DATE: June 8, 1982.

ADDRESS: 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Annie O'Donoghue, Office of Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Adopted: April 5, 1982.

Released: June 15, 1982.

In the matter of Amendment of Part O of the Commission's Rules to reflect a reorganization of the Office of Science and Technology; order.

1. The Commission has before it for consideration proposed changes in the organization of the Office of Science and Technology. Implementation of the proposed changes would require amendments to § 0.32 of the Commission's Rules and Regulations.

2. To more accurately reflect the work of some OST units, the Commission is hereby approving the name change of the Research and Analysis Division to the Technical Analysis Division (TAD). The TAD will have two new branches; the Mathematical Modeling Branch (formerly the Spectrum Analysis Branch of the Spectrum Management Division) and the Technical Planning Branch (formerly the Technical Planning Staff of the immediate Office of Chief Scientist). To reflect their functions more accurately, the names of two of the three existing branches in the TAD will be changed. The Research Branch will become the Experimental Engineering Branch and the Propagation Analysis Branch will become the Propagation and Terrestrial Systems Branch. In this reorganization no material changes have been made to the Satellite Systems Branch of the TAD, the Spectrum Management Division (other than the transfer of the Spectrum Analysis Branch), the Authorization and Standards Division or the International Staff. The Deputy Chief positions for Policy and for Technology have been replaced with one Deputy Chief Scientist position. These changes add some refinements to the organizational structure and functions that resulted from the 1980 reorganization, based on two years of operating experience and advancements in technology. Part O of the Rules and Regulations is being amended to reflect these changes.

3. The amendments adopted herein pertain to agency organization. The prior notice procedure and effective date provisions of Section 4 of the Administrative Procedure Act are, therefore, inapplicable. Authority for the amendments adopted herein is contained in sections 4(i) and 5(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, IT IS ORDERED, effective June 8, 1982 that Part O of the Rules and Regulations is amended as set forth in the Appendix hereto.

(Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART O—COMMISSION ORGANIZATION

Part O of Chapter I of title 47 of the Code of Federal Regulations is hereby amended as indicated below.

1. Section 0.32 is amended to read:

§ 0.32 Units in the Office.

The Office of Science and Technology is comprised of the following units:
(a) Immediate Office of the Chief Scientist;
(b) International Staff;
(c) Policy and Management Staff;
(d) Authorization and Standards Division;
(e) Spectrum Management Division; and
(f) Technical Analysis Division.

[FR Doc. 82-17572 Filed 6-28-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 81-697; FCC 82-259]

Amateur Radio Service; Amendment of the Commission's Rules Regarding the ERP Limitations for Amateur Radio Stations in Repeater Operation

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: The Commission is relaxing effective radiated power (ERP) restrictions for amateur radio stations in repeater operation on frequencies between 52 and 54 MHz. A study indicates that the range of operations in this band (particularly mobile operations) is curtailed due to ambient electrical noise. The revised rules will increase ERP limits and thus provide greater range. The ERP limitations will also be extended to repeater operations on frequencies between 29.5 and 29.7 MHz to help prevent co-channel interference between stations engaging in such operation.

DATES: Effective July 29, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Lett, Private Radio Bureau, Special Services Division, 202 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Radio:

Adopted: June 10, 1982.

Released: June 22, 1982.

In the matter of amending the ERP Limitations for Amateur Radio Stations in Repeater Operation; PR Docket No. 81-697, RM-2419; report and order (proceeding terminated).

1. On September 30, 1981 the Commission adopted a Notice of Proposed Rule Making in the above-captioned matter proposing to relax effective radiated power (ERP) limitations for amateur radio stations in repeater operation on frequencies between 52 and 54 MHz (in the 6 meter band).[1] That Notice was in response to a

[1] 46 FR 50991, October 16, 1981.

petition for rule making, RM-2419, submitted by Gordon Schlesinger, which requests that such operation be limited to a range of 250 to 1000 watts ERP, as a function of antenna height. Currently, such operations are limited to a range of 25 to 100 watts, depending on antenna height. In the same Notice the Commission also proposed, on its own initiative, to extend the ERP limitations to repeater operations on the frequencies between 29.5 and 29.7 MHz (in the 10 meter band).

2. In its Notice of Proposed Rule Making, the Commission specifically proposed to amend the ERP limitations so that all repeater operations on frequencies between 29.5 and 420 MHz would be limited to an ERP of between 100 and 800 watts. It also proposed to delete from the table in the subject paragraph [2] the 50 foot height specification and to convert the remaining height specifications to metric units. With regard to relaxation of the ERP limits between 52 and 54 MHz the Commission in its Notice stated, "* * * we find that some adjustment is necessary in the ERP limitations in order to provide a reasonable community coverage area during mobile station operations." With regard to including the frequencies between 29.5 and 29.7 MHz in the ERP limitations the Commission stated that "* * * the increasing popularity of 10 meter repeaters has created the potential for serious co-channel interference problems * * *" and that "* * * present ERP limitations have apparently been instrumental in avoiding such interference among other repeater operations * * *." Other alterations in the table were proposed "* * * for the sake of avoiding unnecessary confusion and complexity."

3. Six comments were filed regarding the Commission's Notice.[3] One filing, the comments of Richard Golden, contends that there should be no ERP limits for repeater operations in the 6 and 10 meter bands because such rules limit experimentation. That comment also suggests that the Commission's decision to incorporate ERP limitations in the rules for repeater operations is based on speculative conclusions. The Commission, however, finds that comment unpersuasive on both points. No evidence is offered as to why repeater operations with higher ERP than that proposed are necessary to carry out the forms of experimentation cited by the comment. Furthermore, the desirability of the ERP limits has been proven by the marked reduction in co-channel interference complaints to the Commission since their inception.

4. Comments of the Southern California Repeater and Remote Base Association (SCRRBA) suggests that ERP limits for repeater operations in the 6 and 10 meter frequency bands should be somewhat higher than those for such operations in the 2 meter and 1¼ meter bands (on the frequencies 144.5–145.5 MHz, 146.0–148.0 MHz and 220.5–225.0 MHz). That comment contends that "* * * reception of similar signals from repeaters operating above 144.5 MHz is not affected by man-made noise to any substantial degree compared to 29 and 52 MHz reception." While the Commission agrees that this statement is true, it is precisely the fact that signals from a 29 or 52 MHz repeater will not be similar to those from a 144.5 MHz repeater at the same location that continues to demonstrate that equal ERP limits for repeater operations between 29.5 and 420 MHz are appropriate. The advantage gained by 144.5 MHz and higher frequency operations not encountering significant man-made noise is offset in many respects by the greater path losses, and consequent weaker signal strengths, that occur at those frequencies. The Commission accordingly concludes that the limits proposed by the Notice in this proceeding are reasonable in this respect.

5. The SCRRBA and one other commenter, the Los Angeles Repeater Association, also claim that the Appendix of the Commission's Notice setting forth the proposed rules contained an error in the transcription of certain figures. In the text of its Notice, the Commission indicated that ERP limits for repeater operations above 54 MHz would be unchanged except for the elimination of the 50 foot height specification and the conversion of the other height specifications to metric units. Accordingly, the ERP limitations table (§ 97.67(c)), as described in the Appendix of the Notice, contained an entry of "100 watts" as the limit on ERP for repeater operations on frequencies between 29.5 and 420 MHz with an antenna height above average terrain greater than 320 meters (1,050 feet). The two commenters claim that this entry should be "200 watts" in keeping with the Commission's action in Docket 21033.[4]

6. While it is true that the Appendix of the Report and Order in Docket 21033 specified 200 watts for the subject operations, it is clear from the text of that same document that the 200 watt specification resulted from a typographical error. The Commission stated in the text, "We are also not taking any action at this time on changing repeater ERP limits. Any action in this area will be done in a separate rulemaking proceeding." The typographical error in the ERP table was since corrected by a Commission Order editorially amending its action in Docket 21033,[5] and hence the specification in the Notice of this proceeding was correct.

7. The remaining comments accept the premises of the Commission's Notice and support its proposal. ERP limits should be relaxed for repeater operations between 52 and 54 MHz in order to correct for the high incidence of man-made noise encountered by mobile stations attempting to communicate with them. The comments indicated that amateur operators are sensitive to problems of television interference (TVI) which may occasionally arise because of this increase in maximum authorized power and concur with the Commission's statement that it can "* * * expect for amateur operators to continue to choose repeater operating frequencies judiciously and to cooperate in resolving TVI complaints." Additionally, ERP limits for repeater operations between 29.5 and 29.7 MHz will help alleviate the potential for serious detrimental co-channel interference among these operations. The comments also support the intended conversion of the ERP limitations table to metric units and the elimination of the 50 foot height specification. Consequently, the Commission is

[2] Rule § 97.67 (Maximum authorized power), paragraph (c), which sets forth limitations on maximum ERP for amateur radio stations in repeater operation. The various limits are set forth in tabular form.

[3] Comments were filed by the following: Richard A. Golden, Gary David Gray, the American Radio Relay League, the Southern California Repeater and Remote Base Association, The Middle Atlantic FM and Repeater Council, and the Los Angeles Repeater Association.

[4] Report and Order in Docket 21033, 42 FR 52418, September 30, 1977.

[5] 42 FR 57690, November 4, 1977.

adopting final rules in this proceeding identical to those set forth in the Notice of Proposed Rule Making.

8. Accordingly, it is ordered, that effective July 29, 1982 Part 97 of the Commission's Rules and Regulations, 47 CFR Part 97, is amended as set forth in the attached Appendix. It is further ordered that to the extent specified herein, RM-2419 is granted, and in all other respects it is denied. It is further ordered that this proceeding is terminated. This action is taken pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Further information on this matter may be obtained by contacting: Steve Lett, (202) 632-7597, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 97—AMATEUR RADIO SERVICE

Section 97.67, paragraph (c) of the Commission's Rules and Regulations, 47 CFR 97.67(c), is amended to read as follows:

§ 97.67 Maximum authorized power.

* * * * *

(c) Within the limitations of paragraphs (a) and (b) of this section, the effective radiated power of an amateur radio station in repeater operation shall not exceed the power specified for the antenna heights above average terrain given in the following table:

Antenna height above average terrain in meters	Maximum effective radiated power for frequency bands above—		
	29.5 MHz	420 MHz	1,215 MHz
Below 32 (105 feet).	800 watts	Paragraphs (a) and (b).	Paragraphs (a) and (b)
32 to 160 (105 to 525 feet).	400 watts	800 watts	Do.
160 to 320 (525 to 1,050 feet).	200 watts	800 watts	Do.
Above 320 (1,050 feet).	100 watts	400 watts	Do.

* * * * *

[FR Doc. 82-17873 Filed 6-28-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 2625-114]

50 CFR Part 661

Ocean Salmon Fisheries Off the Coasts of California, Oregon, and Washington

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule to implement the approved portion of the 1982 amendment to the fishery management plan for the ocean salmon fisheries in the fishery conservation zone off the coasts of Washington, Oregon, and California is in effect through June 27, 1982. NOAA extends this rule for an additional 45 days. The 1982 amendment and implementing regulations are intended to prevent overfishing, to apportion equitably the ocean harvest between commercial and recreational fisheries, to allow more salmon to survive the ocean fisheries and reach the various inside fisheries, to meet the U.S. obligations to treaty Indian fisheries, and to achieve spawning escapement requirements.

DATES: Interim rule is effective on June 28, 1982, and remains effective through August 11, 1982.

FOR FURTHER INFORMATION CONTACT: H.A. Larkins (Regional Director, Northwest Region, NMFS), 206-527-6150.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council amended the fishery management plan (FMP) for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California in 1982 to improve management of the salmon fisheries. This FMP amendment as it applies to the commercial salmon fishery north of Cape Blanco, Oregon, and to the recreational fisheries coastwide was approved by the Assistant Administrator for Fisheries (Assistant Administrator), NOAA, on May 6, 1982. The portion of the Council's recommended FMP amendment pertaining to seasons, gear restrictions, and chinook quotas for the commercial fisheries south of Cape Blanco, Oregon, was disapproved by the Assistant Administrator and managment of the commercial fisheries south of Cape Blanco is addressed separately (see 47 FR 24134, June 3, 1982).

Interim emergency regulation were published at 47 FR 21256 (May 18, 1982), under provisions of section 305(e) of the Magnuson Fishery Conservation and Mangement Act, to implement the approved portion of the FMP amendment. A detailed discussion of the background, issues, and mangement measures which pertain to the approved portion of the FMP amendment and the classification of the rulemaking, is set forth in the preamble to the interim emergency rule. These emergency rules were to be effective during the period May 14, 1982, through June 27, 1982, and the preamble stated that the emergency rule may be extended for a second 45-day period.

This action extends the interim emergency regulation for a second 45-day period, from June 28 through August 11, 1982, to continue mangement of the fisheries until final regulations can be promulgated.

The NOAA Administrator determined that the rulemaking to implement the approved portion of the amendment is not major and the resource emergency which justifies promulgation of emergency regulations under section 305(e) of the Magnuson Act also constitutes an emergency under section 8(a)(1) of E.O. 12291.

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: June 25, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-17885 Filed 6-25-82; 4:54 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

Foreign Fishing and Groundfish of the Gulf of Alaska

Correction

In FR Doc. 82-14671, appearing at page 23936, in the issue of Wednesday, June 2, 1982, make the following change:

On page 23939, in the table the TALFF entry for Squid, now reading "3,580" should read "3,850".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 47, No. 125
Tuesday, June 29, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Meat Alternate Equivalencies

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would revise the minumum required equivalencies (portion sizes) of certain meat alternates (i.e. cooked dry beans or peas and eggs) in the National School Lunch Program to relieve problems encountered by schools and industry in meeting the larger equivalencies. This proposal would reduce costs and plate waste while maintaining the nutritional goal of one-third of the Recommended Dietary Allowances (RDA).

DATE: Date for comments: To be assured of consideration, comments must be postmarked on or before August 30, 1982.

ADDRESSES: Comments should be sent to Cynthia H. Ford, Branch Chief, Technical Assistance Branch, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written submissions will be available for public viewing in Room 608, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Ford at the address listed above, or call (703) 756–3556.

SUPPLEMENTARY INFORMATION:

Classification: This proposed action has been reviewed under Executive Order 12291 and has been classified *not major.* We anticipate that this proposal will not have an impact on the economy of more than $100 million. The proposal will decrease costs by providing School Food Authorities and institutions more flexibility in administering the National School Lunch Program. No major increase in costs or prices for program participants, individual industries, Federal agencies, or geographic regions is anticipated. This proposal is not expected to have significant adverse effect on competion, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets.

The proposed rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. Moreover, this regulation does not contain reporting or recordkeeping requirements under the provisions of the Paperwork Reduction Act of 1980.

Background: As required by the National School Lunch Act, the Department has established minimum nutritional requirements for lunches served in the National School Lunch Program (NSLP). One of the four lunch components is the meat or meat alternate component. Schools may serve cooked dry beans or peas and eggs to satisfy this meat/meat alternate component.

Prior to May 1980, one-half cup of cooked dry beans or peas, one large egg, or two ounces (one-fourth cup) of cottage cheese was considered equal to a two ounce portion of cooked lean meat. On May 16, 1980, a final rule was published (45 FR 32502) which increased certain meat alternate equivalencies (portion sizes) to make them more comparable in protein content to meat and other meat alternates. As stated in the final rule, one-half cup of cooked dry beans or peas or one large egg was considered equivalent to one ounce of meat. Also in the final rule was an acknowledgement that in some areas of the country the increased equivalencies would be considered excessive. To address this concern the Department recommended that when a serving size of meat alternate was excessive, the local School Food Authority should reduce the quantity of the meat alternate served and supplement it with an additional meat or meat alternate.

In June 1980, the *Food Buying Guide for School Food Service,* PA–1257, was revised to incorporate the increased equivalencies as well as other regulatory changes, and to make two ounces of cottage cheese equivalent to one ounce of meat. The implementation date for the new meat alternate equivalencies was scheduled for July 1, 1980. However, because of anticipated administrative and operational hardships placed on schools using commercially prepared products, the Department permitted schools to apply for exemptions until their food supplier could alter manufacturing techniques. The exemptions were available until July 1, 1981. On July 17, 1981, the Department published a Notice (46 FR 37017) which extended the implementation date to July 1, 1982, to allow schools and manufacturers more time to reformulate recipes and products to meet the new equivalencies.

Program experience continues to highlight the difficulties in reformulating recipes and products. Furthermore, the recommendation to supplement meat alternates of excessive serving sizes with an additional meat or meat alternate is not always practical. This is especially true due to the increased number of schools implementing the offer-versus-serve provision. In these schools, the selection and service of meals is simplified when the entire meat/meat alternate component is contained in one menu item. Consequently, the Department is now reconsidering the issue of larger equivalencies for cooked dry beans or peas and eggs.

Proposal: To reduce costs and plate waste while maintaining the nutritional goal of one-third of the Recommended Dietary Allowances (RDA), and to relieve the problems encountered by schools and industry in meeting the larger equivalencies, the Department is proposing to return to the pre-May 1980 equivalencies for cooked dry beans or peas and eggs. Because no difficulties were reported with the cottage cheese equivalency, the Department is proposing that it remain as stated in the *Food Buying Guide for School Food Service* (i.e., two ounces are equivalent to one ounce of cooked lean meat). No regulatory change is necessary for Part 226 Child Care Food Program regulations because the equivalencies for cooked dry beans or peas and eggs were never revised.

The effect on the overall contribution of meals with the proposed return to pre-May 1980 equivalencies for cooked dry beans or peas and eggs will be insignificant for three reasons. First, the protein level of lunches containing one-half cup cooked dry beans or peas or an egg far exceeds the Program goal of one-third of the RDA. For example, a lunch which contains one-half cup cooked dry beans or peas or an egg as the meat/meat alternate component in addition to 8-ounces of milk, ¾ cup fruit/vegetables and one slice of bread provides 53 percent of the RDA for protein for Group IV children (9–11 years of age).

Second, one-half cup of cooked dry beans or peas contains larger amounts of vitamin B_6, iron, and magnesium than 2 ounces of other meat/meat alternates. These vitamins and minerals were found to be in shortest supply in lunches of NSLP participants in the Department's 1977–78 Nationwide Food Consumption Survey (NFCS).

Third, cooked dry beans or peas and eggs are served infrequently. Again based on information from the NFCS, out of 4767 NSLP lunches studied, 6242 meat and meat alternate items were reported consumed. Of these items, approximately 5 percent were cooked dried beans or peas and 0.1 percent were eggs.

Delay Implementation: In a separate **Federal Register** document to be published shortly, the Department will further delay the implementation date announced in the Notice published July 17, 1981, until comments from this proposal are analyzed and this rulemaking process is completed.

List of Subjects in 7 CFR Part 210

Food assistance programs, National School Lunch Program, Grant programs, Social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Part 210 National School Lunch Program regulations are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In § 210.10 the School Lunch Pattern table is proposed to be amended by revising the minimum and recommended quantities for a "large egg" and "cooked dry beans or peas" stated in the meat or meat alternative category as follows:

SCHOOL LUNCH PATTERN—APPROXIMATE PER LUNCH MINIMUMS

Components		Minimum quantities				Recommended quantities
		Group I, age 1–2 (preschool)	Group II, age 3–4 (preschool)	Group III, age 5–8 (K–3)	Group IV, age 9 and older (4–12)	Group V, 12 years and older (7–12)
Milk						
Meat or meat alternate (quantity of the edible portion as served).	large egg	½	½	½	1	1½
	cooked dry beans or peas	¼ cup	¼ cup	⅜ cup	½ cup	¾ cup
Vegetable or fruit.						
Bread or bread alternate.						

(Sec. 9, Pub. L. 79–396, 60 Stat. 223 (42 U.S.C. 1758(A)))

Dated: June 24, 1982.

Samuel J. Cornelius,

Administrator, Food and Nutrition Service.

[FR Doc. 82–17638 Filed 6–28–82; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF ENERGY

Office of the Secretary

10 CFR Part 477

[CAS-RM-80-513-A]

Emergency Energy Conservation

AGENCY: Office of the Secretary, DOE.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Department of Energy is withdrawing a proposal regarding Federal financial assistance for certain State emergency energy conservation planning efforts. The funding is not required by any Federal statute. The Department has reviewed the proposal, including actions which have been taken since its publication, and has determined that the Federal role which it contemplated is neither necessary nor appropriate.

DATES: Subpart G—Grants, which was proposed to be included in Part 477 of Title 10 of the Code of Federal Regulations, 46 FR 8255 (January 26, 1981), is withdrawn, effective today, June 29, 1982.

FOR FURTHER INFORMATION CONTACT: W. Lorn Harvey, Office of Energy Contingency Planning (Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness), Department of Energy, 1000 Independence Avenue, SW., Room GH–060, Washington, D.C. 20585, telephone (202) 252–2924. Christopher T. Smith, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B144, Washington, D.C. 20585, (202) 252–9510.

SUPPLEMENTARY INFORMATION: On January 19, 1981, 46 FR 8252 (January 26, 1981), the Department of Energy (the Department) proposed a Federal grant program which, subject to appropriations, would have assisted States to develop emergency energy conservation plans in accordance with the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8501 *et seq.*) (EECA or the Act). If used in an emergency, the Act would require the President to implement a complex regulatory response involving centralized direction and possibly centralized control over State and individual activities. Over the last year, the Department has re-evaluated the need for such a grant program in view of a substantially revised Federal energy emergency preparedness policy and other relevant factors.

This emergency preparedness policy places primary reliance on market mechanisms coupled with self-help programs such as the development of adequate private and Government petroleum stockpiles. This policy is based upon the use of the free market in allocating and pricing energy resources. Energy resources are best developed in an atmosphere free of counterproductive constraints and excessive Federal involvement. This type of climate

promotes vigorous domestic production and efficient energy use and allocates resources in the most cost-effective manner. The free market, unfettered by counterproductive government controls, reduces the likelihood of a severe shortage of any particular energy source. It can also be expected to stimulate increased levels of private petroleum stocks. The Administration is convinced (and past experience demonstrates) that this policy best serves the welfare and interests of the American people.

Setting the cornerstone for such an energy program, the President removed all remaining Federal price and allocation controls on domestic crude oil and petroleum products on January 28, 1981, 46 FR 9909 (January 30, 1981). In a related action, the Department has reduced the scope of the standby Federal emergency energy conservation plan which EECA requires, 47 FR 5688 (February 5, 1982).

In response to the proposal to establish this grant program, the Department received 20 written comments, mostly from representatives of State interests. The comments generally supported the proposed funding. Many commenters also addressed the formula which would be used to distribute funds to the States. A hearing on the proposal was held on February 11, 1981, but no witnesses appeared.

In reaching its conclusion to withdraw the proposal, the Department carefully considered these comments along with other relevant factors. As discussed above, the Department's view of the proper Federal role in emergency preparedness was important to its determination. The Department also took into account, however, such factors as the great demands on the Federal budget and the design of the EECA itself.

(Title II of the Emergency Energy Conservation Act of 1979, 42 U.S.C. 8501 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*)

In consideration of the foregoing and effective upon publication of this notice, Subpart G—Grants, which was proposed to be included in Part 477 of Title 10 of the Code of Federal Regulations and was issued on January 19, 1981, 46 FR 8255 (January 26, 1981), is withdrawn.

Issued in Washington, D.C., June 22, 1982.

James B. Edwards,

Secretary, Department of Energy.

[FR Doc. 82-17582 Filed 6-28-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 308

Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control; Rules of Practice and Procedures

AGENCY Federal Deposit Insurance Corporation.

ACTION: Proposed regulation

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is proposing to amend its regulations to delegate authority to its Board of Review, the Director of Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision and, where confirmed in writing, to the appropriate regional director or regional counsel, or both, to act on certain section 8 enforcement matters. The delegation would necessitate certain corrective amendments to Part 308, FDIC's Rules of Practice and Procedures, to correctly reflect the delegation. Authority would also be delegated to the Executive Secretary to act on certain procedural motions. Certain minor corrective amendments to Part 308 are also being proposed at the same time.

DATE: Comments on the proposal must be received on or before August 30, 1982.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, or delivered to Room 6108 at the same address between 9:00 A.M. and 5:00 P.M., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Arthur L. Beamon, Counsel, Legal Division, Federal Deposit Insurance Corporation, 550–17th Street, NW., Washington, D.C. 20429. (202) 389–4171.

SUPPLEMENTARY INFORMATION: Section 303.13(a) of FDIC's rules and regulations (12 CFR 303.13(a)) states that the Board of Directors does not delegate its authority except as provided in Part 303 of FDIC's rules and regulations, or in circumstances where prompt action is required to protect FDIC's interest or for operational flexibility and efficiency in litigation or liquidation matters or in payment of claims for deposit insurance. Thus, there is no alternative means of delegating general authority in the handling of enforcement proceedings.

The proposed amendments would not affect in any way the right of any bank to challenge charges brought under section 8 of the Federal Deposit Insurance Act in an administrative hearing.

The proposed amendments are rules of FDIC internal procedures and practice and do not impair procedural rights of parties or the availability of access to the Board of Directors for final decision of any enforcement matter. Although notice of proposed rulemaking and public comment are not required by the Administrative Procedure Act (5 U.S.C. 553), because of the importance of the functions being delegated FDIC felt the pubic should have the opportunity to comment. Therefore, FDIC is publishing the proposal for 60 days public comment in accordance with FDIC's statement of policy on "Development and Review of FDIC Rules and Regulations" 44 FR 31007 (1981).

The requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are inapplicable because the amendments do not impose recordkeeping or reporting requirements on any member of the public.

The FDIC certifies under 5 U.S.C. 605 *et seq.* that these amendments, if adopted will not have a significant economic impact on a substantial number of small entities for the following reasons:

1. The proposed amendments do not affect any substantive legal right or duty of any small entity.

2. The proposed amendments impose no recordkeeping or reporting burden on any small entity.

3. The proposed amendments will streamline existing procedures and expedite processing of enforcement proceedings.

List of Subjects in 12 CFR

Part 303

Administrative practice and procedure; Banks, banking; Federal Deposit Insurance Corporation; Insurance; Authority delegations.

Part 308

Administrative practice and procedure; Federal Deposit Insurance Corporation; Penalties; Cease-and-desist orders; Directors, officers, employees; Termination of insurance.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

Part 303 of chapter III of title 12 of the *Code of Federal Regulations* is proposed to be amended as follows:

1. The authority citation for Part 303 reads as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. No. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. No. 86–463, 74 Stat. 129; sec. 2, Pub. L. No. 87–827, 76 Stat. 953; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–79, 79 Stat. 244; sec. 1, Pub. L. No. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. No. 89–485, 80 Stat. 242; sec. 3, Pub. L. No. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. No. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. No. 90–505, 82 Stat. 856; secs. 6(c)(7), (12), (13), Pub. L. No. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. No. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub. L. No. 93–495, 88 Stat. 1517 and title VI, sec. 606, Pub. L. No. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. By amending the Title to Part 303 to read as follows:

PART 303—APPLICATIONS, REQUEST, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

3. By adding a new paragraph (o) to § 303.13 of Part 303 as follows:

§ 303.13 Other delegations of authority.

* * * * *

(o) *Handling of section 8 enforcement proceedings.* The Board of Directors has delegated authority for the handling of actions brought pursuant to section 8 of the Federal Deposit Insurance Act (the "Act") (12 U.S.C. 1818) as follows:

(1) *Issuance of notices of charges and of hearing.* Authority for the issuance of notices of charges pursuant to section 8(b) of the Act is delegated to the Board of Review; however, any member of the Board of Review may refer a specific case to the Board of Directors for decision.

(2) *Issuance of findings of fact, conclusions of law and orders to cease and desist.* The issuance under section 8(b) of the Act of findings of fact, conclusions of law and orders to cease and desist pursuant to stipulation, is delegated as follows:

(i) *Stipulated without change.* Authority is delegated jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, to the appropriate regional director or regional counsel, or both.

(ii) *Stipulated changes within permissible guidelines.* Authority is delegated jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, to the appropriate regional director or regional counsel, or both; however, permissible changes from requirements set forth in proposed orders to cease and desist are limited to the following:

(A) Altering time limits by no more than the lesser of 50% or 90 days.

(B) Extending or reducing percentage and/or dollar requirements, excluding capital provisions, by no more than 10% of the figure specified;

(C) Eliminating typographical, grammatical or technical errors; and

(D) Adding or deleting names of bank directors in order to reflect changes in the composition of the bank's board of directors.

(iii) *Stipulated changes that exceed the limitations enumerated above.* Authority is delegated to the Board of Review; however, any member of the Board of Review may refer a specific case to the Board of Directors for decision.

(iv) *Issuance of section 8(b) orders resulting from section 8(c) proceedings.*

(A) *Stipulated without change from original section 8(c) order.* Authority is delegated jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, to the appropriate regional director or regional counsel, or both;

(B) *Stipulated after negotiated changes made.* Authority is delegated to the Board of Review; however, any member of the Board of Review may refer a specific case to the Board of Directors for decision.

(3) *Termination and modification of section 8(b) orders.*—(i) *Full compliance with all provisions of the order.* Authority to terminate the order is delegated jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, to the appropriate regional director or regional counsel, or both.

(ii) *Less than full compliance, but within guidelines set forth below.* Authority to terminate is delegated jointly to the Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision and Deputy General Counsel for Open Bank Regulation and Supervision, to the appropriate regional director or regional counsel, or both.

(A) At least 75% of each dollar and/or percentage requirement has been attained;

(B) There is substantial compliance with the non-dollar provisions; and

(C) The bank currently has a composite rating of 1, 2 or 3 under the Uniform Interagency Bank Rating System and a determination is made that further administrative action is unnecessary.

(iii) *All other terminations.* Authority to terminate is delegated to the Board of Review.

(iv) *Modification of section 8(b) orders.* Authority to modify is delegated to the Board of Review except in contested or litigated cases, where all authority to modify outstanding orders is retained by the Board of Directors.

(4) *Civil money penalties proceedings.* Authority for the issuance of notices of assessment of civil money penalties is delegated to the Board of Review.

(5) *Issuance of final orders and decisions in contested or litigated proceedings.* All authority is retained by the Board of Directors.

(6) *Other actions.* This delegation does not affect actions pursuant to sections 8(a), 8(c), 8(g) and 8(e) of the Act.

(7) *Action under delegated authority not mandated.* The Director of the Division of Bank Supervision and the Deputy General Counsel for Open Bank Regulation and Supervision and/or the Board of Review, may act on any matter on which the regional director and/or regional counsel may not wish to act under authority delegated pursuant to this subsection. At its discretion, the Board of Directors may review any action taken under authority of this subsection. Any member of the Board of Review may refer any case which is before the Board of Review to the Board of Directors for decision.

PART 308—RULES OF PRACTICE AND PROCEDURES

Part 308 of chapter III of title 12 of the *Code of Federal Regulations* is proposed to be amended as follows:

1. The authority citation for Part 308 reads as follows:

Authority: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95–630, 92 Stat. 3641 (12 U.S.C. 1972); sec.

203, Pub. L. No. 96-481, 94 Stat. 2325 (5 U.S.C. 504).

2. Section 308.01 is amended by deleting the period at the end of paragraph (b) and adding the words:

§ 308.01 Definitions.

* * * * *

(b) * * * or officers or officials of the FDIC acting pursuant to authority delegated by the Board of Directors as provided in 12 CFR 303.11 and 303.13 or by specific resolution of the Board of Directors.

* * * * *

3. Section 308.07 is amended by revising paragraphs (b)(11), (e) and (i) to read as follows:

§ 308.07 Conduct of hearings.

* * * * *

(b) * * *

(11) * * * Where an administrative law judge has not been appointed, or is unavailable, the Executive Secretary shall have authority to exercise the powers provided to the administrative law judge by paragraphs (b) (1), (2), (3), (7), (8) and (9) of this paragraph.

* * * * *

(e) *Attendance at hearings* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel witnesses while testifying, and other persons having an official interest in the proceedings. To the extent authorized by law, the administrative law judge, the Executive Secretary or the Board of Directors may permit other persons to attend on written request by a party or on the Board's own motion or the Board may order a public hearing.

* * * * *

(i) *Changes of time, chance of hearing location; continuance.* Except as otherwise expressly provided by law, the Board of Directors may provide time limits different from those specified in this subpart or in a notice of hearing, upon its own initiative or for good cause shown and the Board may change the time and place for a hearing to commence. The administrative law judge or the Executive Secretary may continue or adjourn a hearing in accordance with § 308.07(b)(8).

* * * * *

§ 308.13 [Amended]

4. In § 308.13, paragraph (b) is amended by deleting the word "Board" and inserting the words "Executive Secretary" in the sentence that begins "For good cause, the * * * "

§ 308.35 [Amended]

5. Section 308.35 is amended by deleting the words "by the Board of Directors in its discretion."

§ 308.42 [Amended]

6. Section 308.42 is amended by deleting the words "by the Board of Directors."

§ 308.61 [Amended]

7. Section 308.61, paragraph (a) is amended by changing "§ 303.10(e)" to "§ 303.10(d)."

§ 308.69 [Amended]

8. In § 308.69, paragraph (b) is amended by deleting the last sentence.

9. In § 308.76, paragraph (a) is revised to read as follows:

§ 308.76 Exceptions.

(a) *Filing.* The Board of Directors, the Executive Secretary or the administrative law judge may direct the party requesting a hearing pursuant to § 308.75(b), or the party may elect, to file exceptions to the statement of the basis for disapproval contained in the notice of disapproval. Exceptions shall be filed with the Executive Secretary or the administrative law judge within 20 days after receipt of the notice by the party, a different filing period of not less than 10 days after receipt of the notice is specified. For good cause shown, the Executive Secretary or the administrative law judge may permit filing of exceptions after expiration of the filing period.

* * * * *

§ 308.79 [Amended]

10. In § 308.79 paragraph (b) is amended by removing the last sentence.

§ 308.88 [Amended]

11. Section 308.88 is amended by deleting the words "by the Board of Directors."

§ 308.109 [Amended]

12. In § 308.109, paragraph (a) is amended by removing the number "15" and inserting the number "20".

By order of the Board of Directors.

Dated: June 21, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Acting Executive Secretary.

[FR Doc. 82-17478 Filed 6-28-82; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 82-431]

Service Corporation Activities

Dated: June 23, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule concerning the range of activities in which service corporations of federal savings and loan associations may engage without prior approval, as published on March 8, 1982 (47 FR 9855). This action is necessary to correct the inadvertent omission of the Initial Regulatory Flexibility Analysis from the proposed rule. The Board's solicitation of public comment is limited soley to the Initial Regulatory Flexibility Analysis.

DATE: Comments must be received by August 9, 1982.

ADDRESS: Send comments to Director, Information Services, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, Associate General Counsel, Office of General Counsel, (202) 377-6445, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On February 25, 1982, the Board proposed expanding the investment authorization and preapproved activities for service corporations of federal associations. Board Resolution No. 82-136; 47 FR 9855 (March 8, 1982). Pursuant to the provisions of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (September 19, 1980), the published proposal should have included an Initial Regulatory Flexibility Analysis. The analysis was omitted inadvertently from the proposed rule. Thus, the Board is correcting the proposed rule, No. 82-136, to include the required analysis. The Board is now seeking comment solely on the Initial Regulatory Flexibility Analysis of the previously proposed amendments.

Accordingly, the Federal Home Loan Bank Board is correcting its proposed rule amending 12 CFR 545.9-1, which was published at 47 FR 9855, by including the following Initial Regulatory Flexibility Analysis set forth below.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements were incorporated into the supplementary information regarding the proposal that was published with the proposal at 47 FR 9855 (March 8, 1982).

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply equally to all associations chartered by the Board.

3. *Impact of the proposed rule on small associations.* The proposal would permit the service corporations of federally chartered associations to engage in an increased number of activities without regard to the size of the association. To the degree that service corporations of small associations become involved in a greater range of activities, the operations of those associations could benefit financially. These potential benefits have been discussed in the previously published supplementary information regarding the proposal. There would be no disproportionate effect on small institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rule.* The proposal would allow service corporations to engage in a variety of new activities, thereby enhancing the range of financial services provided by the parent associations. There is no disproportionate impact on small associations, and there is no alternative regulatory action that would accomplish the purposes of the rule.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–17575 Filed 6–28–82; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 323

[Procedural Regulations Docket 40757; PDR–75]

Terminations, Suspensions, and Reductions of Service

Correction

In FR Doc. 82–17000, appearing at page 27081, in the issue of Wednesday, June 23, 1982, make the following change:

On page 27081, in the first column, under the heading **DATES:**, after "Requests to be put on the Service List:", add the date July 8, 1982.

BILLING CODE 1505–01–M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Rates to Mexico

AGENCY: Postal Service.

ACTION: Proposed international express mail rates to Mexico.

SUMMARY: Pursuant to an agreement with the postal administration of Mexico, the Postal Service proposes to begin International Express Mail Service with Mexico effective on August 16, 1982. The proposed rate schedule is published below for comment.

DATE: Comments must be received on or before July 29, 1982.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8620, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

J. Duane Redic, (202) 245–4414.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the **Federal Register**, 39 CFR 10.1. Additions to the manual needed to introduce the new service are reproduced below. Accordingly, although 39 U.S.C 407 does not require advance notice and opportunity for submission of comments on international rates and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 533) do not apply (39 U.S.C. 410(a)), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed rates of postage for International Express Mail to Mexico as shown below.

List of Subjects in 39 CFR Part 10

Postal Service, International relations

Table 7–1. International Express Mail Service—Summary Conditions Service Offerings

In paragraph 1, Custom Designed Service, add "Mexico," after "Kuwait".

In paragraph 2, On Demand Service, change "Germany and Japan" to "Germany, Japan, and Mexico."

Weight Limits

Revise line 2 to read as follows:

2. Canada, Mexico, and South Africa, 44 pounds.

Table 7.2. International Express Mail Service Standards (From International Exchange Office)

In Table 7.2, add before the line for Netherlands a new line which reads "Mexico" in the "Country of Destination" column, "Second Day" in the "Custom Designed" column, and "Not Available" in the "On Demand" column.

Individual Country Listing

Add after the entry entitled "Parcel Post Mexico" the following new entry:

International Express Mail—Mexico

Conditions for Mailing

Definition of Express Mail Service

See Table 7–1 and 494 for detailed characteristics.

Services Available

Custom Designed

Acceptable Items and Customs Declarations

Contents restricted to the following:

Items Containing

1. Business documents, letters, commercial papers, plans, invoices, checks and computer printouts.
2. Brochures, catalogs, magnetic tapes, microfiche, cassettes, video-cassettes and computer discs.
3. Samples without commercial value.

Customs Declaration Required

1. *None.* Endorse items clearly next to address label, "BUSINESS PAPERS."
2. *None.* Endorse item clearly next to address label identifying contents briefly, but completely.
3. *None.* Endorse item clearly next to address label, "Sample of (identify) No Commercial Value."

Merchandise and other items of value are not permitted.

Areas Served

Available to Mexico City only.

Size limit

Minimum: 3½" x 5½".
Maximum greatest length 36 inches.
Greatest length and girth combined: 78 inches.

Weight Limit

44 lbs. (20 kg.)

Service Standard From International Exchange Office

See Table 7–2.

POSTAGE RATES

[Custom Designed Service [1]]

Weight not over (pounds)	Rate
1	$26.00
2	27.30
3	28.60
4	29.90
5	31.20
6	32.50
7	33.80
8	35.10
9	36.40
10	37.70
11	39.00
12	40.30
13	41.60
14	42.90
15	44.20
16	45.50
17	46.80
18	48.10
19	49.40
20	50.70
21	52.00
22	53.30
23	54.60
24	55.90
25	57.20
26	58.50
27	59.80
28	61.10
29	62.40
30	63.70
31	65.00
32	66.30
33	67.60
34	68.90
35	70.20
36	71.50
37	72.80
38	74.10
39	75.40
40	76.70
41	78.00
42	79.30
43	80.60
44	81.90

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-17479 Filed 6-28-82; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2115-8]

Approval and Promulgation of Implementation Plan: Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 6, 1980, (45 FR 29790) and on May 22, 1981 (46 FR 27923), EPA conditionally approved Michigan's total suspended particulate (TSP) State Implementation Plan (SIP), on the condition that the State adopt and submit final industrial fugitive dust regulations representing reasonable available control technology (RACT).

On March 6, 1981, the State of Michigan submitted the general rules for fugitive dust control as a revision to the Michigan SIP. On January 25, 1982, and May 3, 1982, the State of Michigan submitted additional information outlining the general criteria for selection of the sources required to implement a fugitive dust control program. This submittal, along with the additional information, satisfies the State's commitment to submit industrial fugitive dust regulations that represent RACT for industrial fugitive dust sources. The purpose of today's action is to propose rulemaking action and to solicit public comment on this revision.

ADDRESSES: Copies of this SIP revision are available for review at the following addresses:

U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48917.

Written comments on this action should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6037.

SUPPLEMENTARY INFORMATION: On May 6, 1980, (45 FR 29793) EPA conditionally approved Michigan's particulate plan for those primary and secondary nonattainment areas which did not include iron and steel sources. One of the conditions upon which this plan was approved was the condition that the State would adopt final industrial fugitive dust regulations that represent RACT for traditional sources and submit the finally effective regulations to EPA. In addition, on May 22, 1981, (46 FR 27923) EPA approved Michigan Part D plan for those primary and secondary nonattainment areas which did not include iron and steel sources.

In the September 4, 1980, Federal Register (45 FR 58527) EPA announced approval of Michigan's schedule of deadlines for remedying identified deficiencies. That notice, indicated the commitment by the State to a schedule for the adoption of industrial fugitive dust regulations that represent RACT for traditional sources. The schedule called for the State to submit the regulations to EPA by January 1981.

On March 6, 1981, the State of Michigan submitted as a SIP revision general rules for fugitive dust control. These rules were approved by the Michigan Air Pollution Control Commission (Commission) on January 20, 1981, and became effective at the State level on February 17, 1981. The following elements are contained in the fugitive dust control rules under: Part 1—General Provisions, which include the definitions of fugitive dust, numbered R336.1100; and Part 3—Emission limitations and Prohibitions—Particulate Matter, numbered R336.1370, R336.1371, and R336.1372, which includes collected air contaminants, fugitive dust control programs, required activities and typical control methods. These rules are structured such that the Commission has the authority to request a fugitive dust control program from a company located in a nonattainment area, provided that sufficient reasons are specified in the program request. Generally, these rules are applicable to non-stack sources located in nonattainment areas and also to non-stack sources which contribute to excessive ambient TSP levels or cause substantive complaints.

Fugitive dust control programs are generally required from fugitive dust sources within 6 months after notification by the Commission. These fugitive dust control programs require identification of the control technologies, methods, or control equipment, if any, to be implemented or installed and the schedule, including increments of progress, for implementation or installation. For sources in nonattainment areas, final control program implementation is

required by December 31, 1982. These control programs are subject to review and approval by the Commission, which can only approve a control program upon the entry of a legally enforceable order or an approved permit to install or operate. If an adequate program is not submitted, the Commission may proceed toward the entry of a final order which contains a provision for the submittal of an acceptable control program.

Fugitive dust control programs are required for the following sources:

(1) The loading or unloading of open storage piles of bulk materials,

(2) Outdoor transporting of bulk materials,

(3) Outdoor conveying,

(4) Roads and lots,

(5) Inactive storage piles,

(6) Building ventilation, and

(7) Construction, renovation, or demolition.

In addition, the rules for fugitive dust specify typical control methods that can be used for controlling the sources listed above. The list of control methods is sufficiently comprehensive so as to allow an adequate and flexibile control program. The listing of appropriate control methods within these rules is very comprehensive. However, in the event a source's control program includes an alternative control method not specifically listed, then that control plan must be submitted to EPA for approval as a source specific SIP revision.

Rule 336.1372(7) contains provisions which apply to fugitive dust emissions from building openings and is generally acceptable. Enforceable emission limitations, with an appropriate test method are required for process fugitive sources subject to this rule. On March 7, 1980, the State of Michigan submitted a letter to EPA confirming the use of general opacity rules 336.1301–1303, for both stack and non-stack sources and for both continuous and intermittent discharges. The 3 minutes per hour of emissions which are allowed between 20 percent and 40 percent opacity are evaluated as an aggregate. That is, if 13 or more instantaneous 15 second readings indicate opacity between 20 percent and 40 percent, it is considered a violation. On May 22, 1981, EPA approved Michigan's letter of March 7, 1980, as part of the federally approved Michigan SIP (46 FR 27923).

Since the applicability portion of the rules for fugitive dust is not specific enough to determine exactly what sources will be covered, the State of Michigan, on January 25, 1982, submitted a method for selecting sources required to implement a fugitive dust control program. Following are the general criteria to be used by Michigan to document whether a particular fugitive dust source has sufficient ambient impact as to warrant a fugitive dust control program:

1. The company's history of complaints related to fugitive dust emissions.

2. The company's history of violations of opacity regulations.

3. Whether the fugitive dust sources of concern, within the company, exceed the exemption limits specified in Michigan Rule 372.

4. Whether there exists evidence that the company has either not adhered to a required fugitive dust control program or that a fugitive dust control program currently in effect is not adequate.

5. Where there exists evidence of a fugitive dust problem based on photographs or samples taken in the vicinity of a company.

6. Where there exists evidence of a fugitive dust problem based on the ongoing studies (emission inventories, dispersion modeling, receptor modeling, etc.) of the sources impacting on the nonattainment area.

The criteria listed above will be evaluated for all companies with potentially significant fugitive dust problems that are located in or near the primary non-attainment area. A summary of this analysis will be submitted to EPA Region V. In addition, on May 3, 1982, the State of Michigan submitted a letter listing ten sources with fugitive dust control program, which represent a substantial portion of the Wayne County nonattainment area. EPA has reviewed this revision and believes that Michigan's General Rules and criteria for fugitive dust control satisfy the State's commitment for adopting industrial fugitive regulations that represent RACT for traditional sources. EPA's review of these regulations is discussed in its technical support documents of June 4, 1981, and March 24, 1982. EPA, therefore, proposes to approve the March 6, 1981, and January 25, 1982, submittals concerning the general rules for fugitive dust control as a revision to the Michigan SIP.

A 30-day public comment period is being provided on this notice of proposed rulemaking. Public comment received on or before July 29, 1982 will be considered in EPA's final rulemaking. When possible, comments should be submitted in triplicate. All comments will be available for inspection during normal business hours at the Region V Office listed at the beginning of this notice. Please call the contact person listed at the beginning of this notice, before visiting the Region V Office.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator certified on January 27, 1981 (46 FR 8709) that approvals or conditional approvals of SIPs under Section 110 and 172 of the Clean Air Act and revisions of attainment status designations under Section 107(d) would not, if promulgated, have a significant economic impact on a substantial number of small entities. Today's action approves an action submitted pursuant to the provisions of Section 110 of the Act. It imposes no new requirements beyond those which the State has already imposed.

Under Executive Order 12291, (46 FR 134139) USEPA must also judge whether a regulation is "Major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. Today's action does not constitute a major regulation since it proposes to approve provisions which the State adopted and submitted to EPA as part of their conditional approval commitment.

EPA is not imposing any requirements which are different from those already required by the State. This regulation was exempt from the Office of Management and Budget under 12291.

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(This proposed rulemaking is issued pursuant to the authority of Section 110 of the Clean Air Act.)

Dated: April 20, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc 82-17534 Filed 6-28-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[PR Docket No. 82-319; FCC 82-260]

Amendment of the Commission's Rules To Remove Unnecessary Reporting and Record Keeping Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposal rule.

SUMMARY: This Notice proposes to eliminate certain reporting and record keeping requirements in the Aviation Services. These proposals result from the FCC's program to reduce paperwork requirements. The proposed

amendments are intended to eliminate unnecessary regulations.

DATES: Comments must be received on or before July 22, 1982, and reply comments must be received on or before August 6, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 87

Aeronautical stations, General aviation, Radio

In the matter of amendment of Part 87 of the rules to eliminate unnecessary reporting, record keeping and record retention requirements; PR Docket No. 82-319; Notice of proposed rule making.

Adopted: June 10, 1982.

Released: June 22, 1982.

1. In this Notice of Proposed Rule Making we are proposing to eliminate reporting, record keeping and record retention requirements in the Aviation Services (Part 87 of the Commission's rules) which we believe impose unnecessary burdens on the aviation community.[1] The requirements and rule sections affected are discussed in the paragraphs below.

2. Section 87.101 requires all stations licensed in the aeronautical public service [2] to keep a file of all record communications and all ground stations to keep a record of radiotelephone contacts. We no longer have any licensed aeronautical public service stations providing record communications services. Further, the "ground" stations providing radiotelephone service are public coast stations licensed in the maritime mobile service. Such stations comply with record keeping requirements contained in Part 81 (we will address these requirements in a separate Notice in the near future). Therefore, § 87.101 is obsolete in part and redundant in part and, accordingly, we are proposing to delete it from the rules.

3. Section 87.111(b) requires that at specified times a signed entry be made in the station's records indicating frequency measurements are within required tolerances or that an automatic frequency monitor was in service. Although measurement will still be required when transmitters are originally installed and when adjustments are made, we believe the record requirement is unnecessary. These historical records are seldom if ever utilized for any regulatory purpose and, therefore, we are proposing this record requirement be deleted from Part 87.

4. Section 87.293 of the rules indicates the frequencies available for domestic VHF aeronautical enroute communications.[3] Paragraph (b) permits networks of interconnected enroute stations to employ offset carrier techniques. Paragraph (b) also requires that the Commission be notified by letter of the precise offset from the authorized frequency. We are proposing to delete this reporting requirement. Since the interconnected stations in these enroute networks are licensed to a single entity, and the offset parameters are described in the rules, we feel the subject reporting requirement is unnecessary and are proposing it be deleted from Part 87.

5. Section 87.467 of the rules describes the conditions for the cooperative use of operational stations [4] by eligible licensees. Paragraphs (f) through (j) of § 87.467 specify notification and reporting requirements for licensees sharing their facilities under this section. This rule affects a small and specialized part of the communications community. Further, no problems have been noted regarding these sharing arrangements, and no use has been made of required reports. Accordingly, we believe the notification requirements contained in paragraphs (f) through (j) of § 87.467 are unnecessary, and propose they be deleted from the rules.

6. Additionally, we note that § 87.21, which makes the general statement that applications must be submitted on prescribed forms, is redundant. Other sections specify the application form to be used when seeking a particular class of station authorization. Therefore, we are proposing that § 87.21 be deleted from Part 87 of the rules.

7. The proposed amendments to the Commission's rules as set forth in the attached Appendix are issued under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

8. Under procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before July 22, 1982, and reply comments on or before August 6, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the report and order.

9. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding

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[1] In the Notice of Proposed Rule Making in Gen. Docket No. 82-182, released April 15, 1982, 47 FR 17309, we have previously proposed to eliminate station log requirements in the Aviation Services.

[2] Frequencies available for assignment to "aircraft stations" in the aeronautical public service are the medium and high frequencies available for public correspondence in the maritime services. The aeronautical public service should not be confused with the service to airborne stations provided in the Public Mobile Radio Services (Part 22) for communications with land mobile stations which are interconnected to the nationwide telephone system.

[3] The aeronautical enroute service provides air-ground communications for the operational control (flight management) of aircraft by the operating companies (such as airlines).

[4] Operational stations in the Aviation Services are used for links or control circuits.

must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's rules, 47 CFR 1.1231.

11. The rule amendments proposed in this proceeding, while expected to benefit the aviation public by eliminating unnecessary reporting and recordkeeping requirements will not result in a significant economic impact on any person or entity. Therefore, the Commission has determined that sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rulemaking proceeding, because the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

12. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632-7175.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

PART 87—AVIATION SERVICES

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows.

§ 87.21 [Removed]

1. Part 87 is amended by removing § 87.21.

§ 87.101 [Removed]

2. Part 87 is amended by removing § 87.101.

3. In § 87.111 paragraph (b) is removed and paragraph (c) is revised to read as follows:

§ 87.111 Frequency measurements.

* * * * *

(c) The determination required by paragraph (a) of this section may, at the option of the licensee, be made by any qualified engineering measurement service.

§ 87.293 [Amended]

4. In § 87.293 paragraph (b) is amended by removing the last sentence.

§ 87.467 [Amended]

5. In § 87.467 paragraphs (f), (g), (h), (i) are removed.

[FR Doc. 82-17574 Filed 6-28-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 55 (Sub-No. 55)]

Revision and Redesignation of the Rules of Practice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rules.

SUMMARY: The Interstate Commerce Commission is proposing to revise and redesignate all of its procedural regulations governing the conduct of formal and informal cases which come before it for decision. Included in the redesignation project are all the regulation now appearing in 49 CFR Parts 1100 through 1151. The purpose of the proposal is to bring the arrangement of the procedural regulations into conformity with the recodified Interstate Commerce to make easier to locate and to use by persons practicing before the Commission. Some substantive changes and also being proposed, and most are identified in the test of this notice.

DATE: Comments should be no later than August 13, 1982. Subsequently filed comments may be considered at the Commission's discretion.

ADDRESSES: An original and, if possible, 15 copies of comments should be sent to: Ex Parte No. 55 (Sub-No. 55), Room 2209, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

Copies of the proposed text can be obtained by writing or calling the Office of the Secretary, Publications Unit, B-221, Interstate Commerce Commission, Washington, DC 20423 or 202-275-7833.

FOR FURTHER INFORMATION CONTACT: James H. Bayne, 202-275-7429, or Kathleen M. King, 202-275-0956.

SUPPLEMENTARY INFORMATION:

Proposed Redesignation

The Commission is proposing a redesignation of Subchapter B—Practice and Procedure (Parts 1100 through 1199) of Chapter X of Title 49 of the Code of Federal Regulations (CFR). The existing material in Subchapter B will be rearranged to paralled the arrangement of the codified Interstate Commerce Act 49 U.S.C. 10101 et seq. The six major categories are as follows:

Parts 1100-1129—Rules of General Applicability.

Parts 1130-1149—Rate Procedures.

Parts 1150-1169—Licensing Procedures.

(a) Parts 1150-1159—Rail Licensing Procedures.

(b) Parts 1160—Non-rail Licensing Procedures.

Parts 1170-1199—Finance Procedures.

Parts have been reserved at the end of each major subdivision so that future regulations can be assigned part numbers within this system.

We believe that this redesignation will make our regulations easier to use. The restructuring will enable users to take advantage of certain reader's aids which are included in the basic structure of the Code of Federal Regulations. For example, under our proposal current §§ 1100.251 through 1100.253, which contain our rules governing applications for motor carrier authority will be combined into a separate Part 1160 *How to Apply for Operating Authority.* Currently, those rules are contained in special rules under the general rules of practice. As a separate Part, the Part heading will appear in the table of contents of the CFR volume which contains the rules. Also, there will be a detailed table of contents preceding each individual part. Such an arrangement will enable users of the CFR to locate regulations more easily. In reviewing this proposal, parties should be especially aware of proposed rule 1100.2. The general rules apply only in the absence of more specific ones.

Nature of the Revisions Proposed

Extensive revision and reorganization is proposed for the rules of general applicability and for those regulations governing rate procedures which have relatively board applicability. Only two of the non-rail licensing procedures—those governing the issuance of certificates of registration to motor carriers operating in a single state and those governing water carrier extensions of authority—are being revised to any significant extent. None of rail licensing procedures or finance procedures are being revised significantly. All procedural rules, however, are being renumbered and revised to update statutory citations and internal references.

In proposed Parts 1100 through 1129, rules of General Applicability, the language of some sections has been rephrased for clarity. A few substantive changes are being proposed, but it is believed that these changes will not

have a significant effect upon parties to Commission proceedings or those practicing before the agency. The most important of these changes are identified below, and comments are requested on them.

Substantial revision has been made in certain of the rate case procedures which will appear as new Parts 1130–1133, and in the licensing procedures identified in the preceding paragraph, which would be codified as Parts 1161 and 1166.

In the remaining text, revisions will be limited to changes in the numbering of the parts and their subdivisions; the updating of statutory references to reflect the codification of the Interstate Commerce Act; and revision of internal cross-references to correspond to the redesignated CFR provisions. We will also make some language changes, such as changing the term "order" to "decision" to reflect current Commission practice. Some Part and Section headings will be revised to describe more clearly the material involved.

Appended to this notice is a summary table of contents listing all of the Commission's procedural regulations as it is proposed to rearrange and renumber them in the revised Subchapter B—Practice and Procedure. (Appendix A) Copies of proposed sections 1100 through 1119, 1130 through 1133, 1161 and 1166 (which are those undergoing significant revision) together with a complete table of contents and derivation and redesignation tables, may be obtained free of charge from the Office of the Secretary by those wishing to comment.

The public is invited to comment on all aspects of the proposal. Suggestions for further rearrangement or retitling which would make the regulations easier to find and use are particularly invited. For example, would it be useful to organize proposed Parts 1110, 1111, and 1117–8 under one heading identifying case "types", with Parts 1112–3 listed under case "procedures"? The Commission will also accept comments on any particular rule in the present General or Special Rules of Practice which members of the public believe should be revised.

While our proposed redesignation involves present Subchapter B—Practice and Procedure (Parts 1100 through 1199) primarily, we are proposing to move present Part 1031A—

Procedures for Requesting Surcharge Costs and Revenue From Rail Carriers Applying a Commodity Oriented Surcharge or Cancelling the Application of a Joint Rate Pursuant to 49 U.S.C. Section 10705a into revised Subchapter as Part 1138 because it is a procedural rule. The public is invited to comment on this change. They are also invited to suggest other rules in Subchapter A—General Rules and Regulations (Parts 1000 through 1099) or any other subchapter which they believe more properly belong in Subchapter B.

In recodifying a body of administrative regulations which, by necessity, is constantly changing, some cut-off date for what can be included is essential. It is for this reason that an examination of the attached table of contents will reveal that some recently adopted rules have not been included. Such rules may have to be renumbered, but will not be substantively changed, upon completion of this proceeding.

Highlights of Proposed Changes to the Text of Subchapter B

We will refer to our proposed rules by the redesignated citation. If reference is made to existing rules, the present section number will be used.

Proposed Part 1100—*General Provisions.* The dual citation system contained in the existing rules which assigns a Code of Federal Regulations citation and a Rule number citation is proposed to be eliminated. Subchapter B of Chapter X of Title 49 will be redesignated the Rules of Practice.

Proposed Part 1101—*Definitions and Construction.* In this proposed Part the statutory definitions contained in 49 U.S.C. 10102 are adopted. Only the definitions for Act, Commission, decision, party and proceedings are retained from the present § 1100.5. The rules of construction contained in Chapter 1 of Title 1 of the United States Code are proposed to be adopted.

Proposed Part 1102—*Communications.* In this proposed Part the Commission's ex parte communication rules which currently are appendix C to Part 1100 are assigned to a specific section.

In proposed § 1102.2(a)(3), we have modified the definition of ex parte communication concerning the merits to read as follows:

> "Ex parte communication concerning the merits" means an oral or written communication by or on behalf of a party which is made without the knowledge or consent of any other party that could or is intended to influence anyone participating or who could reasonably be expected to participate in the decision.

The purpose of the modification is to clarify that it is the lack of knowledge of another party about a communication to the Commission which makes a communication a prohibited communication.

We have also deleted the definition of employees of the Commission which previously made specific reference to only certain groups of Commission employees. Deletion of the definition means that ex parte communication to any employee of the Commission participating or reasonably expected to participate in a decision is prohibited.

In proposed § 1102.2(c), we will include a prohibition against engaging in any *ex parte* communication with any Commissioner, hearing officer, joint board member, employee board member or employee of the Commission "who may reasonably be expected to participate in the decision in the proceeding."

Proposed Part 1103—*Practitioners.* The Canons of Ethics for ICC Practitioners which now appear as appendix A to Part 1100 are proposed to be added to Part 1103 as § 1103.10–1103.35. The Canons have been reorganized and rephrased for clarity. Existing Canons 6 and 40 are proposed to be deleted.

Canon 6 states that a practitioner shall not attempt to influence the appointment of Commissioners on any basis other than fitness. It is believed that this is a matter properly within the control of the Congress and beyond the jurisdiction of the Commission itself.

Canon 40 deals with the activities of a practitioner who formerly held public employment. This is a situation now covered by Federal law, 18 U.S.C. 207, and by other Commission regulations. See 49 CFR part 1000, App. II, Sec. 4. Canon 40 would therefore be eliminated as unnecessary.

The following clarifying sentences will be added to the Canons of Ethics in Proposed Part 1103. In proposed § 1103.20(g), we will add: "A practitioner shall bill and collect from a client, and thereafter retain only such payments and reimbursements for expenses as have actually been incurred on behalf of the client." In proposed § 1103.21, we will add: "Most particularly, a practitioner must refrain from filing documents in cases before the Commission containing material misstatements, false representation of fact and unauthorized affidavits of support."

Proposed Part 1104—*Pleadings Generally.* Proposed § 1104.2 amends existing § 1100.13 by deleting most of the specific requirements relating to paper size and type specifications. These regulations can be modified since most documents are now microfilmed rather than maintained in binders.

Currently the Commission considers documents which are sent by private express mail timely filed if they are received by the private express carrier at least 3 days prior to the due date. To

reflect that practice, we will add the following sentence in proposed § 1104.6: "Private express mail, received by the private express mail carrier at least 3 days prior to the due date, also will be accepted as timely filed."

Proposed Part 1111—*Complaint and Investigation Procedures.* The Commission now has no regulations governing procedures for filing, responding to, and handling complaints generally. Current § 1100.24–1100.35 have been followed for many years in dealing with all formal complaints. However, they were originally intended to apply to complaints involving rate matters.

In the proposed reorganization of the procedural regulations, much of the material now contained in § 1100.24–§ 1100.35 will appear twice. Proposed Part 1131 discussed below, will contain rules applicable to formal complaint proceedings involving rate matters. Proposed Part 1111 will contain general provisions applicable to all other formal complaint proceedings.

The source materials have been rearranged and restated.

The material contained in present § 1100.31, which deals with amended complaints, serves no useful purpose and has been omitted.

In proposed § 1111.1, we have added the requirement that the formal complaint should include the address of each complainant and defendant to aid the Commission in serving complaints and related decisions.

Proposed Part 1112—*Modified Procedure.* The source materials are rearranged and simplified. This proposed Part is intended to provide general procedural rules for modified procedure cases of all kinds not covered by specific rules. Therefore, references to complaints, complainants, and defendants found in the old rules, are omitted. They are replaced, as is made clear by the second sentence of proposed § 1112.2, by references to intitial statements, reply statements, and rebuttal statements.

It is contemplated (see proposed § 1112.2) that modified procedure proceedings governed by these provisions will be instituted by decision of the Commission. That decision will indicate the schedule for filing pleadings and the number of copies needed. Thus, the specific references to these matters now found in § 1100.49 and § 1100.50 have been omitted.

Revised § 1112.4 is new, but it is modeled on present § 1100.71, dealing with intervention in oral hearings. It is included to eliminate any doubt whether similar standards for intervention apply in modified procedure cases.

Proposed § 1112.7, which deals with the introduction of records in other Commission proceedings, is also new, but it has its source in present § 1100.80. That rule is being revised, as § 1113.10, to make it clear that it applies only to oral hearings. For clarity, a similar rule is being added to apply specifically to modified procedure cases.

Present § 1100.45 and § 1100.52 have been omitted as redundant.

Present § 1100.44(a), which relieves defendants in formal complaint proceedings from answering compliant if the proceeding is set for modified procedure is omitted, but use of the procedure is preserved in proposed §1111.4.

Proposed Part 1113—*Oral Hearing.* The new Part rearranges and restates the source material. Proposed § 1113.3 constitutes a substantial revision of the statement of the authority of hearing officers, but it is not believed that any substantial change is made, except in paragraph (d). Under that paragraph, authority to determine whether live media coverage will be allowed during a hearing is vested in the officer, instead of the Chairman of the Commission as is now the case.

In § 1113.4 paragraph (d), a time certain (20 days) has been set for objecting to the report on a prehearing conference. The present rule simply requires that objections be filed within a reasonable time.

The first sentence of paragraph 1113.7(a) provides a clear statement that intervention is normally allowed only upon petition. While this has been the Commission's practice, the present rules do not contain a positive provision to that effect.

Section 1113.17 paragraph (c) provides for the first time a procedure to be followed by parties who may disagree with proposed corrections to the transcript of a hearing advanced by other parties.

All of § 1100.53 paragraph (b) except the first sentence has been omitted from the revision. This material provides for a hearing procedure in which the hearing is electronically transcribed but no written transcript is made. The procedure has not been used, and the applicable rule is being eliminated. Paragraph 1100.53(c) is likewise omitted as there appears to be no need for the Commission to include in its rules a description of how it will serve its notices.

Section 1100.78 of the present rules relates to the admission into evidence of documents which contain some matter not relevant to the proceeding. It is omitted as unnecessary in light of the general authority given to the officer to control the hearing and the admission of evidence.

Section 1100.89 paragraphs (a) and (b) of the present rules, which establish specifications for post-hearing briefs, are omitted as pleading specifications generally are covered elsewhere in the rules.

Proposed Part 1118—*Procedures in Informal Proceedings Before Certain Employees Boards.* The revised Part is primarily a restatement of the sources materials, but some changes and additions have been made.

Present § 1100.225 provides procedures for all the Commission's employee boards except the review boards, the Restriction Removal Board, and the Accounting and Valuation Board. The last named is brought within the ambit of these provisions by the revision, and the appellate procedures applicable to valuation decisions made by that board (now found in § 1100.39) are incorporated in the new part.

The present provisions refer to the Motor Carrier Board, which no longer exists; references to that board have been stricken, and § 1100.225 paragraph (g), relating to appeals from Motor Carrier Board decisions in transfer cases has been eliminated. These proceedings are now assigned to a review board and subject to the Commission's general appellate procedures.

Section 1118.4 paragraph (d), which contains new material, provides for the filing at the Commission's regional office of appeals from the decisions of the Regional Motor Carrier Boards.

Section 1118.4 paragraph (f), which also contains new material, is intended to allow employee boards to review appeals to their decisions and correct their own errors. This practice is now followed in proceedings handled by the Regional Motor Carrier Boards, and it would be extended to apply to employee boards having jurisdiction over informal cases.

Proposed Part 1130—*Informal Complaints.* Editorial changes are proposed to clarify and simplify the language in the proposed Part. Proposed § 1130.2(a)(3) is revised to reflect the removal of the "preference and prejudice" language from 49 U.S.C. 10741.

Language citing existing 49 CFR 1100.96–98 as authority for administrative appeals of Tariff Integrity Board decisions is removed since the revised appellate rules do not apply to informal matters. A repetitive reference to the section dealing with formal complaint procedures is removed from proposed § 1130.2(f)(2).

A requirement that complainant include the addresses of each defendant against which a claim is made is added to proposed § 1130.3(b) to facilitate the Commission's service of complaints.

A cross-reference to the Special Docket Board procedure section is added to proposed § 1130.3(e). In proposed § 1130.3(f), the reference to existing § 1100.225 is removed because it adds nothing.

Proposed Part 1131—*Formal Complaints, Rail Intrastate Petitions and Investigations.* Editorial changes are made in this proposed Part which clarify and simplify the language and section headings and remove unnecessary material. Some of the sections are combined and others are reorganized. The entire proposed Part is reordered for clarify and conformity with Proposed Part 1111.

Present § 1100.28(b) is being deleted because that section is too vague, considering 49 U.S.C. 11501. Proposed § 1131.4 is added to reflect the changes made by the Staggers Rail Act of 1980 regarding Commission review of intrastate rates. Similarly, existing § 1100.24(b) is being deleted, as it does not reflect current procedure in these cases.

In proposed § 1131.9, the 20-day period for filing an answer to a complaint is also made applicable to answers filed in response to a cross-complaint. The fact that defendant is responsible for serving copies of answers to complaints upon the other parties is made clear. Also in that proposed section, the responsibility of complainant for serving answer to cross-complaints is specifically stated.

Present § 1100.44(a) is moved to § 1131.9(d) because it is more appropriately included in the section dealing with answers than in the Part dealing with modified procedure.

Proposed § 1131.9(e) is clarified to indicate that when defendant fails to timely file an answer, only issues of fact, and not issues of law are joined as to that defendant. This clarification is necessary because issues of law are never conceded by default.

The motions covered in proposed § 1131.10 are made applicable to cross-complaints as well as to complaints. All reference in that statement to statements submitted under the modified procedure are removed since proposed Part 1131 does not deal with modified procedures.

Also, language is added to require the complainant to provide the addresses of all defendants, which will facilitate the Commission's service of complaints upon defendants.

Proposed Part 1132—*Protests Against Tariffs; Procedures in Certain Suspension and Long and Short Haul Restriction Matters.* Existing §§ 1100.40 and 1100.200 have been combined in this proposed Part. The title of proposed § 1132.1 is changed to correct an error.

Proposed Part 1133—*Recovery of Damages.* In this proposed part, two existing sections, § 1100.47(c) and § 1100.95 are combined into a single proposed Part. The title change in proposed § 1133.1 results in a more accurate description of this rule, which is now a subparagraph of a general rule governing content of pleadings under modified procedure. A cross-reference to the rules regarding modified procedure is added.

The form for filing a statement under proposed § 1131.2 presently appears as Form 5 of Appendix B to Part 1100.

Proposed Part 1161—*Procedures for the Issuance of Certificates of Registration.* In this proposed Part, the material is rearranged and simplified. The second sentence of existing § 1100.245 paragraph (e)(3) and all material in existing § 1100.245 paragraph (g) are omitted as redundant. The material found in existing § 1100.245 paragraph (e)(1) and designated paragraphs (i) through (n) are omitted. That material was included by mistake. The material contained in the Appendix now appears as Form 7 of Appendix B to Part 1100.

Proposed Part 1166—*Extension of Operations by Water Common Carriers.* The material in this proposed Part is rearranged and simplified. The proposed Part heading is modified to clarify that these rules apply only to water carriers.

Energy and Environmental Rules

Rules governing the Implementation of the Energy Policy and Conservation Act of 1975 and Guidelines for the Implementation of the National Environmental Policy Act of 1969 now appear as 49 CFR Parts 1106 and 1108, respectively. These regulations are in part substantive and in part procedural. Our initial proposal is to relocate them, with no substantive change, in subchapter A of Chapter X of Title 49 of the CFR which contains our general rules. However, they could be included in Subchapter B among the procedural rules of general applicability—for example, as Parts 1105 and 1106. Comments are requested on the most convenient location for these regulations.

Deletion Table

Also appended to this notice is a deletion table summarizing the rules that are being deleted as obsolete because of statutory changes, or which have been combined with other provisions of the revised rules. (Appendix B).

Regulatory Flexibility Act Statement

In this proceeding we are proposing to reorganize and simplify our Rules of Practice. The language of some of the rules is proposed to be modified, to make our rules easier to read and understand. However, no substantial changes are proposed. Therefore, it is certified that this rule, when promulgated will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This action will not significantly affect the quality of the human environment and conservation of energy.

List of Subjects in 49 CFR Chapter X

Administrative practice and procedure, Motor carriers, Railroads, Maritime carriers, Freight forwarders, Buses, Freight, Securities.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: June 21, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

Subchapter B—Rules of Practice

Parts 1100–1129—Rules of General Applicability

Part

1100 General Provisions
1101 Definitions and Construction
1102 Communications
1103 Practitioners
1104 Pleadings: Generally
1105–1109 [Reserved]
1110 Procedures Governing Informal Rulemaking Proceedings
1111 Complaint and Investigation Procedures
1112 Modified Procedures
1113 Oral Hearings
1114 Evidence: Discovery
1115 Appellate Procedures
1116 Oral Argument Before the Commission
1117 Petitions (for Relief) Not Otherwise Covered
1118 Procedures in Informal Proceedings Before Certain Employee Boards
1119 Compliance With Commission Decisions
1120–1129 [Reserved]

Parts 1130–1149—Rate Procedures

1130 Informal Complaints
1131 Formal Complaints, Rail Intrastate Petitions and Investigations
1132 Protests Against Tariffs: Procedures in Certain Suspension and Long and Short Haul Restriction Matters

1133 Recovery of Damages
1134 Procedures for the Elimination of Discrimination Against Recyclables
1135 Railroad Cost Recovery Procedures
1136 Rail and Motor Carrier Commutation of Suburban Passenger Fare Increase Proceedings
1137 Procedures Relating to Railroad Revitalization and Regulatory Reform Act of 1976
1138 Procedures for Requesting Surcharge Costs and Revenues From Rail Carriers Applying a Commodity Oriented Surcharge or Cancelling the Application of a Joint Rate Pursuant to 49 U.S.C. § 10705a.
1139 Motor Carrier Cost Recovery Procedures
1140–1149 [Reserved]

Parts 1150–1169—Licensing Procedures

Parts 1150–1159—Rail Licensing Procedures

1150 Rail Carrier Certificate of Public Convenience and Necessity
1151 Feeder Railroad Development Program
1152 Abandonment and Discontinuance of Rail Lines and Transportation Under 49 U.S.C. § 10903
1153 Discontinuance of Change of Rail or Ferry Operations Under 49 U.S.C. § 10908
1154 Determination of Avoidable Losses
1155 Standards for Determining Rail Services Continuation Subsidies
1156 Submission of Cost Data to Justify Reimbursement for Directed Service
1158–1159 [Reserved]

Parts 1160–1169—Nonrail Licensing Procedures

1160 How To Apply for Operating Authority
1161 Procedures for the Issuance of Certificates of Registration
1162 Temporary Authority Procedures
1163 Temporary Operating Authorities and Approvals
1164 Owner-Operator Food Transportation
1165 Restriction Removals
1166 Extension of Operations by Water Common Carriers
1167 Compensated Intercorporate Hauling Operations
1168–1169 [Reserved]

Parts 1170–1199—Finance Procedures

Parts 1170–1179—Securities, Security Interests and Financial Structure

1170 Issuance of Securities and Assumption of Obligations and Liabilities
1171 Changes in Securities or Instruments
1172 Recordation of Documents
1173–1179 [Reserved]

Parts 1180–1189—Combination and Ownership

1180 Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures
1181 Transfers of Operating Rights Under 49 U.S.C. 10926
1182 Applications To Consolidate, Merge, or Acquire Control Under 49 U.S.C. 11343 and 11344
1183 Control or Consolidation of Motor Carriers or Their Properties
1184 Motor Carrier Pooling Applications
1185 Interlocking Officers
1186–1189 [Reserved]

Parts 1190–1199—Reorganizations

1190 Reorganization of Railroads
1191 Corporate Reorganization of Carriers and Corporations
1192 Corporate Reorganization of Motor Carriers
1193–1199 [Reserved]

APPENDIX B.—DELETION TABLE

Existing sections to be deleted	Existing parts to be deleted
1100.24	
1100.28	
1100.36	Part 1107.
1100.37	Part 1110.[1]
1100.38	Part 1113.
1100.45	
1100.49	
1100.50	
1100.52	
1100.78	
1100.83	
1100.91	
1100.92	
1100.96	
1100.100	
1100.101	
1100.102	
1100.248	
1100.249	
Appendix B	
Forms 1, 2 & 4	
Appendices C–G	

[1] Deleted by Ex Parte No. 433, *Deletion of General Requirements* (49 CFR 1110), served June 4, 1982 (47 FR 24594, June 7, 1982).

[FR Doc. 82-17350 Filed 6-28-82; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 47, No. 125
Tuesday, June 29, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

Continental Telephone Company of Kentucky, London, Kentucky; Proposed Loan Guarantee

Under the authority of Public Law 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the Federal Register, September 16, 1974, (Vol. 39, No. 180, pages 33228–33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,840,000 to Continental Telephone Company of Kentucky, London, Kentucky. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Harold J. Marshall, President, Continental Telephone Company of Kentucky, 1135 E. Chocolate Avenue, Hershey, Pennsylvania 17033.

To assure consideration, proposals must be submitted on or before July 29, 1982 to Mr. Marshall. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the Continental Telephone Company of Kentucky and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available form the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851–Rural Telephone Loans and Loan Guarantees.

Dated at Washington, D. C., this 22nd day of June, 1982.

Jack Van Mark,

Acting Administrator, Rural Electrification Administration.

[FR Doc. 82-17494 Filed 6-28-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Critical Area Treatment RC&D Measures, New Hampshire

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Envrionmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for certain Critical Area Treatment RC&D Measures in New Hampshire.

FOR FURTHER INFORMATION CONTACT: Mr. Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Box G. Durham, New Hampshire 03824, telephone 603—868—7581.

SUPPLEMENTARY INFORMATION: The environmental assessments of these types of federally assisted actions indicate that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Richard L. Porter, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these projects if the planned action and impacts are substantially as described in the finding of no significant impact for Critical Area Treatment RC&D measures, New Hampshire.

The measures concern a plan for critical areas treatment. The planned works of improvement include soil and water conservation practices to stabilize eroding areas. Practices include surface water control structures, subsurface drainage, Riprap, statement stabilization, and vegetation establishment including lime, fertilizer, and Mulch.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the aove address. The basic data developed during the environmental assessments are on file and may be reviewed by contacting Mr. Richard L. Porter.

No administrative action on implementation of the proposal will be initiated until July 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 10, 1982.

Richard L. Porter,

State Conservationist.

[FR Doc. 82-17507 Filed 6-28-82; 8:45 am]

BILLING CODE 3410-16-M

St. Mary's City; Critical Area Treatment R.C. & D. Measure, Maryland

AGENCY: Soil Conservation Service.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the St. Mary's City Critical Area Treatment R.C. & D. Measure, St. Mary's County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301–344–4180.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment on the St. Mary's River near St. Mary's City. The planned works of improvement include placing fill at the toe of the present slope and rock on the water face of the fill.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will not be taken on or before July 29, 1982.

Gerald R. Calhoun,

State Conservationist.

June 21, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 82–17459 Filed 6–28–82; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Amendment To Preliminary Affirmative Countervailing Duty Determinations; Certain Steel Products From Belgium

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to notice of preliminary affirmative countervailing duty determinations.

SUMMARY: This notice is to advise the public that the Department of Commerce is amending Appendix A to the "Notice of Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products From Belgium" to correct the product definitions of certain steel bar products. The correction affects the proceedings on certain steel products from South Africa and from the United Kingdom.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION: The Department of Commerce published a "Notice of Preliminary Affirmative Countervailing Duty Determinations, Certain Steel Products From Belgium," in the **Federal Register** on June 17, 1982 (47 FR 26300). In Appendix A to that notice (47 FR 26307), the product definitions of hot-rolled carbon steel bars, hot-rolled alloy steel bars, and cold-formed carbon steel bars inadvertently contained the phrase "and not coated or plated with metal." Accordingly, we hereby amend our notice by deleting the phrase "and not coated or plated with metal" from each of those product definitions. This correction affects the proceedings on certain steel products from South Africa and from the United Kingdom.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 23, 1982.

[FR Doc. 82–17558 Filed 6–28–82; 8:45 am]

BILLING CODE 3510–25–M

National Bureau of Standards

Approval of Federal Information Processing Standard 93, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ in), 63bpmm (1600 bpi), Phase Encoded

Under the provisions of Public Law 89–306 (79 Stat. 1127; 40 U.S.C. 759 (f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. On April 30, 1980, notice was published in the **Federal Register** (45 FR 28788–28789) that a standard for Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ in), 63bpmm (1600 bpi), Phase Encoded was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this reveiw, NBS recommended to the Secretary his approval of the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standard as a FIPS, and that the standard shall be published as FIPS Publication 93. The provisions of this standard are effective June 29, 1982.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

The objective of this approved FIPS is to augment the existing FIPS related to recorded magnetic media for information interchange. The recording method, density, format, encoding, and error detection techniques specified in this standard characterized the recorded media so that information can be readily interchanged when recorded on this media. Federal information processing systems acquired in compliance with this approved FIPS would possess the capability to reliably interchange such information. This reliability would increase the operational and cost effectiveness of Federal information processing systems.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. This FIPS incorporates by reference the technical specifications of American National Standard X3.72–1981, Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track, 0.250 inch (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded.

By arrangement with the American National Standards Institute, interested parties may purchase copies of this standard, including the specifications portion, from the National Technical

Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the standard.

Persons desiring further information about this standard may contact Mr. Michael Hogan, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: June 23, 1982.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 93

Date

Announcing the Standard for Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ in), 63 bpmm (1600 bpi), Phase Encoded

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (¼ in), 63 bpmm (1600 bpi), Phase Encoded (FIPS PUB 93).

Category of Standards. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies the recorded characteristics for a 6.30 mm (¼ in) wide magnetic tape cartridge with data recorded across four parallel tracks in order to provide for data interchange between information processing systems at a recording density of 63 bits per millimeter (1600 bits per inch) using phase encoding techniques. This standard is one of a services of Federal Information Processing Standards implementing the Code for Information Interchange (FIPS 1–1) on flexible magnetic media.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track, 0.250 Inch (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded, X3.72–1981.

Related Documents

a. American National Standard Code for Information Interchange (ASCII), X3.4–1977, FIPS PUBS 1–1 and 7.

b. American National Standard Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code (ASCII) for Information Interchange, X3.41–1974, FIPS PUB 35.

c. American National Standard Unrecorded Magnetic Tape Cartridge for Information Interchange, 0.250 inch (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded, X3.55–1977.

d. American National Standard Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 inch (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded, X3.56–1977, FIPS PUB 52.

Applicability. This standard is applicable to the acquisition and use of all magnetic tape cartridge recording and reproducing equipment employing 6.30 mm (¼ in) wide magnetic tape with data recorded across four parallel tracks at a recording density of 63 bits per millimeter (1600 bits per inch) using phase encoding. Federal information processing systems employing such equipment, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in compliance with the requirements set forth in this standard.

Specifications. This standard incorporates by reference the technical specifications of American National Standard Parallel Recorded Magnetic Tape Cartridge for Information Interchange, 4 Track, 0.250 Inch (6.30 mm), 1600 bpi (63 bpmm), Phase Encoded, X3.72–1981.

Qualifications. None.

Patents. Magnetic tape cartridges implementing this standard may be covered by a U.S. patent.

Implementation Schedule. All applicable equipment ordered on or after the date of this FIPS PUB must be in conformance with this stndard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following causes:

a. For equipment installed or on order prior to the date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids has been issued) on the date of this FIPS PUB.

Waivers. Heads of agencies may request that the requirements of this standard be waived in instances where it can be clearly demonstrated that there are appreciable performance or cost advantages to be gained and that the overall interests of the Federal Government are best served by granting the requested waiver. Such waiver requests will be reviewed by and are subject to the approval of the Secretary of Commerce. The waiver request must address the criteria stated above as the justification for the waiver.

Forty-five days should be allowed for review and response by the Secretary of Commerce. Waiver requests shall be submitted to the Secretary of Commerce, , Washington D.C. 20230, and labeled as a Request for a Waiver to a Federal Information Processing Standard. No agency shall take any action to deviate from the standard prior to the receipt of a waiver approval from the Secretary of Commerce. No agency shall begin any process of implementation or acquisition of non-conforming equipment unless it has already obtained such approval.

Special Information. Federal standards and/or specifications for unrecorded magnetic tape cartridges will be developed and issued by the General Services Administration. Until such time as these are available, American National Standard X3.55–1977, Unrecorded Magnetic Tape Cartridge for Information Interchange, should be cited in Federal procurements.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National standards Institute). When ordering, refer to Federal Information Processing Standards Publication 93 (NBS–FIPS–PUB–93) and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

[FR Doc. 82–17515 Filed 6–28–82; 8:45 am]

BILLING CODE 3510–CW8

National Oceanic and Atmospheric Administration

Fishermen's Contingency Fund

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claim pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 07–82.

SUMMARY: 50 CFR 296.6 requires that the Chief, Financial Services Division (FSD),

publish in the **Federal Register** a notice of claim received under the Title IV Program. Any interested person may, on or before July 29, 1982, submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to the admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, within on or before July 29, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202–634–4688).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory exemptions from eligibility, the Chief, FSD publish a 30-day notice of the claim in the **Federal Register** (50 CFR 296.6(a)(1)(iii)). Upon expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be referred to the Administrative Law Judge (ALJ).

Dated: June 23, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

The following claims have been received.

Claim No., Nature of loss and location, and Amount

FCF–44–82 On 5–1–82 claimant lost 2 nets and 2 bridles while trawling for shrimp at the following coordinates: 7980X14159.3 7980Y46413.9:

Gear loss	$2228.64
Economic loss	
Consequential loss	
Total	2228.64

FCF–45–82 On 5–21–82 claimant lost one complete trawl and lazy line while trawling for shrimp at the following coordinates: 29°06′13.06″N 92°12′28.37″W:

Gear loss[1]	Unknown.
Economic loss	Unknown.
Consequential loss	Unknown.
Total	Unknown.

[1] Amounts not yet reported at this publishing.

FCF–46–82 On 6–4–82 claimant lost 2 42 ft. nets and tickler chains while trawling for shrimp at the following coordinates: 7980X29064.8 7980Y4957.5:

Gear loss[1]	Unknown.
Economic loss	Unknown.
Consequential loss	Unknown.
Total	Unknown.

[1] Amounts not yet reported at this publishing.

FCF–47–82 On 5–11–82 claimant lost his vessel and fixtures while trawling for shrimp at the following coordinates: 7980X28492.0 7980Y46851.0:

Gear loss[1]	Unknown.
Economic loss	Unknown.
Consequential loss	Unknown.
Total	Unknown.

[1] Amounts not yet reported at this publishing.

[FR Doc. 82–17547 Filed 6–28–82; 8:45 am]

BILLING CODE 3510–22–M

Office of the Secretary

Advisory Committee on Minority Enterprise Development; Notice of Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)) and Office of Management and Budget Circular A–63 of March, 1974, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the Advisory Committee on Minority Enterprise Development is in keeping with the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will aid the Department and the Minority Business Development Agency in the conduct of a complete review of the effectiveness of Federal minority business assistance programs, many of which have been ongoing for ten years or more. The Commitee will also develop recommendations for changes to or improvement in these programs.

The Commmitte will consist of 12 members to be appointed by the Secretary to assure a balanced representation of both the majority and minority business communities.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of publication of this notice.

For further information contact: Any comments or inquiries regarding the establishment or activities of the Advisory Committee on Minority Enterprise Development may be addressed to Victor M. Rivera, Director, Minority Business Development Agency, Washington, D.C. 20230, telephone 202/377–5061; or Mrs. Yvonne Barnes, the Department's Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377–4217.

Dated: June 16, 1982.

Jimmie D. Brown,

Director, Office of Information Systems.

[FR Doc. 82–17474 Filed 6–28–82; 8:45 am]

BILLING CODE 3510–CW

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Level for Certain Wool Textile Products From the Republic of Singapore

June 24, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling imports of Women's, Girls's, and infants' Wool Dresses in Category 436, produced or manufactured in Singapore and exported during trhe agreement year which began on January 1, 1982 at a level of 2,033 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5928), and May 13, 1982 (47 FR 20654))

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 21, 1981, as amended, between the Governments of the United States and the Republic of Singapore, the United States has decided to control imports of wool textile products in Category 436 in the same manner as other categories are currently being controlled.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On December 18, 1981, there was published in the **Federal Register** (46 FR 61687) a letter dated December 15, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. The letter published below further amends the letter of December 15, 1981 to include an import control level of 2,033 dozen for Category 436. The level for Category 436 has not been adjusted to account for any imports after December 31, 1981. Imports during the January-April 1982 period have totaled 1,584 dozen and will be charged. When the data become available, charges will also be made for the period which began on May 1 and extends to the effective date of this directive.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 24, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 15, 1981 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1982.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral Cotton, Wool, and Man-Made Textile Agreement of August 21, 1981, as amended between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951, of January 6, 1977, you are directed to prohibit, effective on July 1, 1982 and for the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 436, produced or manufactured in Singapore in excess of 2,033 dozen.[1]

Textile products in Category 436 which have been exported to the United States prior to January 1, 1982 shall not be subject to this directive.

Textile products in Category 436 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 26, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Republic of Singapore and with respect to imports of wool textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementaion of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementaion of Textile Agreements.

[FR Doc. 82-17559 Filed 6-28-82; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket 82–C0001]

The Fountainhead Group Inc., a Corporation, Marimar Manufacturers Co., Inc., a Corporation, D. B. Smith & Co., Inc., a Corporation and Blue Mountain Products, Inc., a Corporation; Provisional Acceptance of a Consent Order Agreement

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a consent order agreement under the Consumer Product Safety Act.

SUMMARY: Under requirements of 16 CFR 1118.20, the Commission must publish in the **Federal Register** consent agreements which it provisionally accepts under the Consumer Product Safety Act. Published below is a provisionally-accepted Consent Order Agreement with the Fountainhead Group, Inc., et al.

DATE: Any interested person may ask the Commission not to accept this agreement by filing a written request with the Office of the Secretary by July 14, 1982.

ADDRESS: Persons wishing to comment on this Consent Order Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Ronald Yelenik, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION:

Consumer Product Safety Commission

[CPSC Docket No. 82–C0001]

In the Matter of The Fountainhead Group, Inc., a corporation, Marimar Manufacturing Company, Inc., a corporation, D. B. Smith and Company, Inc., a corporation, and Blue Mountain Products, Inc., a corporation.

Consent Order Agreement

This agreement is made by and between The Fountainhead Group, Inc., a corporation (hereinafter, "Fountainhead"), Marimar Manufacturing Company, Inc., a corporation (hereinafter, "Marimar"), D. B. Smith and Company, Inc., a corporation (hereinafter, "Smith"), Blue Mountain Products, Inc. (hereinafter, "Blue Mountain"), and the staff of the Consumer Product Safety Commission (hereinafter, the "Commission"), pursuant to 16 CFR 1118.20, in settlement of a Complaint for a civil penalty pursuant to 15 U.S.C. 2069, which alleges that Fountainhead, Marimar, Smith, and Blue Mountain knowingly failed to immediately inform the Commission and continued to fail to make reports and provide required information concerning a defect in certain GP and GQ series galvanized steel air-compressed home and garden sprayers (more fully described in the attached Complaint), which could create a substantial product hazard, as required by 15 U.S.C. 2064(b), in violation of 15 U.S.C. 2068(a) (3) and (4). A copy of the Complaint is attached hereto and incorporated herein by reference.

Fountainhead, Marimar, Smith, and Blue Mountain and the staff of the Commission stipulate and agree:

1. The Consumer Product Safety Commission has jurisdiction over Fountainhead, Marimar, Smith, and Blue Mountain (hereinafter, collectively referred to as the Respondents) and the subject matter of

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1981. Imports in Category 436 during the January-April 1982 period have amounted to 1,584 dozen.

this Consent Order Agreement pursuant to 15 U.S.C. 2051 *et seq.*

2. Fountainhead is a corporation organized and existing under the laws of the state of New York with its principal place of business located in Utica, New York. Fountainhead is a holding company for several subsidiaries, including those listed in the paragraphs below.

3. Marimar, a wholly owned subsidiary of Fountainhead, is a corporation organized and existing under the laws of the State of New York with its principal place of business located in Chadwicks, New York. Marimar is engaged in the manufacture of spray equipment and fire pumps.

4. Smith, a wholly owned subsidiary of Fountainhead, is a corporation organized and existing under the laws of the State of New York with its principal place of business located in Chadwicks, New York. Smith engages in the distribution and sale of spray equipment and fire pumps.

5. Blue Mountain, a wholly owned subsidiary of Fountainhead, is a corporation organized and existing under the laws of the State of New York with its principal place of business located in Chadwicks, New York. Blue Mountain is a private labeler and distributor of sprayers manufactured by Marimar.

6. The Respondents "manufactured" and "distributed in commerce" as these terms are defined in 15 U.S.C. 2052(a) (8), (11), and (12), respectively, certain GP and GQ series galvanized steel air-compressed home and garden sprayers (hereinafter, the "sprayers"). The sprayers are used to disperse pesticides and chemicals and are equipped with a hand-operated pump to pressurize the sprayer tank.

7. The sprayers were produced and distributed in commerce for use in the around a permanent or temporary household or residence, a school, in recreation, or otherwise, and are therefore "consumer products" within the meaning of 15 U.S.C. 2052(a).

8. Between June 1977 and June 1978, the Respondents manufactured and distributed in commerce a substantial number of sprayers that the staff of the Commission alleged contained a defect consisting of an improperly located weld at the bottom of the sprayer, which presented a "substantial product hazard" within the meaning of 15 U.S.C. 2064(a)(2), as more fully set forth in the Complaint.

9. In the Complaint, the staff of the Commission alleges that the Respondents knowingly failed to immediately inform the Commission that they had obtained information which reasonably supported the conclusion that the sprayers contained a defect which could create a "substantial product hazard," as required by 15 U.S.C. 2064(b)(2), in violation of 15 U.S.C. 2068(a)(4). The staff also alleges in the Complaint that the Respondents violated 15 U.S.C. 2068(a)(3) by continuing to fail to make reports or to provide information as required by 15 U.S.C. 2064(b). The staff of the Commission, pursuant to 15 U.S.C. 2069, seeks in the Complaint a civil penalty against the Respondents up to the maximum allowable under law and consistent with the facts as established in this proceeding.

10. Without admitting the existence of a defect which could create a substantial product hazard or a violation of any reporting requirements under 15 U.S.C. 2064(b), and solely for the purposes of settling the Complaint, the Respondents hereby agree to pay the sum of $10,000 upon final acceptance of this Consent Order Agreement by the Commission, in full settlement of any and all claims set forth in the Complaint pertaining to violations of 15 U.S.C. 2068(a) (3) and (4).

11. Upon final acceptance by the Commission of this Consent Order Agreement, the Respondents knowingly and voluntarily waive any and all rights to an administrative or judicial hearing, and to any and all procedural stages, including the right to judicial review or otherwise to challenge or contest the validity of this Consent Order Agreement and the Commission's Order.

12. Upon execution of this Consent Order Agreement by the Respondents and the Commission staff, and provisional acceptance by the Commission, as provided in 16 CFR 1118.20(d), pursuant to 16 CFR 1118.20(e), this Consent Order Agreement will be made a matter of the public record by inclusion in the Commission's Public Calendar, and by publication in the Federal Register for a period of fifteen days. The Commission will then consider and act upon the Consent Order Agreement pursuant to 16 CFR 1118.20 (f) and (g).

13. Final acceptance by the Commission of the Consent Order Agreement and issuance of the Order contained herein, pursuant to 15 U.S.C. 2069, shall settle any and all claims set forth in the Complaint pertaining to violations of 15 U.S.C. 2068(a) (3) and (4).

14. This Consent Order Agreement shall become effective upon final acceptance by the Commission, and service upon the Respondents.

15. Upon final acceptance, the Commission will disclose the terms of this Consent Order Agreement to the public and will make the Consent Order Agreement available for public viewing at the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Order

It is ordered that The Fountainhead Group, Inc., Marimar Manufacturing Company, Inc., D. B. Smith and Company, Inc., and Blue Mountain Products, Inc. shall within twenty days after receipt of a copy of this Order, pay to the order of the United States Treasurer, the total sum of ten thousand dollars ($10,000) in full settlement of any and all Commission claims set forth in the Complaint pertaining to violations of 15 U.S.C. 2068(a) (3) and (4). The Complaint accompanies this Consent Order Agreement.

Signed this 28th day of July 1981.

The Fountainhead Group, Inc., a corporation.
David W. Wood,
Vice President, Utica, N.Y.

Marimar Manufacturing Company, Inc., a corporation.
David W. Wood,
Executive Vice President, Utica, N.Y.

D. B. Smith and Company, Inc., a corporation.
David W. Wood,
Executive Vice President, Utica, N.Y.

Blue Mountain Products, Inc., a corporation.
Ernest J. McMurray,
President, Utica, N.Y.

Ronald G. Yelenik,

Trial Attorney, Counsel for the staff of Consumer Product Safety Commission.

Dated: June 23, 1982.
Sadye E. Dunn,
Secretary.

[FR Doc. 82-17544 Filed 6-28-82; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

New

Questionnaire—Centralized Payment of Invoices

The Defense Fuel Supply Center (DFSC) recently established a centralized paying office at Cameron Station, Alexandria, VA, for contractor invoices covering the supply of motor gasoline, diesel fuel and heating oil shipped to Army, Navy and certain other Department of Defense installations. Previously, contractor invoices were paid by the ordering or receiving installation or a regional finance office. A questionnaire, to be completed on a voluntary basis, will be mailed to fuel suppliers currently under contract with DFSC for the supply of the above fuel items. The purpose of the questionnaire is to determine if payment of invoices by the centralized office

improved the timeliness of payment and resolution of payment problems. The questionnaire contains five questions and offers the suppliers an opportunity to comment on the centralized paying office concept.

Petroleum distributors and refiners: 575 responses; 144 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB Washington, DC 20503, and John V. Wenderoth, DOD Clearance Officer, OASD (C), DIRMS, IRAD, Room 1A658, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from T. H. Fletcher, OPI, Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22314, ATTN: DFSC–CB, telephone (202) 274–7334.

June 22, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–17442 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

The DoD Advisory Group on Electron Devices (AGED) will meet in closed session on August 12 1982, at the Palisades Institute for Research Services, Inc., 201 Varick Street, New York 10014.

The mission of the Advisory Group is to provide the Under-Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardend Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552(b)(c) 1976)) and that accordingly, this meeting will be closed to the public.

M. S. Healy

OSD Federal Register Liaison Officer, Department of Defense.

June 23 1982.

[FR Doc. 82–17486 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Electronic Warfare (Future Systems Subgroup); Notice of Advisory Committee Meeting

The Future Systems Subgroup of the Defense Science Board Task Force on Electronic Warfare will meet in closed session on August 30–31, 1982 in Los Angeles, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on August 30–31, 1982 the Task Force will discuss the application of technology to future systems designed to improve U.S. Electronic Warfare capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b (c)(1) (1976), and that accordingly these meetings will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 24, 1982.

[FR Doc. 82–17528 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board; Notice of Advisory Committee Meeting

The Defense Science Board will meet in closed session July 28–30, 1982 at the Air Force Academy, Colorado Springs, Colorado.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting to be held July 28–30, 1982 the Board will examine the substance, interrelationships, and U.S. national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense and Under Secretary of Defense for Research and Engineering. The subject areas are Training and Training Technology, New Weapons Concepts, and Close-Air Support. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Research and Engineering, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I (1976)), it is hereby determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b (c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 24, 1982.

[FR Doc. 82–17529 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board; Notice of Advisory Committee Meeting

The Defense Science Board will meet in closed session August 2–6, 1982 at the Air Force Academy, Colorado Springs, Colorado.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting to be held August 2–6, 1982 the Board will examine the substance, interrelationships, and U.S. national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense and Under Secretary of Defense for Research and Engineering. The subject areas are Training and Training Technology, New Weapons Concepts, and Close-Air Support. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Research and Engineering, for his consideration in determining resource policies, short- and long-range plans, and in shaping

appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it is hereby determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 24, 1982.

[FR Doc. 82–17530 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Continuous Patrol Aircraft (CPA); Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Continuous Patrol Aircraft will meet in closed session on July 21, 1982 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

At the meeting on July 21, 1982 the Task Force will continue discussions on the survivability of continuous patrol aircraft.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)). It has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly these meetings will be clsoed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

June 24, 1982.

[FR Doc. 82–17531 Filed 6–28–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Post Secondary Education; Cancelled Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education.

ACTION: Cancellation of meeting.

The meeting scheduled for July 8–10, 1982 at the Hampton Institute, Hampton, Virginia, which appeared in the **Federal Register** on Thursday, June 17, 1982, page 26180, has been cancelled.

Dated: June 22, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82–17539 Filed 6–28–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Shore Oil Co., Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Shore Oil Company, Incorporated, 2204 N. Longview, Kilgore, Texas 75662. This Proposed Remedial Order charges Shore Oil Company, Incorporated, with pricing violations in the amount of $852,755.51 connected with the sales of motor gasoline during the period March 1, 1979 through December 31, 1979.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from Mr. William R. Gibson, Deputy Director, Atlanta Office, Economic Regulatory Administration, 1655 Peachtree Street, N.W., Atlanta, Georgia 30309, Telephone (404) 881–2661. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the U.S. Department of Energy, Office of Hearings and Appeals, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 16th day of June 1982.

Leonard F. Bittner,

Director, Atlanta Office, Economic Regulatory Administration.

[FR Doc. 82–17537 Filed 6–28–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

National Polutant Discharge Elimination System General Permit for Concentrated Animal Feeding Operations in South Dakota

[W–8–FRL 1909–2]

AGENCY: Environmental Protection Agency (EPA), Region VIII.

ACTION: Notice of Issuance of Final General NPDES Permit.

SUMMARY: On May 22, 1981, Region VIII published notice of its intent (FR 28008) to issue a General NPDES Permit for concentrated animal feeding operations (feedlots). Several comments were received from State and federal agencies, and from private individuals. All were in favor of the issuance of this general permit for animal feedlots. Thus, having received no adverse comments after proper notice of our intent, Region VIII hereby publishes notice of issuance of the permit.

EFFECTIVE DATE: This General Permit shall be effective on or before July 29, 1982.

FOR FURTHER INFORMATION AND COPIES OF FINAL PERMIT CONTACT: Marshall Fischer, Region VIII, U.S. Environmental Protection Agency, Water Management Division, Compliance Branch, 1860 Lincoln Street, Denver, Colorado 80295, (303) 327–4901.

SUPPLEMENTARY INFORMATION: *General Permit Authorization Under the National Pollutant Discharge Elimination System for Concentrated Animal Feeding Operations in South Dakota* Permit No. SD–0028000.

In compliance with the provisions of the Clean Water Act, as amended (33 U.S.C. 1250 et seq.) (hereinafter referred to as "the Act"), all concentrated animal feeding operations (commonly known as feedlots): (1) with 1,000 or more animal units (slaughter and feeder cattle or equivalent animals as defined in Appendix B to 40 CFR Part 122); (2) with less than 1,000 animal units but more than 300, if pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device, or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals concentrated in the operation; or (3) which have ever been designated as a significant contributor of pollution in accordance with the designation procedures set forth in the applicable regulations, are authorized to discharge from facilities located in the State of South Dakota, to waters of the United States, in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II hereof.

This permit shall become effective on or before July 29, 1982. Any outstanding individual facility permits shall continue to apply unless such individual permits

either expire or are revoked by letter from the permit issuing authority.

This permit and authorization to discharge shall expire at midnight, December 31, 1986.

This permit was submitted to the State of South Dakota for review. Though no adverse comments or objections were received, the State contends that it has no authority to certify the permit in acccordance with section 401(a)(1) of the Clean Water Act. Therefore, the Regional Administrator certifies that the conditions and limitations imposed in the permit assure compliance with the applicable conditions of the CWA 208(e), 301, 302, 303, 306 and 307, and with appropriate requirements of State law.

Part I

A. Effluent limitations and waste disposal requirements.

1. *Effluent Limitations.* During the term of this permit, the following effluent limitations apply to all of the concentrated animal feeding operations covered by this permit:

There shall be no discharge of process waste water pollutants to the waters of the United States except as provided for below.

A discharge of pollutants to the waters of the United States may occur whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed, and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the concentrated animal feeding operation. That is, control facilities must contain all runoff from storms less intense than those which occur once every 25 years (during a 24-hour period).

A chart showing 25-year, 24-hour rainfall for South Dakota is given on Appendix A [1] to this permit. The 25-year, 24-hour rainfall value for concentrated animal feeding operation covered by this permit shall be determined from this chart.

For purpose of determining compliance with the effluent limitations of this permit, the amount of precipitation that occurred shall be based on the data from the nearest weather stations in South Dakota. The permittee may, at his option, maintain a precipitation gage at the facility.

2. *Waste Disposal Requirements.* a. All land areas utilized by and operated under the authority of the permittee for the disposal of manure, other waste solids, and liquid wastes shall be isolated to prevent any pollutant from such materials from entering the waters of the United States, subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I, A.1.). Such provisions apply only to the discharge of pollutants from a "point source" as defined in Section 502(14) of the Act. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to the conditions of this permit under the referenced authority of the Act.

b. All land areas utilized by and operated under the authority of the permittee for the storage or holding of manure, edding materials, silage, feeds, and feed concentrates, and other substances having a waste contributing potential shall be isolated to prevent any pollutant from such materials from entering the waters of the United States, subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I, A.1.). Such provisions apply only to the discharge of pollutants from a "point source" as defined in Section 502(14) of the Act. The diffused drainage of natural precipitation on agricultural land resulting from a "non-point source" is not subject to the conditions of this permit under the referenced authority of the Act.

c. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent any pollutant from such materials from entering the waters of the United States, subject to the provisions as provided in permit conditions under "Effluent Limitations" (Part I, A.1.), and then only in accordance with the provisions of any toxic pollutant effluent standards established pursuant to Section 307(a) of the Act.

B. Monitoring and reporting requirements.

1. *Monitoring Requirements.* The permittee shall monitor all discharges and record the following information:

a. A description of the discharge and cause, whether excess precipitation, snow melt, or other specified causes (e.g., structural failure, equipment breakdown, flooding);

b. The period of discharge including exact dates and times;

c. An estimate of discharge volume;

d. Name of receiving stream;

e. Name of person recording discharge;

f. Corrective steps taken, if appropriate; and

g. A record of the precipitation at the nearest National Weather Service station (refer to Note at end of document) with a precipitation gage or at a facility rain gage for the period of inclement weather that resulted in the drainage.

If the permittee elects to maintain a precipitation gage at the facility, the permittee shall monitor and record precipitation daily using a National Weather Service standard rain gage or equivalent.

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years or longer if requested by the Regional Administrator or the South Dakota Department of Water and Natural Resources.

2. *Reporting Requirements.* The premittee shall monitor and report within five (5) days to the permit issuing authority, any discharge resulting from a precipitation event. Any discharge resulting from a non-precipitation event (e.g., dike or structural failure, equipment breakdown, human error) shall be monitored and reported immediately (within 24 hours) by calling (303) 837-3880 anytime, day or night. The permittee shall provide the permit issuing authority with a written report within five (5) days of such notification. The information shall be submitted to the U.S. Environmental Protection Agency and the South Dakota Department of Water and Natural Resources at the following address: U.S. Environmental Protection Agency, Water Management Division, Compliance Branch, 1860 Lincoln Street, Denver, Colorado 80295 and, South Dakota Department of Water and Natural Resources, Joe Foss Building, Pierre, South Dakota 57501, Attention: Office of Water Quality. All such reports shall be signed in accordance with the requirements of 40 CFR 122.6(b), (c), and (d), (May 19, 1980, 45 FR 33425).

Part II

General conditions.

1. *Facilities Operation.* The permittee shall at all times maintain in proper working order and operate as efficiently as possible, all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of the permit. Proper operation and maintenance includes all circumstances listed under 40 CFR 122.7(e) (May 19, 1980, 45 FR 33426).

2. *Power Failures.* As necessary to maintain compliance with the effluent limitations and prohibitions of this

[1] Chart filed with original document, and available at Region 8, 1860 Lincoln St, Denver, Colo. 80295.

permit, the permittee shall provide an alternate power source sufficient to operate the waste water control facilities.

3. *Adverse Impact.* The permittee shall take all reasonable steps to correct or minimize any adverse impact to receiving waters or environment resulting from unauthorized discharges.

4. *Right of Entry.* The permittee shall allow the head of the State of South Dakota Department of Water and Natural Resources, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials:

a. To enter upon the permittee's premises where a real or potential discharge is located or in which any records are required to be kept under the terms and conditions of this permit; and,

b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any discharge of pollutants.

5. *Transfer of Ownership or Control.* In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall notify the succeeding owner or controller of the existence of this permit by letter.

6. *Availability of Reports.* Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the South Dakota Department of Water and Natural Resources and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the Act.

7. *Toxic Pollutants.* If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than limitation for such pollutant in this permit, this permit shall be modified or revoked and reissued in accordance with the toxic effluent standard or prohibition and the permittee so notified.

The permittee shall comply with effluent standards or prohibitions established under 307(a) of the Act within the time provided by the regulations establishing these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

8. *Oil and Hazardous Substances Liability.* Nothing in the permit shall be constructed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of the Act.

9. *State Laws.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

10. *Property Rights.* The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury of private property or any invasion of personal right, nor any infringement of Federal, State or local laws or regulations.

11. *Severability.* The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions of this permit to any circumstances, is held invalid, the application of such provisions to other circumstrances, and the remainder of this permit, shall not be affected thereby.

12. *Other Conditions.* The following conditions are applicable to this NPDES permit: 40 CFR §§ 122.7(a), (c), (h), (k), (1)(2), (1)(6), (1)(7), and (1)(8) and 122.60(a)(2), (c), (d), (f), (g) and (h) (May 19, 1980, 45 FR 33425–6, 33447–8).

13. *Requiring an Individual NPDES Permit.* The Director (Regional Administrator or his designee) may require any owner or operator covered under this permit to apply for and obtain an individual NPDES permit. Instances where general permits may be required include:

a. The discharge(s) is a significant contributor of pollution;

b. The discharger is not in compliance with the conditions of this General Permits; or,

c. Conditions or standards have changed so that the discharge no longer qualifies for a General Permit.

The owner or operator must be notified in writing that an application for an individual NPDES permit is required. When an individual NPDES permit is issued to an owner or operator otherwise covered under this General Permit, the applicability of the General Permit to that owner or operator is automatically terminated upon the effective date of the individual NPDES permit.

14. *Requesting an Individual NPDES Permit.* Any owner or operator covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES permit.

15. *Requesting Coverage Under the General Permit.* The owner or operator of a facility excluded from coverage by this General Permit solely because that facility already has an individual permit may request that the individual permit be revoked and that the facility be covered by this General Permit. Upon revocation of the individual permit, this General Permit shall apply to that facility

16. *Permit Modification, Revocation, Termination.* This General Permit may be modified, revoked, revoked and reissued, or terminated with cause in accordance with the Consolidated Permit Regulation requirements of 40 CFR Parts 122 and 124 (FR Volume 45 No. 98, May 19, 1980).

Note.—Please refer to the most recent United States Weather Service Station Index.

EPA has reviewed the effect of Executive Order 12291 on this final general permit and has determined the permit not to be major under that order. The permit will result in substantially reduced paperwork required of regulated facilities by eliminating permit applications and reducing reporting requirements.

This permit was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the Water Management Division, Compliance Branch, U.S Environmental Protection Agency, 1860 Lincoln Street, Suite 900, Denver, Colorado 80295.

Information Collection Requirements contained in this general permit (Part I, section B1 and Part II, section 12) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control numbers 2000–0448, 2000–0199, and 2000–0201.

Signed this 5th day of January, 1982.

Steven J. Durham,

Regional Administrator.

[FR Doc. 82-16998 Filed 6-28-82; 8:45 am]

BILLING CODE 6560-50-M

[A-6-FRL-2158-4]

New Source Performance Standard (NSPS); Applicability Determination for N-ReN Southwest, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Information notice.

SUMMARY: On March 19, 1982, N-ReN Southwest, Inc. informed Region 6 that their nitric acid plant was composed of existing equipment relocated to the Carlsbad, New Mexico site. The company concluded that the plant should not be subject to NSPS emission limitations because it is not a "New source".

Based on their combining of components from two existing facilities, it is EPA's determination that N-ReN's nitric acid plant cannot be classified as a relocated facility for purposes of NSPS, and, therefore, the NSPS standard for nitric acid plants applies to N-ReN's Carlsbad facility.

DATE: Effective immediately.

ADDRESS: Copies of the background material and the determination are available for public inspection at the Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Tom H. Diggs, Air Branch, address above, telephone (214) 767-5142 or (FTS) 729-5142.

SUPPLEMENTARY INFORMATION: N-ReN Southwest, Inc., owns and operates an ammonia production plant which includes a nitric acid plant located near Carlsbad, New Mexico. The nitric acid plant was constructed in early 1975 and was initially started up on December 13, 1975. The effective date of the New Source Performance Standard (NSPS) for nitric acid plants (Subpart G) is August 17, 1971.

N-ReN contends that the components of the plant were moved to Carlsbad from other N-ReN facilities in Tuscola, Illinois, and Cincinnati, Ohio, and should not be considered a "modification" as defined under NSPS. They also contend that the total capital equipment costs of the plant as constructed were considerably less than one-half of what a new plant would have cost at the time of construction, and, therefore, cannot be viewed as a "reconstructed" facility under 40 CFR 60.15.

EPA agrees, based on the information submitted, that the total capital equipment cost of the plant as constructed was less than one-half of what a comparable new plant would have cost and would not be classified as a reconstructed facility under 40 CFR 60.15. EPA also agrees that N-ReN's Carlsbad nitric acid plant is primarily composed of existing equipment, however, since the components of the plant were moved from different locations, the N-ReN facility cannot simply be classified as a relocation of an existing source and a candidate for the exemption of 40 CFR 60.14(e)(6). This exemption states that the relocation or change in ownership of an existing facility is not a modification.

An existing nitric acid plant, as defined at 40 CFR 60.2 and 60.70, is any nitric acid production unit the construction of which was commenced before August 17, 1971. N-ReN's Carlsbad, New Mexico, facility did not exist as a production unit before August 17, 1971; rather, it represents a new nitric acid production unit formed from parts of several existing units as well as $168,532 of new components. Because this plant was constructed from components of several existing facilities after August 17, 1971 (even though some of its components were in existence before that date), it is a new facility and is subject to the requirements of 40 CFR Part 60, Subpart G.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit by August 30, 1982.

Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Dated: June 3, 1982.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 82-17514 Filed 6-28-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59089A; TSH-FRL 2156-8]

Polester Resin; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-19) under section 5 of the Toxic Substances Control Act (TSCA) on May 14, 1982. Notice of receipt of the application was published in the **Federal Register** of May 28, 1982 (47 FR 23554). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants the test marketing exemption, it may impose restrictions on the test marketing activities.

On May 14, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-19. The manufacturer claimed its identity, the specific chemical identity, the specific exposure and production volume of the new substance as confidential business information. The generic name of the new substance is polyester resin, and it will be used as a polymer component. The test marketing period is not to exceed 135 days. During manufacture and use exposure to workers will be limited to the amount

and duration stated in the application. A notice published in the **Federal Register** of May 28, 1982 (47 FR 23554) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–19, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant health or environmental concerns were identified for the TME substance. The substance has a high molecular weight and is not designed to be water soluble.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

3. The production volume of the new substance may not exceed that described in the test marketing exemption application.

4. The test marketing activity approved in this notice is limited to a period of 135 days commencing on the date of signature of this notice by the Administrator.

5. The number of workers exposed to the new chemical should not exceed that specified in the application, and the duration of exposure should not exceed that specified.

The Agency reserves the right to recind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: June 18, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82–17513 Filed 6–28–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59088A; TSH–FRL 2157–2]

Unsaturated Alkyl Amino Alkyl Dioxolane; Approval of Test Marketing Exemption

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–82–17) under section 5 of the Toxic Substances Control Act (TSCA) on May 12, 1982. Notice of receipt of the application was published in the **Federal Register** of May 26, 1982 (47 FR 23021). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on June 18, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not in the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On May 12, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–82–17. The manufacturer claimed its identity, the specific chemical identity, the specific end-use and production volume of the new substance as confidential business information. The generic name of the new substance is unsaturated alkyl amino alkyl dioxolane, and it will be used as a site-limited intermediate. The test marketing period is not to exceed 2 months. Exposure is limited to sampling during manufacture. A notice published in the **Federal Register** of May 26, 1982 (47 FR 23021) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–82–17, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Although there are health concerns for the TME substance, exposure to workers during manufacture is expected to be minimal. Health concerns include extreme irritation to the skin, CNS effects, liver toxicity, and lung irritation from acute dermal or inhalation exposure. Exposure is limited to sampling and proper protective equipment is worn.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The production volume of the new substance may not exceed that described in the test marketing exemption application.

3. The test marketing activity approved in this notice is limited to a period of 2 months commencing on the date of signature of this notice by the Administrator.

4. The type of exposure to the new chemical should not exceed or differ from that specified in the application, and the duration of exposure should not exceed that specified.

5. The substance is site-limited and may not be shipped. Manufacturing procedures outlined in the application must be followed and personal protective equipment described in the application is mandatory.

The Agency reserves the right to rescind its decision to grant this exemption should any new information

come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: June 18, 1982.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-17512 Filed 6-28-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 82-327 et al.; File No. BPH-810126AC et al.]

Cecil W. Hubbard et al.;

Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Cecil W. Hubbard, Bridge City, Texas, Req. 92.1 MHz, channel 221A, 3 kQ (H&V), 230 feet, BC Docket No. 82-327, File No. BPH-810126AC; Carl Haynes TR/AS Haynes Communications Co., Nederland, Texas, Req. 92.1 MHz, Channel 221A, 3 kW (H&V), 141 feet, BC Docket No. 82-328, File No. BPH-810618AH; Ronald D. Haney; Van D. Goodall and Nancy Havey d/b/a Mid County Communications, Nederland, Texas, Req. 92.1 MHz, Channel 221A, 3 kW (H&V), 300 feet, BC Docket No. 82-329, File No. BPH-810814AC; Bridge City Broadcasting Crop., Bridge City, Texas, Req. 92.1 MHz, Channel 221A, 3 kW (H&V), 300 feet, BC Docket No. 82-330, File No. BPH-810819AE; Voice in the Wilderness Broadcasting, Inc., Groves, Texas, Req. 92.1 MHz, Channel 221A, 3 kW (H&V), 300 feet, BC Docket No. 82-331, File No. BPH-810819AU; For Construction Permit for a new FM Station.

Adopted: June 11, 1982.

Released: June 22, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Cecil W. Hubbard (Hubbard), Carl Haynes tr/as Haynes Communications, Co. (Haynes), Ronald D. Haney, Van D. Goodall and Nancy Havey d/b/a Mid County Communications (Mid County), Bridge City Broadcasting Corporation (Bridge City), and Voice in the Wilderness Broadcasting, Inc. (Voice).

2. *Hubbard.* Analysis of the financial portion of Hubbard's application reveals that he will require $51,883 to construct the proposed facility and operate for three months, itemized as follows:

Equipment down payment	$19,913
Equipment payments with interest (three months)	4,668
Building	1,250
Miscellaneous and other costs	9,420
Operating costs (three months)	16,632
Total	51,883

Hubbard plans to finance construction and operation with the following funds: (i) existing capital—$70,000 and (ii) station revenue—$45,528. However, Hubbard's undated balance sheet does not segregate current liabilities from long-term liabilities. Accordingly, we must assume that all liabilities shown are current. Since these liabilities exceed current assets, we find no funds available from this source. In addition, the Commission's financial qualifications standard requires an applicant to demonstrate that it has sufficient funds to cover construction costs and the initial start-up period between inauguration of broadcast service and the point where advertising accounts begin to "pay-off." Consequently, an applicant must show the ability to construct and operate for three months without reliance on advertising revenues. *New Financial Qualifications Standard for Aural Broadcast Applicants,* 69 FCC 2d 407, 43 RR 2d 1101 (1978). Thus, an applicant may not rely upon anticipated advertising to establish financial qualifications. *Amber Productions, Inc.,* 46 RR 2d 448 (1979). Therefore, the applicant has not shown any funds available to meet the proposed costs of $51,883. In view of the foregoing, a financial issue will be specified.

3. Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give localnotice of the filing of their applications. We have no evidence that Hubbard published the required notice. To remedy this deficiency, Hubbard must publish local notice, if he has not already done so, and so inform the presiding Administrative Law Judge.

4. In addition, Hubbard has not submitted a description, in narrative form, of the planned programming service relating to the issues of public concern facing his proposed service area. See *Deregulation of Radio,* 84 FCC 2d 968, 999 (1981). An amendment is required to be filed with the presiding Administrative Law Judge.

5. *Voice.* Analysis of the financial portion of Voice's application reveals that it will require $68,575 to construct the proposed facility and operate for three months, itemized as follows:

Equipment (cash)	$5,000
Equipment down payment	23,250
Equipment payments with interest (three months)	8,370
Land (leased)	3,000
Building	1,000
Miscellaneous and other costs	5,900
Operating costs (three months)	22,054
Total	68,575

Voice plans to finance construction and operation with the following funds: (i) existing capital—$3,250, (ii) new capital (unfulfilled stock subscriptions)—$22,500 and (iii) bank loan—$45,000. However, under the terms of the subscription agreement, eight of the nine principals of the corporation are required to purchase stock totalling $22,500. But, an examination of their balance sheets and/or financial statements reveals that only two principals—Messrs. P. L. Cooper, Jr. and M. J. Adair—have the net liquid assets to meet their $1,500 commitments. Therefore, the applicant has shown only $51,250, an amount insufficient to meet proposed costs of $68,575. In view of the foregoing, a financial issue will be specified.

6. The Voice and Bridge City proposals constitute major environmental actions, as defined by Section 1.1305(a) of the Commission's Rules, since the antenna towers will exceed 300 feet in height above ground. Therefore, a proposal to construct such a tower must include a narrative statement containing environmental information specifically requested under § 1.1311 of the Commission's Rules. Accordingly, Voice and Bridge City will be required to submit to the presiding Administrative Law Judge the environmental narrative statements required by § 1.1311.

7. In addition, Voice has not submitted a description, in narrative from, of the planned programming service relating to the issues of public concern facing its proposed service area. See *Deregulation of Radio,* 84 FCC 2d 968, 999 (1981). An amendment is required to be filed with the presiding Administrative Law Judge.

8. The respective proposals, although for different communities, would serve substantial areas in common. Consequently, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

9. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as

proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

10. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated Proceeding, at a time and place to specified in a subsequent Order, upon the following issues:

1. To determine with respect to Cecil W. Hubbard:

(a) The source and availability of funds to meet its expected costs; and

(b) Whether in light of the evidence adduced pursuant to (a) above the applicant is financially qualified to construct and operate the proposed station.

2. To determine with respect to Voice in the Wilderness Broadcasting, Inc.:

(a) The source and availability of funds over and above the $51,250 indicated; and

(b) Whether in light of the evidence adduced pursuant to (a) above the applicant is financially qualified to construct and operate the proposed station.

3. To determine the areas and populations which would receive primary aural service (1 mV/m or greater in the case of FM) from each proposal and the availability of other primary service to such areas and populations.

4. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

5. To determine, in the event it is concluded that a choice between the applications should not be based solely on considerations relating to Section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

11. It is further ordered, That Hubbard shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

12. It is further ordered, That Hubbard shall file an amendment with the presiding Administrative Law Judge outlining his proposed programming.

13. It is further ordered, That Voice and Bridge City shall submit environmental narrative statements with the presiding Administrative Law Judge, pursuant to § 1.1311 of the Commission's Rules.

14. It is further ordered, That Voice shall file an amendment with the presiding Administrative Law Judge outlining its proposed programming.

15. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-17521 Filed 6-28-82; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1360

Petitions for Reconsideration of Actions in Rulemaking Proceedings

June 23, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before July 14, 1982. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921, RM's 1197, 1218 & 1330).

Filed by: Merrill T. See, C & E Service Co., on 6-4-82. Kenneth E. Hardman, Attorney for Telocator Network of America on 6-7-82.

Subject: An Inquiry into the Future Role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications Systems. (BC Docket No. 78-253.)

Filed by: Don Franco, President & Stephen R. Bell & Paul J. Sinderbrand, Attorneys for Microband Corporation of America on 6-14-82.

Peter Gutmann & Stanley Fleishman, Attorneys for Dick Dorwart on 6-15-82.

Theodore D. Frank & Pamela Stanton Baron, Attorneys for National Association of Public Television Stations on 6-17-82.

Parry D. Teasdale, Chairman & Michael Couzens, President for The Television Center, Inc., on 6-17-82.

Linda Colvard Corian & Thomas L. Root, Attorneys for Corporation for Public Broadcasting on 6-17-82..

Howard J. Braun & Russell C. Balch, Attorneys for Bogner Broadcast Equipment Corp., on 6-17-82.

Paul James Broyles, President for International Broadcasting Network on 6-17-82.

Sol Schildhause, Attorney for Neighborhood TV Company, Inc., on 6-17-82.

Leon T. Knauer, Attorney & Dr. B. W. St. Clair, Technical Advisor for The National Translator Association on 6-17-82.

Erwin G. Krasnow, Valerie G. Schulte & William E. Kennard, Attorneys for National Association of Broadcasters on 6-17-82.

Shelley Sadowsky, Legal Assistant & E. W. Bundy, Ph. D., Executive Director for Rocky Mountain Corporation for Public Broadcasting on 6-17-82.

Subject: Amendment of Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, of the Commission's Rules and Regulations with respect to accounting for station connections, optional payment plan revenues and related capital costs, customer provided equipment and sale fo terminal equipment. (CC Docket No. 79-105).

Filed by: Raymond F. Scully, Leater G. Stiel & W. Preston Granbery, Attorneys for American Telephone and Telegraph Company on 6-17-82.

Subject: Interconnection Arrangements Between and Among the Domestic and International Record Carriers. (CC Docket No. 82-122)

Filed by:

Roger P. Newell, Attorney for FTC Communications, Inc., on 6-2-82. Ian D. Volner & David M. Rickless, Attorneys for Consortium Communications International, Inc., on 6-2-82.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 82-17522 Filed 6-28-82; 8:45 am]
BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; Steering Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's Steering Committee scheduled to meet on Tuesday, June 29, 1982, at 8:00 a.m. in Conference Room A-B (10th Floor) of the AT&T offices located at 1120 20th Street, N.W., Washington, D.C. It will be open to the public. The agenda is as follows:

I. General Administrative Matters.
II. Definitions and Rules Subcommittee proposal for USOA functional categorization.
III. Other Business.
IV. Presentation of Oral Statements.
V. Adjournment.

With prior appproval of TIAG Chairman, Gerald P. Vaughan, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of the Committee's objectives. Anyone wishing to make an oral presentation should contact Stephen T. Duffy, TIAG Vice-Chairman (202) 634-1509.

The TIAG Definitions and Rules Subcommittee, previously scheduled to meet at 9:30, will meet at 9:30 or immediately following the Steering Committee meeting, whichever occurs later.

The Commission's Advisory Committee Management Officer has reviewed the need for this abbreviated Notice. Due to the urgent need for the steering Committee to pass on recently proposed guidelines for accounting system design (to be employed as soon as possible by TIAG Account Subcommittees), this Notice has been approved.

William J. Tricarico,
Secretary, Federal Communications Commission.
[FR Doc. 82-17697 Filed 6-28-82; 9:32 am]
BILLING CODE 3510-25-M 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 19, 1982. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, inporters, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the Uuited States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3071-2.
Filing Party: Mr. Frank Wagner, Deputy City Attorney, Office of the City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.
Summary: Agreement No. T-3071-2, between the City of Los Angeles (City) and Japan Line, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashitta-Shinnihon Steamship Co., Ltd. (the Lines), modifies the parties' basic agreement which provides for the non-exclusive preferential use by the Limes of certain premises in the Port of Los Angeles, as well as the option to use additional property adjacent to that initially covered by the agreement. The modification provides (1) that the Lines will surrender any rights to exercise its option or right of first refusal for certain property described in the basic agreement or in FMC T-3071-1; (2) Lines are granted additional 13 acres of property contiguous to existing leased premises; (3) City will make improvemens on the new premises; (4) annual rent will be $224,360; (5) refund will be made of certain fees previously paid to the City in the amount of $47,636.62; (6) Lines may use a 60 ft. strip of land adjacent to the original premises; (7) all other existinig terms of the basic agreement and amendment No. 1 will remain in effect.

Agreement No.: T-3527-5.
Filing party: Ms. Beverly J. Strike, Administrative Assistant, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.
Summary: Agreement No. T-3527-5, between the City of Milwaukee (City) and Meehan Seaway Service, Ltd. (Meehan), modifies the basic agreement between the parties which provides for the lease by City to Meehan of certain premises on the South Harbor Tract in the Port of Milwaukee, to be used for the receiving, shipping, storing and handling of general comodities. The purpose of the modification is to provide for the assessment of supplemental rent for containerized cargo, provided such rental sum exceeds $160,000 per annum.

Agreement No.: T-4047.
Filing party: Mr. Richard L. Landes, Deputy City Attorney, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.
Summary: Agreement No. T-4047 between the City of Long Beach, California (City) and Fremont Forest Products (Fremont) provides for the lease by the City to Fremont of 2,028,000 sq. ft. at Pier E, Long Beach. The premises are to be used in connection with Fremont's business of storing, sorting and handling of lumber and wood products received at and shipped from the premises via water carriers. The term of the lease is for 40 years with a 10-year renewal option. Fremont will pay City all dockage and wharfage charges. There is a minimum annual rental of $202,000 with dockage and wharfage revenues credited toward said minimum. The compensation is to be renegotiated in 5-year intervals.

Agreement No.: T-4048.
Filing party: Mr. Paul G. Mattingly, General Marketing Manager, Jacksonville Port Authority, P.O. Box 3005, 2831 Talleyrand Avenue, Jacksonville, Florida 32206.
Summary: Agreement No. T-4048, between the Jacksonville Port Authority (Port) and Puerto Rico Maritime Shipping Authority (PRMSA), provides for the lease by Port to PRMSA of (1) 28.42 acres of paved area, (2) 21, 826 square feet of transit shed space, (3) an office complex, maintenance equipment building and port engineer office, and (4) RO/RO ramps, at rates of compensation set forth in the agreement. The agreement also provides for the preferential use by PRMSA of Berth No. 11, as well as for an additional preferential berth with container crane

and spreader. The term of the agreement is for ten years, with two five-year renewal options.

Agreement No.: T–4049.

Filing party: Mr. Frank H. Clark, Associate Director of Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4049 provides for the Port of Seattle's (Port) preferential lease to Matson Terminals, Inc. (Matson) of certain land, facilities and cranes at the Port's Terminal 18, which will be used for the loading and discharge of vessels of Matson, Nippon Yusen Kaisha Co., Ltd., Korea Marine Transport, Co., Ltd. and Showa Line, Ltd. as well as vessels of other lines as approved by the Port. Matson will compensate the Port for the use of the land and facilities according to a rental formula as mutually agreed. The term of the agreement is 3 years with one renewal option. The agreement is to cancel and supersede Agreement No. T–3806 between these same parties, approved by the Commission on June 14, 1979.

Agreement No.: T–4050.

Filing party: Mr. Frank H. Clark, Associate Director of Real Estate, Facilities, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–4050 provides for the Port of Seattle's (Port) preferential lease to Hanjin Container Lines, Ltd. (Hanjin) of certain land, facilities and crane at the Port's Terminal 18, which will be used for the loading of Hanjin vessels and vessels of other lines as approved by the Port. Hanjin will compensate the Port for the use of the land and facilities according to a rental formula as mutually agreed. The term of the agreement is 5 years. The agreement is to cancel and supersede Agreement No. T–3951, between these same parties, approved by the Commission on April 30, 1981.

Agreement No.: 10050–4.

Filing party: Robert A. Peavy, Esquire, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10050–4 modifies the U.S.-Flag Far East Discussion Agreement to define its scope with respect to U.S. Essential Trade Routes, add the exchange of operating cost data to the authorized activities, add surcharges and conditions of carriage to discussion topics, define in detail the purposes of the agreement and to render the term of the agreement indefinite by elimination of the current expiration date of December 19, 1982.

Agreement No.: 10454.

Filing party: Marc J. Fink, Esquire, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 10454, entered into by the parties of the U.S. South Altantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement and the U.S. North Atlantic Spain Rate Agreement, to be known as the Housekeeping Agreement of the Associated Mediterranean Freight Conferences, would establish a cooperative working arrangement for sharing common administrative facilities, staff and expenses associated therewith, as well as authority to jointly discuss and agree upon housekeeping, regulatory and legal matters.

By Order of the Federal Maritime Commission.

Dated: June 23, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–17427 Filed 6–28–82; 8:45 am]

BILLING CODE 6730–01–M

Notice of Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on June 8, 1982, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, P.L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes and assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No: LM–65–2.

Filing party: Mr. Peter C. Lambos, Lambos, Flynn, Nyland, & Giardino, 29 Broadway, New York, New York 10006.

Summary: Agreement No. LM–65–2 is an amendment to the Job Security Program (JSP) Agreement between steamship carriers operating on the North Atlantic, South Atlantic and Gulf Coasts and the International Longshoremen's Association, AFL–CIO (ILA), covering the period October 1, 1980, through September 30, 1983.

That purpose of the amendment is to require that stevedores and terminal operators employing ILA labor subject to the JSP agreement procure a Subscription Agreement from the carrier requesting the services of ILA labor in the loading or unloading of its vessels, if said carrier has not directly subscribed to the JSP Agreement. Stevedores and terminal operatores who fail to get such Subscription Agreements from carriers utilizing ILA labor in the ports subject to the JSP agreement shall be jointly liable with the non-subscribing carrier for the amount of any unpaid JSP tonnage assessment.

By Order of the Federal Maritime Commission.

Dated: June 23, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82–17428 Filed 6–28–82; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 22, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation*, New York, New York (investment advisory activities; California): To engage through its subsidiary, Van

Deventer & Hoch, in activities that may be carried on by an investment adviser, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Newport Beach, Orange County, California, serving southern California.

2. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Dallas, Texas, and to expand the activities of an existing office of its subsidiary, Citicorp Homeowners, Inc., at the same Dallas, Texas, location. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. will engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned activities shall be comprised of the entire state of Texas. The new activities in which the office of Citicorp Homeowners, Inc. will engage *de novo* are as follows: making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale or mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire state of Texas for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

3. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Homeowners, Inc., located in Houston, Texas, and to establish a *de novo* office of Citicorp Person-to-Person Financial Center, Inc., at the same Houston, Texas location. The activities to be engaged in at this location by Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners Inc. will include: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit secured by liens on residential or nonresidential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. at this location shall be comprised of the entire state of Texas for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

4. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Texas): To expand the activities of an existing office of its subsidiary, Citicorp Homeowners, Inc., located in San Antonio, Texas, and to establish a *de novo* office to Citicorp Person-to-Person Financial Center, Inc. at the same San Antonio, Texas location. The activities to be engaged in at this location by Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners Inc. will include: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making acquiring, and servicing for its own account and for the account of others, of extensions of credit secured by liens on residential or nonresidential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. at this location shall be comprised of the entire state of Texas for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

5. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Virginia): To expand the activities of two existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., and to establish two *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. propose to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of each of the Citicorp Person-to-Person offices for the aforementioned proposed activities shall be comprised of the entire state of Virginia. The activities in which the proposed *de novo* offices of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service areas of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire state of Virginia for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of

Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from 503 Libbie Avenue, Richmond, Virginia, and 5718 E. Virginia Beach Boulevard, Norfolk, Virginia.

6. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Ohio): To expand the activities of existing offices of its subsidiaries, Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Mortgage Corporation, located in Columbus, Ohio, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Columbus, Ohio location. The new activities in which the office of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Mortgage Corporation propose to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire state of Ohio. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire state of Ohio for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Mortgage Corporation and Citicorp Homeowners, Inc.

7. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Ohio and Indiana): to expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Mortgage Corporation located in Independence, Ohio, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Independence, Ohio, location. The new activities in which the office of Citicorp Person-to-Person Mortgage Corporation proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire states of Ohio and Indiana. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire state of Ohio and Indiana for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Mortgage Corporation and Citicorp Homeowners, Inc.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Samsome Street, San Francisco, California 94120:

1. *BankAmerica Corporation,* San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; North Carolina): To continue to engage, through its indirect subsidiary, FinanceAmerica Mortgage Services Inc., a New Hampshire corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance, and credit-related property insurance. Such activities will include, but not be limited to, making consumer installment loans, making loans and other extensions of credit to small businesses, making loans and other extensions of credit secured by real property, and offering credit-related life, credit-related accident and health, and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Mortgage Services Inc. These activities will be conducted from an existing office located in Greensboro, North Carolina, serving the entire State of North Carolina.

Board of Governors of the Federal Reserve System, June 22, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17497 Filed 6-28-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of New York.** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical New York Corporation,* New York, New York; to acquire 100 percent of the voting shares or assets of Chemical First State Corporation, Wilmington, Delaware, and indirectly acquire Chemical Bank (Delaware), Wilmington, Delaware. Comments on

this application must be received not later than July 23, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

A. *Colorado National Bankshares, Inc.*, Denver, Colorado; to acquire 100 percent of the voting shares or assets of The Exchange National Bank of Colorado Springs, Colorado Springs, Colorado. Comments on this application must be received not later than July 23, 1982.

Board of Governors of the Federal Reserve System, June 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17496 Filed 6-28-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

1. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Chemical First State Corporation*, Wilmington, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Chemical Bank (Delaware) Wilmington, Delaware. Comments on this application must be received not later than July 23, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *City Bancorp, Inc.*, New Iberia, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of City Bank & Trust Company, New Iberia, Louisiana. Comments on this application must be received not later than July 23, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Crete Bancorporation, Inc.*, Crete, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of United Bank of Crete-Steger, Crete, Illinois. Comments on this application must be received not later than July 23, 1982.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue,, Kansas City, Missouri 60198;

1. *Perry Bancshares, Inc.*, Perry, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Exchange Bank and Trust Company, Perry, Oklahoma. Comments on this application must be received not later than July 23, 1982.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Dallas Guaranty Bancshares, Inc.*, Dallas, Texas; to become a bank holding comapny by acquiring at least 80 percent of the voting shares of Guaranty Bank, Dallas, Texas. Comments on this application must be received not later than July 23, 1982.

2. *Lower Rio Grande Valley Bancshares*, La Feria, Texas; to become a bank holding company be acquiring 80 percent of the voting shares of The First National Bank of La Feria, La Feria, Texas; The First National Bank of Mercedes, Mercedes, Texas; and Valley National Bank, Harlingen, Texas, a proposed new bank. Comments on this application must be received not later than July 23, 1982.

Board of Governors of the Federal Reserve System, June 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17495 Filed 6-28-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 22, 1982.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Illinois): To expand the activities and service areas of existing offices of its subsidiaries, Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Financial Center of Illinois, Inc., located in Schaumburg, Illinois, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Schaumburg, Illinois, location. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Financial Center of Illinois, Inc. propose to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire state of Illinois. The proposed expanded service area of the Citicorp Person-to-Person Financial Center, Inc. office shall be the

entire state of Illinois for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service area of the CPTP-Illinois office shall be the entire state of Illinois for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the extensions of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire state of Illinois for all the aforementioned activities. Credit related life, accident, and health insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Financial Center of Illinois, Inc. and Citicorp Homeowners, Inc.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Georgia): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Morrow, Georgia, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Morrow, Georgia, location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire state of Georgia. The proposed expanded service area of Citicorp Person-to-Person Financial Center, Inc. shall be comprised of the entire state of Georgia for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required, the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit-related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Georgia for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowner, Inc.

3. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Louisiana): To expand the activities and service areas of three existing offices of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. and to establish three *de novo* offices of Citicorp Homeowners, Inc. at the same locations. The new activities in which the offices of Citicorp Person-to-Person Financial Center, Inc. propose to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of each of the Citicorp Person-to-Person offices for the aforementioned proposed activities shall be comprised of the entire state of Louisiana. The proposed expanded service areas of the Citicorp Person-to-Person offices shall be the entire state of Louisiana for a portion of their previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* offices of Citicorp Homeowners, Inc. will engage are: the making, acquiring, of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability

insurance directly related to extensions of mortgage loans. The proposed service areas of the *de novo* offices of Citicorp Homeowners, Inc. shall be comprised of the entire State of Louisiana for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc. The aforementioned activities will be conducted from the following three locations: 9029 Mansfield Road, Suite 103, Shreveport, Louisiana; 3621 Veterans Memorial Boulevard, Metairie, Louisiana; Aurora Village, 4132 General DeGaulle Drive, New Orleans, Louisiana.

4. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Georgia and Florida): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc., located in Jacksonville, Florida, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Jacksonville, Florida, location. The activities to be engaged in at this location by Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc. will include: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate; the sale of credit related life and accident and health of decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc. at this location shall be comprised of the entire states of Florida and Georgia for all the aforementioned activities. Apart from this notification, Citicorp Person-to-Person Financial Center of Florida, Inc. will also continue to engage in the previously approved activity of the sale of credit-related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person, Inc., and to the extent permissible under applicable state insurance laws and regulations in its previously approved service area of Georgia. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, and affiliate of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc.

5. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc., located in Fort Lauderdale, Florida, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Fort Lauderdale, Florida, location. The new activities in which the office of Citicorp Person-to-Person Financial Center of Florida, Inc. proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the *de novo* activities shall be comprised of the entire state of Florida. The proposed expanded service area of Citicorp Person-to-Person Financial Center of Florida, Inc. shall be comprised of the entire state of Florida for a portion of its previously approved activities, specifically, the sale of credit-related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the making, acquiring, and servicing for its own account and for the account of others, of extensions of credit to individuals secured by liens or residential or nonresidential real estate; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed service area of the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire state of Florida for all the aforementioned proposed activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, and affiliate of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc.

6. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc., located in Tampa, Florida and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Tampa, Florida location. The new activities in which Citicorp Person-to-Person Financial Center of Florida, Inc. proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire state of Florida. The proposed expanded service area of Citcorp Person-to-Person Financial Center shall be comprised of the entire state of Florida for a portion of its previously approved activities, specifically, the sale of credit-related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required. The activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of the *de novo* office of Citicorp Homeowners, Inc. shall be comprised of the entire State of Florida for all the aforementioned proposed activities.

Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc.

7. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Kansas and Missouri): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Overland Park, Kansas, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Overland Park, Kansas, location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring and servicing, for its own accountant and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire states of Kansas and Missouri. The proposed expanded service areas of the Citicorp Person-to-Person Financial Center, Inc. office shall be the entire states of Kansas and Missouri for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire States of Kansas and Missouri for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

Board of Governors of the Federal Reserve System, June 23, 1982.

Delores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17498 Filed 6-28-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 82N-0162]

Proposed Recommendations to the Drug Enforcement Administration Regarding the Scheduling Status of Marihuana and its Components and Notice of a Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces (1) its proposed recommendations, including scientific and medical evaluations, on the appropriate scheduling of marihuana plant materials under the Controlled Substances Act and (2) that the proposed recommendations will be the subject of a public legislative-type hearing to be held on September 16, 1982. The proposed recommendations are published to give interested persons the opportunity to comment on the recommendations and on the scientific and medical evaluations. FDA will consider these comments as well as the information gathered from the public hearing in preparing its final recommendations and scientific and medical evaluations of the marihuana plant materials before transmitting them to the Assistant Secretary for Health, Department of Health and Human Services (DHHS). The Assistant Secretary for Health is responsible for making the DHHS recommendation to the Drug Enforcement Administration (DEA).

DATES: Comments on the proposed recommendations by October 1, 1982. Notice of participation in the public hearing by August 27, 1982. Public hearing to be held September 16, 1982.

ADDRESSES: Written comments on the proposed recommendations to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Written or oral notice of participation along with the text or comprehensive outline to the Division of Neuropharmacological Drug Products (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION:

I. Background

The plant, *Cannabis sativa*, commonly known as marihuana, contains hundreds of chemical compounds. Sixty-one of the chemicals that have been identified in the plant—the cannabinoids—are specific to connabis. Ten are now routinely quantified in identifying cannabis samples (Ref. 1).

The major psychoactive ingredient contained in the marihuana plant is delta-9-tetrahydrocannabinol (THC). THC content in cannabis plants varies not only among the different parts of a single plant (flowers, leaves, stems, seeds, etc.), but also at different stages of development of the same part of a single plant. The geographic location in which the plant is grown and the time of day at which the plant is harvested also affect THC content.

The variability of THC content in natural plant material tends to render the marihuana plant, resin, leaves, and seeds difficult substances for precise scientific investigation, and scientific and medical evaluations have therefore focused primarily on THC itself, and its immediate synthetic precursor, cannabidiol.

Nonetheless, marihuana itself is currently under investigation in the United States as an agent useful in, among other purposes, the control of nausea and vomiting from cancer chemotherapy, in the reduction of the vision-destroying increase in intraocular pressure which occurs in open-angle glaucoma, and in the reduction of muscular spasticity in certain neurologic diseases (Ref. 1).

Cannabis, cannabis resin, cannabis extracts, and tinctures of cannabis are controlled in Schedule I of the 1961 Single Convention on Narcotic Drugs (Single Convention), to which the United

States is a party. Schedule I is the most restrictive schedule in the Single Convention with mandated regulatory controls. Schedule I also includes heroin, morphine, and cocaine. Its major controls are import/export permits, quotas, prescriptions, and prevention of drug stockpiling and accumulations. In addition, cannabis and cannabis resin are controlled concurrently in Schedule IV of the Single Convention. Schedule IV is best described as a "Super Schedule I" because it highlights the need for additional controls to be placed on certain drugs scheduled concurrently in Single Convention Schedule I. Heroin is the prototype for drugs in this schedule. The drugs in Schedule IV of the Single Convention are considered particularly dangerous and lack demonstrated therapeutic value. Although Schedule IV drugs are not subject to specific additional controls under the Single Convention, the treaty calls upon individual countries to use discretion in imposing whatever additional controls are necessary to protect the public health, including, if appropriate, a prohibition on production and trade. The Single Convention requires the United States to impose certain domestic controls on the marihuana plant materials listed above. The United States carries out these responsibilities under the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.).

In 1970 Congress enacted the CSA, establishing control schedules I through V (21 U.S.C. 812(b) (1) through (5)). Congress placed marihuana in schedule I of the CSA, the classification providing for the most stringent domestic controls. See 21 U.S.C. 812. The findings required for schedule I drugs or substances are: high potential for abuse; no currently accepted medical use in treatment in the United States; and lack of accepted safety for use under medical supervision. The major schedule I controls are: limitation of dispensing to research use-only; the requirement of separate recordkeeping; and limitation of the amounts produced during a given calendar year, i.e., quotas.

The CSA contains procedures by which changes in scheduling can be effected (21 U.S.C. 811(a)) including "on petition of any interested person". In May 1972, the National Organization for the Reform of Marijuana Laws (NORML) petitioned the Bureau of Narcotics and Dangerous Drugs (now the Drug Enforcement Administration, DEA) under section 201(a) of the CSA (21 U.S.C. 811(a)) to remove marihuana and its components from control under the CSA or to move marihuana and its components to a less restrictive schedule. DEA denied NORML's requests (37 FR 18097; September 1, 1972). NORML appealed the denial to the United States Court of Appeals for the District of Columbia Circuit, and, in *NORML* v. *Ingersoll*, 497 F.2d 654 (D.C. Cir. 1974), the court ordered DEA to hold hearings and reconsider the NORML petition on the basis of evidence introduced at the hearings. Following these hearings, DEA again denied the NORML petition and ruled that the substances at issue would remain in CSA schedule I (40 FR 44164; September 25, 1975). NORML appealed the second denial and the court remanded the petition to DEA with instructions to refer it to the Secretary of DHHS for medical and scientific findings and recommendations for rescheduling. *NORML* v. *DEA*, 559 F.2d 745, 750 (D.C. Cir. 1977). The court directed the Secretary of DHHS to make evaluations and recommendations for each of the following cannabis materials: "cannabis" and "cannabis resin" (minimum control—CSA II); cannabis leaves (minimum control—CSA V); cannabis seeds capable of germination (minimum control—CSA V); synthetic tetrahydrocannabinol (THC) (no minimum control under CSA). The "minimum controls" schedules are the least restrictive domestic schedules consistent with the treaty obligations under the Single Convention on Narcotic Drugs, 1961, as interpreted by the court. THC was not listed by the court as having a minimum domestic schedule because THC is not controlled under the Single Convention. (THC is subject to control under the Psychotropic Convention, however, and thus is subject to control under the CSA.)

In addition, the court directed DEA to comply with the rulemaking procedures in 21 U.S.C. 811 (a) and (b) after it received the Secretary's evaluation and recommendation.

In June 1977, DEA referred the NORML petition to the Secretary of the Department of Health, Education, and Welfare (now DHHS). FDA's Controlled Substances Advisory Committee (CSAC) considered the NORML petition in November 1977 and March 1978. The CSAC (now the Drug Abuse Advisory Committee (DAAC)) recommended that the marihuana plant materials remain in CSA scheule I and that THC and cannabidiol be rescheduled to CSA schedule II. by letter dated June 4, 1979, the Secretary recommended that all these substances remain in schedule I. The advisory committee's rationale for recommending placing THC and cannabidiol in Schedule II was that it would facilitate research on the substances. The Secretary concluded, however, that facilitation of research was not relevant to any of the scheduling criteria established by the statute and, therefore, was not an appropriate basis for a scheduling recommendation.

In the **Federal Register** of June 20, 1979 (44 FR 36123), DEA denied NORML's petition and denied a request for hearing on the ground that there was lack of substantial evidence to support lesser control of the substances that are the subject of NORML's petition.

NORML petitioned the Court of Appeals for review of DEA's final order denying the petition. On October 16, 1980, the court ordered that the case be remanded to DEA and that DEA refer all the substances at issue to DHHS for scientific and medical findings and recommendations on scheduling. The court directed that the DHHS review take into acount new evidence concerning medical use of the substances at issue. *NORML* v. *DEA and HEW*, No. 79–1660 (D.C. Cir., October 16, 1980). On April 22, 1981, DEA referred the NORML petition to DHHS for review. DHHS Has adopted the following procedures in making the evaluations and scheduling recommendations for cannabis-containing substances (a separate procedure applies to THC, see 47 FR 10080, March 9, 1982):

1. Review by FDA of evidence concerning the uses of those substances, including comment from other appropriate units in DHHS.

2. Publication of the proposed scientific and medical evaluations and scheduling recommendations in this **Federal Register** notice for public comment.

3. The holding of a legislative-type hearing under 21 CFR Part 15 on the proposed findings and recommendations (see details below in Part IV).

4. Consideration of the comments received as a result of the **Federal Register** notice and consideration of the pertinent information generated by the hearing in preparing FDA's findings and recommendations for the Assistant Secretary for Health.

5. Review of the evaluations and recommendations by the Assistant Secretary for Health and transmittal to DEA.

II. Scheduling Recommendation

FDA proposes to recommend to the Assistant Secretary for Health that the marihuana plant materials that are the subject of the NORML petition remain in schedule I.

FDA notes that the ultimate determination of the scheduling status of the marihuana plant materials under the CSA will be influenced not only by the results of these proceedings but also by U.S. treaty obligations under the Single Convention as interpreted by the court in *NORML* v. *DEA*. In *NORML* v. *DEA*, the court found that the Single Convention prescribes different controls for various parts of the marihuana or cannabis plant. Thus, the court concluded that the minimum domestic controls under the CSA for those materials required by the Single Convention were also different. 559 F.2d 735, 757 (D.C. Cir. 1977). The court, in its directive to the Secretary of DHHS to make evaluations and recommendations on the cannabis materials subject of the NORML petition, delineated the minimum domestic control schedule required by the Single Convention for each of the substances at issue (see above). FDA's proposed conclusions are, however, based solely on its medical and scientific review of available data, not on its interpretation of this country's treaty obligations. FDA has carefully considered, from a medical and scientific standpoint, each of the five CSA schedules as well as no control and tentatively concludes that the marihuana substances at issue meet the findings only for CSA schedule I.

Marihuana Materials To Be Considered

Under the CSA (21 U.S.C. 802(15)):

The term "marihuana" means all parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

As previously noted, this ducument will address three separate categories of marihuana products: (1) cannabis and cannabis resin, (2) cannabis leaves, and (3) cannabis seeds capable of germination.

Cannabis is the entire plant material including the seeds, the resin, the leaves, the stems, the stalk, and all extracts obtained from the plant. Cannabis resin, which is generally referred to as hashish, is a concentrated extract from the plant. The composition of the cannabis plant, and of cannabis extract, has been investigated and reported in the Journal of Natural Products (Ref. 2). This reference reports a total of 421 known chemicals with new ones constantly being discovered and reported. Among the known compounds reported are 61 cannabinoids (chemical compounds perhaps unique to cannabis). In the following discussion, cannabis and cannabis resin will be referred to in most places collectively as "cannabis".

Cannabis leaves contain the active substance THC and are the primary ingredients for making cannabis cigarettes. An analysis of the THC content of cannabis plant parts published in the Journal of Pharmaceutical Sciences (Ref. 3) showed the male flowers contained 1.6 percent THC, the bracts, or female flower, 3.7 percent, the small female leaves, 1.4 percent, leaves from the male plant, 1.0 percent, stems from the male plant, 0.89 percent THC, and seeds from the female plant, 0.01 percent. THC content varies significantly in leaves from various cannabis plants and from leaves within the same plant. The National Institute on Drug Abuse has reported results from an analysis of various samples of cannabis obtained in 1976. The THC content of leaves from five separate samples varied from 2.51 percent THC to 4.68 percent.

The third category of marihuana material that must be analyzed is cannabis seeds capable of germination. As discussed above, the seeds themselves have a very low percentage of THC content and are not known to have any potential for misuse except in being used to grow marihuana plants.

In making a scheduling recommendation, the Department must consider the eight factors listed at 21 U.S.C. 811(c). FDA's analysis of these eight factors with respect to each of the marihuana plant materials that are the subject of the NORML petition follows:

1. *Its actual or relative potential for abuse (21 U.S.C. 811(c)(1)).* The legislative history of the CSA, or Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (see House Report 91–1444, Part I (Ref. 4)), defines potential for abuse as including the following elements:

(1) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community;

(2) There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels;

(3) Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or

(4) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

These elements will be discussed for each of the materials at issue.

a. *Cannabis and cannabis resin.* 1. FDA proposes to fin that individuals take cannabis in sufficient amounts to create a hazard to their health or to the safety of other individuals, or of the community. The extent of this use is discussed under Factors 4 and 5. The hazards to health are discussed under Factors 2, 3, and 6.

2. FDA proposes to find that there is not now a significant diversion of cannabis from legitimate drug channels. Cannabis is currently available through legitimate channels for reserach purposes only. The lack of significant diversion may result from the availability of illicit cannabis of equal or greater potency. If the illicit availability were not so widespread, there would presumably be additional pressure for diversion from legitimate channels.

3. FDA proposes to find that a significant number of persons take cannabis on their own initiative rather than on the basis of medical advice. When compared with the amount illicit cannabis available for persons to take on their own initiative, the amount of drug distributed in the course of medical research (the only currently authorized taking of cannabis under medical supervision) is insignificant. Approximately 10,000 to 15,000 times as much illicit cannabis as legitimate cannabis is available for distribution. Of the total amount of cannabis available for legitimate use, only approximately 5 to 10 percent was actually distributed for research in 1980 and the remainder remained under security in storage. It can be concluded that the overwhelming majority of individuals using cannabis do so on their own initiative, not on the basis of medical advice from a practitioner licensed to administer the

drug in the course of professional practice. An indication of the numbers of individuals taking the drug illicitly is given under Factors 4 and 5 concerning the current pattern and scope of abuse.

4. The fourth element in potential for abuse defined in the legislative history and discussed above does not apply to cannabis.

Considering the four elements discussed above, FDA proposes to conclude that because of the large amount of materials which is illicitly available and the number of individuals taking the drugs on their own initiative that cannabis and cannabis resin have a high potential for abuse.

b. *Cannabis leaves.* The four elements described above can be applied to cannabis leaves in two ways. First, cannabis leaves can be considered in the way they are now available in illicit use, i.e., in conjunction with other parts of the marihuana plant in the mixture that has been referred to above as "cannabis". Alternatively, one could view cannabis leaves as a separate product, containing only the leaves, although this product is not currently widely known or available in this country. The first approach seems more reasonable and is adopted in this proposal. FDA's discussion of cannabis (above) applies equally well to cannabis leaves; FDA therefore proposes to conclude that cannabis leaves have a high potential for abuse.

Alternatively, if "cannabis leaves" are considered to be a separate product, the fourth element identified from the legislative history is applicable. Cannabis leaves are, because of their content of THC, so related in their action to "cannabis," described above, that it is reasonable to assume that there may be significant diversions from legitimate channels (assuming that those diversions became easier than obtaining cannabis from other illicit sources), that there may be significant use contrary to or without medical advice, and the product would have a substantial capability of creating hazards to the health of the user. These conclusions are reached on the basis of the agency's experience with and knowledge of cannabis itself. Under this alternative analysis, FDA again proposes to find that cannabis leaves have a high potential for abuse.

c. *Cannabis seeds capable of germination.* Cannabis seeds capable of germination may be planted and cultivated to produce the cannabis plant. According to one source, the amount of illicit marihuana being grown or produced and harvested in the United States has an estimated value of more than $1 billion per year and is continuing to increase (Ref. 5, Washington Post, November 15, 1981 (F-13)).

When the four elements from the legislative history are applied to cannabis seeds, they would not identify the seeds themselves as having an actual or relative potential for abuse. Thus, there is no evidence that individuals are taking cannabis seeds in an amount sufficient to create a hazard to their health or the safety of others. There is not a significant diversion of cannabis seeds from legitimate drug channels, though it is reasonable to assume that if diversion became easy, it would occur because the seed could be used to grow marihuana. Individuals do not appear to take marihuana seeds on their own initiative. Marihuana seeds do not have an action so related to drugs already listed as having a potential for abuse as to require their identification as drugs subject to abuse.

Yet, Congress in articulating the bases for conclusions concerning the actual or relative potential for abuse of a product did not expect FDA to close its eyes to reality. Cannabis seeds capable of germination can obviously be used to produce cannabis, cannabis resin, and cannabis leaves, all of which plainly present a potential for abuse. For that reason FDA proposes to find that cannabis seeds capable of germination present a significant actual or relative potential for abuse as those terms are used in 21 U.S.C. 811(c)(1).

2. *Scientific evidence of its pharmacological effect if known (21 U.S.C. 812(c)(2)).* House Report 91-1444 (Ref. 4) states "The state of knowledge with respect to the effect of uses of a specific drug is, of course, a major consideration, e.g., it is vital to know whether or not a drug has an hallucinogenic effect if it is to be controlled because of that effect. The best available knowledge of the pharmacological properties of a drug should be considered."

House Report 91-1444 (Ref. 4) states that this factor and factor 3 ("The state of current scientific knowledge regarding the drug or other substance" (21 U.S.C. 811(c)(3))) are closely related. This document distinguishes between factors 2 and 3 in the following manner: The discussion of factor 2 uncritically summarizes the relevant, available scientific evidence. In contrast, the discussion of factor 3 presents the agency's evaluation of what may be reasonably and fairly concluded on the basis of the evidence discussed under factor 2.

a. *Cannabis and cannabis resin.* The voluminous literature on marihuana (over 8,000 references) precludes, for any practical purpose, a complete and systematic review by agency staff of the original references concerning the pharmacological effects of cannabis and its derivatives. The agency, in evaluating the evidence, has reviewed major original articles as well as authoritative secondary sources. Major reviews in the following list are easily available sources of the evidence described in this section.

Institute of Medicine Report, 1982 (Ref. 6).

NIDA Research Monograph, 1980 (Ref. 7).

Addiction Research Foundation, 1981 (Ref. 8).

Journal of Clinical Pharmacology, August-September 1981 (Ref. 9).

"Marihuana," ed R. Mechoulam, Academic Press, 1973 (Ref. 10).

"Pharmacology of Marihuana," ed. Braude and Szara, Raven Press, 1976 (Ref. 11).

Evidence on the effects considered to be related to the use of cannabis is presented in two separate sections: Central Nervous System and Other Major Body or Organ Systems.

Central Nervous System

A. *Cognitive and subjective effects.* Cannabis and its derivatives have been reported to cause disorders in each of the following areas: (1) experience of self, (2) perception and the interpretation of the meaning of perceptions (apperception), (3) thought, (4) feelings and effects, (5) will or volition, (6) control of instinctual behavior or drives, (7) memory, and (8) the higher intellectual functions, which include cognition, reason, and judgment (Ref. 6).

1. *Disordered experience of the self.* Cannabis use can be associated with alterations in the experience of the self in bizarre but well-characterized ways.

For example, depersonalization (the sense that one is not one's normal, natural self) and distortions of body image (the sense that one's body is distorted or different) have been commonly reported in association with the use of cannabis. In the more severe clinical syndromes associated with cannabis use, disturbances in the experience of self of psychotic proportion have been described (e.g., the heart vibrating the entire body, limbs growing longer, the head enlarging). Cannabis use is said to cause distortions in the subjective experience of time and in one's sense of relatedness to the environment (derealization).

2. *Disordered perception and apperception.* Perception and apperception are part of the complex

process by which an individual interacts with the environment, obtains (via the senses) data about the environment, and comes to understand the processed sensory data in a normal, meaningful way. Cannabis use has been associated with varied types of psychopathology affecting perception and apperception.

Sensory distortions are commonly reported with cannabis use and can involve changes in the intensity or quality of perceptions as well as their form (i.e., size, shape, proportions). For example, visual images may seem unusually intense, or three-dimensional objects may appear flat. Sensory stimuli may be misperceived (i.e., illusions) and frank hallucinations (i.e., perceptions without a corresponding environmental stimulus) may occur. These phenomena may be quite frightening or disturbing to the person who experiences them and may be associated with a paranoid experience (see discussion below).

3. *Disturbances of thought.* Two types of disturbances of thought may be associated with the use of cannabis: (1) a formal thought disorder and (2) disorders of thought content. A formal thought disorder consists of several related phenomena involving impairments in a person's ability to control the sequence, organization, and rate of thoughts. A formal thought disorder often appears to the observer as an inability of a person to communicate in a meaningful way. Speech may seem interrupted in an irregular and unpredictable manner by abrupt silences or by illogical, garbled, nonsensical, or unintelligible utterances.

The disorders of thought content consist for the most part of delusions (fixed, illogical, idiosyncratically held beliefs from which the individual cannot be persuaded by appeals to logic or reason) or delusion-like beliefs. Delusions may be classified as to their specific content or type (i.e., grandiose, paranoid, etc.). Among the various types of delusions, those of paranoid character are probably most important. Because a person suffering a paranoid delusion may act upon it as though it were factual, inappropriate aggressive behavior may sometimes be expressed by such persons. Less-organized paranoid beliefs merge imperceptibly with feelings or moods and are described in the next section on feeling and affects.

4. *Feeling and affects.* Feeling and affects (the conscious, subjective aspects of an emotion) subsume a wide variety of moods and states, both pleasing and dysphoric.

Euphoria, or a state of elevated mood, is often reported as a result of cannabis use. This feeling state, variously described as a "high" or as mellow contentment, is thought to contribute to the widespread illicit use of cannabis.

Dysphoric mood states also occur, however. Paranoia, the feeling of being and object of ridicule or persecution, is sometimes reported—especially in persons who may be considered to have less stable personality organizations (i.e., persons more prone to exhibit psychopathology under adverse circumstances). Paranoid experiences and behavior are also reported to be associated with the acute organic brain syndromes (i.e., delirium) attributed to cannabis intoxication. Paranoia may be more organized and take the form of a delusion-like idea or a full-blown delusional system (see discussion above).

Unrealistic fright or fear, sometimes occurring in discrete episodes of overwhelming terror (panics), has been reported to occur in a relatively large proportion (i.e., one-third) of cannabis users (Ref. 6). Lesser degrees of anxiety or dysphoria may occur quite frequently in a large proportion of users. Indeed, intolerance to the dysphoric mood effects of cannabis is said to impair its usefulness as a potential therapeutic agent in many groups (i.e., the elderly).

5. *Disturbances of will or volition.* The "amotivational syndrome" is reported to be a consequence of chronic cannabis use. Apparently, some especially heavy, usually daily, users of cannabis demonstrate a loss of ambition and interest in the more commonly held life goals. Work or school performance deteriorates and the affected person shows features of what might be considered a personality disorder (i.e., apathy, ineffectiveness, inability to plan for the long-term, etc.). Convincing proof that cannabis use is the cause rather than the result of these personality changes is lacking, however, as the evidence is based upon casual clinical observations (case reports).

6. *Disturbances in the control of instinctual urges or drives.* The acutely intoxicated person may, by virtue of organic central nervous system depression or delirium exercise poor judgment and control. The potential for hostile behavior may be increased, especially when the person experiences paranoid feelings in the state of altered consciousness of intoxication caused by cannabis. Aggression is also alleged to occur idiosyncratically, independent of intoxication, in some cannabis users.

7. *Disorders of memory and attention.* Cannabis may alter the ability of a person to attend to a task, to concentrate, to learn new information, to retain that information, or to recall at a later time that information acquired while under the influence of cannabis. Ability to recall information acquired in the intoxicated state may be improved by re-intoxication (an example of state-dependent learning).

8. *Distrubances of higher intellectual functions.* These functions include those of reason, intellect, and judgment. The "amotivational syndrome" can be categorized as an example of this class of pathology, but it has been discussed above as a disorder of volition.

B. *Impairment of motor and psychomotor performance.* General motor coordination may be affected when cannabis is taken in amounts equivalent to that used in social settings. The degree of impairment is dose-related. Reaction time, which is a measure of attentiveness as well as motor agility, may also be compromised. Tracking, the ability to follow a moving target, is impaired at low doses of cannabis intake. Tracking skill is correlated with driving and flying ability (Ref. 6).

Other Major Body or Organ Systems

1. *Cardiovascular.* Acute cannabis use is associated with an acceleration of the heart rate; however, there may be some tolerance to this effect after chronic exposure. In addition, cannabis has effects (these vary with body position, dose, and chronicity of use) on cardiac output, blood pressure, and peripheral vascular resistance (Ref. 6).

2. *Pulmonary.* The effect of cannabis on the pulmonary system is difficult to distinguish from the effects of smoking itself. Cannabis, in small doses, has an acute bronchodilator effect; but this action may, with time, be overshadowed by the irritant properties of smoke which can cause bronchoconstriction. Indeed, chronic smoking of cannabis may cause respiratory system pathology, similar to that produced by tobacco cigarette smoking (Ref. 6).

3. *Reproductive system.* In men, chronic cannabis use may lead to reduced sperm counts and motility; however, the relationship of these changes to male fertility is not known (Ref. 6). In women, there is some reason to believe that cannabis use might contribute to "subfertility," but the evidence to support this belief is indirect (Ref. 6).

4. *Genetic information.* The evidence for a mutagenic effect of delta-9-THC must be distinguished from the mutagenic effect of cannabis when smoked. There is evidence of mutagenicity for the drug when it is smoked. There are also reports of chromosomal breaks occurring in cell

samples obtained from persons using cannabis (Ref. 6).

5. *Immune system.* Cannabis use may be associated with impairment of the function of the immune system (Ref. 6).

b. *Cannabis leaves.* As noted above, cannabis leaves are a constituent of the marihuana product that is normally used both illicitly and in research. Thus, the discussion above is directly applicable to cannabis leaves when viewed in the context in which they have been used. Because cannabis leaves are not known to have been used separated from other parts of the marihuana plant, there is no body of scientific evidence on the pharmachlogical effect of a product containing only cannabis leaves. Because cannabis leaves contain a percentage THC content that is roughly equivalent to the percentage of THC in the cannabis discussed above, however, it is a reasonable scientific conclusion that the effects discussed in the previous section are also those of cannabis leaves alone.

c. *Cannabis seeds capable of germination.* FDA is not aware of scientific evidence of any pharmacological effect of cannabis seeds capable of germination in and of themselves. In fact, because the THC content of the seeds is relatively low, it would not be expected that the seeds by themselves would produce the effects discussed above. On the other hand, as previously noted, the seeds would predictably be used to grow marihuana plants and by that route produce the pharmacological effects discussed in subsection (a) of this discussion.

3. *The state of current scientific knowledge regarding the drug or other substance (21 U.S.C. 811(c)(3)).* as noted previously, this discussion presents FDA's evaluation of the evidence discussed under factor 2 above.

a. *Cannabis and cannabis resin.* In weighing the scientific evidence on the effects of cannabis use, the agency has concluded that much of what is said and written about the plant and its derivatives is unsupported testimony and argument. Such evidence cannot be used to estimate rates of risk for specific effects or establish cause and effect relationships. It is not known what proportion of a representative sample of normal persons would experience many of the effects described in the preceding section. The relationship of the observed effects of cannabis to the quantity of drug consumed and to the duration of its use is not always evident. Moreover, the mere association of a drug with a phenomenon does not demonstrate that the drug caused the phenomenon. The putative drug effect may be merely coincidentally associated with drug use.

In light of these many qualifications about the nature of the available scientific evidence, it is important to explain how the agency distinguished reliable from unreliable information and reached its conclusions about the "state of current scientific knowledge regarding" cannabis.

First, members of the agency's staff who are expert in issues of illicit drug use and the requirements for scheduling recommendations relied upon their own experience and knowledge of cannabis and experience in reviewing other scheduled drugs to reach their conclusions.

Second, the expertise of the agency's expert staff and other appropriate agency officials has been supplemented with expertise from specific experts on cannabis who are or where either special government employees or members of the agency's Drug Abuse Advisory Committee.

Finally, the agency has relied upon the scientific literature. Recent published evidence reviewed by the agency includes the report by the Institute of Medicine (IOM), National Academy of Sciences, on *Marihuana and Health* (National Academy Press, Washington, 1982) (Ref. 6). The IOM report is not only recent and comprehensive but the IOM committee that wrote the report appears to be an impartial and disinterested group of scientists whose goal was an accurate statement of our current knowledge about the relationship of cannabis use to the public health.

FDA's conclusion about the state of current scientific knowledge regarding cannabis follows; they are organized by body or organ system in a manner that parallels the presentation of the evidence under factor 2.

Central Nervous System

Although the agency has no means to estimate the exact proportion of cannabis users that will be affected, there is little reason to doubt that cannabis has potent effects on psychological and neurological behaviors of people. Available evidence shows that cannabis use can alter perception (cause illusions and hallucinations) and mood (cause anxiety, dysphoria, paranoia, etc.), and can cause panic and reactions of psychotic degree. Cannabis use can impair motor and psychomotor performance, and can alter the level of consciousness, impulse control, and, perhaps, judgment. The acute effects of cannabis range from mild, subjectively pleasing changes in affective state to frank, organic delirium. The acute behavioral effects are linked to cannabis use in a causal way. In contrast, evidence on the long-term adverse consequences is less persuasive. In particular, it is not clear whether the well-characterized "amotivation" syndrome associated with chronic, heavy marihuana use is a manifestation of the personal character or psychopathology of some marihuana users or an expression of drug effect.

Body Systems Other Than the Central Nervous System

Cannabis has effects on the heart, lungs, and endocrine systems. The magnitude and significance of these effects is not known, but each must be considered a possible potential risk to the public health.

In summary, the effects of major social and medical significance associated with cannabis use and important to a scheduling recommendation are largely related to the central nervous system but include the cardiovascular and pulmonary systems. Cannabis does not appear to have major effects of known significance on other organ systems. It is important to emphasize, however, that the available evidence often does not address the critical questions.

The agency agrees with the general conclusion of the IOM (Ref. 6) that, "[t]he scientific evidence published to date indicates that marihuana has a broad range of psychological and biological effects, some of which, at least under certain conditions, are harmful to human health. Unfortunately, the available information does not tell us how serious this risk may be" (p. 5).

b. *Cannabis leaves.* The conclusion in the previous discussion concerning cannabis and cannabis resin applies to cannabis leaves for the reasons and to the extent stated in this document's discussion of Factor 2 as it applies to cannabis leaves. Current scientific knowledge concerning cannabis leaves not in conjunction with other parts of the marihuana plant is totally undeveloped because the leaves are not used separately.

c. *Cannabis seeds capable of germination.* Although current scientific knowledge concerning the pharmacological effects of cannabis seeds is undeveloped, because the THC content of the seeds is relatively very low, it can be fairly concluded that the seeds themselves will not have the pharmacological effects associated with other parts of the marihuana plant. As previously noted, however, the pharmacological effects of cannabis, discussed above, may be said to be associated with the seeds in that the

seeds will likely be used to grow the plant.

4. *Its history and current pattern of abuse (21 U.S.C. 811(c)(4)).* In the legislative history of the CSA, Congress commented on Factor 4 as follows: "To determine whether or not a drug should be controlled, it is important to know the pattern of abuse of that substance, including the social, economic, and ecological characteristics of the segments of the population involved in such abuse."

The following information demonstrates a history and current pattern of widespread illicit use of cannabis in the United States, as measured by wide use and illegal importation and distribution.

a. *Cannabis and cannabis resin.* Cannabis use goes back to the beginning of recorded history. For example, cannabis preparations have been used for thousands of years in Asia. Cannabis spread West to Europe and by the time Europeans reached the New World, they were using the cannabis plant as a source of cloth and as an intoxicant. Marihuana or cannabis use began to grow in popularity in the United States during the 1920's. By 1927, 46 States and the District of Columbia had passed laws against marihuana and in the same year, the Federal government enacted the Marihuana Tax Act. This Act made registration and taxation of marihuana buyers and sellers mandatory, and imposed criminal penalties. The Act effectively banned the possession and use of cannabis preparations. Subsequently in 1961, it was controlled under the Single Convention on Narcotic Drugs. In the United States, it was subsequently controlled under Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

There have been a number of studies on the pattern of use and abuse of cannabis related to the pattern of use of other drugs of abuse. These studies show that cannabis is used concurrently with alcohol or other drugs of abuse (e.g., Ref. 13).

Results from a 1979 survey on drug use reported by the National Institute on Drug Abuse (Ref. 14) were as follows: in 1979, 8 percent of 12 and 13 year-olds reported some experience with cannabis, and by ages 14 and 15, the percentage who had used cannabis increased to 32 percent. More than half (51 percent) of 16 and 17 year-olds had used cannabis. In the overall 12 to 17 year-old group, 31 percent had "ever experienced" marihuana use, more than double the figure (14 percent) which was reported in 1972. The peak use was in the age group from 18 to 25 years; 68 percent in 1979 compared with 48 percent in 1972.

With respect to current use of cannabis, defined as use within the month preceding the survey, 16.7 percent of the 12 to 17 year-old group in the 1979 survey currently used cannabis, while 35 percent of the 18 to 25 year-old group were currently using cannabis. In the 1979 survey, in the age group 26 years and over, 19.6 percent reported ever having used cannabis, while 6 percent reported current use. Corresponding figures for 1972 were 7.4 percent for having experienced cannabis use and 2.5 percent currently using cannabis. Current users age 12 to 17 in 1972 represented 7 percent of that age group, while in 1979 that same group (now members of the 18 to 25 year-old group) had a current use rate of 35 percent. Thus approximately 28 percent of the individuals who were current users between the ages of 18 and 25 in 1979 (the differences between 7 percent and 35 percent) began using after the age of 17.

A similar study, using different age parameters and focusing on the year 1977, provides confirmatory data. According to the NIDA Research Monograph, No. 35, May 1981 (Ref. 15), in 1977 there were 9,632,000 (56.8 percent) out of 16,958,000 young adults age 18 to 21 years, and 9,261,000 (60.3 percent) out of 15,358,000 young adults age 22 to 25 years who reported ever having used marihuana. These rates represent increases of 4 percent and 13 percent over the 1974 rates for 18 to 21 years and 22 to 25 years, respectively. The survey indicates there were 3,233,000 regular users of marihuana out of 13,415,000 (24.1 percent) age 18 to 25 years in 1977.

The special problem of drug abuse among women was reported in 1980 (Ref. 16). Results were obtained from a sample of 14,428 women clients in treatment centers. The paper addressed differences in use of heroin, marihuana amphetamines, barbiturates, and sedatives according to age, race, and education. Marihuana was the second most commonly abused drug among these women.

A special U.S. population that has been surveyed is the military. "Highlights from the Worldwide Survey of Nonmedical Drug Use and Alcohol Use Among Military Personnel, 1980" (Ref. 17). For the total military, 27 percent reported using any drug within the past 30 days, and 26 percent reported using marihuana or hashish within the past 30 days. Twenty-six percent reported using marihuana, or hashish, during the past 30 days. Thirty-six percent reported using any drug during the past 12 months, while 35 percent reported using marihuana or hashish during the past 12 months. Further, for the total military, 19 percent of the population reported using marihuana or hashish at least once a week during the past 30 days. The next closest drug group used frequently by the military was amphetamines or other stimulants, at the rate of 3 percent at least once a week during the past 30 days. Cannabis, i.e., marihuana or hashish, is thus by far the most widely abused drug in the military.

The National Institute on Drug Abuse (NIDA) also has reported on demographic trends in drug abuse, 1980–1995 (Ref. 15). In this report, NIDA uses information from previous surveys, up to the 1977 survey, to predict illicit drug use for the next 10 to 15 years. NIDA concluded that illicit drug use is decreasing among all age groups.

b. *Cannabis leaves.* The discussion above of the history and current pattern of abuse of cannabis and cannabis resin applies to cannabis leaves as commonly used. FDA is unaware of any significant history of use of cannabis leaves separated from all other parts of the marihuana plant.

c. *Cannabis seeds capable of germination.* The discussion above on the history and current pattern of abuse of cannabis and cannabis resin applies to cannabis seeds capable of germination because cannabis may be produced by use of such seeds. FDA is unaware of any history or current pattern of abuse of the seeds other than their use to grow cannabis.

5. *The scope, duration, and significance of abuse (21 U.S.C. 811(c)(5)).* In House Report 91–1444, Congress stated that:

In evaluating existing abuse, not only must the Attorney General know the pattern of abuse, but he must also know whether the abuse is widespread. He must also know whether it is a passing fad, or whether it is a significant chronic abuse problem like heroin addiction. In reaching his decision, the Attorney General should consider the economics of regulation and enforcement attendant to such a decision. In addition, he should be aware of the social significance and impact of such a decision upon those people, especially the young, that would be affected by it.

a. *Cannabis and cannabis resin.* The discussion in the previous section of percentages of marihuana users demonstrates that the cannabis abuse is of wide scope, involving, among others, the young and members of the military, is of considerable significance, and has continued for over a decade. Further

evidence on cannabis abuse is provided by information concerning the total amount of cannabis available in this country from illicit sources.

According to the Drug Enforcement Administration (DEA), about 10,000 to 15,000 metric tons of cannabis (marihuana) were smuggled into the United States in 1978, a 4 percent increase over the 12,000 metric tons smuggled in 1977 (Ref. 20). The value of the marihuana in 1978 was estimated by DEA to be $15 to 23 billion (approximately $19,000,000,000 in 1977) (id).

For 1979, DEA has estimated the total cannabis supply to be between 10,000 and 13,600 metric tons. Seventy-five percent of the total cannabis in 1979 was from Columbia, 11 percent from Mexico, 7 percent from Jamaica, and 7 percent from domestic U.S. sources. For the year 1980, the current estimate is 10,600 to 15,500 metric tons. Columbia supplies 75 percent, Mexico 9 percent, Jamaica 10 percent, and domestic U.S. sources account for 6 percent. The total amount would convert to 23,320,000 to 34,100,000 pounds of cannabis available in the United States in 1980. This amount compares with the estimated 24,000,000 pounds available in 1977. The amount of cannabis grown for scientific and medical investigations in the United States in 1979 was 986 kilos or 2,100 pounds and approximately 2,000 kilos or 4,400 pounds for the year 1980.

These statistics show that the scope of the illicit cannabis traffic is significant, and has been significant for a least 5 years. Also, the extent of the illicit use of cannabis, particularly among the young and the young adults, is widespread throughout the United States. Further, these statistics show that the drain of funds into illicit channels as a result of cannabis use is significant.

b. *Canabis leaves.* The discussions above regarding the scope, duration, and significance of abuse for cannabis and cannabis resin apply to cannabis leaves when used in conjunction with other parts of the marihuana plant. FDA is unaware of any use of cannabis leaves separated from all other parts of the marihuana plant and the agency, thus, has no information about scope, duration, and significance of abuse of leaves separated from other parts of the plant.

c. *Cannabis seeds capable of germination.* There are no data concerning the extent of illicit traffic in cannabis seeds capable of germination. As discussed previously, there are no data available on abuse of the seeds per se, as opposed to the plants that may be grown from the seeds.

6. *What, if any, risk there is to the public health (21 U.S.C. 811(c)(6).* With respect to this factor, House Report 91–1444 states: "If a drug creates no danger to the public health, it would be inappropriate to control the drug under this bill."

a. *Cannabis and cannabis resin.* Under factors 2 and 3 above, the scientific evidence of the pharmacological effects and the state of current scientific knowledge regarding cannabis are discussed in detail. The agency agrees with the general conclusions of the IOM (Ref. 6) that, "[t]he scientific evidence published to date indicates that marijuana has a broad range of psychological and biological effects, some of which, at least under certain conditions, are harmful to human health. Unfortunately, the available information does not tell us how serious the risk may be" (p. 5).

The adverse consequences associated with marihuana use include both acute and chronic effects. The acute health hazards are most important and include, among others, impairments in almost all aspects of central nervous system function, and decrements in psychomotor performance skills necessary for driving or flying. Certain cardiovascular effects (e.g., those that can lead to increased heart rate and associated circulatory changes) may be harmful, especially to those with pre-existing heart disease. The acute health hazards often result in medical problems requiring immediate medical attention at hospital emergency rooms.

The chronic hazards of marihuana use are less well established. One probable risk of importance is the one associated with the common route of cannabis administration, smoking. Smoking of tobacco cigarettes is a well-documented health hazard, and it is reasonable to assume that smoking of cannabis cigarettes is hazardous as well.

Much of the most recent evidence about the effects of marihuana use in humans is reported in the Addiction Research Foundation Report, 1981 (Ref. 8) prepared by internationally recognized scientists in the field of drug abuse and effects of marihuana and the Institute of Medicine Report, 1982 (Ref. 6), previously discussed. The National Institute on Drug Abuse also provided much of the most recent information relative to the epidemiology of effects of cannabis on the public use. The risk to the public health from acute and chronic cannabis use is evaluated on the basis of the effects included in these reports. Also, as is discussed in Part III below, cannabis or marihuana has no currently accepted medical use in treatment in the United States. Thus, in weighing the risks against the benefits of marihuana use, FDA proposes to conclude that the scale is tipped heavily towards the risks. Clinical investigations designed to determine whether marihuana has medical utility and whether marihuana may be used safety under medical supervision are still ongoing.

In estimating the number of individuals who use cannabis and, thus, are at risk of suffering the reported adverse health consequences, the Federal government uses data from several sources including certain surveys, including the Drug Abuse Warning Network (DAWN), the National Household Survey on Drug Abuse (Household Survey), and the High School Senior Survey (High School Survey). DAWN represents an ongoing reporting system, while the Household Survey and the High School Survey are periodic data collection efforts. Each survey contributes valuable information to the overall drug abuse picture.

The reports of death from medical examiners collected by DAWN for the calendar year 1980 placed marihuana at the lower end of the spectrum of frequency among the 100 drugs or substances reported. During the same period, however, marihuana was listed at the top end of the spectrum of frequency among the 100 drugs or substances reported as the reason for an emergency room visit during this period (Ref. 21). Marihuana was, for example, mentioned more than twice as often as amphetamines. Thus, it would appear that the adverse effects from marihuana use rarely result in a fatal outcome but are serious enough to be one of the major drug causes for seeking emergency room treatment.

In the High School Survey, high school seniors reported that they believe the regular use of marihuana has caused them to experience significant problems. For example, 28 percent reported they think less clearly, while 11 percent reported they felt less stable emotionally. Young people are believed to be especially at risk from the use of marihuana because of their ongoing physical and emotional maturation. It is possible that young, regular marihuana users may not be able to develop appropriate "life skills" on schedule, and that failing to do so it may be difficult, if not impossible, for them to make up these developmental differences later in life (Ref. 12).

As discussed earlier, although certain adverse effects have been reported from cannabis use, the exact percentage of cannabis users who are experiencing these adverse effects is unknown. FDA tentatively concludes that the risk to the

public health from marihuana use is particularly serious because the number of marihuana users is so large. Whatever the precise risk, widespread use of cannabis will obviously produce a greater incidence of harm than relatively little use of cannabis. Moreover, although in some cases the relationship of cannabis use to reported adverse effects is not certain, particularly the emotional and "amotivational" effects, the consequences of these effects, if real, are so great that, in the absence of good evidence against the reported association, the risk to the public health must be considered great. FDA's proposed conclusion that cannabis does create a significant risk to public health is thus based on its known adverse effects and adverse effects that are suggested but not yet proved to be related to marihuana use, both in a setting of relatively widespread use.

Based on the 1979 Household Survey, teenagers in the United States use more marihuana than teenagers anywhere else in the world (Ref. 22). Although a recent trend shows that marihuana use and use of other drugs has declined, it is too early to tell whether this decrease will continue or is merely a pause in the rise. Despite this recent trend, the overall prevalence of use of marihuana has remained at approximately 60 percent of high school seniors for the years 1978, 1979, and 1980 (Ref. 6). Currently, it is estimated that 22 million or about 10 percent of the total U.S. population now use marihuana (Ref. 22). In 1980, less than 7 percent of young adults age 18 to 25 had used marihuana. In 1979, more than 60 percent of young adults had used marihuana (Ref. 22).

FDA, thus, proposes to conclude that cannabis may produce significant adverse health effects to persons who use marihuana. And, because approximately 22 million Americans are reported to be current users of marihuana, FDA proposes to conclude that there is a significant risk to the public health from marihuana or cannabis use.

b. *Cannabis leaves.* The risk to the public health associated with use of cannabis leaves in the state in which they are normally found, i.e., in conjunction with others parts of the marihuana plant, is significant for the reasons stated in subsection (a) above. There is virtually no reported experience with a product containing cannabis leaves separated from all other parts of the marihuana plant. Because the leaves themselves have significant THC content, however, it is reasonable to conclude that a use of a leaf-only product would present the same risk as use of cannabis itself.

c. *Cannabis seeds capable germination.* The risk associated with cannabis seeds derives only from the probability that such seeds would be used to grow marihuana, which would in turn produce the risks described above.

7. *Its psychic or physiological dependence liability (21 U.S.C. 811(c)(7)).* In House Report 91–1444, Congress states that: "There must be an assessment of the extent to which a drug is physically addictive or psychologically habit-forming, if such information is known."

a. *Cannabis and cannabis resin.* (1) *Psychological (psychic) dependence liability.* In the Federal Register of March 9, 1982 (47 FR 10063), FDA proposed to conclude that some individuals should be considered sufficiently strong drug-seeking in their behavior to be considered severely psychologically dependent on cannabis. The basis for this conclusion is our belief that repeated seeking of an illicit drug with an established potential to cause injury constitutes prima facie evidence of psychological dependence. Also, it should be noted that a report of the American Medical Association's (AMA) Council on Scientific Affairs, as adopted by the AMA House of delegates, concluded that marihuana is hazardous to health and that there was a growing prospect of appreciable number of marihuana users incurring physiological and psychological impairment (Ref. 23). Since the March 9, 1982 Federal Register publication, FDA has completed a review of two recent and significant reports on marihuana and health (Institute of Medicine Study and Addiction Research Study) (Refs. 6 and 8). These reports include nothing that changes FDA's earlier proposed conclusions. Thus, FDA proposes to conclude that marihuana use can result in severe psychological dependence.

(2) *Physical (physiological) dependence liability.* The agency defines physiological dependence as the appearance of a characteristic syndrome, consisting of physical signs and symptoms, that appears upon cessation of drug use. Only one investigator has reported withdrawal signs and symptoms after frequent large doses of THC (Ref. 11). Other investigators have failed to observe a withdrawal syndrome. However, it is important to emphasize that drugs now well known to cause physiologic dependence (such as barbiturates, benzodiazepines, amphetamines, and some mixed opioid agonist/antagonist analgesics) were for many years assumed to be free of any such liability. It was only after many years of medical use, under conditions of close scrutiny, that the serious physiological dependence caused by these drugs was recognized. Thus, although the agency is unable to conclude at this time, on the basis of the evidence available, that cannabis produces physiologic dependence, the experience with known dependence-producing drugs (described above) must be considered.

b. *Cannabis leaves.* For the reasons discussed above, cannabis leaves present a psychological dependence liability. This conclusion necessarily follows from the evidence concerning cannabis, whether the leaves are considered as components of marihuana as generally used or as a separate product that, because of its THC content, would have the same effects as cannabis. Like cannabis, cannabis leaves cannot now be considered to have a physiological dependence liability.

c. *Cannabis seeds capable of germination.* As previously noted, the seeds do not themselves present a dependence liability, but, because they may be used to grow marihuana, have a liability associated with that fact.

8. *Whether the substance is an immediate precursor of a substance already controlled under this title (21 U.S.C. 811(c)(8).* House Report 91–1444 states that: "The bill allows inclusion of immediate precusors on this basis alone into the appropriate schedule and thus safeguards against possibilities of clandestine manufacture."

a. *Cannabis and cannabis resin.* Cannabis and cannabis resin are not precursors of any substance already controlled. Cannabis and cannabis resin are substances which are themselves already controlled in Schedule I of the Controlled Substances Act.

b. *Cannabis leaves.* Cannabis leaves are not an immediate precursor to a substance already controlled under this title. Because they are viewed as a component of cannabis, they are already controlled in schedue I.

c. *Cannabis seeds capable of germination.* Cannabis seeds capable of germination are not an immediate chemical precursor to a substance already controlled under this title. They are a "precursor" of cannabis in the sense that cannabis may be grown from the seeds. Because they are a component of cannabis, they are already controlled in schedule I.

III. Criteria For Scheduling

The eight factors described above are used to determine into which of the five

CSA schedules, if any, a given drug or substance should be placed. Each of the five CSA schedules (I to V) has three criteria (A to C) to aid in this determination. To assign a substance to a schedule, the Attorney General must find that the substance meets the statutory criteria for that schedule. See 21 U.S.C. 811(a).

Criterion A for all five schedules is a series of descriptions of abuse potential, declining from high to low abuse potential. Schedules I and II are identical in this regard, both requiring a finding of "high" potential for abuse. Schedules III through V require findings of lower, though still some, abuse potential.

Criterion B for all five schedules deals with whether the drug, or other substance, has a currently accepted medical use. Schedule I drugs must be found to have "no currently accepted medical use in treatment in the United States" while schedules II through V all require a "currently accepted medical use * * *." In addition, criterion B for schedule II allows an alternative finding: "currently accepted medical use with severe restrictions."

Criterion C is different for schedule I than for the other schedules. For schedule I, the criterion requires a finding of "lack of accepted safety for use of the drug or other substance under medical supervision." For schedules II through V, this criterion consists of a sliding scale of the drug's dependence-producing capacity, either physical or psychological. Schedule II drugs require a finding of the highest dependence-producing capacity while schedule V drugs require the lowest.

In the Federal Register of June 20, 1979 (44 FR 36127), DHHS stated that it believed, from a medical/scientific standpoint, that the marihuana (or cannabis) plant materials "could be placed in either schedule I or schedule II" but recommended continued control in schedule I. A factor in the determination that both schedules I and II were appropriate from a medical scientific standpoint included the statements that: "Conceivably, the current investigational use of some of the substances could be classified as 'a currently accepted medical use with severe restrictions' within the meaning of the second criterion for schedule II. That is a plausible interpretation of that criterion but its appropriateness is not free from doubt." (It should be noted that these statements were made in the context of the 1979 proceedings which applied to THC as well as the marihuana (or cannabis) plant materials at issue here.)

Although certain developments have occurred with respect to these substances in the intervening years (i.e., Federally approved research continues, legislation in some States provides for various degrees and kinds of research controls, and FDA has approved, on the recommendation of its oncologic drugs advisory committee, THC distribution under the National Cancer Institute's "Group C" system), these developments do not change the fact that, as explained below, in FDA's opinion the marihuana plant materials, as opposed to THC, meet all three criteria only for schedule I. Accordingly, FDA proposes that they remain in schedule I.

A. *Criterion A*—On the sliding scale of abuse potential, FDA proposes to conclude that cannabis, cannabis resin, cannabis leaves, and cannabis seeds capable of germination (because they are planted, cultivated, grown, and harvested to produce the plant) have a high potential for abuse and thus meet this criterion for schedules I and II (the criterion is identical for these two schedules).

As plant constituents, these cannabis substances have been shown to have a high potential for abuse (see discussion in factor 1 above). Thus, although licit plant materials have not been abused because they have been subject to stringent controls as an investigational drug under the Federal Food, Drug, and Cosmetic Act and a schedule I substance under the CSA, illicit plant materials are widely abused. These substances have marked psychotropic effects and, if more freely available, their abuse would very likely increase as major drugs of abuse (see discussions in factors 4 and 5). If the stringent CSA controls are removed from these substances, it can be anticipated that there would be attempted thefts, that attempts would be made to divert the drug from legitimate channels, and that any drug so diverted would command premium prices in the illicit market.

The tentative conclusion that these substances have a high potential for abuse (thus meeting criterion A for schedules I and II) logically precludes them from meeting criterion A for schedules III through V, for drugs in each of these three schedules have a progressively lower abuse potential than schedule I and II drugs.

B. *Criterion B*—This criterion involves the "accepted medical use" of the drug and has three different variations among the five schedules, as follows:

1. *Schedule I:* "The drug or other substance has no currently accepted medical use in treatment in the United States."

2. *Schedule II:* "The drug or other substances has a currently accepted medical use in treatment in the United States *or* a currently accepted medical use with severe restrictions." (Emphasis added.)

3. *Schedules III through V:* "The drug or other substances has a currently accepted medical use in treatment in the United States."

FDA interprets the term "accepted medical use" to mean lawfully marketed under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq. The agency stated this interpretation previously in the Federal Register document dealing with THC (47 FR 10084). NORML, in a subsequent action brought in the United States Court of Appeals for the District of Columbia, challenged that interpretation as conflicting with a statement made by the court in a footnote in *NORML* v. *DEA, supra,* 559 F.2d at 750, n.65. In the footnote, the court noted that the interrelationship between the Federal Food, Drug, and Cosmetic Act, in particular its "new drug" approval provision, and the Controlled Substances Act was far from clear. The court stated that it was appropriate for NORML to apply for rescheduling of marihuana under the Controlled Substances Act before obtaining approval of a new drug application under the Federal Food, Drug, and Cosmetic Act. *Id.*

A drug may be marketed lawfully under the Federal Food, Drug, and Cosmetic Act after approval of a new drug application (NDA) for that drug. There are, theoretically, other ways in which a drug could be marketed legally. The drug could satisfy either the requirements for exemption from the definition of "new drug" in 21 U.S.C. 321(p) or the requirements for a "grandfather clause" from the new drug approval provision, see, 21 U.S.C. 321(p)(1) and Pub. L. 87-781, sec. 107(c)(4). It is obvious, however, that the marihuana substances at issue here would not qualify either for exemption from the "new drug" definition or for the "grandfather clause" exceptions to premarket clearance.

A drug may also, theoretically, be legally marketed without violating the Federal Food, Drug, and Cosmetic Act if it is manufactured, processed, and used entirely within a single State without any connection at all with interstate commerce. (See, however, Article 23 and 28 of the Single Convention on Narcotic Drugs regarding restrictions imposed by treaty on manufacture of marihuana.) The agency has considered whether there is any basis to conclude that the

substances at issue in this document have obtained "accepted medical use" by virtue of totally intrastate production and use and has found no basis for a conclusion that these products have obtained acceptance of their medical use by that means.

Thus, there is no reason to conclude that the marihuana substances at issue here would qualify for "accepted medical use" in the absence of the approval by FDA of an NDA.

The mechanism set up by Congress for lawful marketing of a new drug requires submission of an NDA to FDA and FDA approval of that application before marketing. Before FDA can approve an NDA, however, the drug sponsor must submit data from an extensive battery of experimental testing on both animals and humans to establish the drug's safety and effectiveness for its proposed uses. In addition, the sponsor must submit data on manufacturing controls demonstrating that standards of identity, strength, quality, and purity will be met. Finally, the sponsor must submit labeling which adequately reflects the proper conditions for use. See 21 U.S.C. 355(d) and 21 CFR 314.1. Only after FDA has evaluated this information can the agency make a decision on whether the NDA should be approved and the drug marketed.

Thus, the lack of an approved NDA for a drug substance leads FDA to find that that substance lacks an "accepted medical use in treatment" for two reasons. First, if use of the drug is unlawful whenever interstate commerce is involved, medical use of the drug cannot be classified as accepted. Second, in the absence of the data necessary for approval of an NDA, the agency has no basis for concluding that medical use of the drug in treatment can be considered acceptable by medical standards.

Because "currently accepted medical use * * * " (schedules III through V and schedule II, first clause) means lawfully marketed under the act, "no currently accepted medical use * * * " must mean not lawfully marketed. The substances at issue fit into the later category because they are new drugs within the meaning of the act and there is not an approved NDA for the drugs. Thus, they cannot be legally marketed without an approved NDA. The lack of data from any sources demonstrating that use of these substances is medically acceptable, i.e., that sufficient data exists to qualify the substances for NDA approval, confirms the finding that these substances do not meet this criterion for schedules III through V. Therefore, these substances meet criterion B for schedule I.

A plausible argument exists, however, that these substances also meet the second clause of criterion B for schedule II because they have "a currently accepted medical use with severe restrictions." Although this clause is not defined in either the statute or the legislative history, the agency believes that only certain investigational drugs in the later stages of the investigational process may fall within this statutory language.

Investigational drugs progress from experimentation in a very limited, closely supervised setting involving only a few individuals to use in a broader investigational protocol using hundreds of patients. Under FDA's regulations, reports of these clinical studies are periodically sent to FDA so that the agency can monitor properly the ongoing research and progression to broader clinical trials. See 21 CFR Part 312.

The placement of THC in National Cancer Institute's "Group C" distribution scheme is an example of clinical research progression that qualifies as a "currently accepted medical use with severe restrictions." See 47 FR 10080, March 9, 1982. Clinical research on the marihuana (cannabis) materials at issue, however, has not progressed to the point that FDA believes that they have a currently accepted medical use with severe restrictions. In typical drug development, following studies in animals, studies in humans are conducted in phases or stages to provide necessary information. The information gathered at each phase must be evaluated and determinations made based on the evaluation before a subsequent phase may begin. Early phase studies usually involving small numbers of patients are necessary to provide initial evidence as to safety, pharamacological effects, and dose-related side effects, principally so that later studies can be carefully designed. Subsequent phases of studies are necessary to provide evidence of clinical safety and effectiveness, i.e., knowledge of effective dose and side effects and indications of therapeutic potential in humans. Later phases of studies are conducted to confirm and extend the findings indicated by earlier phase studies. In later phases a drug is used the way it would be administered when marketed. By the time these later studies are completed, the drug or substance usually has been studied in several hundred to several thousand patients. Generally by this time sufficient data have been generated to that FDA can make a dertermination regarding whether the drug is safe and effective under the statutory definitions. See 21 U.S.C. 355(d).

THC is a drug in the late phases of investigation as described above while the investigational studies on the marihuana plant materials are properly classified as in the earlier phases of study. Moreover, before a drug substances may be used in the practice of medicine it must have a composition of active ingredients that has been established and accepted as standard (for example, conjugated estrogens and powdered digitalis). Such standardized identity, purity, potency, and quality are specified either in a new drug application or in official compendium, e.g., U.S. Pharmacopeia or National Formulary. There is no standard cannabis substance.

Legislation in more than 20 States authorizes the use of marihuana and/or THC for medical research, primarily to combat nausea and vomiting associated with cancer chemotherapy and in the treatment of glaucoma. Such uses, however, should not be confused with the "accepted medical use" standard. These uses are all investigational uses. At least 11 States FDA-approved protocols for such investigations. The American Medical Association's Council on Scientific Affairs, in its report entitled "Marihuana in the '80s" (Ref. 23), makes the following statement: "For those [s]tates with enabling legislation that has not as yet been implemented, it is recommended that appropriate regulations and guidelines be established to insure that bonafide research is carried out, and that medical use beyond the context of clinical investigation is not permitted." This statement clearly is in accord with FDA's view that cannabis materials, as investigational research substances, are without accepted medical use in therapy or treatment by physicians practicing medicine in the United States.

Such State legislation, often referred to in their titles as "Therapeutic Research Acts," should not be confused with State laws which "decriminalize" the possession or transfer of certain marihuana materials for personal use, including recreational uses. These latter State laws involve reductions in criminal penalties and do not address medical research with these substances. Consequently, FDA tentatively concludes that although an argument that the second clause of criterion B for schedule II might be bet by certain marihuana substances under investigational use, the marihuana

substances at issue here do not meet criterion B for schedule II.

C. *Criterion C*—FDA proposes that the substances at issue meet criterion C for schedule I because there is "a lack of accepted safety for use of the drug or other substance under medical supervision." FDA believes that "accepted safety," like "accepted medical use," has not been shown for a drug product that has not qualified for lawful marketing under the act. Accordingly, because these substances are not lawfully marketed, there is a "lack of accepted safety * * *."

As noted above, the Federal Food, Drug, and Cosmetic Act provides that FDA approve an NDA upon scientific evidence that the drug has been shown to be safe and effective for its proposed uses. See 21 U.S.C. 355(d). Because no drug is ever completely safe in the absolute sense, FDA considers "safe" to mean (in the context of a human drug) that the therapeutic benefits to be derived from the drug outweigh its known and potential risks under the conditions of use in the labeling. For this reason, FDA requires, before approval of an NDA, that extensive clinical and preclinical testing be conducted to establish the safety of the drug. Indeed, FDA must deny approval of an NDA if inadequate information about the drug's adverse reactions is presented. See 21 U.S.C. 355(d)(1).

Another factor considered by FDA in assessing the drug's safety is the proposed labeling, which is approved at the time of approval for marketing. A drug might be considered safe for some proposed uses but not others. Only those proposed uses where the benefit/risk ratio is favorable will be included in the indications section of the drug's labeling. Physicians depend on detailed labeling for information on when and how a drug should be used, and any claim in the labeling must be supported by clinical studies. False or misleading proposed labeling also precludes FDA approval of an NDA. 21 U.S.C. 355(d)(6).

Clearly, the further along a drug is in the investigational process, the more information about safety and effectiveness there will be. But it is only upon approval for marketing, when there has been an institutional decision based on scientific judgment by the regulatory agency charged with the responsibility of evaluating the safety and efficacy of new drugs, that a drug becomes "accepted" as safe under medical supervision.

The safety and efficacy of the cannabis materials at issue have not yet been fully studied. Indeed, these materials are currently distributed to a limited number of physicians and several States as investigational new drugs only, and a considerable amount of clinical research is still needed before an NDA could be submitted. Only when full information is received and reviewed by FDA can a responsible, scientific judgment be made that marihuana materials have "accepted safety for use * * * under medical supervision". Accordingly, under the present facts, FDA proposes that the cannabis substances at issue meet criterion C for schedule I.

Criterion C for schedule II provides that "[a]buse of the drug or other substance *may* lead to severe psychological *or* physical dependence" (emphasis added). FDA proposes that abuse of the substances at issue may lead to severe psychological dependence in some individuals (see discussion in factor 7). Whether this psychological dependence might be better characterized as "high" (schedule III criterion) rather than "severe" (schedule II criterion) is a matter of scientific judgment. However, FDA tentatively concludes, based on the information before it, that the psychological dependence-producing ability of these substances lies at the top end of the spectrum and is most appropriately characterized as "severe," thereby meeting the criterion for schedule II.

In terms of possible physical dependence, FDA believes the available information before it, at this time, is insufficent to determine with certainty whether physical dependence occurs.

D. *Summary chart.* FDA's proposed recommendations on scheduling criteria for cannabis, cannabis resin, cannabis leaves, and cannabis seeds capable of germination may be summarized in the following chart:

Note.—The criterion varies according to the schedule.)

	Criterion A	Criterion B	Criterion C
Schedule I	Met	Met	Met.
Schedule II	Met	Not met	Met.
Schedule III	Not met	Not met	Possibly met.
Schedule IV	Not met	Not met	Not met.
Schedule V	Not met	Not met	Not met.

E. *Conclusion.* FDA proposes to recommend that, based on the scientific and medical evaluation, each of the cannabis materials at issue meet all three criteria for schedule I. FDA proposes to recommend that each of the cannabis materials at issue remain in schedule I.

IV. Public Hearing

Under 21 CFR Part 15, the Commissioner of Food and Drugs may, as a matter of discretion, permit persons to present information and views at a public hearing on any matter pending before FDA. The Commissioner has concluded that it is in the public interest to hold such a public hearing for the purpose of obtaining information and views on the material in Parts II and III above concerning the appropriate scheduling status under the CSA of cannabis, cannabis resin, cannabis leaves, and cannabis seeds capable of germination.

The public hearing will be be held on September 16, 1982, from 9 a.m. to 4 p.m. in Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.

Every effort will be made to accommodate each person who wants to participate in the public hearing. However, each person who wants to ensure his or her participation in the hearing is encouraged by close of business on August 27, 1982, to: (a) submit the text of the presentation so that the presiding officer and any other persons who may serve on a panel conducting the hearing may formulate useful questions to be posed at the hearing (a comprehensive outline may be submitted as an alternative to the text); and (b) file a written notice of participation containing the name, address, phone number, affiliation, if any, of the participant, topic of presentation, and approximate amount of time requested for the presentation. Oral notice of participation may be made by telephone as an alternative to the written notice.

The text or comprehensive outline and the written or oral notice of participation may be made to: Frederick J. Abramek, Bureau of Drugs (HFD–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3600.

Shortly after August 27, 1982, the amount of time allotted to each person and the approximate time that oral presentation is scheduled to begin will be determined. A hearing schedule showing the persons making oral presentations and the time allotted to each person will be filed with the Dockets Management Branch (address above) and mailed or telephoned to each participant before the hearing. If the number of persons formally requesting time for presentation exceeds the number that can be accommodated during the day session, the hearing will be carried over past the scheduled time and, if necessary, to the following day. An attempt will be made to hear, at the conslusion of the hearing, any person who is late. Other interested persons attending the hearing who did not

request an opportunity to make an oral presentation will be given an opportunity to make an oral presentation at the conclusion of the hearing, in the discretion of the presiding officer, to the extent that time permits. The hearing will be informal in nature and the rules of evidence do not apply.

References

The following information has been placed in the Dockets Management Branch (address above) and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Marihuana and Health, 8th Annual Report, 1980.
2. *Journal of Natural Products*, 42(2) March-April 1980.
3. *Journal of Pharmaceutical Sciences*, 60:1284, 1971.
4. House Report 91–1444 (Part I), Comprehensive Drug Abuse Prevention and Control Act of 1970.
5. Washington Post, November 15, 1981, (F–13).
6. Institute of Medicine Report, pp. 25, 27, 29, 38, 41, and 43.
7. NIDA, Research Monograph Series No. 31, "Marihuana Research Findings, 1980."
8. Addiction Research Foundation, 1981.
9. *Journal of Clinical Pharmacology*, 21 (8 and 9, Supplement), August-September 1981.
10. "Marihuana," ed. Raphael Mechoulam, Academic Press, 1972.
11. "Pharmacology of Marihuana," ed. Braude and Szara, Raven Press, 1976.
12. Statement of William Pollin, M.D., Director, National Institute on Drug Abuse, before the Committee on Foreign Affairs, House of Representatives, April 20, 1982.
13. *American Journal of Drug and Alcohol Abuse*, 6(4), pp. 447–462, 1979.
14. NIDA, "Excerpts from the National Survey on Drug Abuse—1979," U.S. Printing Office, 1980, O–311–246/6014.
15. NIDA, Research Monograph Series No. 35, "Demographic Trends and Drug Abuse 1980–1995."
16. *International Journal of the Addictions*, 15(3), pp. 304–321, 1980.
17. Burt Associates, Inc., "Highlights from the Worldwide Survey of Nonmedical Drug Use and Alcohol Use Among Military Personnel, 1980," Contract No. NIDA 903–79–C–0667, Bethesda, MD.
18. Bulletin on Narcotics, XXXII, No. 4, pp. 29–45, 1980.
19. Bulletin on Narcotics, XXXIII, No. 1, pp. 9–19, 1981.
20. Drug Enforcement Administration, *Drug Enforcement*, March 1980.
21. Project DAWN Annual Report—1980, Drug Enforcement Administration and National Institute on Drug Abuse.
22. "Health Consequences of Marijuana Use," Government Printing Office 869–675, 1980.
23. AMA Council on Scientific Affairs, "Marijuana in the '80s," Adopted by the House of Delegates, December 1980.

Interested persons may, on or before October 1, 1982, submit to the Dockets Management Branch (address above), written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 7, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-17331 Filed 6-28-82; 8:45 am]
BILLING CODE 4160-01-M

Advisory Committees; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Circulatory System Devices Panel

Date, time, and place. July 23, 8:30 a.m., Rm. 403–425A, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and executive secretary. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 9:30 a.m. to 10:30 a.m.; closed committee deliberations, 10:30 a.m. to 3:45 p.m.; open committee discussion 3:45 p.m. to 4:00 p.m.; Glenn A. Rahmoeller, Bureau of Medical Devices (HFK–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7559.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 14, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss several premarket applications (PMA's) for pacemakers and may also review one or more PMA's for other cardiovascular devices.

Closed committee deliberations. The committee may discuss trade secret or confidential commercial information relevant to one or more PMA's for pacemakers or other cardiovascular devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be

requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Governmment in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: June 22, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–17472 Filed 6–28–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 79P–0054]

CGR Medical Corp.; Approval of Extenson of Variance for Lateral Fluoroscopic Automatic Field Limiter

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that an extension of a variance from the performance standard for diagnostic x-ray systems and their major components has been approved by the Bureau of Radiological Health for the Lateral Fluoroscopic Automatic Field Limiter manufactured by CGR Medical Corp., Baltimore, MD. The variance allows for continued operation of the fluoroscopic system by use of a bypass switch in the vent of automatic system failure. The use of the bypass may allow the primary beam to exceed the primary protective barrier.

DATE: The termination date of Variance No. 79P–0054 is extended from September 24, 1981, to September 24, 1983.

ADDRESS: The application and all correspondence on the application have been placed on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert Phillips, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Land, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 24, 1979 (44 FR 49792), FDA announced that a variance from the provisions of § 1020.32(a)(1) (21 CFR 1020.32(a)(1)) requiring that a primary protective barrier be in position to intercept the entire useful beam before an x-ray tube used for fluoroscopy can produce x-rays had been granted to CGR Medical Corp., 2519 Wilkens Ave., Baltimore, MD 21203. The variance was granted under § 1010.4 (21 CFR 1010.4) for the Lateral Fluoroscopic Automatic Field Limiter and was assigned Variance No. 79P–0054.

CGR Medical Corp. has submitted to FDA an application for a 2-year extension of the September 24, 1981 expiration date of Variance No. 79P–0054. The application for extension of the variance is based on the same arguments used in support of the original August 24, 1981 notice.

The Director of the Bureau of Radiological Health has determined that the arguments that led to the original granting of Variance No. 79P–0054 are still valid. Furthermore, the Director has concluded that the CGR Lateral Fluoroscopic Automatic Field Limiter still provides alternate means of radiation safety and protection equal or superior to those of products that comply with the standard. Therefore, by letter of May 20, 1982, the Director approved a 2-year extension of the variance, which terminates on September 24, 1983. This extension is being granted under the same terms and conditions as the original variance, with the additional condition that any further extension will be contingent upon CGR Medical Corp. providing evidence of an effort to eliminate the design limitation that makes this variance necessary.

As requested, this variance is being extended for 2 years, which will allow the Bureau the opportunity to reevaluate the need and basis for the variance. Such a reevaluation will consider the possible amendment of the performance standard, the then current state-of-the-art, industrial usefulness, radiation protection criteria, and other relevant factors.

In accordance with § 1010.4, the application and all related correspondence on the application (including the data and information in support of the original request and the written notice of approval) have been placed on public display in the Dockets Management Branch, Food and Drug Administration (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday though Friday.

Dated: June 18, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–17469 Filed 6–28–82 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 80P-0137 et al.]

Availability of Approved Variances for Sunlamp Products

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for sunlamp products have been approved by the Bureau of Radiological Health for 18 organizations that manufacture or import ultraviolet-A (UVA) sunlamp products. The intended use of the products is to produce ultraviolet radiation for tanning the skin.

DATES: The effective dates and termination dates of the variances are listed in the table under "Supplementary Information."

ADDRESS: The applications and all correspondence on the various applications have been placed on display in the Dockets Mangement Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Glenn E. Conklin, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4), each of the 18 organizations listed in the table below has been granted a variance from one or more of the requirements of the performance standard for sunlamp products in 21 CFR 1040.20. Approval has been granted for the listed products to vary as specified from § 1040.20(c)(2)(ii), which requires that the maximum timer interval for a sunlamp product shall be 10 minutes or less; from § 1040.20(c)(3), which requires a control for termination of radiation emission from the product; or from § 1040.20(d)(1)(i), (f)(1)(ii), or (f)(2)(ii), which specify the exact wording of the warning statement to be included (1) on the sunlamp product, (2) in the instructions supplied to the user of the sunlamp product, and (3) in the instructions provided to users of an ultraviolet lamp when the lamp does not accompany the sunlamp product. All other provisions of § 1040.20 remain applicable to the sunlamp products and ultraviolet lamps manufactured or imported by the applicants.

Each variance permits the listed manufacturer or importer to introduce into commerce sunlamp products that have less than 5 percent of their ultraviolet radiation at wave lengths shorter than 320 nanometers. FDA's experience with this kind of sunlamp product indicates that the relatively lengthy exposure recommended by the manufacturers does not result in severe, acute skin burns or corneal injury. Therefore, some of the requirements of the sunlamp performance standards are not appropriate for UVA products. However, even though the skin hazard is reduced, there is still a need to wear protective eyewear to eliminate the unnecessary risk of chemically sensitized lenses or of cornea damage or of long/term development of lens opacities. Suitable or alternate means of radiation protection will be provided by constraints on the physical and optical design and by warnings in the user manual and on the products. In addition, procedures are prescribed for personnel who will operate the products of the company that has been granted a variance from § 1040.20(c)(3).

So that the product will bear evidence of the variance approved for the manufacturer of that product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) the docket number and effective date of the variance as specified in the table below. By letter to each manufacturer, the Director of the Bureau of Radiological Health approved the requested variances.

APPROVED VARIANCES

Docket No.	Organization granted the variance	Sunlamp products	Paragraph in 21 CFR 1040.20 pertaining to variance	Effective date and termination date
80P-0137 (amendment).	Sun Industries, P.O. Box 2026, Jonesboro, AK 72401	SunTana Sun System Models SB-6 and SF-2.	(c)(2)(ii), (d)(1)(i), (f)(1)(ii)	July 10, 1981. Mar. 17, 1986.
80P-0400 (amendment).	Rheem Nederland B.V., c/o Sunlit U.S.A., Inc., 222 Saint Paul Place, Baltimore, MD 21202.	Sunbed Model 125 SPU, Sunroof Model 125 PPU.	(c)(2)(ii), (d)(1)(i), (f)(1)(ii), (f)(2)(ii)	Nov. 30, 1981. Dec. 4, 1985.
80P-0450	Tan Body, Inc., G-3237 W. Pasadena Ave., Flint, MI 48504	Ultraviolet-A Suntanning beds	(c)(2)(ii)	Apr. 30, 1982. Apr. 30, 1987.
81P-0129	AmLab, Inc., P.O. Box 1117, Mountainside, NJ 07092	UVALUX (No. 1015), UVALUX (No. 1015).	(c)(2)(ii), (d)(1)(i), (f)(1)(ii)	July 20, 1981. July 20, 1986.
81P-0205	Westinghouse Electric Corp., One Westinghouse Plaza, Bloomfield, NJ 07003.	UVA Sunlamp F72T12-BL-S-HO, UVA Sunlamp F72T12/BL-S/SHO-O.	(f)(2)(ii)	Aug. 26, 1981. Aug. 26, 1986.
81P-0208	CPC Systems, Inc., West St., East Hanover, NJ 07936	Songegra Sunbrella (Overhead-tanning unit), Sostegra Lounge (tanning beds or couches) and all models within the model family.	(c)(2)(ii)	Aug. 26, 1981. Aug. 26, 1986.
81P-0213	JK International, Inc., 7402 E. Camelback Rd., Suite D, Scottsdale, AZ 85251.	JK UVA sunbeds	(c)(2)(ii), (d)(1)(i), (f)(1)(ii)	Apr. 7, 1982. Apr. 7, 1987.
81P-0217 and 81P-0336.	Klafs Sunlight Corp., One Northfield Plaza, Northfield, IL 60093.	Model 101—Elite Sun Lounge, Model 102—Saturn Sunbrella, Model 103—Exquisite Sun Lounge, Model 104—Comet Sunbrella Model 105—Junior 863—Partial Body Tanning Device, Model 106—Bellarium Suitcase, Model 107—Exclusive Sun Sofa, Model 108—Comfort Sun Sofa, Model 120—Favorit Sun Lounge, Model 121—Favorit Sunbrella.	(c)(2)(ii)	Nov. 24, 1981. Nov. 24, 1986.
81P-0239	Sunmaker, Inc., c/o Dunten, Beckman, Lawson and Snyder, 2410 Ft. Wayne Bank Bldg., Fort Wayne, IN 46802.	Sunmaker Sun Tanning Beds	(c)(2)(ii)	Feb. 25, 1982. Feb. 25, 1987.
81P-0323	The Silver Group, Inc., 2 Kansas St., San Francisco, CA 94103.	Silver solarium Professional JT (tanning bed with canopy).	(c)(2)(ii), (c)(3)	Mar. 22, 1982. Mar. 22, 1987.
81P-0337	S.C.A. Corp., 2799 152nd Ave. NE., Redmond, WA 98052	Wolff System Sun Sky SHWWAS/12 Sun Lounge SLWWA/12.	(c)(2)(ii)	Nov. 16, 1981. Nov. 16, 1986.
81P-0371	Uvalux International, Inc., 21 Webster Ave., Toronto, Ontario, Canada M5R1N6.	Uvalux Sun Bed and Sunny Sky	(c)(2)(ii)	Jan. 11, 1982. Jan. 11, 1987.
81P-0378	Dr. Goebel, Inc., P.O. Box 10331, Panama City, FL 32401	Solarium Combination Suntanning bed with overhead Sky and UVA lamps used in these products.	(c)(2)(ii), (d)(1)(i), (f)(1)(ii), (f)(2)(ii)	Feb. 3, 1982 Feb. 3, 1987.
81P-0410	Sun Shanty, Inc., 5090 State St., Saginaw, MI 48603	Sun Shanty Tanning Booths (UVA Hex unit).	(c)(2)(ii)	Jan. 27, 1982. Jan. 27, 1987.

APPROVED VARIANCES—Continued

Docket No.	Organization granted the variance	Sunlamp products	Paragraph in 21 CFR 1040.20 pertaining to variance	Effective date and termination date
82P-0074	M.G. Industries, Inc., R.D. #2, Bushkill Dr., Easton, PA 18042.	UVA tanning booths	(c)(2)(ii)	Apr. 8, 1982. Apr. 8, 1987.
82P-0091	Strato-Ray Co., 6500 Walker St., Minneapolis, MI 55426	UVA suntanning equipment	(c)(2)(ii)	Apr. 9, 1982. Apr. 9, 1987.
82P-0104	Veltronic Export Ltd., Witte Paal 30, Schaaen, The Netherlands.	UVA suntanning canopy and bench	(c)(2)(ii)	Apr. 9, 1982. Apr. 9, 1987.
82P-0109	Solana, Inc., 1840 Royal Oaks Dr., Duarte, CA 91010	Solana solariums	(c)(2)(ii)	Apr. 30, 1982. Apr. 30, 1987.

In accordance with § 1010.4, the applications and all correspondence (including the written notices of approval) on the various applications have been placed on public desplay under the designated docket number in the Dockets Management Branch, Food and Drug Administration (address above), and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 18, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 82-17470 Filed 6-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for certain single-entity coronary vasodilator drug products for which FDA offered an opportunity for a hearing, but for which no hearing was requested. The drugs lack substantial evidence of effectiveness.

EFFECTIVE DATE: July 9, 1982.

ADDRESS: Communications in response to this notice should be identified with Docket No. 77N-0240 and the reference number DESI 1786 and directed to the attention of the office named below:

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, National Center for Durgs and Biologics (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 25, 1972 (37 FR 4001), FDA classified certain coronary vasodilators as possibly effective for the management, prophylaxis, or treatment of anginal attacks.

In a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), FDA temporarily exempted certain single-entity coronary vasodilators from the time limits established for the Drug Efficacy Study Implementation (DESI) program pending completion of clinical studies to determine effectiveness and a commitment from each manufacturer to conduct bioavailability studies on its product.

In a notice published in the **Federal Register** of April 23, 1982 (47 FR 17673), FDA revoked the temporary exemption for continued marketing of those single-entity coronary vasodilators that failed to comply with the conditions for marketing. That notice affected all products containing mannitol hexanitrate or trolnitrate phosphate because no sponsor is conducting clinical studies on any of the products. It affected specific products containing other active ingredients because no bioavailability data had been submitted for those products. The notice also reclassified the drug products to lacking substantial evidence of effectiveness, proposed to withdraw approval, and offered an opportunity for hearing on the proposal.

Products for Which no Hearing was Requested

The sponsors of certain products did not request a hearing. As stated in the notice of opportunity for hearing, the failure to request a hearing constitutes an election not to make use of the opportunity for a hearing. Accordingly, this notice withdraws approval of the new drug applications listed below.

1. NDA 1-786; Maxitate Tablets containing mannitol hexanitrate; Pennwalt Prescription Products Division, P.O. Box 1710, Rochester, NY 14603.

2. NDA 3-193; Nitranitol Tablets containing mannitol hexanitrate; Merrell-Dow Pharmaceutical, Inc. (formerly Merrell-National Laboratories), 2110 East Galbraith Rd., Cincinnati, OH 45215.

3. NDA 4-730; Mannitol Hexanitrate Tablets; S. F. Durst & Co., Inc., Division of O'Neal, Jones, & Feldman, Inc., 1304 Ashby Rd., St. Louis, MO 63132.

4. NDA 8-294; Metamine Tablets containing trolnitrate phosphate; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017.

5. NDA 8-798; Metamine Tablets containing trolnitrate phosphate; Pfizer & Co., Inc.

6. NDA 8-852; Pencard and Pencard No. 2 Tablets containing pentaerythritol tetranitrate; Cole Phamacal Co., P.O. Box 14404, St. Louis, MO 63178.

7. NDA 9-196; Nitretamine and Nitretamine-10 Tablets containing trolnitrate phosphate; Squibb Pharmaceutical Co, Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

8. NDA 10-131; Metamine Sustained Tablets containing trolnitrate phosphate; Pfizer & Co., Inc.

9. NDA 12-317; Penta-Erythritol Tetranitrate Nyscaps containing pentaerythritol tetranitrate; USV Laboratories, Division of USV Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

10. NDA 12-450; Tetrasul-80 Timesules containing pentaerythritol tetranitrate; Storck Pharmaceuticals, Inc., Division of Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056.

11. NDA 12-488; Pentestan-80 Stancaps containing pentaerythritol tetranitrate; Standex Laboratories, 585 West Second Ave., Columbus, OH 43215.

12. NDA 12-529; Metranil Duracap containing pentaerythritol tetranitrate; Meyer Laboratories, Inc., 1900 West Commercial Blvd., Ft. Lauderdale, FL 33309.

13. NDA 12–646; Timed Pentryate Stronger Capsules containing pentaerythritol tetranitrate; Fellows-Testagar, Subdivision of Chromalloy Pharmaceuticals, Inc., 12741 Capital Ave., Oak Park, MI 48237.

14. NDA 12–317; Perispan Timed Disintegration Capsules containing pentaerythritol tetranitrate; USV Laboratories.

15. NDA 12–519; Corodyl Forte Sustained Release Tablets containing pentaerythritol tetranitrate; Bock Pharmacal Co., 5435 Highland Park Dr., St. Louis, MO 63110.

16. NDA 12–613; Pent-T-80 Sustained Release Capsules containing pentaerythritol tetranitrate; Moricon Industries, Inc., 420 S.W. Washington St., Peoria, IL 61602.

17. NDA 13–303; Tetrate-80 Time Disintegrating Capsules containing pentaerythritol tetranitrate; Pasadena Research Laboratories, Inc., 2107 E. Villa St., Pasadena, CA 91107.

18. NDA 16–425; Pentaerythritol Tetranitrate Tablets; Philips Roxane Laboratories, Division of Philips Roxane, Inc., P.O. Box 1738, Columbus, OH 43216.

19. NDA 16–436; Vasitol Tablets containing pentaerythritol tetranitrate; Rowell Laboratories, 210 Main St. West, Baudette, MN 56623.

20. NDA 16–445; Tranite Tablets containing pentaerythritol tetranitrate; Westerfield Laboratories, Inc., Division of O'Neal, Jones, & Feldman, Inc., 3941 Brothreton Rd., Cincinnati. OH 45209.

21. NDA 16–449; Dipentrate Tablets containing pentaerythritol tetranitrate; Invenex Pharmaceuticals, Division of The Mogul Corp., 3175 Staley Rd., Grand Rapids, NY 14072.

22. NDA 16–459; Pentaerythritol Tetranitrate Tablets; Kirkman Laboratories, Inc., P.O. Box 3929, Portland OR 97208.

23. NDA 16–498; Pentaerythritol Tetranitrate Tablets; Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056.

24. NDA 16–499; Tranite D-Lay Sustained Release Capsules containing pentaerythritol tetranitrate; Westerfield Laboratories, Inc.

25. NDA 16–502; Nitrin Tablets containing pentaerythritol tetranitrate; The Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.

26. NDA 16–537; Pentaerythritol Tetranitrate Tablets; Davis-Edwards Pharmacal Corp., Backus Ave., Danbury, CT 06810.

27. NDA 16–545; Pentaerythritol Tetranitrate Tablets; Lit Drug Co., 2530 Polk St., Union NJ 07083.

28. NDA 16–553; Pentran Tablets containing pentaerythritol tetranitrate; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

29. NDA 16–558; Pentaerythritol Tetranitrate Tablets; West-Ward, Inc., 465 Industrial Way West, Eatontown, NJ 07724.

30. NDA 16–561; Pentaerythritol Tetranitrate Tablets; Stanlabs, Inc., Box 3108, Portland, OR 97208.

31. NDA 16–567; Pentaerythritol Tetranitrate Tablets; Reid-Provident Laboratories, Inc., 640 Tenth St., N.W. Altanta, GA 30318 (Formerly held by Tutag Pharmaceuticals, Inc.).

32. NDA 16–593; Pentaerythritol Tetranitrate Tablets; American Pharmaceutical Co., Inc., P.O. Box 448, Passaic, NJ 07055.

33. NDA 16–661; Dilival Tablets containing pentaerythritol tetranitrate; Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220.

34. NDA 16–855; Pentaerythritol Tetranitrate Tablets; Philips Roxane Laboratories.

Any drug products that are identical, related, or similar to these products and are not the subject of an approved application are covered by the applications listed above, and are subject to this notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the National Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to him (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications listed above were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling. Therefore, pursuant to this finding, approval of the applications listed above and all amendments and supplements applying to them is withdrawn effective July 9, 1982. Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

This withdrawal of approval does not apply to the following products named in the April 23, 1982 notice, for which a hearing was requested.

Products for Which Hearing Was Requested

1. ANDA 84–473; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg isosorbide dinitrate of the drug per tablet; Zenith Laboratories, Inc., 140 LeGrande Ave., Northvale, NJ 07647.

2. ANDA 84–474; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg isosorbide dinitrate of the drug per tablet; Zenith.

3. ANDA 86–035; Isosorbide Dinitrate Tablets containing 10 mg isosorbide dinitrate of the drug per tablet; Zenith.

4. ANDA 86–044; Isosorbide Dinitrate Tablets containing 10 mg isosorbide dinitrate Per tablet; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726.

5. ANDA 86–045; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Bolar.

6. ANDA 86–048, Isosorbide Dinitrate Tablets containing 20 mg of the drug per tablet; Bolar.

7. ANDA 86–051; Isosorbide Dinitrate (sustained release) Tablets, containing 40 mg of the drug per tablet; Bolar.

8. ANDA 86–071; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Chelsea Laboratories, Inc., 428 Doughty Blvd., Inwood, NY 11696.

9. ANDA 86–072; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Chelsea.

10. ANDA 86–073; Isosorbide Dinitrate (sublingual) Tablets, containing 2.5 mg of the drug per tablet; Chelsea.

11. ANDA 86–076; Isosorbide Dinitrate Tablets containing 10 mg of the drug per tablet; Chelsea.

12. ANDA 86–191; Isosorbide Dinitrate (sublingual) Tablets, containing 5 mg of the drug per tablet; Bolar.

13. ANDA 86–362; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Bolar.

14. ANDA 86–808; Dipyridamole Tablets containing 25 mg of the drug per tablet; Lemmon Co., P.O. Box 30, Sellersville, PA 18960 (formerly held by Premo Pharmaceutical Laboratories, inc.).

15. ANDA 86–922; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Par Pharmaceutical, Inc., 12 Industrial Ave., Upper Saddle River, NJ 07458.

16. ANDA 86–923: Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Par.

17. ANDA 86–924; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Par.

18. ANDA 86-925; Isosorbide Dinitrate (sublingual) Tablets containing 10 mg of the drug per tablet; Par.

19. ANDA 86-944; Dipyridamole Tablets containing 25 mg of the drug per tablet; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

20. ANDA 86-981; Dipyridamole Tablets containing 25 mg of the drug per tablet; Bolar.

21. ANDA 87-008; Dipyridamole Tablets containing 25 mg of the drug per tablet; Zenith.

22. ANDA 87-039; Dipyridamole Tablets containing 25 mg of the drug per tablet; Chelsea.

23. ANDA 87-094; Dipyridamole Tablets containing 25 mg of the drug per tablet; Par.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.82 and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: June 23, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-17473 Filed 6-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N-0087]

Potassium Iodide as a Thyroid-Blocking Agent in a Radiation Emergency: Final Recommendations On Use

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of final recommendations about administering potassium iodide to the general public in a radiation emergency. The final recommendations prepared by FDA's Bureau of Radiological Health and the Bureau of Drugs are being made available to assist State and local authorities in developing emergency-response plans for preventing adverse effects from exposure to radiation in the event that radioactivity is accidentally released into the environment.

ADDRESS: The final recommendations are on display in, and comments may be submitted to, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and copies may be obtained from Bernard Shleien at the address below.

FOR FURTHER INFORMATION CONTACT: Bernard Shleien, Bureau of Radiological Health (HFX-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6220 or Edwin V. Dutra, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 22, 1980 (45 FR 69904), the Federal Emergency Management Agency (FEMA) outlined the responsibilities of several Federal agencies concerning emergency-response planning guidance that the agencies should provide to State and local authorities. The October 22, 1980 notice updated an earlier notice on the subject that the General Services Administration (GSA) published in the **Federal Register** of December 24, 1975 (40 FR 59494). (GSA responsibility for emergency management was transferred to FEMA by Executive Order 12148.)

The Department of Health and Human Services' (HHS) responsibilities for emergency-response planning include assisting State and local authorities in developing plans for preventing adverse effects from exposure to radiation in the event that radioactivity is released into the environment. These plans include the prophylactic use of drugs that would reduce the radiation dose to specific organs from the sudden release into the environment of large quantities of radioactivity that might include several radioactive isotopes of iodine.

As one step toward meeting the Department's responsibilities, FDA issued a notice in the **Federal Register** of December 15, 1978 (43 FR 58798) announcing its conclusion that potassium iodide is safe and effective for use as a thyroid-blocking agent in a radiation emergency under certain specified conditions of use. The notice also announced, however, that potassium iodide has not been used to such an extent or for such a period of time under radiation emergency conditions to permit the conclusion that the drug may be marketed without an approved new drug application (NDA). Thus, in the interest of public safety, the notice encouraged interested persons to submit to the agency NDA's for potassium iodide in oral dosage forms for use as a thyroid-blocking agent. In the issue for February 22, 1980 (45 FR 11912), FDA announced that potassium iodide as a thyroid-blocking agent is available commercially in both tablet and solution form. (Since that time, FDA has approved an additional NDA for potassium iodide in solution form for use as a thyroid-blocking agent.)

In the **Federal Register** of June 5, 1981 (46 FR 30199), FDA issued a notice announcing the availability of draft recommendations about administering potassium iodide to the general public in a radiation emergency. The draft recommedations were made available for public comment to provide FDA with views to be considered as it developed its final recommendations on this use of potassium iodide. The comment period closed on October 5, 1981 (see the **Federal Register** of September 18, 1981; 46 FR 46402).

FDA received comments from individual citizens, professional and consumer advocate groups, State and local health agencies, and other Federal agencies. The issues they raised are discussed in the "Background" section of the final recommendations.

One purpose of FDA's final recommendations is to facilitate a national consensus on the use of potassium iodide during a radiation emergency. Another is to provide information and guidance to Sate and local public health agencies and other persons responsible for formulating emergency-response plans for radiation accidents.

Uncertainties still exist about the dose-response for radioiodine-induced thyroid cancers and the incidence and severity of side effects from potassium iodide. These uncertainties, which are discussed in the final recommendations, are unlikely to be resolved soon.

Based on its consideration of comments received and its analysis of available information, FDA concludes in the final recommendations that risks from the short-term use of relatively low doses of potassium iodide for thyroid blocking in a radiation emergency are outweighed by the risks of radioiodine-induced thyroid nodules or cancer at a projected dose to the thyroid gland of 25 rem. FDA recommends that potassium iodide in doses of 130 milligrams (mg) per day for adults and children above 1 year and 65 mg per day for children below 1 year of age be considered for thyroid blocking in radiation emergencies in those persons who are likely to receive a projected radiation dose of 25 rem or greater to the thyroid gland from radioiodines released into the environment. To have the greatest effect in decreasing the accumulation of radioiodine in the thyroid gland, these doses of potassium iodide should be administered immediately before or after exposure. If a person is exposed to radioiodine when circumstances do not permit the immediate administration of potassium iodide, the initial administration will still have substantial benefit even if it is taken 3 or 4 hours after acute exposure.

Taken together, the comments received during the public comment period and the actions of national and foreign radiation protection groups make these recommendations prudent because, although slightly above the range presented in draft recommendations (10 to 20 rem), a 25-rem projected dose to the thyroid is equal numerically to the Environmental Protection Agency's (EPA) upper Protective Action Guidance level for the general public and the United Kingdom's National Radiation Protection Board's upper level proposed for potassium iodide use. (EPA Protective Action Guides call for sheltering, evacuation, and controlled access as protective actions when the total accumulated thyroid doses are projected at 5 to 25 rem for the general population. The EPA guides do not specifically note the use of potassium iodide as a protective action for the general population.) These agencies would expect some protective action to be taken at 25 rem projected dose to the thyroid. Use of a single recommended value also eliminates questioned by State and local public health agencies about whether to use the upper or the lower part of a range of values.

FDA further recommends that officials responsible for radiation emergency response planning include in the emergency response planning a system of public information on the use of potassium iodide and a system of medical contact, reporting, and assistance.

Each State is responsible for formulating guidance on when, if at all, the public should be supplied with potassium iodide along with instructions on how to use it. In preparing guidance and making rules, State and local agencies should inform citizens of the nature of the radiation hazard and of the potential benefits and adverse effects of potassium iodide.

These final recommendations on potassium iodide use must be seen in the context of radiation emergency planning as a whole. The use of potassium iodide in the radiation emergency is not a panacea. It does not reduce the uptake by the body of other radioactive materials or provide protection against external radiation. The cost and effectiveness of other protective measures such as seeking shelter, evacuation, or respiratory protection also need to be considered.

Although FDA received written comments on the draft recommendations and considered them in formulation of these final recommendations, under 21 CFR 10.90 interested persons may submit further written comments on these final recommendations to the Dockets Management Branch (address above).

Dated: June 22, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-17468 Filed 6-28-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82F-0181]

Union Carbide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announing that Union Carbide Corp. has filed a petition proposing that the food additive regulations be amended to provide for specification changes in polysulfone resins as articles or components of articles intended for repeated use in contact with food.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3629) has been filed by Union Carbide Corp., River Road, Bound Brook, NJ 08805, proposing that Part 177 (21 CFR Part 177) of the food additive regulations be amended to provide for a change in the molecular weight specifications and testing requirements for polysulfone resins as articles or components of articles intended for repeated use in contact with food.

The agency has carefully considered the potential environmental effects of this proposed action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 18, 1982

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-17471 Filed 6-28-82; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Cancer Center Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Center Support Review Committee, National Cancer Institute, July 15-16, 1982, Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. This meeting will be open to the public on July 15 from 8:30 a.m. to 10:00 a.m. to review administrative details, and to present reports by the Division Director and the Branch Chief. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on July 15, from 10:00 a.m. to adjournment, and on July 16, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentale material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Robert L. Manning, Executive Secretary, Cancer Center Support Review Committee, National Cancer Institute, Westwood Building, Room 803, National Institutes of Health, Bethesda, Maryland 20205 (301/496-7721) will furnish substantive program information.

Dated: June 17, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Number 13.397, project grants in cancer center support, National Institutes of Health)

(NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular)

[FR Doc. 82-17484 Filed 6-28-82; 8:45 am]

BILLING CODE 4140-01-M

Cancer Regional Studies Review Committee; Establishment and Renewal

The Director, National Institutes of Health, announces the establishment on June 2, 1982, of the Cancer Regional Strudies Review Committee by the Director, National Cancer Institute, under the authority of section 404(b)(3) of the Public Health Service Act (42 U.S.C. 285(b)(3)). Such advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92–463) setting forth standards governing the establishment and use of advisory committees.

This committee shall advise the Director, National Cancer Institute, and the Director, Division of Extramural Activities, concerning the scientific merit review of research cooperative agreement applications for the support of cooperative clinical trial groups of the following two types: 1) those groups organized to carry out clinical trials in a specific geographic region; and 2) those organized to pursue clinical trials related to a specific tumor type or anatomic site.

Authority for this committee shall terminate on June 2, 1984, unless renewed by appropriate action as authorized by law.

The Director, National Institutes of Health, announces the renewal by the Director, National Cancer Institute, of the Board of Scientific Counselors, Division of Resources, Centers, and Community Activities. Authority for this committee shall terminate on September 15, 1983, unless renewed by appropriate action as authorized by law.

Dated: June 14, 1982.

James B. Wyngaarden, M.D.,

Director, National Institutes of Health.

[FR Doc. 82–17462 Filed 6–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Advisory Board Subcommittee on Activities and Agenda; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Activities and Agenda, National Cancer Institute, August 17, 1982, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to adjournment, to review administrative details and plan the agenda and activities for the National Cancer Advisory Board and its meeting for October 1982. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, Subcommittee on Activities and Agenda, National Cancer Advisory Board, National Cancer Institute, National Institutes of Health, Building 31, Room 10A03, Bethesda, Maryland 20205, (301) 496–5147, will furnish substantive program information.

Dated: June 23, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 82–17466 Filed 6–28–82; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, September 13, 1982. The meeting will be held in Conference Room B119 of the Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on September 13, from 8:30 a.m. to adjournment to discuss new initiatives and program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212, Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

Dated: June 23, 1982.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

[NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular)

[FR Doc. 82–17465 Filed 6–28–82; 8:45 am]

BILLING CODE 4140–01–M

Renewal of NIH Public Advisory Committees

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776, October 6, 1972), the National Institutes of Health announces the renewal by the Secretary, HHS, with the concurrence of the Committee Management Secretariat, General Services Administration, of the following committees:

Aging Review Committee
Animal Resources Review Committee
Biotechnology Resources Review Committee
Board of Scientific Counselors, National Institute on Aging
Board of Scientific Counselors, National Institute of Dental Research
Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke
Cellular and Molecular Basis of Disease Review Committee
Communicative Disorders Review Committee
Epilepsy Advisory Committee
General Clinical Research Centers Committee
General Research Support Review Committee
Genetic Basis of Disease Review Committee
Minority Access to Research Careers (MARC) Review Committee
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Institute of Dental Research Programs Advisory Committee
Neurological Disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
NIDR Special Grants Review Committee
Pharmacological Sciences Review Committee
Scientific Programs Advisory Committee, National Institute of Neurological and Communicative Disorders and Stroke

Authority for the above committees will expire on May 31, 1984, with the exception of the Biotechnology Resources Review Committee, which

will terminate on May 31, 1983, unless the Secretary formally determines that continuance is in the public interest.

Dated: June 22, 1982.

James B. Wyngaarden, M.D.,

Director, National Institutes of Health.

[FR Doc. 82-17463 Filed 6-28-82; 8:45 am]

BILLING CODE 4140-01-M

International Workshop on Acquired Immunodeficiency and Kaposi's Sarcoma

An international workshop sponsored by the Department of Health and Human Services' Committee to Coordinate Environmental and Related Programs; the Environmental Sciences Laboratory, Department of Community Medicine (Irving J. Selikoff, M.D., Director), and the Division of Clinical Immunology, Department of Medicine, The Mount Sinai School of Medicine; and the Institute of Environmental Medicine (Arthur Upton, M.D., Director), New York University School of Medicine, will be held on Tuesday, July 13, 1982, from 8:00 A.M. to 5:30 P.M. (Registration at 7:30 A.M.) in the Stern Auditorium, Mount Sinai Medical Center, 100th Street and Fifth Avenue, New York, New York. Attendance by the public will be limited to space available. There is a $20 fee to cover lunch and refreshments.

The program for this open meeting will include detailed reviews of information concerning Acquired Immunodeficiency Disease including clinical syndromes recently evident in New York City, San Francisco, Los Angeles and other cities in the United States, and in other countries. Leading investigators in the field will review current studies. Extensive open discussions are scheduled, including consideration of candidate hypotheses concerning etiology and mechanisms.

Individuals wishing to attend, please send your name, address, telephone number and affiliation to: Director, The Page and William Black Post-Graduate School of Medicine, Mount Sinai School of Medicine (CUNY), New York, New York 10029. Please enclose your check or money order in the amount of $20 payable to the Page and William Black Post-Graduate School of Medicine.

If you have any other questions, please address them to: Ms. Cecelia Aleman, National Institute of Environmental Health Sciences, P.O. 12233, Research Triangle Park, N.C. 27709. Telephone: (919) 541-3506/FTS 629-3506.

Dated: June 21, 1982.

David P. Rall,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 82-17401 Filed 6-28-82; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. NI-98]

Intended Environmental Impact Statement; Southridge Village Planned Residential Community, City of Fontana, Calif.

The U.S. Department of Housing and Urban Development (HUD) gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: City of Fontana, California. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Parts 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interest and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of the Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., June 22, 1982.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

The U.S. Department of Housing and Urban Development (HUD) Los Angeles Area Office gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for a planned residential community in the City of Fontana, California and solicits information and comments for consideration in the EIS.

Description: The proposed land development project is identified as Southridge Village and is seeking loan assistance from the Department under its Title X program.

The Southridge Village planned residential community is proposed for approximately 8,600 mixed dwelling-unit types on an area of approximately 2,560 acres. The project will include supporting commercial uses, school sites, recreation facilities, open space and services uses. The location is at the foot of the Jurupa Mountains in the southwest corner of San Bernardino County. The project is bounded by Jurupa Avenue on the north, Sierra and Mulberry Avenues on the west, Citrus Avenue on the east and the San Bernardino County Line on the south.

Need: An EIS is proposed due to HUD threshold requirement in accordance with housing program environmental regulations and probable impact on: Topography, water quality, air quality, noise, vegetation, public sewers, utilities, and traffic volumes.

Alternatives: At this time, the HUD alternatives are: accept the proposed development as submitted, accept the proposed development with modifications, or reject the proposed development.

Scoping Meeting: A "scoping" meeting to review potential significant environmental impacts is proposed. The date, time and location of the scoping meeting will be announced at a later time through publishing of a notice in the local newspaper of general circulation and by a direct mailing to a list of Federal, State and local agencies and groups.

Comments: Comments and questions regarding this proposal should be sent within 30-days of the date of this announcement to: John J. Tuite, Area Manager HUD Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90057. Attention: Ceferino Ahuero, Environmental Clearance Officer. The Area Office phone number is (213) 688-5899 or (213) 688-3836.

[FR Doc. 82-17400 Filed 6-28-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A-17362]

Public Lands Exchange; Mohave County Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action—exchange, public lands in Mohave County, Arizona.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 27 N., R. 20 W.,
Sec. 16, all;
Sec. 20, N½,NW¼SW¼,S½SW¼,SE¼;
Sec. 28, all.
Comprising 1,880 acres, more or less.

In exchange for these lands, the Federal government will acquire non-Federal land from Dale D. Smith described as follows:

Gila and Salt River Meridian, Arizona

T. 28 N., R. 16 W.,
Sec. 1, lots 1 through 4, S½N½,S½;
Sec. 11, E½, NW¼,NE¼SW¼,S½SW¼;
Sec. 15, all;
Sec. 19 lots 1 through 4, E½,E½W½;
Sec. 21, all.
Comprising 3,157.48 acres, more or less.

The exchange proposal involves only surface estates with the exception of the public land in the N½NW¼,SW¼NW¼, NW¼SW¼, Section 20, T. 27 N., R. 20 W., where it is proposed to exchange the mineral estate, excluding oil and gas.

The purpose of the exchange is to acquire the non-Federal lands which contain crucial mule deer habitat and exhibit outstanding recreation potential within the Grand Wash Cliffs of the Music Mountains. The exchange is consistent with the Bureau's planning system. The public interest will be well served by making the exchange.

The value of the lands and interests to be exchange is approximately equal. Upon the completion of a final appraisal; acreages may be adjusted or a cash payment made, where the value of the public estates exceed that of the private, to equalize the value difference. Where a money payment is required to equalize values, the payment shall not exceed 25 percent of the value of the public interests being conveyed.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A reservation of all oil and gas in the N½NW¼,SW¼NW¼,NW¼SW¼, Section 20, T. 27 N., R. 20 W., G&SRM, to the United States with the right to prospect for, mine and remove such deposits.

3. A road easement 100 feet in width for the White Hills Road constructed under the authority of R.S. 2477 as recorded in Mohave County, Book 274, Page 50, of Official Records.

4. Subject to those rights for a powerline as have been granted to Citizens Utilities, its successors and assigns, by right-of-way AR–035294–A under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

5. Subject to those rights for a roadway as have been granted to Mohave County Board of Supervisors, its successors or assigns, by right-of-way A–10109 under the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company.

The publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including the enviromental analysis and the record of public discussions, is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

On or before August 13, 1982 interested parties may submit comments to the District Manager, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments may be evaluated by the Arizona State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: June 16, 1982.

W. K. Barker,
District Manager.

[FR Doc. 82–17527 Filed 6–28–82; 8:45 am]
BILLING CODE 4310–84–M

[CA 12901]

California; Humboldt County, Notice of Realty Action

The following described public land has been determined to be suitable for disposal under the provisions of Pub. L. 91–476, an Act to provide for the establishment of the King Range National conservation area (84 Stat. 1067), and sec. 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

T. 2 S., R. 5 E.,
Sec. 3, lot 1;
Sec. 22, N½NE¼.
Containing 121.84 acres.

George Tooby, et al., 2500 East Foothill Blvd., Suite 508, Pasadena, California 91107, have applied to acquire the above described lands in exchange for the following described privately owned lands.

Humboldt Meridian

T. 4 S., R. 1 W.,
Sec. 13, SW¼NW¼;
Sec. 14, lots 3, 4, 5, and NW¼NE¼.
Containing 156.49 acres.

A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consummated before the end of that period.

The value of the lands to be exchanged is approximately equal and money will be used to equalize the values upon completion of the final appraisal of the lands.

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

The purpose of the exchange is to acquire non-Federal land within the King Range National Conservation Area, is in conformance with bureau planning, and in the public interest.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Eureka Area Office, BLM, 1585 J Street, P.O. Box II, Arcata, California 95521.

For a period of 45 days from the first publication of this notice interested parties may submit comments to the California State Director, Bureau of Land Management, E–2841 Federal

Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification, this realty action will become the final determination of the Bureau.

Harold R. Dietz,

Acting Chief, Lands Section Branch of Lands and Minerals Operations.

June 21, 1982.

[FR Doc. 82-17510 Filed 6-28-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30499, Survey Group 78]

Michigan; Notice of Filing of Plat of Survey

1. On November 19, 1981, the plat representing the survey of one island in the North Channel, which was omitted from the original survey, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on September 27, 1982.

The tract shown below describes the island tract omitted from the original survey.

Michigan Meridian, Michigan

T. 43 N., R. 7 E.,
Tract No. 37.

2. The island described as Tract No. 37 is separate and distinct yet similar in all respects to that of the adjacent surveyed lands. It rises approximately 3 feet above the ordinary high water mark of Reynolds Bay and has a soil composition of humus over glacial-till. Tree species consist of cedar, spruce, balsam fir and birch. Borings showed trees up to 70 years old.

3. The tract described above was found to be over 50 percent upland in character within the purview of the Swampland Act of September 28, 1850 (9 Stat. 519). It is therefore held to be public land.

4. Except for valid existing rights, the island will not be subject to application petition, location, or selection under any public law until a further order is issued.

5. All inquiries relating to this island should be sent to the Chief, Division of Lands and Mineral Operations, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 on or before September 27, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-17509 Filed 6-28-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Notice of Filing of Plats of Survey and Order Providing for Opening of Lands

June 21, 1982.

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on August 23, 1982.

Mount Diablo Meridian, Nevada

T. 29 N., R. 23 E.

2. The land within the above township is situated about 20 miles south of Gerlach, Nevada. Elevation varies from 4,400 to 6,200 feet above sea level. Terrain varies from steep slide areas in the mountains descending gradually to a level dry lake bed in the desert. Soil varies from sandy alkaline at the lower elevations to rocky sandy loam in the mountainous areas. Vegetation consists of sparse sagebrush and native grasses.

Nevada Highway No. 34 crosses the southeast corner of the township. A graded improved road crosses north and south through the center and numerous unimproved roads, mostly made by miners, are throughout the township.

There are patented placer claims in sections 4, 5, 8, 9, 16, 17, 20 and 21. Numerous mining claims are being surveyed throughout the township in the mountainous area and the low foothills as the areas are highly mineralized.

Principal users are miners and cattlemen. No timber is located within the township.

3.

Mount Diablo Meridian, Nevada

T. 30 N., R. 23 E.

This township is situated about 10 miles south of Gerlach, Nevada. Elevation varies from 4,000 to 5,700 feet above sea level. Terrain varies from steep slide areas in the mountainous areas descending gradually to the level dry lake bed of the San Emidio Desert. Soil varies from sandy alkaline at the lower elevations to rocky sandy clay in the mountainous areas. Vegetation varies from sparse sagebrush and grass in the mountainous to grease wood and rabbitbrush on the lake bed.

Nevada Highway No. 34 parallels the east boundary and graded improved roads cross the township from the east to the northwest and southwest. Numerous trail roads provide access throughout the area.

Many mining claims are located throughout the township, as the area is highly mineralized.

Principal users are miners and cattlemen. No timber is located within the township.

4. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby open to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on August 23, 1982 shall be considered as simultaneoulsy filed at the time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Chief, Division of Operations.

[FR Doc 82-17519 Filed 6-28-82; 8:45 am]

BILLING CODE 4310-84-M

Oregon; Overnight Camping Prohibited Along Segment of the Nestucca River

June 21, 1982.

Notice is hereby given that overnight camping on the following described land is prohibited in accordance with 43 CFR 8363.3 (Supplemental rules dealing with occupancy and use of lands):

Willamette Meridian, Oregon

T. 3 S., R. 7 W.,
Sec. 28. S½NW¼SE¼ and N½SW¼SE¼.

The above-described land contains 40 acres in Tillamook County and lies on a relatively flat bench adjacent to a segment of the upper Nestucca River in an area commonly known as the Hoag Pass Bridge site. Since construction of the Hoag Pass Access Road in 1965, the public has used this area extensively for a variety of outdoor recreation activities. Potable water is not available and the nearest sanitation facilities are located at the Bureau of Land Management's Alder Glen (2 miles west) and Elk Bend (1 mile east) Recreation Sites.

The concentration of earthen-pit privies and open-trench latrines developed by visitors to accommodate their occupancy and use of the area, particularly for overnight camping, has reached unmanageable proportions. The continued development and use of these inadequate sanitary facilities by the public could adversely affect both ground and surface water quality as well as pose a threat to visitor health and safety.

A copy of this notice, along with a standard "overnight camping prohibited" sign, will be conspicuously posted at the area. A map showing the land described above is available at the Bureau of Land Management, Salem

District Office, P.O. Box 3227 (1717 Fabry Road S.E.), Salem, Oregon 97302.

This prohibition does not apply to recreation uses other than overnight camping and is effective immediately and shall remain in effect unless revised, revoked or amended.

Dated: June 21, 1982.

Joseph C. Dose,

District Manager.

[FR Doc. 82-17523 Filed 6-28-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continential Shelf; Gulf Oil

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 0981, Block 237, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70003.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 18, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-17530 Filed 6-28-82; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 18, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 14, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALABAMA

Madison County,

Huntsville, *Kildare-McCormick House,* 2005 Kildare St.

ARIZONA

Maricopa County,

Phoenix, *Phoenix Union High School Historic District,* 512 E. Van Buren

CALIFORNIA

Alemeda County,

Berkeley, *Masonic Temple,* 2105 Bancroft Way and 2295 Shattuck Ave. Oakland, *Security Bank and Trust Company Building (Key System Building), 1000 Broadway*

Los Angeles County,

Claremont, *Atchison, Topeka, and Santa Fe Railroad Station,* 110 W. 1st St.

COLORADO

Denver County,

Denver, *Building at 1389 Stuart Street (West Colfax TR),*
Denver, *Building at 1390 Stuart Street (West Colfax TR),*
Denver, *Building at 1435 Stuart Street (West Colfax TR),*
Denver, *Building at 1444 Stuart Street (West Colfax TR),*
Denver, *Building at 1471 Stuart Street (West Colfax TR),*

La Plata County,

Bayfield vicinity, *Zabel Canyon Indiana Ruins,* SJNF Rds. 537 and 123

CONNECTICUT

Litchfield County,

Norfolk, *Bigelow House (Taylor, Alfredo, S. G., TR),* Laurel Way
Norfolk, *Braman Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake
Norfolk, *Carr House (Taylor, Alfredo, S. G., TR),* Beacon Lane
Norfolk, *Childs House Wing (Taylor, Alfredo, S. G., TR),* Windrow Rd.
Norfolk, *Converse Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake
Norfolk, *Eldridge Barn (Taylor, Alfredo, S. G., TR),* Stoeckel Estate
Norfolk, *Eldridge House (Taylor, Alfredo, S. G., TR),* Stoeckel Estate
Norfolk, *Farnam House (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Gould House (Taylor, Alfredo, S. G., TR),* Golf Dr.
Norfolk, *Haddock House (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Hillside (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Holbrook Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake
Norfolk, *Hubbell and Hegeman Garage (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Knox Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake
Norfolk, *Low House (Taylor, Alfredo, S. G., TR),* Highfield Rd.
Norfolk, *Ludlow Cottage (Taylor, Alfredo, S. G., TR),* Shepard Park Rd.
Norfolk, *Mead Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake
Norfolk, *Moseley House/Farm (Taylor, Alfredo, S. G., TR),* Greenwoods Rd.
Norfolk, *Moss Hill (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Mulville House (Taylor, Alfredo, S. G., TR),* Mountain Rd.
Norfolk, *Noble House (Taylor, Afredo, S. G., TR),* Highfield Rd.
Norfolk, *Norfolk Country Club House (Taylor, Alfredo, S. G., TR),* Golf Dr.
Norfolk, *Norfolk Downs Shelter (Taylor, Alfredo, S. G., TR),* Gold Rd.
Norfolk, *Prentice House (Taylor, Alfredo, S. G., TR),* Route 183, N of Center.
Norfolk, *Rectory and Church of the Immaculate Conception (Taylor, Alfredo, S. G., TR),* North St.
Norfolk, *Rockwell House (Taylor, Alfredo, S. G., TR),* Laurel Way, W.
Norfolk, *Royal Arcanum Building (Taylor, Alfredo, S. G., TR),* Station Pl.
Norfolk, *Rubly Carriage House (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Shepard Building (Taylor, Alfredo, S. G., TR),* Station Pl.
Norfolk, *Shepard, John, House (Taylor, Alfredo, S. G., TR),* Shapard Park Rd.
Norfolk, *Sports Building (Taylor, Alfredo, S. G., TR),* Windrow Rd.
Norfolk, *Starling Childs Camp (Taylor, Alfredo, S. G., TR),* Doolittle Lake.
Norfolk, *Stoeckel, Robbins, House (Taylor, Alfredo, S. G., TR),* Litchfield Rd.
Norfolk, *Tamarac Lodge (Taylor, Alfredo, S. G., TR),* Dennis Hill State Park.
Norfolk, *The Misses Eldridge Garage (Taylor, Alfredo, S. G., TR),* Stoeckel Estate.
Norfolk, *Thumb, Tom, House (Taylor, Alfredo, S. G., TR),* Windrow Rd.
Norfolk, *White House Stables (Taylor, Alfredo, S. G., TR),* Stoeckel Estate.
Norfolk, *World War I Memorial (Taylor, Alfredo, S. G., TR),* Greenwoods Rd. West and North Sts.

FLORIDA

Brevard County,

Melbourne, *Florida Power and Light Company Ice Plant,* 1604 S. Harbor City Blvd.

GEORGIA

Banks County,

Homer, *Banks County Jail,* Silver Sholas Rd.

Colquitt County,

Moultrie vicinity, *Tucker, Henry Crawford, Log House and Farmstead,* Off GA 37
Moultrie, *Ashburn, W. W., House,* 609 1st Ave.
Moultrie, *Carnegie Library of Moultrie,* 39 N. Main St.

Dougherty County,

Albany, *Carnegie Library of Albany,* 215 N. Jackson St.

Fannin County,

Blue Ridge, *Blue Ridge Depot,* Depot St.

Fulton County,

Atlanta, *Tyree Building,* 679 Durant Pl., NE

Lumpkin County,

Dahlonega, *Seven Oaks (Col. William P. Price House),* 403 S. Park St.

Walton County,

Monroe, *Walton Hotel,* Broad and Court Sts.

Whitfield County,

Dalton, *Martin, William C., House,* 101 S. Selvidge St.

IDAHO

Bonner County,

Sandpoint, *Tanner, Dan, House,* 602 N. 4th Ave.

Boundary County,

Eastport vicinity, *Snyder Guard Station Historical District,* S of Eastport on Forest Service Rd. 211.

Valley County,

Donnelly vicinity, *Korvola, John, Homestead (Long Valley Finnish Structures TR),* Roseberry Rd. and Farm to Market Rd.
Donnelly vicinity, *Maki, Jacob, Homestead (Long Valley Finnish Structures TR),* Off ID 55.
Lakefork vicinity, *Jarvi, Thomas, Homestead (Long Valley Finnish Structures TR),* N of Finn Rd.
Lakefork vicinity, *Johnson, John G., (Rintakangas) Homestead (Long Valley Finnish Structures TR),* S off Farm to Market Rd.
Lakefork vicinity, *Johnson, John S. (Sampila) Homestead (Long Valley Finnish Structures TR),* NE of Lakefork off Pearson Rd.
Lakefork vicinity, *Laituri, Gust, Homestead (Long Valley Finnish Structures TR),* NE of Lakefork off Pearson Rd.
Lakefork vicinity, *Ojala, Herman, Homestead (Long Valley Finnish Structures TR),* NE of Lakefork off Pearson Rd.
Lakefork vicinity, *Ruatsale, Matt, Homestead (Long Valley Finnish Structures TR),* N of Kantola Lane.
McCall vicinity, *Elo School (Long Valley Finnish Structures TR),* SE of ID 55 on Farm to Market Rd.
McCall vicinity, *Hill, Matt N., Homestead Barn (Long Valley Finnish Structures TR),* SE of McCall on Farm to Market Rd.
McCall vicinity, *Koski, Charles, Homestead (Long Valley Finnish Structures TR),* SE of McCall.
McCall vicinity, *Wargelin, Nickolai, Homestead (Long Valley Finnish Structures TR),* SE of McCall.

INDIANA

Delaware County,

Muncie, *Johnson, J. C., House,* 322 E. Washington.
Muncie, *Roberts Hotel,* 420 S. High St.

Dubois County,

Ireland vicinity, *Shiloh Meeting House and Cemetery,* SE of Ireland on 150 North Rd.

Johnson County,

Franklin, *Herriott House,* 696 N. Main St.

Lake County,

Hobart, *Hobart Carnegie Library,* 706 E. 4th St.

Marion County,

Indianapolis, *Graham, William H. H., House,* 5432 University Ave.

Tippecanoe County,

Lafayette, *Falley Home,* 601 New York St.

Wabash County,

Wabash, *Honeywell Memorial Community Center,* 275 W. Market St.

KENTUCKY

Gallatin County,

Warsaw, *Warsaw Historic District,* Roughly bounded by W. High, E. High, Franklin, Washington, Market, Main, 3rd, 4th and Cross Sts.

LOUISIANA

Morehouse Parish,

Bastrop, *Christ Episcopal Church,* 206 S. Locust

Ouachita Parish

Monroe, *Masur House,* 901 3rd St.

MAINE

Oxford County,

Stow, *Brickett Place,* US 113

MARYLAND

Talbot County

St. Michaels, *Saint Michaels Mill,* 100 Chew Ave.

MICHIGAN

Wayne County

Detroit, *Washington Boulevard Historic District,* Washington Blvd., State and Clifford Sts.

MISSISSIPPI

DeSoto County,

Olive Branch Vicinity, *Miller Plantation House,* Miller Rd.

MISSOURI

Cooper County,

Boonville, Booneville Road Bridge (Boonville Missouri MRA), N. Main St.
Boonville, Historic District A (Boonville Missouri MRA), Vine and 2nd Sts.
Boonville, Historic District B (Boonville Missouri MRA), 4th and E. Spring Sts.
Boonville, Historic District C (Boonville Missouri MRA), E. High and 4th Sts.
Boonville, Historic District D (Boonville Missouri MRA), High and Main Sts.
Boonville, Historic District E (Boonville Missouri MRA), High, Spring and Morgan Sts.
Boonville, Historic District F (Boonville Missouri MRA), Extends North and South along 6th and 7th Sts.
Boonville, Historic District G (Boonville Missouri MRA), NE corner of Lot 5, Block 13
Boonville, Historic District H (Boonville Missouri MRA), SE corner of E. Morgan St. and Reformatory Dr.

NEBRASKA

Colfax County,

Schuyler, *Janecek, John, House, 805 E. 8th St.*

Dodge County,

Fremont, *Schneider, R. B., House,* 234 W. 10th St.

Hall County,

Grand Island, *Cathedral of the Nativity of the Blessed Virgin Mary,* 204 S. Cedar St.

Lancaster County,

Lincoln, *Wyuka Cemetery,* 3600 O St.

Nemaha County,

Auburn, *First United Presbyterian Church of Auburn,* 1322 19th St.

Seward County,

Seward, *Seward County Courthouse Square Historic District,* Roughly bounded by Jackson, 7th, and South Sts.

NEW MEXICO

Dona Ana County,

La Mesilla, *Building 148 (La Mesilla Historic District MRA),* NM 28.
La Mesilla, *Building 149 (La Mesilla Historic District MRA),* NM 28.
La Mesilla, *Building 150 (La Mesilla Historic District MRA),* NM 28.
La Mesilla, *La Mesilla Historic District,* Roughly bounded by Calle del Norte, Calle de El Paso, Calle del Cura and Calleion Guerro.

NEW YORK

New York County,

New York, *Appellate Divison Courthouse of New York State,* 27 Madison Ave.
New York, *Century Association Building,* 5—7 W. 43rd St.
New York, *Douglas, Adelaide L. T., House,* 57 Park Ave.
New York, *Loew, William Goadby, House,* 56 E. 93rd St.
New York, *New York Public Library,* 222 E. 79th St.

NORTH CAROLINA

Runcombe County,

Asheville, *Veterans Administration Hospital Historic District,* Off U.S. 70

Cleveland County,

Shelby, *Masonic Temple Building,* 203 S. Washington St.

Edgecombe County,

Pinetops vicinity, *Vinedale,* SW of NC 42/43 and SR 1122.

Forsyth County,

Winston-Salemn, *Rogers, James Mitchell, House,* 102 S. Cherry St.

Halifax County,

Brinkleyville vicinity, *Gray-Brownlow-Wilcox House,* NC 58, S of Brinkleyville.

Jackson County,

Balsam, *Balsam Mountain Inn,* SR 1700 and SR 1701.
Cashiers, *High Hampton Inn Historic Disctrict,* NC 107 and US 64.

Nash County,

Rocky Mount, *Rocky Mount Electric Power Plant,* 217 Andrews St.

Rockingham County,

Madison, *Academy Street Historic District,* Academy St.

Scotland County,

Laural Hill Church vicinity, *McMillan, Gilbert, House and Cemetery,* NE of SR 1325 and SR 1323.
Laurinburg, *Gill, Thomas J., House,* 203 Cronly St.

Stokes County,

Collinstown vicinity, *Jessup's Mill,* SR 4132.
Germantown, *St. Philip's Episcopal Church,* NC 65 and 8 and SR 1957.

OHIO

Athens County,

Athens vicinity, *White's-Vale Mill,* OH 682.

Butler County,

Hamilton, *Saint Stephen Church and Rectory,* 224 Dayton St.

Champaign County,

Urbana, *Mosgrove, Dr. Adam, House,* 127 Miami St.

Delaware County,

Ashley vicinity, *Sharp, Samuel, House (Sharp's Run),* 7436 Horseshoe Rd.

Hamilton County,

Cincinnati, *Underiters Salvage Corps,* 110–112 E. 8th St.

Hocking County,

Logan vicinity, *Woodruff, William H., House,* 35330 Linton Rd.

Stark County,

Canton, *Barber-Whitticar House,* 519 Cleveland Ave. SW.
Canton, *Canton Public Library,* 236 3rd St. SW.
Canton, *Dewalt Building,* 122 Market Ave. N.
Canton, *Eagles' Temple,* 601 S. Market St.
Canton, *Onesto Hotel,* 2nd and Cleveland, NW.
Canton, *Schuffenecker, August, Building,* 134 6th St. SW.
Canton, *City National Bank Building,* 205 Market Ave. S.

Trumbull County,

Champion vicinity, *Woodrow, William, House,* 138 Champion St. E.

Tuscarawas County,

Bolivar vicinity, *Lebold, John, House, Smokehouse, and Springhouse,* Route 1
Dover vicinity, *Reeves, Jeremiah, House and Carriage House,* 325 E. Iron Ave.

SOUTH CAROLINA

Lexington County,

Batesburg, *Hartley House (Batesburg-Leesville MRA),* 305 E. Columbia Ave.

SOUTH DAKOTA

Harding County,

Ludlow vicinity, *Lightning Spring 39HN204,*

TEXAS

Anderson County,

Frankston vicinity, *Saunders, A. C., Site, (41 AN 19),* E of Frankston off U.S. Hwy. 175 and 155.

Cherokee County,

Jacksonville, *Newton, William Walter, House,* 401 N. Bolton St.

Comal County,

New Braunfels, *Breustedt, Andreas, House,* 1370 Church Hill Dr.

Kimble County,

Junction, *Brambletye,* Off SR 2291.

Lubbock County,

Lubbock, *Bacon, Warren and Myrta, House,* 1802 Broadway.

VIRGINIA

Charlottesville (Independent City),

Charlottesville and Albemarle County Courthouse Historic District, Roughly bounded by Park, Water, Saxton, and Main Sts.

Hanover County,

Patrick Henry's Birthplace Archeological Site,

Rockingham County,

Harrisonburg vicinity, *Earman, George, House,* 109 Pleasant Hill Rd.

Staunton (Independent City),

Catlett House, 303 Berkeley Pl.
Hoge, Arista, House, 215 Kalorma St.

WEST VIRGINIA

Harrison County,

Clarksburg, *Clarksburg Downtown Historic District* (Boundary decrease, Pivotal Structure No. 44 removed), Roughly bounded by Elk Creek, 7th and Main Sts.

WISCONSIN

Portage County,

Stevens Point, *Fox Theater,* 1110–1128 Main St.

[FR Doc. 82–17505 Filed 6–28–82; 8:45 am]
BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Mangement and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Title: Project Approval Information Form
Bureau Form Number: OSM–50B
Frequency: Annually
Description of Respondents: State Government
Annual Responses: 145
Annual Burden Hours: 72.5
Bureau Clearance Officer: Darlene Grose (202)343–5447

Darlene Grose,

Information Collection Clearance Officer.

June 24, 1982.

[FR Doc. 82–17541 Filed 6–28–82; 8:45 am]
BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by the Office of Management and Budget

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) are being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Carroll Stearns (202) 275–7077. Comments regarding these information collections should be addressed to Carroll Stearns, Interstate Commerce Commission, Room 6217, 12th and Constitution, N.W., Washington, D.C. 20423 and to Donald Arbuckle, Office of Management and Budget, Room 3228

NEOB, Washington, D.C. 20503, (202) 395–7340.
Type of Clearance: Extension—No Change
Bureau/Office: Bureau of Accounts
Title of Form: Annual Report of Class I and II Motor Carriers of Household Goods
Agency Form No.: M–H
OMB Form No.: 3120–0033
Frequency Filed: Annually
Respondents: Class I and II Motor Carriers of Household Goods
Number of Responses: 251
Total Burden Hours: 10,547

Type of Clearance: Extension—No Change
Bureau/Office: Bureau of Accounts
Title of Form: Monthly Rerport of Employees, Service, and Compensation
Agency Form No.: Wage A and B
OMB Form No.: 3120–0074
Frequency Filed: Monthly with an annual summary
Respondents: Class I Railroads
Number of Responses: 533
Total Burden Hours: 64,493

Type of Clearance: Extension—No Change
Bureau/Office: Bureau of Accounts
Title of Form: Preliminary Report of Number of Employees of Class I Railroads
Agency Form No.: Preliminary Wage
Frequency Filed: Monthly
Respondents: Class I Railroads
Number of Responses: 492
Total Burden Hours: 6,888

Type of Clearance: Extension—Burden Change
Bureau/Office: Office of Proceedings
Title of Form: Rules for System Diagram Maps, Financial Assistance of Railroad Lines
OMB Form No.: 3120–0045
Frequency Filed: Annually
Respondents: Regulated Railroads
Number of Responses: 300
Total Burden Hours: 75,000

Type of Clearance: Extension—Burden Change
Bureau/Office: Office of Transportation Analysis
Title of Form: Minority Carrier Study
Agency Form No.: OPA–81–1
OMB Form No.: 3120–0050
Frequency Filed: Semi-annually
Respondents: Minority owned trucking firms with interstate authority
Number of Responses: 36
Total Burden Hours: 3

Type of Clearance: Revision
Bureau/Office: Bureau of Accounts
Title of Form: Annually Report of Motor Carriers of Property
Agency Form No.: Form M
OMB Form No.: 3120–0032
Frequency Filed: Annually
Respondents: Class I and II Motor Carriers of Property
Number of Responses: 2,721
Total Burden Hours: 124,000

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82–17466 Filed 6–28–82; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. 272]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: June 22, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

FINDINGS

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,
Secretary.

MC 4483 (Sub-32)X, filed June 14, 1982. Applicant: MONSON TRUCKING, INC., R.R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. Lead and Subs 7, 8, 10, 12, 13, 15, 22, 26F, 27F, 28F, and 30F: (1) Broaden (a) mineral wool and mineral wool products, sewer pipe, sewer pipe fittings, flue lining, wall coping, septic tank pipe, drain tie, firebrick, fire clay, mortar mix, and clay filter media blocks, clay products, and brick and title to "building materials" in the lead and Subs 7, 8, 10, 12, and 13; (b) silos, knocked down or in sections, and accessories and equipment used in silo construction and operation to "construction and building materials" in Sub 15; (c) beverages, carbonated, flavored or phosphated (except alcoholic and malt beverages), dextrine, gluten, grits and starch, and food and kindred products to "food and related products" in Subs 22, 26F and 28F; and (d) materials, equipment and supplies used in the manufacture, distribution or application of sorbents, wallboard, cushioning materials, insulation materials, and mulch (except commodities in bulk) to "pulp, paper and related products, lumber and wood products, and forest products" in Sub 27; (2) change one-way to radial authority; (3) eliminate the facilities limitation in Sub 27; (4) broaden Red Wing, MN and points within 5 miles thereof to Goodhue County, MN and Pierce County, WI; What Cheer to Keokuk County, IA; Chaska to Carver County, MN; Cannon Falls to Goodhue County, MN; Duluth to St. Louis County, MN; Eau Claire, Somerset, and Ashland to Eu Claire, St. Croix, and Ashland Counties, WI; and Cloquet to Carlton County, MN; (5) expand port of entry at Grand Portage, MN to allow service at all ports of entry in Minnesota in Sub 26F; (6) remove the originating at and/or destined to restriction in Sub 22.

MC 109632 (Sub-38)X, filed March 25, 1982, and previously noticed in **Federal Register** May 19, 1982, republished as corrected this issue. Applicant: LOPEZ TRUCKING, INC., 131 Linden St., Waltham, MA 02154. Representative: Joseph M. Klements, 89 State St., Boston, MA 02109. Lead and Subs 11, 16, 17, 20, 21, 22, 23, 27, 28G, 30, 31 and 33 and E–1 letter notice. Broaden as previously noticed and, in addition: lead, New London, NH to Merrimac County, NH; Sub 27, points within an imaginary line

in NJ beginning at Belmar, NJ, to points in Monmouth, Mercer, Somerset, Morris, Passaic, Middlesex, Union, Essex Bergen, and Hudson Counties, NJ. The purpose of this republication is to correct inadvertent omissions.

MC 113784 (Sub-98)X, filed June 16, 1982. Applicant: LAIDLAW TRANSPORT, LIMITED, P.O. Box 3020, Station B 65, Guise St., Hamilton, Ontario, CN L8L 7X7. Representative: Harold G. Hernly, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. MC 123503 acquired pursuant to MC–F–14729: (1) Broaden commodity description from rough and dressed lumber to "lumber and wood products"; and (2) expand ports of entry at the St. Lawrence, Niagara and Detroit Rivers to allow service at all ports of entry in NY and MI.

MC 140539 (Sub-5)X, filed June 17, 1982. Applicant: TENNESSEE EXPRESS, INC., 22 Stanly St., Nashville, TN 37210. Representative: George M. Catlett, 700–702 McClure Bldg., Frankfort, KY 40601. Lead and Sub 2 certificates: broaden (1) the general comodity authorities by removing "except those of unusual value and telephone equipment, materials and supplies;" and (2) to countywide authority: lead certificate to Rutherford County, TN (facilities in Rutherford County); and Sub 2 to Trousdale County, TN (facilities near Hartsville).

MC 146708 (Sub-5)X, filed June 17, 1982. Applicant: MAPPLE LEAF EXPRESS, LTD., 3600 South Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. Lead and Subs 1F and 2F. Remove restrictions: To the transportation of traffic moving on bills of lading of freight forwarders in those authorities; and to foreign commerce only in Sub 2.

MC 149284 (Sub-5)X, filed June 15, 1982. Applicant: MARION D. DAY, d.b.a. DAY'S EXPRESS, 1942 7th St., Columbus, IN 47201. Representative: Stephen M. Gentry 55 S. Harding St., Indianapolis, IN 46222. Sub 1F, broaden to radial authority and Jeffersonville, IN facilities to Clark County.

MC 149409 (Sub-2)X, filed June 11, 1982. Applicant: ERVIN TRANSPORT COMPANY, INC., 451 Radium Springs Rd., Albany, GA 31705. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Lead certificate: Broaden Bauxite or, in bulk, in dump vehicles, between points in AL, FL, and GA, to "commodities in bulk, between points in AL, FL, and GA".

[FR Doc. 82–17491 Filed 6–28–82; 8:45 am]
BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon requests and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unles noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–131

Decided: June 21, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

WC 373 (Sub-1), filed June 7, 1982. Applicant: GUTTMAN TOWING, INC., Speers Rd., Belle Vernon, PA 15012. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. To operate as a *common carrier*, by water, by non-self propelled vessels with the use of separate towing vessels, transporting *iron and steel articles*, between Mingo Junction, OH, on the one hand, and, on the other, Gibsonton and Allenport, PA, via the Monongahela and Ohio Rivers. Condition: Pursuant to 49 CFR § 1108.5(a)(8), cetification of water carrier service constitutes a major regulatory action under the Energy Policy and Conservation Act of 1975, and requires preparation of a Statement of Energy Impact (SEI). Applicant must submit the material required by 49 CFR § 1108.7, within 20 days after this publication.

WC 552 (Sub-19), filed May 25, 1982. Applicant: AMERICAN COMMERCIAL BARGE LINE COMPANY; 1701 Market St., Jeffersonville, IN 47130. Representative: William A. Kernan (same address as applicant), 812–288–0100. To operate, as a *common carrier*, by water, by non-self propelled vessels with the use of separate towing vessels and by towing vessels in the performance of *general towage*, (1) between ports and points on the Missouri River between Sioux City, IA, and the confluence of the Missouri River with the Mississippi River at St. Louis, MO, on the one hand, and, on the other, ports and points applicant is presently authorized to serve, and (2) between

ports and points on the Hiwassee, French-Broad, and Emory Rivers, on the one hand, and, on the other, ports and points applicant is presently authorized to serve.

MC 116712 (Sub-6), filed June 14, 1982. Applicant: MID-AMERICAN COACHES, INC., P.O. Box 335, Washington, MO 63090. Representative: W. R. England III, P.O. Box 456, Jefferson City, MO 65102, 314–635–7166. Transporting *passengers and their baggage,* in the same vehicle with passengers, in roundtrip charter and special operations, beginning and ending at points in MO and points in St. Clair and Madison Counties, IL, and extending to points in the U.S. (including AK, but excluding HI).

MC 129092 (Sub-6), filed April 28, 1982. Applicant: HARVEY TRANSPORT, LTD., 2900 sud, Ave du Pont, C.P. 580, Alma, Cte, Lac St-Jean, Que G8B, 5WL, Canada. Representative: Marshall Kragen, 1919 Pennsylvania Ave, N.W., Suite 300, Washington, DC 20006, 202–466–3778. Transporting *machinery,* between ports of entry on the international boundary line between the U.S. and Canada, at points in ME, on the one hand, and, on the other, points in ME.

MC 129712 (Sub-74), filed May 24, 1982. Applicant: GEORGE BENNETT MOTOR EXPRESS, INC., P.O. Box 569, McDonough, GA 30253. Representative: Guy H. Postell, Suite 675, 3384 Peachtree Rd., N.E., Atlanta, GA 30326, (404) 237–6472. Transporting *lime, limestone, limestone products, and refractory products,* between points in the U.S. (except AK and HI), under continuing contract(s) with The J. E. Baker Company, of York, PA.

MC 131053 (Sub-1), filed May 27, 1982. Applicant: THREE B TRANSPORTATION, INC., P.O. Box 1037, Havertown, PA 19083. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561–1030. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Philadelphia, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146303 (Sub-12), filed May 24, 1982. Applicant: COLO-TEX INDUSTRIES, INC., 1325 West Quincy Ave., Englewood, CO 80110. Representative: William J. Lippman, P.O. Box 6060, Snowmass Village, CO 81615, (303) 923–4565. Transporting *food and related products,* between points in CO and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152672 (Sub-9), filed May 24, 1982. Applicant: A. ROGER LEASING, LTD., P.O. Box 863, Coraopolis, PA 15108. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153483 (Sub-5), filed May 24, 1982. Applicant: ANTWEILER TRUCKING CO., INC., Star Route, Montgomery City, MO 63361. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102, (314) 635–7166. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK, AZ, CA, CT, ID, ME, MA, NV, NH, OR, RI, UT, VT, WA, and HI).

MC 154582 (Sub-1), filed May 26, 1982. Applicant: RIGGS, INC., P.O. Box 38301, Germantown, TN 38138. Representative: Warren A. Goff, 109 Madison Ave., Memphis, TN 38103, 901–526–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Memphis, TN, and points in Shelby County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 157402, filed June 4, 1982. Applicant: MAGIC CITY TRANSPORTATION, 1681 19th Place, SW., Birmingham, AL 35211. Representative: Judith S. Crittenden, 817 Frank Nelson Bldg., P.O. Box 638, Birmingham, AL 35201, 205–322–3636. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter operations, beginning and ending at points in Jefferson County, AL, and extending to points in Orleans Parish, LA, Davidson and Knox Counties, TN, Fulton County, GA, Escambia, Bay, and Orange Counties, FL, Wayne County, MI, and those in NC and SC.

MC 161662, filed May 24, 1982. Applicant: HOLMES TRUCKING, INC., 206 East May, Osceola, IA 50213. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50322, (515) 274–4985. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 161912, filed May 10, 1982. Applicant: LUTTMAN TRUCKING, INC., 465 Van Sicklen St., Brooklyn, NY 11223. Representative: Dennis Luttman (same address as applicant), 212–996–3674. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of school supplies, between points in Mt. Laurel, NJ, Bronx, Queens, Kings, New York, Richmond, Westchester and Nassau Counties, NY, under continuing contract(s) with Beckley Cardy Co., of Mt. Laurel, NJ.

MC 162292, filed June 1, 1982. Applicant: RANDY L. VARNER, d.b.a. VTR ENTERPRISES, 1930 Table Rock Rd., Medford, OR 9750 1. Representative: Randy L. Varner, 5123 Gebhard Rd., Central Point, OR 97502, (503) 664–5375. Transporting *lumber and wood products, building materials, construction materials, and metal products,* between points in OR, WA, CA, AZ, NV, ID, MT, WY, CO, NM, UT, TX and OK.

MC 162302, filed June 1, 1982. Applicant: COOL TRANSPORTATION, 700 South Raymond, Fullerton, CA 92631. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *such commodities* as are dealt in by grocery or food business houses between points in CA.

MC 162422, filed June 10, 1982. Applicant: NEW YORK TOUR & TRUCKING, INC., 29 Gadsden Place, Staten Island, NY 10314. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, 212–466–0220. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between New York, NY and points in Nassau, Rockland, Suffolk, and Westchester Counties, NY, and Bergen, Hudson, and Essex Counties, NJ, and the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, and DC.

MC 162423, filed June 10, 1982. Applicant: RON BURGE TRUCKING, INC., 1876 West Britton Rd., Burbank, OH 44214. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *commodities in bulk,* between points in Medina, Wayne, Holmes, Summit, and Stark Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP2-132

Decided: June 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 9153 (Sub-9), filed May 17, 1982. Applicant: J. R. CHRISTONI, INC., North Cherry Street Extension, Wallingford, CT 06492. Representative: Gerald A. Joseloff, 410 Asylum St., Ste. 532, Hartford, CT 06103, (203) 728–0700. Transporting *commodities which because of their size or weight require the use of special handling or*

equipment, machinery, and supplies, transportation equipment, and building materials, between those points in the U.S. in and east of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 25153 (Sub-15), filed May 21, 1982. Applicant: MARTIN FREIGHT SERVICE, INC., 112 Frick Ave., Waynesboro, PA 17268. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. Transporting *ground stone and related materials* between points in Washington County, MD, and Franklin County, PA, on the one hand, and on the other, those points in the U.S. in and east of TX, OK, MO, IA, and MN.

MC 52362 (Sub-6), filed May 17, 1982. Applicant: MARINEL TRANSPORTATION, INC., Ward Way, No. Chelmsford, MA 01863. Representative: William Shields III, 100 Federal St., Boston, MA 02110, (617) 357–9000. Transporting *passengers and their baggage* in the same vehicle with passengers, between points in the U.S., under continuing contract(s) with Butler Travel Tours, Inc., of North Chelmsford, MA.

MC 108973 (Sub-20), filed May 20, 1982. Applicant: INTERSTATE EXPRESS, INC., 2334 University Ave., St. Paul, MN 55114. Representative: Sterling R. Englehart (same address as applicant), (612) 645–3447. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Carnation Company, of Los Amgeles, CA, and Northrup King Company, of Minneapolis, MN.

MC 120472 (Sub-8), filed June 1, 1982. Applicant: GOLLOTT & SONS TRANSFER & STORAGE, INC., 1253 Caillavet St., Biloxi, MS 39533. Representative: Robert J. Gallagher, 1000 Connecticut Ave. N.W., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *household goods,* (1) between points in CA, AZ, NM, TX, LA, MS, AL, GA, FL, NC, SC, TN, AR, OK, CO, KS, MO, KY, VA, MD, OH, IN, IL, and DC, (2) between points in CA, AZ, NM, TX, LA, MS, AL, GA, FL, NC, SC, TN, AR, OK, CO, KS, MO, KY, VA, MD, OH, IN, IL, and DC, on the one hand, and, on the other, points in the U.S. (including AK and HI).

MC 120913 (Sub-3), filed May 20, 1982. Applicant: A & P TRANSPORTATION INC., 255 Brigham Street, P.O. Box 539, Marlboro, MA 01752. Representative: David P. LaCroix, (same address as applicant), (617) 481–5333. Transporting *electical and electronic equipment and parts, computers, data processing components* and *such commodities* as are used in the manufacture sale and distribution, of electrical and electronic equipment, between points in the U.S., under continuing contract(s) with Digital Equipment Corp., of Maynard, MA.

MC 140902 (Sub-22), filed May 17, 1982. Applicant: DPD, INC., 3600 N.W. 82nd Ave., Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant), (305) 593–3204. Transporting *automotive parts,* between points in the U.S., under continuing contract(s) with Safeguard Engine Parts, Division of KSG Industries, Inc., of Nashville, TN.

MC 123092 (Sub-2), filed May 24, 1982. Applicant: HERBERT F. JAUQUET, d.b.a. HERB JAUQUET TRUCKING, Box 175, Channing, MI 49815. Representative: Herbert & Wood, 127 South Cedar St., Manistique, MI 49854, (906) 431 2107. Transporting *paper,* between Manistique, MI, and points in WI and OH, under continuing contract(s) with Manistique Papers, Inc., of Manistique, MI.

MC 124212 (Sub-115), filed May 20, 1982. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, (216) 566–5639. Transporting *lumber and wood products,* between points in CT, DE, GA, MA, MD, ME, NC, NH, NJ, NY, PA, RI, SC, VA, VT, WV, and DC.

MC 127042 (Sub-311), filed June 1, 1982. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Fred E. Hagen (same address as applicant), 712–255–8986. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with National-Standard, of Niles, MI.

MC 129732 (Sub-8), filed June 1, 1982. Applicant: EMPIRE TRANSFER CO., P.O. Box 126, Coos Bay, OR 97420. Representative: David C. Ehite, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *nonmetallic minerals and mineral solutions,* between points in OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, UT, WA, and WY.

MC 131033 (Sub-1), filed June 1, 1982. Applicant: MARY C. LUKE AND JAMES I. LUKE, d.b.a. AMERICA FIRST TOURS, P.O. Box 220, Collinsville, MS 39325. Representative: Mary C. Luke, Route 3, Box 123, Collinsville, MS 39325, (601) 626–8655. As a *broker* at Collinsville, MS, in arranging for the transportation by motor vehicle of *passenger and their baggage* beginning and ending at points in MS, and extending to points in the U.S.

MC 134872 (Sub-19), filed May 28, 1982. Applicant: GOSSELIN EXPRESS, LTD., 1699 Smith Blvd. North, C.P. 248, Thetford Mines, Quebec, Canada G6G 5S5. Representative: Richard H. Streeter, 1729 H. St. NW, Washington, DC 20006, 202–337–6500. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) between points in the U.S., under continuing contract(s) with (a) Bell Asbestos Mines, Ltd., of Thetford Mines, Quebec, Canada, (b) Ber Vac, Inc., of Thetford Mines, Quebec, Canada, (c) Bombardier, Inc., of Valencourt, Quebec, Canada, (d) Carey Canada, Inc., of East Broughton, Quebec, Canada, (e) Continental Wire, Inc., of St. Hubert, Quebec, Canada, (f) Henkel, of Ville D'Anjou, Quebec, Canada, (g) Kennebec Drilling, Ltd., of Robertsonville, Quebec, Canada, (h) Lac d'Amiante du Quebec, Ltee, of Black Lake, Quebec, Canada, (i) Le Patio Meubles D'Exterieur, Inc., of Charlesbourg, Quebec, Canada, (j) Les Industries Fournier, Inc., of Black Lake, Quebec, Canada, (k) Morin Equipment, division of Compagnie de Gestion Thomcor Limitee, of St. Augustin, Quebec, Canada, (l) Rioux Transport Enrg., of Brossard, Quebec, Canada, (m) Societe Nationale de l'Amiante, of Thetford Mines, Quebec, Canada, (n) Sico, Inc., of Longueuil, Quebec, Canada, and (o) unicanvas Ltee., of Black Lake, Quebec, Canada.

MC 141932 (Sub-54), filed May 17, 1982. Applicant: POLAR TRANSPORT, INC., 176 King St., Hanover, MA. Representative: Alton C. Gardner (same as applicant), (617) 871–2550. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with Nabisco Brands, Inc., of New York, NY. Condition: The person or persons who apper to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the applications(s) for common control to team 2, Room 2379.

MC 142113 (Sub-5), filed May 24, 1982. Applicant: CHESTER A. RICHMOND,

Sr., d.b.a. RICHMOND CARTAGE, P.O. Box 337, Craigsville, WV 26205. Representative: Chester A. Richmond, Sr. (same address as applicant) (304) 949–2684 Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between point in WV.

Note.—Applicant intends to tack with existing authority.

MC 142672 (Sub-189), filed May 17, 1982. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Box Drawer F, Hwy. 64 West, Mulberry, AR 72947. Representative: Harry Keifer (same as applicant) (501) 997–1683. Transporting *furniture and fixtures,* between New York City, NY, and Los Angeles, CA, on the one hand, and, on the other, points in the U.S., (except AK and HI).

MC 148083 (Sub-7), filed June 1, 1982. Applicant: SELLARS TRANSPORT SERVICE, INC., 1620 Parnell Dr., Eugene, OR 97404. Representative: Robert W. Sellars (same address as applicant) (503) 689–2835. Transporting *Time dated advertising, newspaper circulars and inserts and related products,* between points in Lane County, OR, on the one hand, and, on the other points in CA, UT, WA, MT, AZ, NV, OR, and ID.

MC 149573 (Sub-10), filed May 21, 1982. Applicant: NTL, INC., 4211 South 33rd St., P.O. Box 6645 Lincoln, NE 68506. Representative: J. Max Harding (same address as applicant) (402) 483–7633. Transporting (1) *Such commodities* as are used or dealt in buy wholesale and retail stores, between points in the U.S. (except AK and HI), under continuing contract with Lucky Stores, Inc., its divisions and subsidiaries, of Dublin, CA and (2) *Food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Hyplains Dressed Beef Co., of Dodge City, KS, and MBPXL Corporation, of Wichita, KS.

MC 151683, filed June 1, 1982. Applicant: NAVAJO TRANSIT SYSTEM, P.O. Box 1330, Window Rock, AZ 86515. Representative: William Riordan (same address as applicant), 602–871–4941 (x–1343). Transporting (I) over *Regular routes, passengers and their baggage, newspapers, and express* (1) between Tuba City and Window Rock, AZ, over AZ Hwy 264, (2) between Flagstaff, AZ, and Farmington, NM: from Flagstaff over U.S. Hwy 89 to junction U.S.Hwy 160, then over U.S. Hwy 160 to Shiprock, NM, then over U.S. Hwy 550 to Farmington, and return over the same route, (3) between Kayenta and Window Rock, AZ: from Kayenta over U.S. Hwy 160 to junction Navajo Rte. 59, then over Navajo Rte. 59 to Many Farms, then over AZ Hwy 63 to Chinle, then over Navajo Rte. 64 to Tsaile, then over Navajo Rte. 12 to Window Rock, and return over the same route, (4) between Shiprock, NM, and Window Rock, AZ: from Shiprock over U.S. Hwy 666 to Yatahey, NM, then over NM Hwy 264 to the AZ–NM state line, then over AZ Hwy 264 to Window Rock, and return over the same route, (5) between Thoreau, NM, and Window Rock, AZ: from Thoreau over NM Hwy 57 to Crownpoint, NM, then over NM Hwy 157 to junction U.S. Hwy 666, then over U.S. Hwy 666 to Yatahey, then over NM Hwy 264 to the NM–AZ State line, then over AZ Hwy 264 to Window Rock, and return over the same route, (6) between Window Rock, AZ, and Gallup, NM: from Window Rock over AZ Hwy 264 to Yatahey, NM, then over U.S. Hwy 666 to Gallup, and return over the same route, (7) between Tuba City and Flagstaff, AZ: from Tuba city over AZ Hwy 264 to junction AZ Hwy 87, then over AZ Hwy 87 to junction Navajo Rte. 60, then over Navajo Rte. 60 to junction AZ Hwy 87, then over AZ Hwy 87 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction AZ Hwy 99, then over AZ Hwy 99 to Leupp, then over Navajo Rte. 15 to junction U.S. Hwy 89, then over U.S. Hwy 89 to Flagstaff, and return over the same route, and (8) serving all intermediate points in routes (1) through (7) above; and (II) over *Irregular Routes, passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, between points in AZ and NM, on the one hand, and, on the other, points in AZ, NM, UT, CO, CA, NV, ID, OR, WA, OK, TX, KS, MS, IL, AR, TN, NC, VA, MO, LA, and DC.

Note.—Applicant may tack this authority with its existing authority.

MC 156233 (Sub-1), filed May 13, 1982. Applicant: PATRICIA A. HUTCHINSON, d.b.a., D. J. P. LEASING, 724 Carrollton Ave., Salem, VA 24153. Representative: Patricia A. Hutchinson, (same as applicant), (703) 389–6925. Transporting *iron castings,* between points in Roanoke County, VA, on the one hand, and, on the other, points in WV and OH.

MC 157493 (Sub-1), filed June 1, 1982. Applicant: LYNCH BUS LEASING SERVICE, INC., d.b.a. LYNCH BUS SERVICE, Rd. 1, Box 82–A, Carbondale, PA 18407. Representative: Paul J. Kenworthy, P.O. Box 25, Clarks Summit, PA 18411, (717) 587–2533. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Bradford, Luzerne, Monroe, Pike, Sullivan, Wayne and Wyoming Counties, PA, and extending to points in the U.S. (including AK but excluding HI).

MC 158152 (Sub-1), filed May 24, 1982. Applicant: BAXLEY TRUCKING CO., INC., Rte. 1, Box 13, Hemingway, SC 29554. Representative: C. Bradley Ruffin, Jr., P.O. Box 218–East Broad St., Hemingway, SC 29554, 803–558–2588. Transporting *canned goods,* between points in SC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159433, filed May 27, 1982. Applicant: MARTIN J. HODGE, d.b.a. HODGE TRUCKING, 1170 Autumn Hills, Reno, NV 89511. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, 702–882–5649. Transporting *construction materials, metal products, and pipe,* between points in CA, OR, WA, UT, ID, AZ, TX, OK, MT, WY, CO, NM, AND NV.

MC 162042, filed May 17, 1982. Applicant: CONSOLIDATED TERMINALS, INC., 1911 West Mitchell St., Milwaukee, WI 53204. Representative: William P. Dineen, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods) between Chicago, IL, on the one hand, and, on the other, Milwaukee, WI.

MC 162123, filed May 20, 1982. Applicant: OCEANIC TRAVEL SERVICE, INC., 127 South Fort Harrison, Clearwater, FL 33516. Representative: Richard M. Davis, Suite 320, Lewis State Bank Bldg., Tallahassee, FL 32301, (904) 222–5171. As a *broker,* as Clearwater, FL, arranging for the transportation by motor vehicle of *passenger and their baggage,* between points in Pinellas County, FL, on the one hand, on the other, points in the U.S.

MC 162143, filed May 12, 1982. Applicant: ROBERT N. BRODERICK, Route 4, Box 4063, Warren, OR 97053. Representative: Robert N. Broderick (same as applicant), (503) 397–1099. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AR, AZ, CA, CO, IA, ID, KS, LA, MN, MO, MT, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, and WY, under continuing contractg(s) with Cascade West Materials, Inc., of Lake Oswego, OR.

MC 162323, filed June 3, 1982. Applicant: RESORTS LIMOUSINE SERVICE CORP., 4 South Second St.,

Vineland, NJ 08360. Representative: Mark D. Kutner, 1179 East Landis Ave., P.O. Box 0, Vineland, NJ 08360, (609) 691–1200. Transporting *passengers and their baggage* in the same vehicle with passengers, in special operations, between points in NJ, on the one hand, and, on the other, Philadelphia, PA, and New York, NY.

Volume No. OP3–096

Decided: June 22, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–604, filed June 11, 1982. Applicant: TRANSBULK, INC., 33 E. Monroe Street, Chicago, IL 60603. Representative: Donald E. Jessie (same address as applicant), (312) 853–5000. As a *freight forwarder* in connection with the transportation of *commodities in bulk, lumber and wood products,* between points in the U.S. (except AK and HI.

FF–605, filed June 14, 1982. Applicant: J. A. FRATE, INC., 6207 Factory Rd., Crystal Lake, IL 60014. Representative: William H. Towle, 180 N. LaSalle St., Suite 3520, Chicago, IL 60601, (312) 332–5106. As a freight forwarder, in connection with the transportation of *general commodities,* between points in Lake, Cook, McHenry, and Kane Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 15735 Sub 46, filed June 11, 1982. Applicant: ALLIED VAN LINES, INC. P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with Associates Corporation of North America, of Dallas, TX.

MC 15735 (Sub-47), filed June 11, 1982. Applicant: ALLIED VAN LINES, INC. P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *household goods,* between points in the U.S. (except AK and HI), under continuing contract(s) with International Harvester, of Chicago, IL.

MC 15735 (Sub-48), filed June 11, 1982. Applicant: ALLIED VAN LINES, INC. P.O. Box 4403, Chicago, IL 60680. Representative: Richard V. Merrill (same address as applicant), (312) 681–8378. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with the Kendall Company, of Boston, MA.

MC 29914 (Sub-3), filed June 15, 1982. Applicant: CITY TRANSFER AND STORAGE COMPANY, 1100 Redding Dr., High Point, NC 27261. Representative: Steven L. Weiman, 444 N. Frederick Ave., Suite 200; Gaithersburg, MD 20877, (301) 840–8565. Transporting (1) *household goods,* between those points in the U.S. in and east of MN, IA, MO, OK, and TX, and (2) *furniture,* between points in NC, on the one hand, and, on the other, points in the U.S. (except HI).

MC 113855 (Sub-536), filed June 11, 1982. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 15 Broadway—Suite 502, Fargo, ND 58102, (701) 235–4407. Transporting *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), between points in the U.S., under continuing contract(s) with United Air Lines, Inc., of Chicago, IL.

MC 117344 (Sub-296), filed June 16, 1982. Applicant: THE MAXWELL CO., a corporation, 10300 Evendale Dr., Cincinnati, OH 45241. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 135874 (Sub-177), filed June 9, 1982. Applicant: MIDLAND FREIGHTWAYS, INC., 550 East 5th St., South, South St. Paul, MN 55075. Representative: Randy Busse (same address as applicant), (612) 457–2911. Transporting *such commodities* as are dealt in or used by retail stores, between points in IA, IN, IL, KS, MI, MN, MO, MT, NE, ND, SD, and WI, on the one hand, and, on the other, points in KY, OH, and PA.

MC 136774 (Sub-29), filed June 14, 1982. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *Chemicals and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Sicalco, Ltd., of Oak Brook, IL.

MC 145154 (Sub-7), filed June 11, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, N.W., Washington, DC 20005, (202) 347–9332. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 145335 (Sub-5), filed June 14, 1982. Applicant: RIVER ENTERPRISES, INC., P.O. Box 458, South Roxana, IL 62087. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *machinery,* and (2) *metal products,* between St. Louis, MO, and points in St. Louis County, MO, Jefferson County, KY, Duval County, FL, Orleans County, LA, Harris County, TX, and San Bernardino County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145914 (Sub-20), filed June 11, 1982. Applicant: COASTAL TRUCK LINE, INC., P.O. Box 600, How Lane, New Brunswick, NJ 08903. Representative: Zoe Ann Pace, One World Trade Center, Suite 2373, New York, NY 10048, (212) 432–0940. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of WI, IL, KY, TN and MS.

MC 146074 (Sub-7), filed June 15, 1982. Applicant: FORT TRANSFER CO., 225 South Maple, Morton, IL 61550. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, (217) 753–3925. Transporting *chemicals,* between points in the U.S., under continuing contract(s) with Ciea-Giegy Corporation, of Ardsley, NY.

MC 149585 (Sub-2), filed June 14, 1982. Applicant: SCHMIDT BROTHERS TRANSPORT, INC., Box 37, R.R. #3, Augusta, WI 54722. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102, (612) 227–7731. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with South Alma Cheese Factory, Inc., of Alma Center, WI.

MC 151775 (Sub-2), filed June 10, 1982. Applicant: RAYMOND L. COOK, d.b.a. JAC LEASING, 415 Morris Ave., Boonton, NJ 07005. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *rubber and plastic products,* and *pulp, paper, and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Malanco Plastics East, Inc., of Rockaway, NJ.

MC 151994 (Sub-3), filed June 14, 1982. Applicant: P. R. T., INC., 135 Wyandot Avenue, Marion, OH 43302. Representative: Jerry B. Sellman, 50 West Broad Street, Columbus, OH 43215, (614) 464–4103. Transporting (1) *such commodities* as are dealt in or

used by manufacturers and distributors of candles, between points in Passaic County, NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *bakery products*, between points in Queens County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *fertilizer and fertilizer ingredients, chemicals, feed, feed ingredients, limestone, salt, seed, petroleum products, and farm supplies*, between points in OH, on the one hand, and, on the other, points in IL, IN, MN, MO, TN and WI.

MC 152024 (Sub-2), filed June 14, 1982. Applicant: RUMM ASSOCIATES, INC., P.O. Box 521, Grand Blanc, MI 48439. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *metal products*, between points in Chippewa County, MI, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with General Motors Corporation, of Troy, MI.

MC 153864 (Sub-1), filed June 15, 1982. Applicant: R & M EXPRESS, INC., 12330 Park Drive, Orient, OH 43146. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221, (614) 459–4248. Transporting (1) *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Purdie Metals, Incorporated, of Westerville, OH, (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Worthington Industries, Inc., and subsidiaries, of Columbus, OH, and (3) *sand and foundry products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Keener Sand & Clay Company, of Columbus, OH.

MC 155585, filed June 14, 1982. Applicant: HOLIDAY MARINE, INC., Route 1, Box 73, Ruston, LA 71270. Representative: Max King (same address as applicant) (318) 255–8810. Transporting *oilfield equipment supplies*, between points in LA, TX and AR.

MC 155644 (Sub-1,) filed June 16, 1982. Applicant: WRIGHT BROTHERS KITTY HAWK EXPRESS SYSTEMS, INC., Hevelyn Rd., Elmsford, NY 10523. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD. 21740, (301) 797–6060. Transporting *general commodities (except classes A and B explosives, household goods and commodities in bulk), between points in NY, NJ, CT, VT, OH, MD, DE, NH, ME, WV, MA, RI, PA, VA, and DC.*

MC 156845 (Sub-1), filed June 6, 1982. Applicant: WINN'S HAULING, INCORPORATED, 6805 School Avenue, Richmond, VA 23228. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, (804) 282–3809. Transporting *household goods*, between points in MD, VA, WV and DC.

MC 158074, filed June 14, 1982. Applicant: DEBARNARDI BROS., INC., 514 "G" Street, Rock Springs, WY 82901. Representative: Richard L. DeBarnardi (same address as applicant), (307) 362–3451. Transporting *commodities in bulk*, between points in WY, ID, SD, CO and UT.

MC 158355, filed June 11, 1982. Applicant: F.A.R. CARTAGE INC., 5 N 038 Middle Creek Lane, St. Charles, IL 60174. Representative: James O'Grady, 430 Grand Ave., Waukegan, IL 60085. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Chicago, IL, on the one hand, and, on the other, points in IL, OH, IN, MI, KY, MO, MN, WI, IA, and TN.

MC 158994 (Sub-2) filed June 15, 1982. Applicant: ABLE TRANSPORT, INC., 307 Progress Ave., Zelienople, PA 16063. Representative: Brian L. Troiano, 918 16th St., NW., Washington, DC 20006, (202) 785–3700. Transporting *clay, concrete, glass or stone products*, and *coal and coal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Independent Cement Corporation, of Albany, NY.

MC 159005, filed June 15, 1982. Applicant: JAMES P. HIGGINS and FRED C. GOEBEL, d.b.a. H & G HOTSHOT SERVICE, U.S. Highway 2 & 85 N., Box 731, Williston, ND 58801. Representative: Thomas J. Van Osdel, 15 Broadway-Suite 502, Fargo, ND 581102, (701) 235–4487. Transporting *Mercer commodities*, between points in ND, SD, MT, ID, WY, and CO.

MC 160494, filed June 14, 1982. Applicant: PAUL D. ELLIS, d.b.a. ELLIS FABRICATION & SUPPLY, 9350 Ridenour Road, Thornville, OH 43076. Representative: James R. Stiverson, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212, (614) 481–8821. Transporting *pipe*, between those points in the U.S. in and east of MT, WY, CO and NM, under continuing contract(s) with Pico Pipe Threaders Inc., of Mt. Vernon, OH.

MC 160614 (Sub-1), filed June 14, 1982. Applicant: DANNY STOUFFER AND SUSAN STOUFFER, d.b.a. DMF TRUCKING, 548 Main St., Highgrove, CA 92507. Representative: Frederick J. Coffman, P. O. Box 1455, Upland, CA 91786, (714) 981–9981. Transporting (1) *building and construction materials*, (2) *lumber and wood products, and* (3) *dolomite and dolomite products*, between Los Angeles, San Bernardino, and Inyo Counties, CA, El Paso and Titus Counties, TX, and Clark County, NV, on the one hand, and, on the other, points in PA, WV, FL, IN, TN, MS, and those points in the U.S. in and west of MN, IA, MO, AR, and LA.

MC 162425, filed June 9, 1982. Applicant: ITEL TRANSPORTATION SERVICES CORP., Two Embarcadero Center, 23rd Floor, San Francisco, CA 94111. Representative: Guy H. Postell, 3384 Peachtree Rd., NE, Suite 675, Atlanta, GA 30326, (404) 237–6472. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 1624654, filed June 11, 1982. Applicant: MIKE KAZEMI, d.b.a. TBT BUS LINES, 3314 Farnam St., Suite 1, Oakland, CA 94601. Representative: (same as applicant) (415) 535–2010. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at San Francisco, CA, and points in Alameda and Santa Clara Counties, CA, and extending to Carson City, NV, and points in Douglas, Storey and Washoe Counties, NV.

MC 162485, filed June 15, 1982. Applicant: EDWARD M. MARX, d.b.a. ECONOMY MOVING & STORAGE CO., 5826 North Clark St., Chicago, IL 60660. Representative: Edward M. Marx (same address as applicant), (312) 251–9374. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI).

MC 124905 (Sub-9), filed June 14, 1982. Applicant: GARY W. ARAY, P.O. Box 48, Delaware, NJ 07833.. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *petroleum and petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Union Oil Company of California, of Schaumburg, IL.

MC 129874 (Sub-5), filed June 15, 1982. Applicant: TYLER TRANSPORT LIMITED, 379 Queen St. East, Action, Ontario, Canada L7J 2M6. Representative: E. Tyler (same address as applicant), (519) 853–1550. Transporting *lumber and lumber products*, between ports of entry on the Interernational Boundary line between the U.S. and Canada, on the Detroit, St. Clair, Niagara and St. Lawrence Rivers,

on the one hand, and on the other, points in DE, IN, KY, MD, MI, NJ, NY, OH, PA, VA, WV, RI, CT, NH, VT, TN, GA, AL, NC, SC, and FL, under continuing contract(s) with Arbre Forest Products, Division of Tiaga Wood Products Limited, of Milton, Ontario, Canada.

MC 150735 (Sub-7), filed June 11, 1982. Applicant: BESTWAY TRANSPORT CO., Route #2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 2455 North Star Road, Columbus, OH 43221, (614) 486–0448. Transporting *meat and meat products,* between New York, NY, Philadelphia, PA, Wilmington, DE, Pitman, NJ, and Baltimore, MD, and points in Carroll and Frederick Counties, MD, on the one hand, and, on the other, points in FL, GA, IA, IL, IN, KY, MI, MN, NC, NJ, OH, PA, SC, TN, VA, WI, and WV.

Volume No. OP4–226

Decided: June 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 3647 (Sub-467), filed June 9, 1982. Applicant: NJ TRANSIT BUS OPERATIONS, INC., 180 Boyden Ave., Maplewood, NJ 07040. Representative: John F. Ward, P.O. Box 10009 Newark, NJ 07101, (201) 648–6908. Over regular routes, transporting *passengers and their baggage, and express, in the same vehicle with passengers,* (1) between junction U.S. Hwy 46 and Little Ferry Traffic Circle, Little Ferry, NJ, and Moonachie Road, Moonachie, NJ, serving all intermediate points: from junction U.S. Hwy 46 and Little Ferry Traffic Circle over U.S. Hwy 46 to junction Liberty St., then over Liberty St., Little Ferry, NJ, to junction Moonachie Rd., then over Moonachie Rd., Moonachie, NJ, to junction Washington Ave., then over Washington Ave. to Junction Paterson Plank Rd., then over Paterson Plank Rd. to junction Gotham Parkway, then over Gotham Parkway (South Commercial Ave.), Carlstadt, NJ, to junction West Commercial Ave., then over West Commercial Ave. to junction Ceasar Place, then over Ceasar Place to junction Moonachie Ave., then over Moonachie Ave. to junction Moonachie Rd., Moonachie NJ, and return over the same route, (2) between points in Little Ferry, NJ, serving all intermediate points: from junction Liberty St., and Washington Ave., then over Washington Ave. to junction Riverside Ave., then over Riverside Ave. to junction Bergen Turnpike, then over Bergen Turnpike to junction U.S. Hwy 46 at the Little Ferry Traffic Circle, Little Ferry, NJ, and return over the same route, (3) between Berry's Creek Canal and Paterson Plank Rd., and junction Washington Ave., Carlstadt, NJ, and in Hwy 20 and NJ Hwy 3, East Rutherford, serving all intermediate points: from Barry's Creek Canal and Paterson Plank Rd., then over Paterson Plank Rd. to junction Washington Ave., Carlstadt, NJ, and NJ Hwy 20, then over NJ Hwy 20 to junction NJ Hwy 3, East Rutherford, NJ, and return over the same route.

Note.—Applicant intends to tack this authority with its existing routes only in connection with operations to and from New York, NY, via the George Washington Bridge.

MC 94227 (Sub-9), filed June 14, 1982. Applicant: BALLEW TRUCKING COMPANY, INC., 1621 E. Hwy 82, P.O. Box 715, Gainesville, TX 76240. Representative: J. Michael Alexander, Suite 301, Allied Bank-Southwest Bldg., 5801 Marvin D. Love Freeway, Dallas, TX 75237, (214) 339–4108. Transporting *Mercer commodities,* between points in TX, OK, NM, CO, UT, WY, MT, ND, SD, NE, KS, LA, AR, and MS.

MC 110567 (Sub-30), filed June 11, 1982. Applicant: SOONER TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: Kenneth L. Kessler, P.O. Box 855, Des Moines, IA 50304, (515) 245–2725. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with garden Fresh Markets, Inc., of Nutterforth, WV.

MC 115917 (Sub-42), filed June 15, 1982. Applicant: UNDERWOOD & WELD COMPANY, INC., P.O. Box 247, Crossnore, NC 28616. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–5188. Transporting (1) *clay, concrete, glass or stone products,* between points in Spartanburg County, SC, and Gaston County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *buildings,* in sections, between points in Yadkin County, NC, and Lincoln County, NV, on the one hand, and on the other, points in U.S. (except AK and HI).

MC 121327 (Sub-3), filed June 11, 1982. Applicant: FINK'S FAST FREIGHT, INC., R.D. #1, P.O. Box 156, Millersville, PA 17551. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *general commodities* (except classas A and B explosives, household goods and commodities in bulk), between points in Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, and York Counties, PA, on the one hand, and, on the other, points CT, DE, MD, NJ, NY, OH, PA, VA, WV, and DC.

MC ,128837 (Sub-53), filed June 14, 1982. Applicant: TRUCKING SERVICE, INC., P. O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5466. Transporting *glass containers and glass materials,* between points in the U.S. (except AK and HI), under continuing contract(s) with Midland Glass Company, of Cliffwood, NJ.

MC 140477 (Sub-1), filed June 11, 1981. Applicant: SEABROUCK TRANSPORT, INC., Route 3, Crookston, MN 56716, Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, (701) 237–4223. Transporting *food and related products,* between points in Polk County, MN and points in Foster, Grand Forks, Stutsman, and Ward Counties, ND, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141167 (Sub-11), filed June 14, 1982. Applicant: LANGDON TRANSPORTATION, INC., 5202 Industry Ave., Pico Rivera, CA 90660. Represenative: Milton W. Flack, 8484 Wilshire Blve., #840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 144927 (Sub-43), filed May 20, 1982, previsously noticed in the **Federal Register** issue of June 8, 1982, and republished this issue. Applicant: REMINGTON FREIGHT LINES, INC. Box 315, U.S. 24 West, Remington, IN 47977. Representative: Jack Luck (same address as applicant), (219) 261–3461. Transporting *drugs,* between Atlanta, GA, Chicago, IL, Dallas, TX, Denver, CO, Kansas City and St. Louis, MO, Minneapolis, MN, Portland, OR, San Francisco and Los Angeles, CA, and points in Franklin County, OH, Montgomery County, PA, and Shelby County, TN.

Note. The purpose of this republication is to include Franklin County, OH, which was inadvertently omitted from the Precious notice.

MC 152157 (Sub-4), filed June 15, 1982. Applicant: RO–MAR TERMINAL & WAREHOUSE CO., INC., 3356 South Ashland Ave., Chicago, IL 60608. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, DC 20036, (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 156387 (Sub-4), filed June 11, 1982. Applicant: JIM L. LANGENFELD, d.b.a.

D & J ENTERPRISES, Rural Route #2, Dow City, IA 51528. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Futuristics, LTD, of Denison IA.

MC 156517 (Sub-1), filed June 14, 1982. Applicant: GILLIAM TRUCKING, INC., 4585 South Harding St., Indianapolis, IN 46217. Representative: Harold C. Folliff, 3242 Beech Dr., Columbus, IN 47201, (812) 379–2556. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ivy Hill Packaging, Division of Ivy Hill Corporation, of Terre Haute, IN.

MC 157727, filed June 14, 1982. Applicant: AIR FREIGHT EXPEDITERS, INC., 19030 28th Ave. So., Seattle, WA 98188. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102, (206) 325–8875. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA.

MC 159576, filed June 15, 1982. Applicant: CONSTANTINE VAINALIS, d.b.a. DINO'S TRUCKING, 5072 Mardel Ave., St. Louis, MO 63109. Representative: Constantine Vainalis (same address as applicant), (314) 832–2508. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) So-Good Potato Chip Company, of St. Louis, MO.

MC 160006, filed June 15, 1982. Applicant: NATHANIEL E. WILLIS, JR., d.b.a. WILLIS TRUCKING, P.O. Box 103, Idaho City, ID 83631. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ore-Ida Foods, Inc., of Boise, ID.

MC 161197, filed June 14, 1982. Applicant: ALLEN PLEGGENKUHLE, d.b.a. PLEGGENKUHLE GRAIN, Route 2, Fredericksburg, IA 50630 Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *fabricated buildings and feed or grain bins*, between Kansas City, MO and points in Knox County, IL, on the one hand, and, on the other, points in Bremer, Fayette, Buchanan, Black Hawk, Grundy, Butler, Floyd, Chickasaw, and Cerro Gordo Counties, IA.

MC 161296, filed June 14, 1982. Applicant: THOMAS E. HANSEN, Rt. 1, New Harford, IA 50660. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *agricultural machinery, implements, and parts*, between points in the U.S. (except AK and HI), under continuing contract(s) with Huisman Implement Co., of Aplington, IA.

MC 162447, filed June 11, 1982. Applicant: THE CONSOLIDATED CARTAGE AND STORAGE COMPANY, 2050 West 3rd St., Cleveland, OH 44113. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 4, Room 2410.

MC 162437, filed June 11, 1982. Applicant: CUSTOM BLENDED OILS, INC., P.O. Box 41, Peotone, IL 60468. Representative: Carl L. Steiner, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *petroleum and petroleum products*, between points in the U.S. (except AK and HI), under continuing contract(s) with E & L Tank Cleaners, Inc., of Peotone, IL.

MC 162457, filed June 11, 1982. Applicant: KEMP FURNITURE INDUSTRIES, INC., 108 W. Cola Dr., Goldsboro, NC 27530. Representative: Earl Buchan, 118 Spring Dr., Dudley, NC 28333, (919) 735–2801. Transporting *microfoam sheet and related products*, between points in Greenup County, KY, on the one hand, and, on the other, points in TN, VA, NC, and SC, under continuing contract(s) with E. I. du Pont de Nemours & Company, Inc., of Wilmington, D.E.

MC 162487, filed June 11, 1982. Applicant: LEISURE WORLD OF MARYLAND CORPORATION, 3701 Rossmoor Blvd., Silver Spring, MD 20906. Representative: Marilyn J. Goerg (Same address as applicant), (301) 598–7660. To engage in operations, in interstate or foreign commerce as a *broker*, at Silver Spring, MD, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, between points in Silver Spring, MD, on the one hand, and, on the other, points in the U.S.

Volume No. OP4–230

Decided: June 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 147446 (Sub-2), filed June 16, 1982. Applicant: TOWN TRUCKING CO., 1500 S. Roslyn Rd. Roselle, IL 60172. Representative: Albert A. Andrin, 180 N. La Salle St., Chicago, IL 60601, (312) 332–5106. Transporting *roofing and roofing materials*, and *asphalt and materials*, betwen points in Cook County, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150656 (Sub-7), filed June 11, 1982. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 154, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. W, Bradenton, FL 33507, (813) 758–4153. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (including AK and HI).

MC 162036, filed May 17, 1982, previously noticed in the **Federal Register** issue of June 8, 1982, and republished this issue. Applicant: MR. FRANK INC., 201 West 155th St., South Holland, IL 60473. Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *hazardous materials and waste or scrap materials* not identified by industry producing, between points in the U.S. (except AK and HI), under continuing contract(s) with shippers of said commodities.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17402 Filed 6–28–82; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket 29926]

Rail Carriers; Sidney & Lowe Railroad, Inc.; Exemption From 49 U.S.C. 10901 and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the operation by Sidney & Lowe Railroad, Inc. of a 10 mile rail line in and around Sidney, NE, from prior approval under 49 U.S.C. 10901.

DATES: The exemption is effective on July 29, 1982. Petitions to reopen must be filed by July 19, 1982, and petitions for stay must be filed by July 9, 1982.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room, 5414, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's Representative: Robert Lee Kessler, 5555 South DTC Parkway, Suite 3001, Englewood, CO 80111.

Refer to Finance Docket No. 29926.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th and Constitution Ave., NW., Washington, DC 20423, (202) 289–4357—DC Metropolitan Area, (800) 424–5403—Toll free for outside the DC area.

Decided: June 23, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17487 Filed 6-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 166)]

Rail Carriers; Southern Pacific Transportation Co. Exemption for Contract Tariff ICC–SP–C–0099

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Provisional Exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Southern Pacific Transportation Company (SP) filed a petition on June 14, 1982, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract ICC–SP–C–0099 filed on June 14, 1982, to become effective on one day's notice. The contract provides for storage of carload shipments of paper and paper products.

As a preliminary matter, we grant petitioner's request under 49 CFR 1100.99 for an order protecting the information contained in the petitioner's separately submitted appendix. This appendix contains proprietary information which supplements the petition, and it need not, and will not, become part of the record.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 days' notice. There is no provision for waiving this requirement. However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition shall be granted. Due to the economic downturn, the shipper has been unable to market sufficient amounts of the commodities that it manufactures. As a result, the shipper has been forced to store much of its product on site. However, the shipper's storage capacity is limited, and there is no reasonably priced alternative storage available. Without adequate, inexpensive storage, the shipper will be forced to curtail production, which would result in employee layoffs. The contract provides for such storage in boxcars that are presently idle. Short notice effectiveness of the contract will thus enable the shipper to continue production and will not adversely affect car supply. We find this to be the type of exceptional circumstance which warrants a provisional exemption.

Petitioner's contract ICC–SP–C–0099 may become effective on one day's notice. We will apply the following conditions which have been imposed in similar exemption proceedings:

> If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(e) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in this instance is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(d) if protests are filed within 15 days of publication in the **Federal Register**.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: June 22, 1982.

By the Commission, Division 2, Commissioners Gresham, Gilliam, and Simmons. Commissioner Gresham did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17489 Filed 6-28-82; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 29820]

Rail Carriers; New York State Department of Transportation, Purchase, Consolidated Rail Corp., in New York, Intent To Purchase

On May 18, 1982, the New York State Department of Transportation (NYSDOT) filed a notice of its intent to request the Commission to require the sale of trackage. NYSDOT seeks to acquire the following lines of the Consolidated Rail Corporation (Conrail) in New York: the former Erie Lackawanna Southern Tier Mainline between the NY/NJ State line and CP Newburgh Junction, MP–29.3–44.9; the Grahaur line between CP Newburgh Junction and CP Howells Junction, MP 4409–76.6; the Erie Lackawanna Southern Tier Mainline between CP Howells Junction and Salamanca, MP 68.7–412.6; the Erie Lackawanna Southern Tier Mainline between Salamanca and the NY/PA State line, MP 0.0–49.2; and the Erie Lackawanna Southern Tier Mainline between Hornell and Buffalo, MP 331.2–418.0, pursuant to the feeder line development provisions of 49 U.S.C. 10910.

NYSDOT's application may be filed after August 16, 1982, (90 days after its notice). When an application is filed, any interested party may submit comments or recommendations to the Commission within 30 days and any financially responsible person may propose to acquire the property through a competing application, also within 30 days. All pleadings should refer to Finance Docket No. 29820 and should be submitted, with 10 copies to the Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423. A copy should also be sent to Louis Rossi, Director, Rail Division, N.Y.S. Department of Transportation, 1220 Washington Avenue, NY 12232.

For further information contact Wayne A. Michel (202) 275–7657 or Louis E. Gitomer (202) 275–7245 at the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17490 Filed 6-28-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 14, 1982–June 18, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–12,688; Aileen, Inc., Edinburg, VA, Knitting Plant
TA–W–12,782; Aileen, Inc., Brookneal, VA, Sewing Plant
TA–W–12,854; Aileen, Inc., Culpeper, VA, Sewing Plant
TA–W–12,683; Ely and Walker, Inc., Yazoo City, MS
TA–W–12,690; Ely and Walker, Monterey, TN
TA–W–12,527; Finetone Knitting Mills, Inc., Jackson Heights, NY
TA–W–12,609; Modern Coat Annex, Union City, NJ
TA–W–12,610; Androme Leather Corp., Gloversville, NY
TA–W–12,549; Spring Valley Garment Co., Spring Valley, IL
TA–W–12,554; Hudson Pants Co., Jersey City, NJ
TA–W–12,560; Alpo Coat Co., Inc., Hoboken, NJ
TA–W–12,520; Stutz Products Corp., Hartford City, IN
TA–W–12,471; Charming Miss Fashions, Inc., Hoboken, NJ
TA–W–12,457; Cosmic Fashions, Hoboken, NJ
TA–W–12,434; Rosemary Fashions Coat Co., Hoboken, NJ
TA–W–12,189; J.C. Manufacturing Co., Inc., Long Branch, NJ
TA–W–12,366; Sturbridge, Inc., Philadelphia, PA
TA–W–12,433; Randy Coat Co., Inc., Hoboken, NJ

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–12,462; J.B. Coat, Inc., Hoboken, NJ
TA–W–12,547; Jo Gal Shoe Co., Lawrence, MA
TA–W–12,654; Beekay Fashions, Inc., New York, NY

In the following case the investigation revealed that criterion (3) has not been met for the reason specified.

TA–W–12,689; Avondale Mills, Pell City Plant, Pell City, AL

Affirmative Determinations

TA–W–12,114; High Fashion Sportwear, Inc., Paterson, NJ

A certification was issued in response to a petition received on January 14, 1981 covering all workers separated on or after September 28, 1980.

TA–W–12,643; Rockwell International, Inc., Bellefontaine, OH

A certification was issued in response to a petition received on April 17, 1981 covering all workers separated on or after January 1, 1981.

TA–W–12,665; Wells Lamont Corp., Las Cruces, NM

A certification was issued in response to a petition received on April 27, 1981 covering all workers separated on or after January 1, 1981 and before August 1, 1981.

TA–W–12,553; Gianna Originals, Jersey City, NJ

A certification was issued in response to a petition received on March 9, 1981 covering all workers separated on or after October 1, 1980.

TA–W–12,337; Atlantic Sportwear, Inc., East Rockaway, NJ

A certification was issued in response to a petition received on February 24, 1981 covering all workers separated on or after February 16, 1980.

TA–W–12,391; Peter Cooper Corp., Camden, NJ

A certification was issued in response to a petition received on March 2, 1981 covering all workers separated on or after January 1, 1981.

TA–W–12,402; William B. Haskell Manufacturing Co., Pawtucket, R.I.

A certification was issued in response to a petition received on March 3, 1981 covering all workers separated on or after January 10, 1981.

I hereby certify that the aforementioned determinations were issued during the period June 14, 1982–June 18, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 22, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82–17567 Filed 6–28–82; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–12,844]

Jackie Stuart, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 20, 1981 in response to a petition received on July 13, 1981 which was filed by Local 23–25 of the International Ladies' Garment Workers' Union on behalf of former workers at Jackie Stuart, Incorporated, New York, N.Y. The workers produced ladies' coats and jackets.

In the course of the investigation it was found that Local 10 of the ILGWU, representing garment cutters, filed a petition on October 29, 1980 on behalf of workers at Jackie Stuart, Inc., New York, N.Y. As a result of that petition, on December 23, 1981 the Department issued a notice of determination which certified all workers at Jackie Stuart, Incorporated, New York N.Y. as eligible to apply for adjustment assistance benefits (TA–W–11,635). That certification's impact date was October 29, 1979, and its termination date was December 31, 1980.

Jackie Stuart, Incorporated permanently closed in December 1980. All remaining workers were laid off at that time. These workers were covered by an active certification (TA–W–11,635). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 21st day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-17568 Filed 6-28-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,887 and 12,890]

James Textile Corp. and Pembee Manufacturing Corp.; Termination of Investigations

Pursuant to Section 221 of the Trade Act of 1974, investigations were initiated on August 10, 1981 in response to worker petitions received on August 3, 1981 which were filed on behalf of workers at James Textile Corporation, North Bergen, New Jersey and at Pembee Manufacturing Corporation, Lumberton, North Carolina (a division of James Textile Corporation).

The petitioner has requested that the petitions be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigations have been terminated.

Signed at Washington, D.C. this 21st day of June 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-17569 Filed 6-28-82; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

[Application No. D-3402]

Proposed Exemption for Certain Transactions Involving the Cargill Group Life Insurance Plan for Office, Sales, and Supervisory Employees Maintained by Cargill, Inc., Located in Minneapolis, Minnesota

AGENCY: Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt under certain conditions, the reinsurance by the Summit National Life Insurance Company (Summit) of group life insurance contracts sold to Cargill, Incorporated (the Employer) on behalf of the Cargill Group Life Insurance Plan for Office, Sales and Supervisory Employees (the Plan) maintained by the Employer. Summit is a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, participants and beneficiaries of the Plan, Summit, and other persons participating in the transactions.

EFFECTIVE DATE: If the proposed exemption is granted, it will be effective January 1, 1975.

DATE: Written comments and requests for a public hearing must be received by the Department of Labor on or before August 16, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3402. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406 (a) and (b) of the Act. The proposed exemption was requested in an application filed on behalf of the Employer, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Preamble

On August 7, 1979, the Department published a class exemption [Prohibited Transaction Exemption 79-41 (PTE 79-41), 44 FR 46365] which permits insurance companies that have substantial stock or partnership affiliations with employers establishing or maintaining employee benefit plans to make direct sales of life insurance, health insurance or annuity contracts which fund such plans, if certain conditions are satisfied.

In PTE 79-41, the Department stated its view that if a plan purchases an insurance contract from a company that is unrelated to the employer pursuant to an arrangement or understanding, written or oral, under which it is expected that the unrelated company will subsequently reinsure all or part of the risk related to such insurance with an insurance company which is a party in interest with respect to the plan, the purchase of the insurance contract would be a prohibited transaction.

The Department further stated that as of the date of publication of PTE 79-41, it had received several applications for exemption under which a plan or its employer would contract with an unrelated company for insurance, and that unrelated company would, pursuant to an arrangement or understanding, reinsure part or all of the risk with (and cede part or all of the premiums to) an insurance company affiliated with the employer maintaining the plan. The Department felt that it would not be appropriate to cover the various types of reinsurance transactions for which it had received applications within the scope of the class exemption, but would instead consider such applications on the merits of each individual case.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a corporation organized under the laws of the State of Delaware and is engaged primarily in the acquisition, processing, storage, transportation and the resale of agricultural and other bulk commodities on a worldwide basis. The Employer's principal place of business is Minneapolis, Minnesota.

2. The Plan is an employee welfare benefit plan which provides life insurance benefits to employees of the Employer. There are approximately 7,742 participants in the Plan.

3. Summit is a wholly owned subsidiary of the Employer. Summit is a corporation organized under the laws of the State of Ohio, with its principal offices in Akron, Ohio. Summit is engaged in various forms of insurance, including reinsuring risks under group insurance policies. As of December 31, 1980, Summit's balance sheet assets were approximately $55.5 million.

4. The benefits under the Plan have been funded since 1923 through the purchase of group insurance contracts by the Employer from the Prudential Insurance Company of America (Prudential). Prudential is unrelated to the Employer and to Summit. Summit has reinsured Prudential for a portion of its liability since 1973. Currently Summit reinsures Prudential for 75% of its group term liability under the Plan and 100% of its liability under the paid-up insurance policies. The benefits under the Plan are

provided unconditionally by Prudential, and the Plan is not a party to the reinsurance transactions.

5. The applicant represents that the subject reinsurance transactions have met all of the conditions of PTE 79-41 covering direct insurance transactions:

(a) Summit is a party in interest as described in Act section 3(14)(G) by reason of stock affiliation with the Employer maintaining the Plan:

(b) Summit is licensed to sell insurance in 31 states.

(c) Summit is audited by the Superintendent of Insurance of the State of Ohio and is presently in good standing. Summit received a Certificate of Compliance from the Insurance Commissioner of the State of Ohio on July 31, 1963. Such certificate is automatically renewed each year by the Ohio Insurance Department and continues to be effective unless rescinded. Summit's certificate has never been rescinded.

(d) Summit underwent a financial examination by the Superintendent of Insurance of the State of Ohio as of December 31, 1980.

(e) Summit has undergone in the past, and will continue to undergo in the future, an annual examination by an independent certified public accountant.

(f) The Plan pays no more than adequate consideration for the insurance contracts. Because Prudential is one of the largest group insurance underwriters in the country and enjoys substantial economies of sale in overall policy administration, the premium charge to the Plan is highly competitive. The reinsurance transactions are not a factor in the premium computation and thus do not in any way affect the cost to the Plan.

(g) No commissions will be paid in connection with either the direct sale of ther insurance contracts or with respect to the reinsurance agreement between Prudential and Summit, after December 31, 1981.

(h) The gross premiums and annuity considerations from reinsurance received in 1980 and 1981 by Summit for group life and health contracts for plans (and their employers) with respect to which Summit is a party in interest did not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in 1980 and 1981 by Summit. Further, Summit will not enter into any reinsurance arrangements in the future is such limitation would be exceeded.

6. In summary, the applicant represents that the subject transactions meet the statutory criteria of section 408(a) of the Act because: (1) Plan participants and beneficiaries are afforded insurance protection by Prudential, one of the largest and most experienced group insurers in the United States, at competitive rates arrived at through arms-length negotiations; (2) Summit is a sound, viable insurance company which has been in business for many years, and which does a substantial amount of business outside its affiliated group of companies; and (3) each of the protections provided to the Plan and its participants and beneficiaries by PTE 79-41 has been met under the subject reinsurance transactions.

Notice to Interested Persons

Notice of this proposed exemption will be provided to all participants and beneficiaries of the Plan within 14 days of the publication of the notice in the **Federal Register**. Participants who are currently employed will be notified by means of posting an announcement in a place that is customarily used for providing notice to Plan participants. Retired employees will be notified by mail. The notice to interested parties will contain a copy of the proposed exemption and will inform all interested persons of their right to comment and request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) Before an exemption may be granted under section 408(a) of the Act, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, effective January 1, 1975, the restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by Summit from the group life insurance contracts sold by Prudential to the Employer to provide benefits to the Plan, provided the following conditions are met:

(a) Summit—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with the Employer that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Compliance from the Insurance Director of its domiciliary state, Ohio, which has neither been revoked nor suspedned; and

(4) (A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary state, Ohio) by the Insurance Commissioner of the State of Ohio within 5 years to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the group life insurance contacts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof, after December 31, 1981; and

(d) For each taxable year of Summit, the gross premiums and annuity considerations received in that taxable year by Summit for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which Summit is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by Summit. For purposes of this condition (d):

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the laws of its domiciliary state, Ohio) by the Insurance Commissioner of the State of Ohio within 5 years to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the group life insurance contracts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof, after December 31, 1981; and

(d) For each taxable year of Summit beginning after December 31, 1981, the gross premiums and annuity considerations received in that taxable year by Summit for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which Summit is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance in that taxable year by Summit. For purposes of this condition (d):

(1) The term "gross premiums and annuity considerations received" means the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale of life insurance, health insurance, or annuity contracts to such plans (and their employers) by Summit. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by Summit.

(2) All premiums and annuity considerations written by Summit for plans which it alone maintains are to be excluded from both the numerator and the denominator of this fraction.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this proposed exemption.

Signed at Washington, D.C., this 22nd day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17548 Filed 6-28-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2706]

Proposed Exemption for Certain Transactions Involving the W. A. Tayloe Co., Inc., Profit Sharing Plan Located in Dallas, Texas

AGENCY: (Pension and Welfare Benefit Programs Office, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the proposed loans (the Loans) of money for a period of seven years by the W. A. Tayloe Co., Inc. Profit Sharing Plan (the Plan) to the W. A. Tayloe Co., Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer, and other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 9, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-2706. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constutition Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Lewis of the Department, telephone (202) 523-7352. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan (the Trustees), pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. This notice of pendency was originally published in the **Federal Register** on February 5, 1982 (47 FR 5537). Due to a requested modification of the proposal by the applicant, this notice of pendency is being republished as follows:

2. The Plan is a profit sharing plan with thirty-four participants and net assets of approximately $496,000 on October 27, 1981. The Employer and sponsor of the Plan is a Texas corporation engaged in the distribution of materials handling equipment. Mr. Philip Eyre and Mr. W. A. Tayloe, both of whom are officers of the Employer, are the Trustees of the Plan. Investment decisions for the Plan are made by the Trustees.

3. The Trustees seek an exemption to allow the Plan to enter into a loan agreement (the Loan Agreement) with the Employer whereby the Plan will periodically lend to the Employer amounts of money (the Loans) up to an aggregate at any point in time of 35 percent of Plan assets. The proceeds of the Loans will be used to purchase new cars and trucks (the Vehicles) for use in the Employer's business. No more than 80% of the purchase price of the Vehicles will be financed through the Plan. The Loans will be made over a seven-year period, the first day of which will be the date the grant of an exemption is published in the Federal Register. All of the Loans will mature and become due and payable on or before the last day of such seven-year period. Each individual Loan will have a maturity of thirty-six months or less, with principal and interest amortized equally in monthly payments. The interest rate for each Loan granted under the Loan Agreement will be set in accordance with the rate that is normally charged in the Dallas, Texas area by lenders making similar loans, but will never be less than the higher of 13% per annum or two points above the existing yield of six month money market certificates of deposit of $100,000 sold by Texas American Bank of Dallas, Texas. The interest rate on any Loan will be adjusted every six months and will be approved in advance by Arthur Young and Company, the independent fiduciary for the Plan (the Independent Fiduciary).

4. Each Loan made during the seven year period will be secured by a perfected first lien on the Vehicles which will be used in the Employer's business. The fair market value of the Vehicles will at all times during the term of the Loan Agreement be not less than 150% of the outstanding Loan balances. If at any time the value of the Vehicles falls below this amount, additional collateral will be provided by the Employer. The Employer will warrant to own, throughout the term of the Loan Agreement, all collateral free from any security interests (other than security interests granted to the Plan) or encumbrances. The Vehicles will be fully insured against fire, theft and other hazards, with the Plan named as the beneficiary of the insurance policy. The Employer will pay all costs associated with the maintenance of the Vehicles, including but not limited to paying all taxes, insurance premiums, repairs and storage costs.

5. The Trustees and the Independent Fiduciary have reviewed the needs of the Plan and the Loan Agreement as proposed and have determined that the Loans are appropriate for the Plan and in the best interest of the Plan's participants and beneficiaries. The Independent Fiduciary will monitor the terms and conditions of the Loan Agreement and the Loans made pursuant thereto, and will take any steps necessary to enforce the rights of the Plan. Additionally, the Independent Fiduciary will review the collateral quarterly to ensure that the fair market value of the collateral is at all times equal to 150 percent of the outstanding balances of the Loans.

6. In summary, the applicants represent that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because: (1) the independent Fiduciary will approve the terms and conditions of each Loan made pursuant to the Loan Agreement, monitor the Loans and the value of the collateral and take any steps necessary to enforce the terms and conditions of the Loan Agreement and the Loans made pursuant thereto; (2) the Loans will be secured by a perfected first security interest in insured collateral which will at all times be maintained in an amount equal to 150% of the outstanding balances of the Loans; (3) the interest rates on the Loans will not, in any event, be less than the higher of 13% per annun or two points above the existing yield of six month money market certificates of deposit of $100,000 sold by Texas American Bank; (4) each Loan will be for a relatively short duration, not to exceed thirty-six months; and (5) the Trustees and the Independent Fiduciary represent that the Loans are in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendence and a statement advising participants and beneficiaries of the Plan of their right to comment or request a hearing will be hand delivered or mailed to all participants and beneficiaries of the Plan.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from

the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed Loans of money pursuant to the Loan Agreement as described herein, by the Plan to the Employer for a period of seven years from the date the grant of an exemption is published in the **Federal Register**, provided that the terms and conditions of each Loan are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 22nd day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pensions and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17549 Filed 6-28-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3247]

Proposed Exemption for Certain Transactions Involving the Pension Plan for Members of the Graphic Arts International Union, Local 109-B, Located in Brattleboro, Vermont

AGENCY: Pension and Welfare Benefit Programs Office Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the participation by the Pension Plan for Members of the Graphic Arts International Union, Local 109-B (the Plan) in a loan (the Loan) by the First Vermont Bank and Trust Company (the Bank) to Book Press, Inc. (the Employer), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Employer, the participants and beneficiaries of the Plan and other persons participating in the transaction.

DATE: Written comments and requests for a public hearing must be received by the Department on or before August 9, 1982.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-3247. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Respresentations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a pension plan maintained pursuant to the terms of a collective bargaining agreement between the Employer and the Graphic Arts International Union, Local 109-B (the Union). The Trustees consist of equal numbers of representatives from the Employer and the Union. As of July 1, 1980, the Plan had approximately 625 participants and beneficiaries and total assets of $2,505,069. The Employer is a book manufacturing corporation which produces approximately 38,000,000 books annually for a variety of publishers.

2. On November 15, 1981, the Employer entered into the Loan with the Bank under the terms of which the Employer borrowed $300,000 for the purchase and installation of a Hantscho Web Offset Printing Press (the Printing Press). The Printing Press has been purchased and installed by the Employer. The Loan is secured by a first security interest in the Printing Press and certain accessories for the Printing Press. Rudy Otepha Associates, Inc., an independent appraiser of printing equipment, located in Bensenville, Illinois has determined that the fair market value of the Printing Press and related accessories, as of January 25, 1982, was $430,000. Also, the payment of 90% of the unpaid principal balance of the Loan has been guaranteed by the Vermont Industrial Development Authority, an instrumentality of the state of Vermont. The Loan has a floating interest rate of 1% above the prime interest rate payable by the Bank and interest is payable every six months. The term of the Loan is six years. The Loan also requires the Employer to make annual "sinking fund" payments to the Bank beginning on November 15, 1982 in the amount of $25,000 and increasing by $10,000 each year through November 15, 1987, when the final sinking fund payment of $75,000 must be paid. The sinking fund payments are held by the Bank in a separate account with the Employer receiving interest on the sinking fund balance. On November 15, 1987, the entire sinking fund balance will be released to the Bank to repay the outstanding balance of the Loan.

3. The applicant is requésting an exemption to permit the Plan to participate in the Loan. The applicant proposes that participation certificates (the Participation Certificate(s)) in multiples of $50,000, up to a total of $300,000 be purchased from the Bank by the Plan. Upon purchase by the Plan of a Participation Certificate, the interest rate on that portion of the Loan would be fixed at 14.5% per annum. Interest would be payable to the Plan by the Employer twice annually. All Participation Certificates would be sold to the Plan with full recourse against the Bank upon any default under the Loan or Participation Certificate. Upon default, the Trustees could require the Bank to repurchase the Participation Certificates at a price equal to the principal balance on the Participation Certificates plus accured interest to the date of repurchase.

4. The Bank and the Trustee will also enter into a servicing agreement (the Servicing Agreement). Under the Servicing Agreement the Bank would assume responsibility for the collection of interest payments as they become due, for remitting such payments to the Plan and in the case of payments by the Employer to the sinking fund, for holding such payments in a separate account for eventual distribution to the Plan. The Bank would also monitor the Employer's compliance with the terms and conditions of the Loan and Participation Certificates. The Bank would receive a fee of ½% per annum of the outstanding amount on the Participation Certificates acquired by the Plan for this service.

5. The Chittenden Trust Company (Chittenden) and the Vermont Federal Savings and Loan Association (Vermont) of Burlington, Vermont have examined the terms and conditions of the proposed transaction and represent that the proposed transaction would be in the best interests and protective of the Plan. Chittenden and Vermont are both independent of the parties to the transaction. Additionally, Chittenden and Vermont represent that the fee charged by the Bank pursuant to the Servicing Agreement is commercially reasonable and fair to the Plan and its participants and beneficiaries. Chittenden will monitor the receipt of all interest and sinking fund payments by the Employer on the Participation Certificates.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) Chittenden and Vermont, independent parties, have represented that it is in the best interests and protective of the Plan and its participants and beneficiaries; (b) the value of the Printing Press has been determined by an independent appraiser; (c) the Participation Certificates will be purchases by the Plan with full recourse against the Bank in the event of default; (d) the Bank, pursuant to the Servicing Agreement, and Chittenden will monitor the payments to be received by the Plan pursuant to the Participation Certificates; and (e) the purchase of Participation Certificates will involve a low percentage of the assets of the Plan.

Notice to Interested Persons

Notice of the proposed exemption will be given to the Union and all participants and beneficiaries of the Plan within 10 days of the publication of the notice of pendency in the **Federal Register**. Notice will be given by 1st class mail and by posting on bulletin boards in the facilities of the Employer commonly used for employee notices. Notice will include a copy of the notice as it appears in the **Federal Register** as well as a statement informing all interested persons of their right to comment or request a hearing on the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the Plan's participation in the Loan by the Bank to the Employer through the purchase of Participation Certificates in amounts up to $300,000, provided the terms and conditions of the Participation Certificates held by the Plan are as favorable to the Plan as the Plan could obtain in a similar transaction with an unrelated party.

The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 23rd day of June 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-17580 Filed 6-28-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting; Cancellation

On June 3, 1982 on page 24236 of the **Federal Register** notice was published on a Humanities Panel Meeting to be held on June 28–29, 1982 from 9:00 a.m. to 5:30 p.m. in Room 314 of the National Endowment for the Hunanities, 806 15th Street, N.W., Washington, D.C. 20506. This meeting was to review applications for Youth Projects Program, Division of

Special Programs, and was closed to the public. This meeting has been cancelled.

V. J. Loughnan,

Director of Administration.

[FR Doc. 82-17540 Filed 6-28-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed, on or before June 29, 1982. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the receipent nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 23rd day of June, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards, Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received, and application No.	Material type	Material in kilograms		End-use	Country of Destination
		Total element	Total isotope		
Mitsui & Co., June 7, 1982, June 9, 1982, XSNM01963.	3.95% Enriched uranium	5,171	156	Reload fuel for Hamaoka Unit 1	Japan.
Mitsubishi Int'L, June 2, 1982, June 10, 1982, XSNM01966.	2.45% Enriched uranium	10,936	268	Reload fuel for Mihama Unit 1	Do.
Mitsubishi Int'L, June 7, 1982, June 11, 1982, XSNM01965.	2.15% Enriched uranium	26,656	575	Initial core fuel for Takahama Unit 3, Region 1	Do.
Mitsubishi Int'L, June 7, 1982, June 11, 1982, XSNM01969.	3.15% Enriched uranium	28,209	889	Initial core fuel for Takahama Unit 3, Region 3	Do.
Edlow Int'L, June 10, 1982, June 11, 1982, XSNM01967.	3.25% Enriched uranium	10,470.00	340.28	Reload fuel for Ohi Unit 2	Do.
Edlow Int'L, June 10, 1982, June 11, 1982, XSNM01968.	2.85% Enriched uranium	11,200.00	319.20	Reload fuel for Takahama Unit 1	Do.
Edlow Int'L, June 10, 1982, June 11, 1982, XSNM01969.	2.85% Enriched uranium	11,590	330.32	Reload fuel for Mihama Unit 3	Do.
Edlow Int'L, June 10, 1982, June 11, 1982, XSNM01970.	2.85% Enriched	10,940.00	311.80	Reload fuel for Takahama Unit 2	Do.
Transnuclear, June 8, 1982, June 14, 1982, XSNM01899(01).	93.3% Enriched uranium	Additional 3.300	Additional 3.079	Amend to increase quantity authorized for export for use in the NRX-NRU Research Reactors.	Canada.
		Total amount 101.300	94.513		Do.
Mitsui & Co., June 14, 1982, June 16, 1982, XSNM01971.	3.95% Enriched uranium	20,058	618	Routine reload fuel for Hamaoka Unit I	Japan.
Mitsui Int'L, June 7, 1982, June 16, 1982, XSNM01971.	2.65% Enriched uranium	26,195	695	Initial core for Takahama 3 (Region 2)	Do.

[FR Doc. 82-17565 Filed 6-28-82; 8:45 am]

BILLING CODE 7590-01-M

[50-454/455-OL]

Commonwealth Edison Co. (Byron, Units 1 and 2); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Commonwealth Edison Company (Byron, Units 1 & 2), Docket Nos. 50454/455-OL, is hereby reconsituted by appointing the following Administrative Law Judge to the Board: Morton B. Margulies. Mr. Marshall E. Miller was chairman of this Board, but, because of a schedule conflict, is unable to continue to serve.

As reconstituted, the Board is comprised of the following Administrative judges:

Morton B. Margulies, Chairman
Dr. A. Dixon Callihan
Dr. Richard F. Cole

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Law Judge Morton B. Margulies, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland this 18th day of June 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82-17560 Filed 6-28-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–461]

Illinois Power Co. et al. (Clinton Power Station, Unit 1); Order Extending Construction Completion Dates

Illinois Power Company on behalf of itself, and as agent for Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc., are holders of Construction Permit No. CPPR–137 issued by the Nuclear Regulatory Commission on February 24, 1976 for the Clinton Power Station Unit 1.

The Illinois Power Company stated that this extension was requested because construction has been delayed due to:

1. Impact of modifications resulting from the accident at the Three Mile Island Nuclear Power Station.
2. Additional design vertifications and controls imposed by stricter interpretation of standards, codes and regulations.
3. More extensive preoperational testing and startup requirements.
4. Construction delays caused by changes and increases in requirements resulting in material and equipment supplier problems.
5. Uncertainties and confusion resulting from licensing requirements, and their interpretation and implementation.

We have reviewed the information in Illinois Power Company's submittals and we conclude that factors one through four discussed above are reasonable and constitute good cause for delays. Thus, the requested extension of Construction Permit CPPR–137 to October 1, 1984 is justified.

This action involves no significant hazards considerations, good cause has been shown for the delay, and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation. The preparation of an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the Order, other than that which has already been predicted and described in the Commission's Final Environmental Statement—Construction Permit Stage (FES–CP) for the Clinton Power Station, (Units 1 and 2) published in October 1974 and the Draft Environmental Statement—OL issued in December 1981. A Negative Declaration and an Environmental Impact Appraisal have been prepared and are available, as is the FES for the construction permit, at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and at the local public document room established for the Clinton Power Station, at the Warner Vespasian Library, Clinton, Illinois.

It is hereby ordered that the latest completion date for CPPR–137 be extended to October 1, 1984.

Date of Issuance: June 7, 1982.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 82–17561 Filed 6–28–82; 8:45 am]

BILLING CODE 7590–01–M

[STN 50–482–OL]

Kansas Gas & Electric Co., et al. (Wolf Creek, Unit 1); Reconstitution of Board

Purusant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for *Kansas Gas & Electric Company, et al.*, (Wolf Creek, Unit 1), Docket No. STN 50–482–OL, is hereby reconsituted by appointing the following Administrative Judge to the Board: Dr. Hugh C. Paxton. Dr. J. Venn Leeds, former member of this Board, has resigned from the Panel.

As reconsituted, the Board is comprised of the following Administrative Judges:

James P. Gleason, Chairman
Dr. George C. Anderson
Dr. Hugh C. Paxton

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Hugh C. Paxton, 1229 41st Street, Los Alamos, New Mexico 87544.

Issued at Bethesda, Maryland, this 18th day of June, 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82–17562 Filed 6–28–82; 8:45 am]

BILLING CODE 7590–01–M

[50–367–CPA]

Northern Indiana Public Service Co. (Bailly, Unit 1); Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721 (1980), the Atomic Safety and Licensing Board for Northern Indiana Public Service Co. (Bailly, Unit 1), Docket No. 50–367–CPA, is hereby reconsituted by appointing the following Administrative Judge to the Board: Dr. Kenneth McCollom. Dr. J. Venn Leeds, former member of this Board, has resigned from the Panel.

As reconsituted, the Board is comprised of the following Administrative Judges:

Herbert Grossman, Chairman
Dr. Kenneth McCollom
Dr. Robert L. Holton

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Kenneth McCollom, 1107 West Knapp Street, Stillwater, Oklahoma 74074.

Issued at Bethesda, Maryland, this 18th day of June 1982.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 82–17563 Filed 6–28–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–482]

Kansas Gas & Electric Co., et al.; Availability of Final Environmental Statement For the Wolf Creek Generating Station, Unit No. 1

Notice is hereby given that the Final Environmental Statement (NUREG–0878) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Wolf Creek Generating Station, Unit 1, by Kansas Gas & Electric Company, Kansas City Power and Light Company and Kansas Electric Power Cooperative, Inc. The plant is located in Coffey County, Kansas, approximately 28 miles east-southeast of Emporia, Kansas.

The Final Environmental Statement (NUREG–0878) is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the William Allen White Library, Emporia State University, 1200 Commercial Street, Emporia, Kansas 66801. The Final Environmental Statement is also being made available at the State Clearinghouse, Division of the Budget, Room 152 E. Capitol Building, Topeka, Kansas 66612.

The notice of availability of the Draft Environmental Statement (DES) for the Wolf Creek Generating Station, Unit 1 and request for comments was published in the **Federal Register** on January 29, 1982 (47 FR 4370). The comments received from Federal, State and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG–0878) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5238 Port

Royal Road, Springfield, Virginia 22161, and from the Sales Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 21st day of June 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-17564 Filed 6-28-82; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-18824; File No. Amex-82-8]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Proposed Rule Change

Relating to Stock Index Options. Comments requested on or before July 29, 1982.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 25, 1982, the American Stock Exchange, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Item 1. Text of Proposed Rule Change

Section 11. Stock Index options

Applicability and Definitions

Rule 900C

(a) *Applicability*—The rules in this Section are applicable only to stock index options (as defined below). In addition, except to the extent that specific rules in this Section govern, or unless the context otherwise requires, the provisions of the Constitution and of all other rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of stock index options. Pursuant to the provisions of Article 1, Section 3(i) of the Constitution, stock index options are included within the definition of "security" or "securities" as such terms are used in the constitution and the Rules of the Exchange.

(b) *Definitions*—The following terms as used in the Rules in this Section shall, unless the context otherwise indicates, have the meanings herein specified:

(1) Stock Index Group—The term "stock index group" means a group of stocks each of whose inclusion and relative representation in the group is determined by the inclusion and relative representation of their current market value in a widely disseminated stock index. Such stock indexes may reflect representative stock market values of a broad segment of the stock market or of specific categories of stocks.

(2) Stock Index Option (Contract)—the term "stock index option" means an option contract on a specific stock index group.

(3) Numerical Index Value—The term "numerical index value" means the level of a particular stock index, or any specified mulitiple or divisor thereof, as derived from the current market prices of the stocks in the underlying stock group.

(4) Current Index Group Value—The term "current index group value" means the numerical index value of a stock index group multiplied by $1.00.

(5) Market Closing Index Group Value—The term "market closing index group value" means the current index group value calculated at the close of business on the day of exercise or, if the day of exercise is not a trading day, on the last trading day before exercise.

(6) Index Multiplier—The term "index multiplier" means the number specified in a stock index option contract by which the market closing index group value is to be multiplied to arrive at the value required to be delivered to the holder of a call or by the holder of a put upon valid excercise of the contract.

(7) Exercise Price—The term "exercise price" as used with reference to a stock index option contract means the specified index group value at which the market closing index group value may be purchased (in the case of a call) or sold (in the case of a put) upon the exercise of such option contract.

(8) Aggregate Exercise Price—The term "aggregate exercise price" as used with reference to a stock index option contract means the exercise price of the option contract times the index multiplier.

(9) Call—The term "call" means a stock index option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Options Clearing Corporation the multiple of the market closing index group value of the underlying stock index group covered by the option contract.

(10) Put—The term "put" means a stock index contract under which the holder of the option has the right, in accordance with the terms of the option, to sell to the Options Clearing Corporation the multiple of the market closing index group value of the underlying stock index group covered by the option contract.

(11) Class of Options—The term "class of options" means all option contracts of the same type of option covering the same underlying stock index group.

(12) Covered—(i) The term "covered" in respect of a short position in a call stock index option contract means that the writer's obligation is secured by a "specific deposit" or an "escrow deposit" meeting the conditions of Rule 610(f) or 610(h), respectively, of the rules of the Options Clearing Corporation or the writer holds in the same account as the short position, on the basis of market value ("covering" underlying stock) [1] or of the index multiplier (covering option contracts) a long position either in the underlying stock index group or in an option contract of the same class of options having an exercise price equal to or less than the exercise price of the option contract in such short position.

(ii) The term "covered" in respect of a short position in a put stock index option contract means that the writer holds in the same account as the short position on the basis of the index multiplier a long position in an option contract of the same class of options having an exercise price equal to or greater than the exercise price of the option contract in such short position.

(13) Underlying Stock Index Group—The term "underlying stock index group" as used with reference to a stock index option contract means the stock index group, a multiple of the market closing index group value of which the Options Clearing Corporation is obligated to sell (in the case of a call) or purchase (in the case of a put) upon valid exercise of the contract.

(14) Underlying Stock—The term "underlying stock" means any of the stocks included in an underlying stock index group.

Rule 901 C. Designation of Stock Index Options

(a) The Exchange may from time to time approve for listing and trading on the Exchange put option contracts and call option contracts in respect of underlying stock index groups comprised of 10 or more underlying stocks; provided that if stocks traded on the Exchange constitute 10% or more of the total market value of all of the underlying stocks included in a stock index group such group must consist of

[1] Definition to be supplied by Amendment.

not less than 50 underlying stocks; and provided further that if the stock index group shall consist of less than 25 underlying stocks, each of such underlying stocks must meet the criteria and guidelines set forth in Rule 915 and none of such underlying stocks may be stocks which are traded on the Exchange.

(b) Only stock index option contracts of a series of options approved by the Exchange and currently open for trading on the Exchange may be purchased or sold (written) on the Exchange. All such option contracts shall be designated as to the underlying stock index group to which the option contract relates, the type of option, the expiration month, the exercise price, the year of expiration of any option series having more than one year remaining to expiration and the multiple or divisor, if any, to be applied to the stock index to arrive at the numerical index value of the stock index group.

Commentary

.01 Initially, the Exchange has approved for trading options on stock index groups based on the Amex Market Value Index, the and the .

Rule 902 C. Terms of Stock Index Option Contract

Subject to the provisions of Rules 907 and 909, the rights and obligations of holders and writers of stock index option contracts dealt in on the Exchange shall be as set forth in the rules of the Options Clearing Corporation.

Rule 903 C. Series of Stock Index Options

Prior to opening of trading in any series of stock index options the Exchange shall fix the expiration month and exercise price of option contracts included in each such series in accordance with the provisions of Rule 903, except that the Exchange may at the commencement of trading of a particular class of stock index options open series of options therein having six different expiration months with successive three month intervals. The exercise price of each series of stock index options opened for trading on the Exchange shall be an integer which is reasonably close to the numerical index value of the underlying stock index group to which such options relate at or about the time such series of options is first opened for trading on the Exchange. Additional series of the same class of options may be opened for trading on the Exchange as the numerical index value of the underlying stock index group moves substantially from the initial exercise price or prices. The opening of a new series of stock index options on the Exchange shall not affect any other series of options of the same class previously opened.

Rule 904 C. Position Limits

(a) Position limits relating to stock index options shall be governed by the provisions of Rule 904 except that the position limit applicable to each account with respect to each stock index group shall be 40,000 contracts.

(b) In determining compliance with position limits applicable to stock index options, option contracts on a stock index group shall not be aggregated with option contracts on an underlying stock or stocks included in such group, and option contracts on one stock index group shall not be aggregated with option contracts on any other stock index group.

Rule 905 C. Exercise limits

The limitations on the exercise of options set forth in Rule 905 shall not be applicable to stock index options.

Rule 906 C. Reporting of Options Positions

Positions in stock index options shall be reported pursuant to Rule 906 except that the minimum position in an account which must be reported shall be 500 or more stock index option contracts. In computing reportable options positions and in reporting options positions under Rule 906, option contracts on a stock index group shall not be aggregated with option contracts on an underlying stock or stocks included in such group and option contracts on one stock index group shall not be aggregated with option contracts on any other stock index group.

Rule 909 C. Other Restrictions on Option Transactions

Restrictions pursuant to Rule 909 on the writing of uncovered calls at a "discount" on an underlying security subject to a stabilizing bid by underwriters shall normally not be applicable to stock index options.

Rule 916 C. Withdrawal of Approval

Whenever the Exchange determines that an underlying stock index group previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange shall not open for trading any additional series of the class covering that underlying stock index group and may thereafter prohibit any opening purchase transactions in series of options of that class previously opened to the extent it shall deem such action necessary or appropriate. The fact that one or more underlying stocks included in a stock index group approved for Exchange option transactions shall subsequently be deleted from such stock index group, or shall fail to meet the guidelines set forth in Rule 916 for continued approval by the Exchange as an underlying security, will not in itself result in the withdrawal of approval of such stock index group for Exchange option transactions.

Rule 918 C. Trading Rotations

The opening trading rotation for each class of stock index options shall not be commenced until the current numerical index value of the underlying stock index group derived from the current market prices of the underlying stocks in such group is being disseminated in a normal manner. Trading on the Exchange in options on a stock index group shall be halted or suspended whenever the Exchange deems such action appropriate in the interests of a fair and orderly market and to protect investors. Among the factors that may be considered are that:

(1) all trading has been halted or suspended in the market which is the primary market for the plurality of the underlying stocks included in such stock index group, or

(2) the current calculation of the numerical index value derived from the current market prices of the underlying stocks in such stock index group is not available, or

(3) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Trading in any class or series of stock index options that has been the subject of a halt or suspension by the Exchange may be resumed upon a determination by the Exchange that the conditions which led to the halt or suspension are no longer present and that the interests of a fair and orderly market are best served by a resumption of trading.

Rule 951 C. Premium Bids and Offers

Bids and offers for stock index options shall be expressed in terms of a percent (with fractions of a percent expressed (A) in the case of a premium of less than $300, in six-tenths, and (B) in the case of a premium equal to or greater than $300, in eighths) of the premium. (*E.g.*, a bid of 5⅜ shall represent a bid to pay a premium of $512.50 for a stock index option contract with an index multiplier of 100).

Rule 980 C. Exercise of Stock Index Options

Upon the exercise of a stock index option the market closing index group value shall be established as of the close of business on the day on which the exercise notice is delivered to the Options Clearing Corporation provided that, except on the last business day of trading in any series prior to expiration, the exercise notice is actually received by the Options Clearing Corporation at or prior to 4:00 P.M., E.S.T. (3:00 P.M., C.S.T.). Exercise notices received after such time will be treated as having been received the following day. Except as above provided, the exercise of stock index options shall be governed by the provisions of Rule 980 and the applicable rules of the Options Clearing Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Item 3. Self-Regulatory Organizations' Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The rules proposed in this filing are designed to accommodate trading on the Amex of stock index options. These stock index options will have as their underlying securities, groups of stocks whose inclusion and relative representation in the underlying groups are determined by the relative weighting of their prices within a widely disseminated stock index. Initially, the Amex expects to authorize the trading of stock index options based on the Amex Market Value Index and on sub-indices related to particular industry segments of Amex traded stocks. In addition, the Amex expects to list stock index options on an index or indices constituted in accordance with a broad-based group of stocks other than those traded on the Amex and on sub-indices related to particular industry segments of those stocks.

Because of the practical difficulties inherent in fractional share delivery strictly in accordance with the relative weighting of each stock within the governing index, the proposed rules change [1] provides that a stock index option obligates the writer (in the case of a call) or the holder (in the case of a put) to sell to the Options Clearing Corporation the designated multiple (index multiplier) for the specific stock index option times the current index group value. That value is $1.00 multiplied by the current level of the governing index (or any specified multiple or divisor thereof—see definition of "numerical index value"). For example, a call option based on the Amex Market Value Index utilizing a multiple of 100 would entitle the holder, upon exercise of the option at a time when the Amex Index is 300, to "delivery" of $30,000 upon payment of the aggregate exercise price. It is also the Amex's expectation that the assignment of an exercise notice in, for example, a call option will result merely in the payment by the obligated party of the difference between the current index group value and the aggregate exercise price.

The Amex believes that stock index options will offer investors an enhanced ability to hedge against the risks of general market price movements as compared with individual stock price fluctuations and will provide a new and valuable tool for portfolio management. The availability of stock index options will permit investors with individual stock positions to protect themselves from the effects of a short-term downswing in the broad market by, for example, purchasing puts or writing call options on a stock index. Should a downswing then materialize, negatively affecting the investor's individual stock holdings, the proceeds from the sale of the call options or the gain from the put should, at least in part, offset that short-term loss. Diversified portfolios can be insulated from short-term market declines in a similar manner.

Stock index options are designed to mirror general market price movements. Options on indivdual stocks cannot equal the breadth of coverage provided by stock index options or approach the stock index option's symbiotic relationship to broad market movements. Therefore, the Amex believes that stock index options will provide to all investors, regardless of type of portfolio, a vastly expanded opportunity for diversity and an increased ability to accurately structure their holdings in a manner either designed to reflect broad market movements or to insulate their holdings against short term market swings.

The purposes of the specific rules designed to permit the listing and trading of index stock options are set forth below:

Rule 900 C. This rule sets forth the definitions necessary to supplement existing Amex rules so as to provide for the establishment, pricing, trading and settlement of index stock options.

"Stock Index Group" is defined to mean groups of stocks whose inclusion and relative representation in the group are based upon their inclusion and weighting in the governing stock index.

"Stock Index Option (Contract)" is defined to mean an option contract on a stock index group.

"Numerical Index Value" is defined as the level of the particular stock index as derived from the current market prices of the underlying stocks making up the index. Provision is also made in this definition for use of a multiple or divisor of a particular index. For example, if a particular index is structured so that its current level is approximately 1,000, the resulting contract may be too large to be attractive to most investors; therefore the Exchange may trade an option contract having a numerical index value one tenth the size of the index.

"Current Index Group Value" is defined as the product of $1.00 times the numerical index value and "Market Closing Index Group Value" means the value of the index (as adjusted by any multiplier or divisor to arrive at the numerical index value) calculated at the close of business on the day of exercise of a particular stock index option.

"Index Multiplier" is the amount specified in the contract by which the market closing index group value is to be multiplied to determine the required dollar value to be delivered upon valid exercise of the contract. It is anticipated that the "multiplier" will normally be 100. Only in the event of some major restructuring of the index would it be necessary to change the "multiplier".

"Class" is defined as options of the same type on the same underlying stock index group. This definition makes clear that options on a stock index group are not to be confused with options on any one of the underlying securities comprising the group.

Because the holder of a portfolio seeking protection against the risk of market- or sector-wide price movements cannot reasonably be expected to hold in his portfolio every stock represented

[1] This rules change must be read together with rules changes to be submitted by the Options Clearing Corporation in order to determine the obligations and rights of writers and purchasers of stock index options.

in an index and in exactly the same ratio as that used for computing the index, it is impractical to create the one-to-one correspondence between a long position in an underlying stock group and a short position in a call option thereon, which is one of the principal ways of "covered" writing in stock options. Accordingly, the Amex proposes that a representative sub-group of the stocks included in a stock index group constitute "covering" stocks so long as the sub-group stocks meet certain criteria such as (1) the sub-group's aggregate market value relative to the current index group value, (2) the eligibility of the underlying stocks for "covering" purposes, (3) the minimum number of stocks in a "covering" sub-group and (4) their relative representation in the "covering" sub-group. Since the question of what constitutes appropriate "covering" of stock index options is inextricably tied to margin requirements, and since both of these matters require further discusion with the Federal Reserve Board as well as the Commission, the Exchange has not attempted to define in this filing the details for covering short option positions through holdings of a representative group of underlying securities make up the stock index group. It plans to supply these details as well as margin requirements in an amendment to this filing.

Rule 901 C. As indicated above, the Amex plans to authorize options trading on both broad based stock indices and more narrowly focused indices. It also anticipates that some of such indices my be based either in part or entirely on stocks that are traded on the Amex and for which the Amex is the primary market. To avoid the structural problems identified by the Commission in its *Special Study of the Options Markets* such as possible manipulation and "side by side trading," the Exchange proposes not to trade options on any stock index comprised of less than 50 stocks if a substantial portion of such stocks (10% or more of total market value of all stocks included in the index) are traded on the Exchange. Moreover, if the index is based on a group of less than 25 stocks, none of such stocks could be stocks with respect to which the Amex is the primary market and at the time of approving the index for options trading each of the underlying stocks would be expected to measure up to the criteria and guidelines established by the Exchange for the trading of individual stock options.

Rule 903 C. The fixing of exercise prices and expiration months for stock index options is expected to follow very closely the procedures applicable to stock options, except that the Exchange plans to have series with six different expiration months spaced at three month intervals. Thus a new series of stock index options opened immediately after an expiration date will have a life of approximately 18 months. It is anticipated that exercise prices for stock index options would usually be established at five point intervals in relation to the current index group value but may be established at other intervals depending on the index volatility of the particular group.

Rule 904 C and 905 C. The Amex believes that the usual justification for position and exercise limits does not apply to stock index options settled by cash delivery since, amount other reasons, the deliverable "supply" is not limited to the amount of underlying stocks, thus precluding the possibility of a large position or a large number of exercises having an impact on the market prices of the underlying stocks or resulting in a "corner." Nevertheless, the Amex proposes to set a 40,000 contract limit for stock index groups of 50 or more stocks. It will be amendment to this filing establish appropriate lesser contract limits for stock index groups which include fewer than 50 stocks when it determines exactly what underlying stock index groups it is prepared to approve for Exchange options transactions. These rules also preclude aggregation of positions involving options on a stock index group with those involving options on component securities of such group or of any other group. Because stock index groups will be comprised at a minimum of 10 underlying stocks (or at least 50 underlying stocks if a significant number thereof are traded on the Amex), positions or exercises involving options on an index stock group would not appear susceptible to manipulative activity. Therefore, it is unlikely that the establishing of positions or the exercise of stock index options will exert undue pressure or cause disruption in the market for the underlying stocks. The same rationale has been applied in determining not to aggregate such options positions for purposes of reporting requirements in proposed Rule 906 C.

Rule 909 C. This rule makes clear that Rule 909 restictions on the writing of uncovered calls at a discount on an underlying stock subject to a stabilizing bid by underwriters shall normally not be applied to index stock options.

Rule 916 C. Whenever the Exchange determines that an underlying stock index group which has previously been approved for Exchange option transactions does not meet its current requirements for continuance of such approval, the Exchange will not open any additional series of the class covering that underlying stock index group and may thereafter prohibit any opening purchase transactions in series of that class previously opened. However, because of the nature of stock index groups, it would not be appropriate to withdraw approval of the group merely because a particular underlying stock is deleted from the group (or in the case of narrow based stock index groups, one or more of the underlying stocks ceases to meet the guidelines applicable to underlying securities for individual stock options). Specific underlying stocks may be deleted from or added to a stock index group for a variety of reasons, such as mergers, liquidations or because the particular stock is no longer representative of the industry which the stock index purports to measure. In most instances, the deletion of a particular underlying stock or the adding of a particular underlying stock to a stock index group would not significantly affect the level of the index.

Rule 918 C. Because current index group values will be based on current market prices of the underlying stocks in a stock group index and will be the basis on which investors will determine the premiums they are prepared to pay or receive, it would be inappropriate in most instances for trading in an index stock option to proceed when the stock index itself is not being currently computed and diseminated or when trading in a substantial number of the underlying stocks comprising a particular stock index group has been halted or suspended. Therefore, provision is made in this rule to halt trading in the stock index option when these conditions exist or when other unusual conditions or circumstances make it difficult to maintain a fair and orderly market in the stock index option. The Exchange reserves the authority to resume trading whenever the conditions which led to the halt or suspension are no longer present or when it determines that the interests of a fair and orderly market are best served by the resumption of trading.

Rule 951 C. Bids and offers for stock index options will be expressed in much the same fashion as bids and offers for stock options, with the specific bid or offer being multiplied by 100 (the index multiplier) in order to arrive at the total premium.

Rule 980 C. The Exchange proposes that exercises of stock index options

prior to the expiration date must be accomplished by the delivery or an exercise notice to the Options Clearing Corporation prior to the close of busiess on any given trading day in order for the exercise value of that option to be based on the market closing index group value computed on that date. Otherwise, it is felt that holders of options would have an advantage over writers when the particular stock index option is "in the money" because a holder could exercise after the close of trading knowing exactly the amount which he is to receive whereas a writer will not know that his position has been assigned an exercise notice until at least sometime the following day and in the meantime can take no steps to protect against the potential fluctuations in the current index group value. The requirement that exercise notices be received by the Options Clearing Corporation prior to the close of trading is aimed at equalizing the market risks of purchasers and writers.

Statutory Basis. The proposed rule change is consistent with the provisions of sections 6(b)(1) and 6(b)(5) of the Securities Exchange Act of 1934 ("Act") in that it would provide a regulatory framework for the trading of standardized stock index options on the Exchange in accordance with the requirements of the Act and the various regulations promulgated thereunder. Read together with the Exchange's existing rules regulating the trading of securities on its trading floor, including stock options, the proposed rule changes would give the Exchange the capacity to carry out the purposes of the Act, to comply and to enforce compliance by its members (and persons associated with its members) with the provisions of the Act and the rules and regulations thereunder and to similarly enforce compliance with its own rules, insofar as they may relate to the trading of stock index options.

In particular the rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and to protect investors in connection with the trading of stock index options. The stock index options covered by the rule change will be issued by and cleared and settled through the Options Clearing Corporation in accordance with established procedures for the clearance and settlement of stock options. The rule change contemplates that all of the safeguards and protections afforded investors in opening accounts, recommending transactions, providing disclosure and monitoring of trading presently applicable to stock options will also be applicable to stock index options. The Exchange believes by providing investors with increased flexibility in managing their portfolios and hedging against market risks the proposed rule change will advance the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or apropriate in furtherance of the purposes of the Act. On the contrary, the Exchange believes that a regulated market for standardized stock index options will contribute significantly to the needs of individual investors as well as portfolio managers in hedging risks. The restrictions and requirements imposed in connection with stock index options are believed to be only those that are necessary to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and to protect investors, all as required pursuant to the Act. The development of a stock index option market with these protections will enhance competition in the securities area.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Other

Comments on the proposed rule change were neither solicited nor received. However, the rule change was developed under the guidance of a committee composed primarily of members and chaired by one of the Exchange's Public Governors.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before August 3, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 30 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 21, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17460 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18827; SR-Amex-81-15]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

June 21, 1982.

The American Stock Exchange, Inc., ("Amex"), 86 Trinity Place, New York N.Y. 10006, submitted on August 11, 1981, and amended on August 27, 1981, and June 18, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend Amex Rule 30. The proposed rule, regarding periodic reporting requirements for members, would provide for the imposition of a fee for certain reporting violations (i.e., the late filing of reports specified by the exchange).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18058, August 24, 1981) and by publication in the Federal Register (46

FR 43536, August 28, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of sections 6 (b) and (d) and the rules and regulations thereunder in that it is designed to provide a fair procedure for the disciplining of members and persons associated with members.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-17558 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 23, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Imperial Oil Limited
Class A Capital Stock, No Par Value (File No. 7-6241)

This security is registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 15, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Security and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17553 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12499; 812-5122]

ML Venture Partners I, L. P. and Merrill Lynch Venture Capital Inc.; Filing of Application

June 21, 1982.

Notice is hereby given that ML Venture Partners I, L.P. (the "Partnership") and Merrill Lynch Venture Capital Inc. (the "Management Company") (together the "Applicants"), 165 Broadway, New York, New York 10080, filed an application on February 25, 1982 and amendments thereto on June 7 and June 16, 1982 for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") declaring that the Independent General Partners of the Partnership are not "interested persons" of the Partnership as defined in section 2(a)(19) of the Act solely by reason of their being general partners thereof and pursuant to section 57(c) of the Act exempting the proposed acquisition of certain initial venture capital investments by the Partnership from the Management Company from the provisions of section 57(a) of the Act on the terms and conditions set forth in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicants state that the Partnership is a newly formed business development company organized as a Delaware limited partnership on February 16, 1982 pursuant to a Certificate and Agreement of Limited Partnership dated February 12, 1982 (the "Partnership Agreement"). The investment objective of the Partnership is to seek long-term capital appreciation by making venture capital investments. The Partnership has filed a registration statement under the Securities Act of 1933 ("Registration Statement") with respect to a proposed public offering of up to 12,000 units of Limited Partnership Interest ("Units"). The proceeds of the offering will be invested in 25 to 50 venture capital investments over a period of up to three to four years. Each of these investments will be liquidated once it reaches a state of maturity when disposition can be considered, which typically will be four to seven years from the date of investment. The proceeds of liquidation will not be reinvested except in limited circumstances but will be distributed to the Partners. Since the Partnership will terminate not later than December 31, 1996, the Partnership will be an investment vehicle of limited duration which will have definite stages of development.

The Applicants state that Merrill Lynch Venture Capital Co., L.P., is the Managing General Partner of the Partnership and will be responsible for its venture capital investments. The Managing General Partner is a partnership controlled by the Management Company, which will perform the management and administrative services necessary for the operation of the Partnership pursuant to a Management Agreement. The Managing General Partner and the Management Company will be registered investment advisers under the Investment Advisers Act of 1940. The Management Company is an indirect subsidiary of Merrill Lynch & Co., Inc., the parent of Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), which will be the selling agent for the Units on a "best efforts" basis.

The Applicants state that the Partnership has elected to be a business development company pursuant to the provisions of section 54(a) of the Act, as amended by the Small Business Investment Incentive Act of 1980. As a business development company, the Partnership is subject to sections 55 through 65 of the Act and to those sections of the Act made applicable to business development companies by section 59 thereof.

The Applicants state that the General Partners of the Partnership will consist of Independent General Partners (defined to be individuals who are not "interested persons" of the Partnership within the meaning of the Act), one individual affiliated with the Managing General Partner (collectively, the "Individual General Partners") and the Managing General Partner. According to the application, the Partnership will be managed solely by the Individual General Partners, except that the Managing General Partner, subject to the guidance and supervision of the Independent General Partners, is responsible for the management of the Partnership's venture capital investments and the admission of additional or assignee Limited Partners to the Partnership. Applicants represent that the Partnership Agreement will be amended to provide that only individuals may serve as Individual General Partners and that all functions

which are performed by directors of corporations will be performed solely by the Individual General Partners. Applicants further state that the Independent General Partners will provide overall guidance and supervision with respect to the operations of the Partnership and will perform all duties imposed on the directors of business development companies by the Investment Company Act and will monitor the activities of companies in which the Partnership has invested. The Managing General Partner will be excluded from participation in the management of the Partnership, except for certain specific responsibilities described in the Partnership Agreement.

Applicants state that the Partnership Agreement provides that the General Partners will be elected at the annual meetings of the Limited Partners and will serve for annual terms. The General Partners will from time to time recommend to the Limited Partners the number of persons to be elected as Independent General Partners. Applicants further state, however, that if at any time the number of Independent General Partners is reduced to fewer than three, the remaining General Partners will, within 60 days, designate one or more successor Independent General Partners so as to restore the number of Independent General Partners to at least three.

The Partnership Agreement further provides that the Independent Geneard Partners may be removed either (i) for cause by the action of two-thirds of the remaining Independent General Partners or (ii) by failure to be re-elected by the Limited Partners. The Partnership Agreement provides that the Managing General Partner may be removed either (i) by a vote of a majority of the Independent General Partners or (ii) by failure to be re-elected by the Limited Partners. Applicants also underatake that the Managing General Partner will not resign or withdraw from the Partnership unless a successor managing General Partner has been appointed and consented to by the Limited Partners in compliance with the Partnership Agreement. As set forth in the Partnership Agreement, the managing General Partner may voluntarily resign or withdraw from the Partnership only upon compliance with certain specified procedures. These procedures are summarized as follows: (i) the Managing General Partner must, at least 60 days prior to such withdrawal, give notification to all Partners that it proposes to withdraw and that there be substituted in its place a person designated and described in such notification; (ii) the proposed managing General Partner must represent that it is experienced in performing fucntions that the Managing General Partner is required to perform under the Partnership Agreement; that it has the net worth required under the Partnerhsip Agreement and that it is willing to become the Managing General Partners under the Partnership Agreement and will assume all duties and responsibilities thereunder, without receiving any compensation for services from the Partnership in excess of that payable under the Partnership Agreement to the withdrawing Managing General Partner and without receiving any participation in the withdrawing Managing General Partner's interest other than that agreed upon by the Managing General Partner and the successor managing General Partner; (iii) there must be on file at the principal office of the Partnership audited financial statements of the proposed successor managing General Partner, certified by a nationally or regionally recognized firm of independent certified public accountants; (iv) a majority in interest of the Limited Partners must consent to the appointment of any successor managing General Partner; and (v) the withdrawing managing General Partner must cooperate fully with the successor Managing General Partner.

Applicants state that the Limited Partners have no right to control or otherwise participate in the management of the Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including voting rights, and the giving of consents and approvals provided for in the Partnership Agreement. The Partnerhsip Agreement authorizes Limited Partners to vote on certain matters including the election or removal of General Partners, approval or termination of management arrangements, ratification or rejection of the appointment of the independent public accountants of the Partnership, approval of the sale of all or substantially all the assets of the Partnership, and amendments of the Partnership Agreement, other than amendments to admit additional or substituted Limited Partners or to return or reduce the amount of capital contributions of the Limited and General Partners. Applicants further state that the exercise of such voting rights by the Limited Partners is subject to prior receipt of an opinion of counsel to the effect that the exercise of such rights will not adversely affect the status of the Limited Partners as limited partners of the Partnership. However, Applicants state in the registration Statement, which they incorporate by reference, that because of uncertainty under present law as to whether the exercise of such rights under certain circumstances could cause the Limited Partners to be deemed general partners of the Partnership under applicable state laws with a resulting loss of limited liability, the General Partners will take all action which may be necessary or appropriate for the continuation of the Partnership's existence as a limited partnership under the laws of the State of Delaware and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Limited Partners or to enable the Partnership to conduct the business in which it is engaged. Moreover, Applicants state, the General Partners will use their best efforts in the conduct of the Partnership's business to put all persons with whom the Partnership does business or in whom the Partnership invests on notice that the Limited Partners are not liable for Partnership obligations, and all agreements to which the Partnership is a party shall include a statement to the effect that the Partnership is a limited partnership organized under the Partnership Act.

According to the application, the Partnership does not presently have an insurance policy that would provide coverage to persons who become Limited Partners in the Partnership (errors and omissions insurance). Applicants state there are several reasons for this, including the following. The Partnership has been advised by its Delaware counsel that Units in the Partnership will constitute valid limited partnership interests in the Partnership and that subscribers to the Units will be Limited Partners of the Partnership entitled to all of the benefits of Limited Partners of the Partnership entitled to all of the benefits of Limited Partners under the Partnership Agreement and the Limited Partnership Act of the State of Delaware. Second, based upon the nature of the business to be conducted by the Partnership, the Partnership submits that the risk of liability for actions against the Limited Partners, including actions based upon contact or tort claims, is remote. Third, the Partnership Agreement obligates the General Partners of the Partnership to take all action which may be necessary or appropriate to protect the limited liability of the Limited Partners. Applicants assert that the Partnership, as a business development company, is to be distinguished from a registered

investment company since the legislative history relating to the 1980 amendments to the Act indicates that it was contemplated that business development companies may be organized as limited partnerships.

Applicants state that Management of the Partnership has considered the possiblitiy of obtaining errors and omissions insurance. They further state that in light of the view of the staff of the Commission that generous insurance coverage is appropriate because of the special problems of using the limited partnership form for registered investment companies, the Partnership undertakes that it will periodically review the question of the appropriateness of obtaining an erros and omissions insurance policy for the Partnership.

Section 2(a)(19) of the Act provides, in pertinent part, that an "interested person" of another person when used with respect to an investment company includes an "affiliated person" of such investment company and any "interested person" of any investment adviser of or principal underwriter for such investment company. Section 2(a)(3)(D) of the Investment Company Act provides, in pertinent part, that an "affiliated person" of another person means any officer, director, partner, co-partner or employee of such other person. Section 2(a)(19) excludes from the definition of "interested person" of an investment company those individuals who would be interested persons solely because they are directors of an investment company. There is not equivalent exception for partners.

Applicants state that the Independent General Partners, therefore, are "interested persons" of the Partnership by virtue of being partners of the Partnership, which makes them "affiliated persons" of the Partnership. The Independent General Partners would also be "interested persons" of the Partnership by virtue of being "interested persons" of an investment adviser and principal underwriter to the Partnership. Applicants further state the Independent General Partners are "affiliated persons" of the Managing General Partner by virtue of being "co-partners" with the Managing General Partner, which could be construed to be an investment adviser of the Partnership. Furthermore, Applicants state, the Managing General Partner is under "common control" with the Management Company, an investment adviser of the Partnership, and with Merrill Lynch, the principal underwriter with respect to the sale of the Units, which makes the Managing General Partner an affiliated person of the Management Company and Merrill Lynch. While section 2(a)(19)(A)(iii) of the Act specifically refers to an affiliated person of an investment adviser, Applicants state that they believe it could be alleged that the Managing General Partner and the Management Company are in essence the same person.

To resolve this problem, ensure compliance with section 56(a) of the Act, which requires that a majority of a business development company's directors or general partners not be interested persons of such company, and enable the Independent General Partners to assume the responsibilities imposed upon the directors who are not interested persons within the scheme of regulation imposed upon a business development company by the Act, the Applicants request that the Partnership and its Independent General Partners be exempted from the provisions of section 2(a)(19) of the Act to the extent that the Independent General Partners would otherwise be deemed to be interested persons of the Partnership, the Managing General Partners, the Management Company or Merrill Lynch solely because such Independent General Partners are General Partners of the Partnership and co-partners with the Managing General Partner. Applicants state that the Partnership has been structured so that the Independent General Partners are the functional equivalents of the non-interested directors of an incorporated investment company. Section 2(a)(19) excludes from the definition of interested persons of an investment company those individuals who would be interested persons solely because they are directors of an investment company. Applicants submit that it is consistent with the purposes fairly intended by the policy and provisions of the Act to grant the requested exemption from the provisions of section 2(a)(19).

Applicants state it is contemplated that it will take a period of up to two to three months from the date of the filing of the amended application before the public offering of the Units is consumated and the Partnership receives the proceeds from the sale of such Units. Applicants state that they believe that during this period it is expected that several venture capital investment opportunities suitable for investment by the Partnership within the investment objectives and policies stated in the prospectus will come to the attention of the Managing General Partner. Applicants state that the Partnership will not have the funds to make such investments during this period, and such investment opportunities could be lost to the Partnership if not then acquired. Applicants propose that in such event the Management Company will acquire such venture capital investments, structured as if the Managing General Partner were negotiating for the Partnership to make the acquisition directly.

Applicants represent that any such initial investments will be acquired in arm's-length transactions and will not involve any entity which is an affiliated person (within the meaning of section 2(a)(3) of the Act) of the Management Company or any affiliated person thereof. Applicants state that the Management Company will hold such investments on behalf of the Partnership until the sale of the Units takes place, at which time the Partnership will acquire such investments from the Management Company at the lesser of cost or market value at the time of the acquisition. Applicants further state that if any of such investments are acquired by the Partnership, they will be acquired within 90 days after the closing of the Partnership's public offering. According to the application, the Partnership will not be obligated to acquire such investments if the acquisition of the investments is not approved by the Independent General Partners or if the public offering is not consummated. Applicants state that if the acquisition of the investments is approved by the Independent General Partners, the Management Company must transfer each investment so acquired in its entirety to the Partnership upon the sale of the Units. Applicants represent that each such investment and the cost thereof will be disclosed in the prospectus.

Section 57(a) of the Act provides, in pertinent part, that it shall be unlawful for any investment adviser to a business development company knowingly to sell any security to such business development company without an order of the Commission pursuant to section 57(c). Section 57(c) of the Act states that the Commission shall issue such order if evidence establishes that (1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the business development company or its shareholders or partners on the part of any person concerned; (2) the proposed transaction is consistent with the policy of the business development company

as recited in the filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and (3) the proposed transaction is consistent with the general purposes of the Act.

Applicants submit that the statutory standards of section 57(c) are satisfied and, accordingly, Applicants request that an exemptive order be issued to permit the Partnership to make purchases from the Management Company upon the conditions described in the application.

Notice is further given that any interested person may, not later than July 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17551 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12498; 812–5023]

Mutual Life Insurance Co. of New York and Mony Variable Account-B; Filing of Application

June 21, 1982.

Notice is hereby given that The Mutual Life Insurance Company of New York ("MONY"), a mutual life insurance company organized under the law of New York, and The MONY Variable Account-B ("VA-B"), 1740 Broadway, New York, NY 10019, a separate investment account of MONY ("Applicants"), filed an application on April 1, 1982 and an amendment thereto on June 17, 1982 for an order of the Commission exempting MONY and VA-B from the provisions of section 22(d) of the Investment Company Act of 1940 (the "Act") to the extent necessary to permit the transactions described in the application and amendment. All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

Applicants state that (i) VA-B was established for the purpose of providing an investment medium, during the accumulation period, for certain variable accumlation (fixed payout) annuity contracts to be issued by MONY and VA-B ("VA-B Contracts"); (ii) VA-B Contracts are to be offered to plans qualified under Section 403(b) of the Internal Revenue Code; (iii) VA-B is registered under the Act as an open-end diversified management investment company; and (iv) MONY also isues to 403(b) plans certain fixed-dollar deposit administration group annuity contracts ("Fixed Dollar Contracts").

Section 22(d)

Section 22(d) of the Act provides, in relevant part, that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a current public offering price described in the prospectus.

Applicants request an exemption from the provisions of section 22(d) of the Act to the extent necessary to permit the elimination of unnecessary or duplicative charges for sales and administrative expenses with respect to a payment made on behalf of an individual employee participant pursuant to a companion VA-B Contract, when the payment represents a transfer by such participant of all (or a designated portion) of the accumulated funds to his account under a Fixed Dollar Contract, but only to the extent of accumulated funds representing plan contributions received by MONY under the Fixed Dollar Contract during the period from October 1, 1981 through June 30, 1982 and interest credited thereon. According to Applicants, participants choosing to make such an election must do so within four months after the issuance of the exemptive order requested in the application.

MONY and VA-B submit that: (i) No additional sales expense and negligible administrative expenses will be incurred by MONY on the transferred sums; (ii) additional sales and administrative charges imposed on the transfer to VA-B would be duplicative and unnecessary; and (iii) permitting such no-load transfers gives participants flexibility in selecting the investment media they may desire for a portion of their retirement funds. Applicants further submit that the proposal to limit the no-load transfer right to accumulated funds representing plan contributions received by MONY under the Fixed Dollar Contract during the period from October 1, 1981, through June 30, 1982, is reasonable because a broader no-load transfer right would give an unfair preference to the transferring participants under the Fixed Dollar Contract over other MONY contracts and might unfairly penalize other MONY contractholders by producing some principal losses for the general account. Applicants hence submit that the requested exemption is cost justified and will not arbitrarily or unfairly discriminate against purchasers participating in VA-B. And, since a secondary market in variable annuity contracts is not possible, Applicants assert that the requested exemption presents no danger of disrupting the orderly pattern of mutual fund distribution which Section 22(d) seeks to preserve.

Section 6(c)

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested party may, not later than July 16, 1982 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of

such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application will be issued as of course following July 16, 1982 unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17554 Filed 6–28–82; 8:45 am]

BILLING CODE 8010–01–M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 23, 1982.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

The Seagram Company Ltd.
Common Stock, No Par Value (File No. 7–6250)
Parker Drilling Company
Common Stock, $.16⅔ Par Value (File No. 7–6251)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 15, 1982 written data, views, and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17552 Filed 6–28–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18784; File No. SR–NASD–82–7]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

In the matter of proposed rule regarding crossed markets; comments requested on or before July 20, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 21, 1982, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change requires a market maker to make reasonable efforts to avoid a crossed market by attempting to trade with all other market makers whose quotations will be crossed.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change is the result of several months study of locked and crossed markets by the Association's Trading Committee during which letters of inquiry were sent to market makers involved in locked and crossed markets. After review of the responses to these letters, the Association's Board of Governors has concluded that the proposed amendment is the most efficient method to prevent crossed markets in the NASDAQ System. This proposed rule change is consistent with section 15A(b)(11) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe this rule change presents a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

This proposed rule change was presented for comment in Notice to Members 82–22. Three comments were received and, after due consideration, the Association's Board of Governors determined to approve a slightly amended version of the rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 1100 L Street, NW., Washington, D.C. Copies of such filing will also be

available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted on or before July 20, 1982. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 2, 1982.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17556 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18785; File No. SR-NASD-82-8]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

In the matter of proposed rule regarding locked markets; comments requested on or before July 20, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 21, 1982, the National Association of Securities Dealers, Inc., filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change expands the crossed market provisions of Schedule D to include locked markets. These provisions require a market maker to make reasonable efforts to avoid a locked market by attempting to trade with all other market makers whose quotations will be locked.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

This proposed rule change is the result of several months study of locked and crossed markets by the Association's Trading Committee during which letters of inquiry were sent to market makers involved in locked and crossed markets. After review of the responses to these letters, the Association's Board of Governors has concluded that the proposed amendment is the most efficient method to prevent locked markets in the NASDAQ System. This proposed rule change is consistent with Section 15A(b)(11) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe this rule change presents a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

This propsed rule change was presented for comment in Notice to Members 82-22. Three comments were received and, after due consideration, the Association's Board of Governors determined to approve a slightly amended version of the rule.

Notice to Members 82-22 (April 1, 1982) and responses thereto are attached as Exhibits A, B, C, and D.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before July 20, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 2, 1982.

Shirley E. Hollis,

Assistant Secretary.

Exhibit A

To: All NASD Members

Re: Request for Comments on Proposed Amendments to Schedule D of the Association's By-Laws Regarding Locked and Crossed Markets

National Association of Securities Dealers, Inc.,

1735 K Street Northwest, Washington, D.C. 20006; (202) 833-7200

April 1, 1982.

Comment Period Closes on April 22, 1982

The Association's Board of Governors is publishing for comment a proposed amendment to Schedule D of the By-laws regarding locked and crossed markets.[1] This amendment, the text of which is attached to this Notice, would obligate a market maker desiring to enter a quotation which would lock or cross another quotation to make reasonable efforts to avoid such a condition by trading with each market maker whose quotation would be locked or crossed. After the comment period has expired, the Board of Governors will again review the proposal, taking into consideration the comments received, and will thereafter submit the proposal, as may be amended in response to the comments received, to the Securities and Exchange Commission for approval.

This proposed amendment is the result of several months' study of locked and crossed markets by the Association's Trading Committee during which letters of inquiry were sent to market makers involved in locked or crossed markets. The responses to these letters indicated that market makers which locked or crossed a market generally asserted that they were responding to changed market conditions by updating their

[1] A "locked" market occurs when the highest bid quotation is equal to the lowest ask quotation. A "crossed" market occurs when the highest bid quotation is greater than the lowest ask quotation.

quotations and that the locked or crossed quotations were "stale." On the other hand, market makers whose quotations were being locked or crossed often responded that their quotations were accurate reflections of their trading position and, in some cases, produced trade tickets representing trades at the quoted prices. After study of these responses, the Board of Governors has concluded that the proposed amendment is the most efficient method to prevent locked and crossed markets in the NASDAQ System.

As noted above, the proposed rule would require an updating market maker to make reasonable efforts to trade with each market maker it would be locking or crossing to the extent required to prevent a locked or crossed market. In this regard, it should be noted that the NASDAQ System is designed to prevent inadvertent entry of locking or crossing quotations through a two step process. Should an updating market maker enter a quotation which would lock or cross a market, the entry is rejected by the NASDAQ System and the market maker is informed through its terminal that its quotation will cause a locked or crossed market. The updating market maker must then retransmit the quotation to have it entered. Thus, the Association anticipates that, upon receipt of the locked or crossed market message, the updating market maker will attempt to trade with all market makers it would be locking or crossing before retransmitting its quotation. It should be noted that the nature of crossed and locked markets will cause these trades with market makers to be at prices equal to or superior to the quotation which the updating market maker seeks to enter. As such, the Association does not believe this requirement will present an undue burden on market makers.

The proposed amendment requires updating market makers to make "reasonable" efforts to trade with market makers it would be locking or crossing. The Board of Governors expects such reasonable efforts to include contacting each market maker and executing transactions to cause the market maker to update its quotation or to eliminate the need of the updating market maker to change its quotation. Failure of a market maker to honor its quotation for the greater of a normal unit of trading or the size displayed constitutes a violation of the "backing away" provisions of Schedule D.

Comments regarding this proposed amendment should be submitted no later than April 22, 1982 and should be directed to: S. William Broka, Secretary, National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

Questions regarding this Notice should be directed to Molly Bayley at (202) 833–7213.

Sincerely,

John H. Hodges, Jr.,

Senior Vice President, Market Services.

Proposed Amendment to Section C.3.a. of Part I of Schedule D

[Language to be deleted is in brackets; language to be added is in italics]

3. Continuing Qualifications.

(a) Character of quotations entered into the System.

(*i*) A registered market maker which receives a buy or sell order must execute a trade for at least a normal unit of trading at his quotations as they appear on NASDAQ CRT screens at the time of receipt of any such buy or sell order. [Each quotation entered by a registered market maker must be reasonably related to the prevailing market.] If a registered market maker displays a quotation which indicates that it is for a size greater than a normal unit of trading, he must execute a buy or sell order up to the size displayed.

(*ii*) *Each quotation displayed by a registered market maker must be reasonably related to the prevailing market.*

(*iii*) *Locked and* crossed markets. A registered market maker shall not be permitted, except under extraordinary circumstances, to enter quotations into the NASDAQ System if (1) the bid quotation entered is *equal to or* greater than the ask quotation of another registered market maker entering quotations in the same security or (2) the ask quotation is *equal to or* less than the bid quotation of another registered market maker in the same security. *A market maker has an obligation, prior to entering a quotation which locks or crosses another quotation, to make reasonable efforts to avoid such locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed.*

Exhibit B

Amswiss International Corp.,
30 Montgomery Street, Jersey City, New Jersey 07302; (201) 451–3576

April 16, 1982.

S. William Broka, Secretary,
National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

Re: Comments on Proposed Amendments to Schedule D of the Association's By Laws Regarding Locked and Crossed Markets.

Dear Mr. Broka: I am writing on behalf of Amswiss International Corp. with regard to the Proposed Amendments to Schedule D of the Association's By Laws Regarding Locked and Crossed Markets. Our concern is that the Association in these amendments may be overlooking a legitimate function of the locked or crossed market. Specifically, in situations in which two member firms do not wish to trade with each other a locked or crossed market may be the only means of accurately reflecting the market of a stock.

In the ordinary course of transacting business with the hundreds of NASD members, occasionally trade problems arise. Usually these problems are settled rapidly and fairly. Sometimes, however, a problem can cause friction between two firms. In situations where repeated problems arise, good business sense dictates that the two firms not trade with each other in order to avoid risking the expense and aggravation of future trade problems. In such situations a member would find it preferable to lock or cross a market if the alternative was to trade with a firm with whom it has had a bad history.

It is inherent in NASD operation that a member firm is free to choose the firm with whom it will trade. It is not mandatory for a member to complete a transaction with a specific firm merely because that firm has the best listed quote. As long as the transaction is completed at the best price, it is clearly permissible to call a more favored firm and offer the order at the price "bid or offered away."

In a similar vein, it should not be mandated that a member must trade with a particular firm merely to avoid a locked or crossed market. In the situation previously mentioned in which two firms desire not to trade with each other a locked market would make better business sense than forcing the firms to trade with each other. In such instances both sides of the market would be genuine and thus "backing away" would not be an issue.

On the other hand, if the situation in which a market maker must choose between trading with a disfavored firm or not updating in order to avoid a locker or crossed market, the choice may be not to update. This could result in stalemated and inaccurate markets and would not benefit anyone.

To briefly summarize, the locked or crossed market resulting from two firms not wishing to trade with each other would be an isolated and infrequent occurrence. When it occurs, however, the most accurate reflection of the true market would result from permitting a locked or crossed market. In such situations both sides of the quotation would be genuine and backing away would not be a problem.

We request that the Board of Governors consider this exception in their review of the proposed Amendments.

Sincerely,

Barry Jay Finkelstein,

Vice President.

Exhibit C

The First Boston Corporation,
Park Avenue Plaza, New York, N.Y. 10055.

April 22, 1982.

Mr. S. William Broka, Secretary,
National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C.

Dear Mr. Broka: The First Boston Corporation appreciates this opportunity to comment on the proposed amendment to Schedule D of the Bylaws of the NASD concerning locked and crossed markets.

Although we support the purpose of the proposed rule, we believe that it inappropriately shifts the burden of assuring compliance with the NASD requirements concerning accurate quotations from the market maker who fails to diligently update his quotations to the more efficient and conscientious market maker.

We also regard the rule as particularly unsuitable for application to foreign securities. The price of a foreign security which trades in the United States marketplace is derived from transactions in the primary foreign market for that security. The U.S. price of the security must also reflect exchange rates and requires adjustment as changes occur in these rates.

As a result, each day a market maker in foreign securities must review his quotations

in every such security in light of changes in the overseas market and exchange rates, and update his quotations prior to the opening. As all market makers in these securities are involved in a similar effort to update their quotations during this period, the creation of a crossed market is unavoidable since the market makers will complete their quotation updates in different time sequences. In these circumstances unless all market makers effect a simultaneous change in their quotations it will be impossible for many market makers to update their quotations in compliance with the proposed rule by avoiding the creation of a crossed market.

Situations may also occur during the course of a trading session which have a dramatic effect on a market for a domestic security or the market or exchange rate for a foreign security which requires significant changes to be made in the quoted market for that security. Where this occurs it would be unreasonable to restrict a market maker from updating his quotations until he had contacted, or made efforts to contact, each market maker who would also be expected to be similarly engaged in updating his quotations to reflect changed conditions. In such a situation it might also properly be viewed as unprofessional to attempt to profit from the inability of another market maker to immediately correct his quotations.

Apart from this consideration, a market maker who seeks to complete a transaction in these circumstances may frequently be unable to do so since the other market maker may request, and properly expect that this request would be honored, that he not be held to quotations which are in the process of being updated. It will also frequently be true in buy markets, and markets in the process of sudden change, that many market makers will not pick up calls from other market makers with whom they do no customarily do business. Where this occurs, the market maker who seeks to promptly update his quotations may be denied important trading opportunities with his customers while he seeks to contact other market makers concerning their quotations and has recorded his efforts to contact these other market makers. Under the proposed rule the less diligent market maker is not similarly handicapped, nor need he be concerned that his conduct will constitute a violation of the proposed rule which, as indicated previously, has the effect of penalizing the more efficient market maker for the failure of the market maker who has failed to properly update his quotation.

We therefore believe the proposed rule, is unfair and contrary to the manner in which an effective rule should apply, and urge the Association to reexamine the approach taken in the proposal. If it would be helpful we would be pleased to have members of our firm meet with members of the Association's Trading Committee to discuss the development of an alternative rule.

Sincerely,

T. Brett Haire,

Managing Director, Equity Trading.

Exhibit D

Shearson/American Express Inc.,
14 Wall Street, New York New York 10005;
212 577 5514.

April 8, 1982.

S. William Broka, Secretary,
National Association of Securities Dealers, Inc., 1735 K Street, N.W., Washington, D.C. 20006.

Dear Mr. Broka: Locked and crossed markets take place on the listed exchanges all the time. I am concerned that no effort is being made to correct that problem. As a 19 C-3 market maker many of may clients were disadvantaged by these locked markets and trade throughs.

It is my understanding that most of the crossed markets occur in foreign securities because of the reluctance of some dealers to up date before the opening. I would suggest that the corssed market procedure should not affect those who are adjusting their markets before the opening. I would further suggest that the NASD contact all the dealers for foreign securities and demand that they have a current market by at least 9:50 a.m. It is apparent that the market makers obligation is necessary for this new regulation to work. However, it is embarrassing and time consuming for a market maker to call another market maker when the latter is several points away.

Sincerely,

Peter J. DaPuzzo,

Executive Vice Pres.

[FR Doc. 82-17537 Filed 6-28-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 795]

Intention To Cancel Registrations of Certain Investment Advisers

Correction

In FR Doc. 82-8028 appearing at page 12897 in the issue of Thursday, March 25, 1982 and corrected at page 24681 in the issue of Monday, June 7, 1982; second column, last line of correction number 4, "McDaniel, James G., 801-06971" should read "McDaniel, James D., 801-06971".

BILLING CODE 1505-01-M

DEPARTMENT OF STATE

[Public Notice 812]

Fishery Conservation and Management Act of 1976; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the Federal Register.

Individual vessel applications for fishing in 1982 have been received from the Governments of the Union of Soviet Socialist Republics, the People's Republic of Bulgaria, the Polish People's Republic, Japan and Denmark (The Faroe Islands).

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F/CM7), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, (Telephone: (202) 634-7432).

Dated: June 21, 1982.

James A. Storer,

Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS	Atlantic Billfishes and Sharks	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Islands Trawl, Longline and herring Gillnet.	North Pacific.
CRB	Crab (Bering Sea)	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic	New England, Mid-Atlantic.
SMT	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Washington, Oregon, California Trawl.	Pacific.
PBS	Pacific Billfish and Sharks	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

Nation/vessel name/vessel type	Application No.	Fishery	Activity
U.S.S.R.:			
Mys Otradnyi, large stern trawler	UR-82-0079	WOC	2, 3
Mys Maltseva, large stern trawler	UR-82-0192	WOC	2, 3
Aragonit, large stern trawler	UR-82-0224	WOC	2, 3
Izumrudnyi, large stern trawler	UR-82-0747	WOC	2, 3
Mys Oseknova, large stern trawler	UR-82-0017	WOC	2, 3
Mys Beltina, large stern trawler	UR-82-0214	WOC	2, 3
Karagach, large stern trawler	UR-82-0028	WOC	2, 3
15 Syezd Profsoyuzov, large stern trawler	UR-82-0087	WOC	2, 3
Taman, large stern trawler	UR-82-0188	WOC	2, 3
Mramornyi, large stern trawler	UR-82-0713	WOC	2, 3
Mys Kurilskiy, large stern trawler	UR-82-0711	WOC	2, 3
Aleksandrovsk, large stern trawler	UR-82-0207	WOC	2, 3
Mys Chasovoy, large stern trawler	UR-82-0176	WOC	2, 3
Mys Obrucheva, large stern trawler	UR-82-0075	WOC	2, 3
Nadezhda, large stern trawler	UR-82-0061	WOC	2, 3
Sulak, factory/mothership	UR-82-0238	WOC	2, 3
The U.S.S.R. and the Marine Resources Co. (MRC), 192 Nickerson, Suite 307, Seattle, Wash., have applied to engage in a joint venture fishery aimed at producing 1,000 MT of Shortbelly Rockfish, plus incidental species not exceeding 10 pct of target catch between the months of September 1 and October 30, 1982.			
Japan:			
Kiyo Maru, squid jigger vessel	JA-82-2026	NWA	1, 2
Freezer Prince, cargo/transport	JA-82-0571	BSA, GOA	3
Oak Leaf, cargo/transport	JA-82-1051	GOA, BSA, SNA, NWA	3
Koshin Maru No. 28, longliner	JA-82-1217	ABS	1
Shinei Maru No. 38, longline fishing vessel	JA-82-1486	ABS	1
Yayoi Maru, cargo/transport	JA-82-0018	GOA, BSA, SNA, NWA	3
Sankichi Maru No. 23, pot fishing vessel	JA-82-0848	SNA	1, 2
Poland:			
Sagitta, large stern trawler	PL-82-0040	BSA, GOA	2, 3
The Polish Foreign Trade Office, Rybex-Szczecin, ul. Ordrowaza 1, and Mrs. Paul's Kitchen, 5830 Henry Avenue, Philadelphia, Pa., have applied to engage in a joint venture fishery aimed at producing 16,000 MT Pollock and 1,500 MT Pacific Cod from BSA, and 6,000 MT Pollock and 800 MT Pacific Cod from GOA during 1982.			
Admiral Arciszewski, large scale processor	PL-82-0061	NWA	2
Kanaryfka, trawler/processor	PL-82-0061	NWA	2
Gryspi of the Polish People's Republic and William Quinby, Joint Trawlers (North America) Ltd., P.O. Box 1209, Gloucester, Mass., have applied to engage in a joint venture fishery aimed at producing 9,000 MT of Atlantic Mackerel between the months of April and December 1982			
Bulgaria:			
Oleia, freezer trawler	BU-82-0023	WOC	1
Okeanskiy Robilov (The People's Republic of Bulgaria) and the Joint Trawlers (Noth Pacific), Inc., Suite 1880, 1111 Third Avenue Building, Seattle, Wash., have applied to engage in a joint venture fishery aimed at producing 10,000 MT of Pacific Whiting between the months of May through November 1982.			
The *OFELIA* has replaced its sistership, the freezer trawler *AFALA*, BU-82-0007, due to major mechanical difficulties with her processing machinery.			
Albena, cargo/transport	BU-82-0006	WOC	3
Denmark (The Faroe Island):			
Bakur, longline fishing vessel	DA-82-1005	ABS	1, 2

[FR Doc 82-17518 Filed 6-28-82; 8:45 am]

BILLING CODE 4710-09-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Form Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Copies of the forms proposed for extension may be obtained from the Agency Clearance Officer, whose name and telephone number appear below.

Agency Clearance Officer: E. Eugene Mynatt, (615) 751-2146, FTS 858-2146

Type of Request: Extension

Title of Information Collection: TVA 6254, A, B, C, D, & E; TVA Home Insulation Program

Frequency of Use: Nonrecurring

Type of Affected Public: Individuals or households

Small Businesses or Organizations Affected: No

Federal Budget Functional Category Code: 271

Estimated Number of Annual Responses: 900,000

Estimated Total Annual Burden Hours: 37,800

Need for and Uses of Information: Information is needed to determine the weatherization integrity of residences in the Tennessee Valley Authority region. The data will be compared to standards established by the Home Insulation Program followed by recommendations to the consumers outlining the methods and actions necessary to conserve and manage electrical energy.

Dated: June 21, 1982.

Charles Bonine, Jr.,

Manager, Office of Management Services.

[FR Doc. 82-17441 Filed 6-28-82; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. Public Debt Series—No. 17-82]

Washington, June 23, 1982.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,000,000,000 of United States securities, designated Treasury Notes of July 15, 1989, Series E-1989 (CUSIP No. 912827 NK 4). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated July 8, 1982, and will bear interest from that

date, payable on a semiannual basis on January 15, 1983, and each subsequent 6 months on July 15 and January 15 until the principal becomes payable. They will mature July 15, 1989, and will not be subject to call for redemption prior to mauturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the pricipal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, July 1, 1982. Noncompetitive tenders as defined below will be considered timely if postmarked no late than Wednesday, June 30, 1982, and received no later than Thursday, July 8, 1982.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3. 4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; federal Reserve Banks; and Government accounts. Tenders from others must be accompainied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarnantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3. 5. Immediately after the closing hour, tender will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Governmeent accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3. 6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or then the price is over par.

4. Reservations

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5. 1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accoompanied by a payment guaranted as provided in Section 3.4., must be made or completed on or before Thursday, July 8, 1982. Payment in full must accompanyu tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds but which are not overdue as defined in the general regulations governing United Staters securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from instututional investors no later than Tuesday, July 6, 1982. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and

other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 82-17502 Filed 6-24-82; 3:24 pm]

BILLING CODE 4810-40-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Duty Concessions on Certain Television Receiver Components and Printed Circuit Boards

Import relief actions proclaimed in Presidential Proclamation 4634 of January 26, 1979, and extended by Proclamation 4769 of June 30, 1980 concerning color television receivers and certain subassemblies thereof will terminate on June 30, 1982. This relief included orderly maketing agreements and temporary quantitative limitations as to importations from Taiwan and the Republic of Korea. Therefore, pursuant to Section E of Annex IV to Proclamation 4707 of December 11, 1979, which provides that upon the termination of these import relief actions the staging of items 685.16 and 685.18 of the concessions granted during the Tokyo Round of Multilateral Trade Negotiations on imports of certain television receiver components and printed circuit boards, provided for in tariff schedules of the United States (TSUS) will be implemented. Accordingly, such implementation shall occur with respect to articles entered, or withdrawn from warehouse for consumption, in accordance with the following schedule:

TSUS item	Rate from which staged	Rates of duty,[1] effective with respect to articles entered, or withdrawn from warehouse for consumption, on and after—							
		July 1, 1982	Jan. 1, 1983	Jan. 1, 1984	Jan. 1, 1985	Jan. 1, 1986	Jan. 1, 1987	Jan. 1, 1988	Jan. 1, 1989
685.16	5% ad val	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%
685.18	5% ad val	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%

[1]The symbol "%" indicates percent ad valorem.

David R. Macdonald,

Deputy, United States Trade Representative.

[FR Doc. 82-17475 Filed 6-28-82; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 125
Tuesday, June 29, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Consumer Product Safety Commission	1
Equal Employment Opportunity Commission	2
Federal Communications Commission	3, 4
Federal Deposit Insurance Corporation	5, 6
Federal Maritime Commission	7
Federal Reserve System	8
Postal Service	9
Securities and Exchange Commission	10

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME: 10 a.m., Wednesday, June 30, 1982.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Bicycle Brake Test Procedures*
The Commission will consider issues related to procedures for the testing of bicycle brake systems.

Closed to the Public:

2. Compliance status Report
The staff will brief the Commission on compliance activities during the past month.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite 342, 5401 Westbard Avenue, Bethesda, MD 20207; Telephone (301) 492–6800.

[S–966–82 Filed 6–25–82; 10:13 am]

BILLING CODE 6355–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, June 29, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Ratification of Notation Vote(s).
2. Freedom of Information Act Appeal No. 82–5–FOIA–32–SL, concerning a request for copies of documents contained in an ADEA complaint file.
3. Freedom of Information Act Appeal No. 82–04–FOIA–056–MK, concerning a request for all information supplied to the EEOC by a respondent company.
4. Freedom of Information Act Appeal No. 82–4–FOIA–21–NO, concerning a requests for all materials relating to EEOC Charge No. 085–79–0057.
5. Freedom of Information Act Appeal No. 82–3–FOIA–30–NY, concerning a request for witness statements and statistical analysis from an open age discrimination case file.
6. Proposed Section 93 of the EEOC Compliance Manual.
7. Proposed modification to an existing contract.
8. Proposed contract for services needed in connection with a court case.
9. State and Local Program: Recommended Mid-Year Modification of FY '82 New Charge Resolution Contracts.
10. Proposed Principles of EEOC's Title VII Program for State and Local Fair Employment Practices Agencies for FY '83.
11. Proposed Principles of EEOC's Program for State and Local ADEA Charge Resolution Contracts for FY '83.
12. A Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements *a full week in advance* on future Commission sessions. Please telephone (202) 634–6748 at all times for information on the time, place and subject matter of such meetings.)

CONTACT PERSON FOR MORE INFORMATION: Trava I. McCall, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued June 22, 1982.

[S–946–82 Filed 6–25–82; 8:45 am]

Billing Code 6570–06–M

3

FEDERAL COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, July 1, 1982

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 1, 1982 which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* In re General Docket 81–461 concerning request of General Electric Co. to exempt medical diagnostic equipment from Subpart J of Part 15 of the Rules of the Federal Communications Commission. *Summary:* This action considers adoption of an exemption for certain medical equipment from the computing device rules Part 15 Subpart J, which limit the interference potential of devices that employ digital electronics. A Notice of Proposed Rule Making in this proceeding was adopted July 16, 1981 and released September 8, 1981, in response to a petition filed by General Electric Co.

Private Radio—1—*Title:* Amendment of Parts 2 and 97 of the Commission's Rules to protect military areas by power limitation on Amateur radio stations operating in the 420–450 MHz frequency band. *Summary:* The Commission will consider whether to adopt an Order to extend to two additional military areas the 50-watt power limit; and to enlarge the restricted areas around two other military locations already specified.

Private Radio—2—*Title:* Notice of Proposed Rulemaking in the Matter of Amendment of the "Grandfathering" Provisions for Transmitter and Antenna Standards in Part 94. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rulemaking looking toward grandfathering, for an indefinite period, transmitting equipment (including antennas) which was authorized in the Private Operational-Fixed Radio Service prior to July 1, 1976.

Aural—1—*Title:* In re application of Ettlinger Broadcasting Corporation for a construction permit for a new FM station. *Summary:* The Commission considers a petition by Ettlinger Broadcasting Corporation, applicant for a new FM station at Westmorland, California for reconsideration of our *Memorandum Opinion and Order*, adopted July 18, 1980, denying its waiver request and dismissing its application.

Broadcast—1—*Title:* An Inquiry Relating to the Commission's Radio Operator Licensing Program. *Subject:* The Commission will consider action to be taken in response to petitions requesting reconsideration of rule amendments made by a *Fourth Report and Order* concerning the radio operator licensing program. Petitioners requested restoration of the First Class Radiotelephone License, and both clarification and deletion of certain amended rules.

Broadcast—2—*Title:* Notice of Proposed Rule Making in the Matter of Amendment of Section 73.1201(b)(2) of the Commission's Rules—Additional City Identification. *Summary:* The Notice proposes to change the Commission's procedures under which broadcast stations may seek permission to identify by communities in addition to their community of license.

Broadcast—3—*Title:* Memorandum Opinion and Order, In the Matter of Petition for Stay, or in the Alternative, Extension of Divestiture Deadline—Anniston Broadcasting Corporation. *Subject:* The Memorandum Opinion and Order considers and resolves the issues raised by Anniston Broadcasting Company in its petition for stay of a divestiture deadline. That deadline is applicable to Anniston as it is one of the 16 egregious cases identified in the Second Report and Order in Docket No. 18110 in which an existing newspaper/broadcast cross-ownership combination had to be severed.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: June 24, 1982.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S–952–82 Filed 6–25–82; 3:18 pm]

BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From June 23rd Closed Meeting

The following item has been deleted at the request of the Broadcast Bureau from the list of agenda items scheduled for consideration at the June 23, 1982, Closed Meeting and previously listed in the Commission's Notice of June 16, 1982.

Agenda, Item No., and Subject

Complaints and Compliance—1—Field investigation into the operation of Station WABC–TV New York, New York.

Deletion of Agenda Item from June 23rd Open Meeting

The following item has been deleted at the request of Commissioner Dawson's office from the list of agenda items scheduled for consideration at the June 23rd Open Commission Meeting and previously listed in the Commission's Notice of June 16, 1982.

Agenda, Item No., and Subject

Aural—1—*Title:* In re application of Ettlinger Broadcasting Corporation for a construction permit for a new FM station. *Summary:* The Commission considers a petition by Ettlinger Broadcasting Corporation, applicant for a new FM station at Westmorland, California for reconsideration of our *Memorandum Opinion and Order,* adopted July 16, 1980, denying its waiver request and dismissing its application.

Issued: June 23, 1982.

William J. Tricarico,

Secretary, Federal Communication Commissions.

[S–953–82 Filed 6–25–82; 3:18 pm]

BILLING CODE 6712–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Wednesday, June 30, 1982, to take up the following matter:

Petition of the Investment Company Institute seeking a public hearing and certain other relief in connection with the creation and operation by The Boston Five Cents Savings Bank, Boston, Massachusetts, of two wholly-owned subsidiaries to advise and distribute shares in a mutual fund.

In calling the meeting, the Board of Directors determined, by affirmative vote of Chairman William M. Isaac, Director Irvine H. Sprague (Appointive), and Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business requires it to take up the matter on less than seven days' notice to the public.

No earlier notice of this meeting was practicable.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 25, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–955–82 Filed 6–25–82; 3:50 pm]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m. on Thursday, June 24, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to make funds available for the payment of insured deposits in Citizens Bank, Tillar, Arkansas, which was closed by the Arkansas State Bank Commissioner on Wednesday, June 23, 1982.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague, concurred in by Mr. William A. Longbrake, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(B)).

Dated: June 24, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–950–82 Filed 6–25–82; 11:58 am]

BILLING CODE 6714–01–M

7

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 27447, June 24, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., June 30, 1982.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

1. Petition of Seatrain Lines, Inc. for relief from recordkeeping and reporting requirements.

[S–951–82 Filed 6–25–82; 3:17 pm]

BILLING CODE 6730–01–M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Tuesday, July 6, 1982.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed extension of the reclamation authority of the Department of the Treasury.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward for a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

James McAfee,

Associate Secretary.

[S-954-82 Filed 6-25-82; 3:32 pm]

BILLING CODE 6210-01-M

9

POSTAL SERVICE

Board of Governors Meetings

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 2:00 p.m. on Tuesday, July 6, in San Francisco, California, and at 8:00 a.m. on Wednesday, July 7, 1982, in Classroom 4 in the Training Center of the Western Regional Headquarters Complex, 850 Cherry Avenue, San Bruno, California. As indicated in the following paragraph, the Tuesday afternoon session is closed to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

At its meeting on June 7, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting scheduled for July 6, 1982, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins, McKean, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; Assistant Postmaster General Cummings; and Executive Assistant to the Postmaster General Coughlin.

The portion of the Board meeting to be closed will consist of a discussion of Postmaster Service strategic planning.

Agenda

1. Minutes of the Previous Meeting.
2. Remarks of the Postal General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellanous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report on the National Academy of Public Administration.
   (The Board will consider the Academy's report on Postal Service progress under the Postal Reorganization Act.)
4. Capital Investment Project:
   Bakersfield, California General Mail Facility
   (Mr. Caraveo, Acting Regional Postmaster General, Western Region, will present a proposal for a new General Mail Facility at Bakersfield, California.)
5. Postal Rate Commission Recommended Decision on Attached Mail Proceeding, 1981 and Attached Mail Rates, 1981 (Docket Nos. MC81–2 and R81–1)
   (The Board will consider this Recommended Decision, by the Postal Rate Commission, dated June 15, 1982.)

Louis A. Cox,

Secretary.

[S-947-82 Filed 6-25-82; 9:53 am]

BILLING CODE 7710-12-M

10

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 26067, June 16, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, June 11, 1982.

CHANGES IN THE MEETING: Additional item. The following item will be considered at a closed meeting scheduled for Thursday, June 24, 1982, following the 10:00 a.m. open meeting.

Settlement of administrative proceeding of enforcement action.

Chairman Shad and Commissioners Evans and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul J. Siegelbaum at (202) 272–2468.

June 24, 1982.

[S-949-82 Filed 6-25-82; 10:45 am]

BILLING CODE 8010-01-M

federal register

Tuesday
June 29, 1982

Part II

Department of Agriculture

Food Safety and Inspection Service

Standards and Labeling Requirements for Mechanically Separated (Species) and Products in Which It Is Used

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 318 and 319

[Docket No. 81-016 F]

Standards and Labeling Requirements for Mechanically Separated (Species) and Products in Which It is Used

AGENCY: Food Safety and Inspection Service (FSIS), USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture is amending the Federal meat inspection regulations to (1) modify the definition and standard (including parameters for measuring compliance) and permitted uses for the finely comminuted product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle of livestock carcasses and parts of carcasses and the labeling requirements for meat food products in which it is used as an ingredient and (2) establish a labeling requirement of such product.

This rule is based on data, information, and arguments accumulated by and submitted to the Department since the regulations for this product were promulgated on June 20, 1978, the Department's review and reevaluation of these regulations, and comments received in connection with the Department's July 31, 1981 proposal to modify these regulations.

EFFECTIVE DATE: July 29, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

When proposed, this action was reviewed under USDA procedures established to implement Executive Order 12291 and classified as a major rule pursuant to section 1(b)(1) of that order because it is likely to result in an annual effect on the economy of $100 million or more. The Department's preliminary review of its proposal was reported in its Preliminary Regulatory Impact Analysis (PRIA), which was published as an appendix to the proposal. The Department's review of its final rule is reported in its Regulatory Impact Analysis (RIA), which is available upon request from Robert G. Hibbert and is summarized below. The RIA also satisfies the analysis requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), which deals with the impact of regulation on small entities.

Purpose of the Amendments

The Department of Agriculture is amending the regulatory requirements for the finely comminuted product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle of livestock carcasses and parts of carcasses and for finished meat food products in which this product is used as an ingredient (9 CFR 317.2(j)(13), 318.18, 319.5, and 319.6 and Part 319). The purpose of these amendments is to facilitate the production and use of this product while continuing to fulfill the Department's statutory responsibility to prevent the preparation and distribution in commerce of meat and meat food products which are adulterated or misbranded or not properly marked, labeled, and packaged. See sections 1 (m) and (n), 7, and 10 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 (m) and (n), 607, 610).

The regulations which have governed the production and use of this product, under the name "Mechanically Processed (Species) Product" ("MP(S)P"), were promulgated in the middle of 1978. 43 FR 26416. Very little of this product was produced after these regulations became effective, despite the availability of the technology and raw materials. As a result, a potential food source was not made available to the general public. The red meat industry contended that its failure to market products containing MP(S)P was due to regulatory requirements which go beyond what is necessary to protect the public, and it asked the Department to reconsider these requirements in light of additional information compiled since the completion of the prior rulemaking in 1978. In particular, the Pacific Coast Meat Association (PCMA), a regional trade association of meat packing and processing companies, and the American Meat Institute (AMI), a national trade association of meat packing and processing companies, submitted a petition on behalf of their members in February 1981 which argued that they "are effectively precluded from producing or marketing mechanically deboned beef, pork, or veal or lamb by the misleading labeling and the unreasonable compositional standards imposed by" §§ 317.2(j)(13) and 319.5(a) of the Federal meat inspection regulations (9 CFR 317.2(j)(13) and 319.5(a)). In support of their request that these regulations be amended, PCMA and AMI also submitted two types of evidence to the Department: A report on a series of consumer focus group sessions exploring attitudes towards various types of meat food product labeling and an analysis of the economic impacts of the 1978 regulations.

Based on data, arguments, and information compiled since the completion of its prior rulemaking and its own review and reevaluation of the 1978 regulations in accordance with the principles of Executive Order 12291, and in view of the importance of taking advantage of all safe and wholesome sources of food, it appeared to the Department that certain of these regulations could and should be amended to facilitate the production and use of this product while continuing to protect the public against adulterated and misbranded products. Therefore, on July 31, 1981, the Department published a proposal to amend the Federal meat inspection regulations to (1) change the name of the product to one which appears to be less burdensome and more descriptive of its characteristics; (2) establish two categories of product: one which meets the current fat and protein content requirements, and a second as to which there are no fat or protein content requirements; (3) permit use of the second category of product only in meat food products subject to regulatory definitions and standards that limit fat content; (4) replace the limit on the amount of product meeting fat and protein content requirements which may be used with limits on the amount of calcium such product may contain (as a measure of its bone content) when it is used at various levels; (5) delete the requirement that the names of all meat food products containing the product must be qualified by a phrase indicating its presence, but consider retaining this requirement in particular situations on the basis of information submitted in this rulemaking; (6) replace the requirement that the names of meat food products containing the product must be further qualified to indicate the amount of powdered bone they contain with a requirement that their labels declare calcium content as part of a nutrition label—or, if a meat food product does not bear nutrition labeling, in a statement in immediate conjunction with the ingredients list—whenever the amount so declared would differ from the amount that would be declared if such meat food product contained only hand deboned ingredients; and (7) add labeling requirements for the product itself where this is necessary to assure compliance with the regulations. 46 FR 39274.

The proposal also reflected the Department's continuing belief that (1) the product differs materially from "meat" and should be subject to its own definition and standard and declared as a distinctive ingredient; (2) limits on bone particle size, bone content, and protein quality as well as handling controls and production under an approved quality control program are necessary to assure the product's safety and quality; and (3) use of the product should not be permitted in certain meat food products. However, the Department did propose additional minor changes in certain of the provisions embodying these requirements, primarily for purposes of clarification and simplification. 46 FR 39274, 39275.

The Department invited written comments on the proposal and the issues raised in its rulemaking notice for 90 days, until October 29, 1981. Since the publication of its proposal, the Department also has investigated further certain of the issues raised in its rulemaking notice. The information and analyses generated by this further investigation are reflected in documents in the record of this rulemaking.

After reviewing the comments submitted by the public in light of currently available information, the Department has determined that portions of the proposal should be adopted. Therefore, it is amending the Federal meat inspection regulations to (1) change the name of the product from "Mechanically Processed (Species) Product" ("MP(S)P") to "Mechanically Separated (Species)" ("MS(S)"); (2) establish two categories of product: one which meets maximum fat and minimum protein content requirements, and a second as to which there are no fat or protein content requirements; (3) permit use of the second category of product only in meat food products subject to regulatory definitions and standards that limit fat content; (4) delete the requirement that the names of all meat food products containing the product must be qualified by a phrase indicating its presence; (5) replace the requirement that the names of meat food products containing the product must be further qualified to indicate the amount of powdered bone they contain with a requirement that their labels declare calcium content as part of a nutrition label—or, if a meat food product does not bear nutrition labeling, in a statement in immediate conjunction with the ingredients list—where the product contributes 20 mg or more of calcium to a serving, unless the amount that would be declared would not differ from the amount that would be declared if the meat food product contained only hand deboned ingredients or unless the calcium content of a serving of the meat food product would be 20 percent of the U.S. RDA or more if the meat food product contained only hand deboned ingredients; and (6) add a labeling requirement for the product itself in order to assure compliance with the regulations.

In addition, certain amendments are being adopted for the purposes of clarifying and simplifying these regulations. Finally, the Department has determined, based on currently available information, that it should not amend these regulations to permit MS(S) to constitute more than 20 percent of the livestock and poultry product portion of meat food products. Therefore, it is withdrawing the portion of the proposal that would have replaced this limit for product which meets maximum fat and minimum protein content requirements with limits on the amount of calcium such product may contain when it is used at various levels.

Historical Background

1. Interim Regulation and First Proposal

The regulations promulgated in 1978 were the result of a rulemaking that began on April 27, 1976 with the publication of a notice of proposed rulemaking titled "Definitions of Meat and Classes of Meat, Permitted Uses, and Labeling Requirements." 41 FR 17560. That proposed rulemaking included, among other things, a proposal for defining and permitting the manufacture of the following three types of product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle: "Mechanically Deboned Meat," "Mechanically Deboned Meat for Processing," and "Mechanically Deboned Meat for Rendering." Different nutritional parameters were proposed for the first two types of product. None were proposed for the third type, which, as such, was not to be used in the formulation of meat food products. No limit was proposed on the amount of the first type of product that could be used in finished products; and the second type was to be limited to 20 percent of the total meat, meat byproducts, poultry products, and poultry meat used in the formulation. The proposal also specified the meat food products in which these two types of product were to be permitted. There were more than 1,100 public comments on this proposal, a number of which raised various health and safety questions.

On April 27, 1976, an interim regulation that included standards for the use of Mechanically Deboned Meat (MDM) also was published. This regulation was intended to be effective pending final rulemaking on the proposal, unless rescinded earlier. 41 FR 17535. The interim regulation was challenged by a coalition of various consumer oriented public interest groups, state officials, and a member of Congress in *Community Nutrition Institute, et al. v. Butz (CNI v. Butz)*, Civil Action No. 76–1585 (D.D.C., decided Sept. 10, 1976). The Court in *CNI v. Butz* held that the promulgation of the interim regulation was in violation of the Administrative Procedure Act and issued a preliminary injunction enjoining the Secretary from giving further effect to the interim regulation with respect to MDM.

In the Court's opinion, MDM was not "meat" as traditionally defined because of its bone particle content. Concluding that these bone particles must be regarded as a substance added during mechanical processing, the Court found that the Secretary had not considered adequately the health effects of MDM. The Court indicated that until these health questions were adequately assessed, MDM had to be considered as a substance which may injure health and, therefore, adulterated and an adulterant. In addition, it appeared to the Court that the interim regulation permitted misbranding because a product that contained MDM would have a higher calcium content than a comparable product without MDM. Since the public expects the "usual product", it would be misled by the labeling permitted by the regulation. This could prove especially harmful to persons on calcium-restricted diets, who would think that the product contained no more than the usual amount of calcium.

2. Panel Evaluation of Health and Safety Aspects

In order to respond to the health and safety questions raised by the Court, the Department initiated an analytical program to develop data on the amounts of nutrients and substances of concern which might be present in MDM. To evaluate findings from this analytical program and pertinent information and data gathered from other sources, an interagency panel of Government scientists was convened. This Panel consisted of experts in a wide range of subject areas dealing with health and safety aspects of food. The Panel was asked to respond to questions which had been raised by the Court, questions in the comments that had been filed on the proposed rulemaking, and other

issues which became evident during its deliberation.

The Panel's conclusions and recommendations were published in the reports titled "Health and Safety Aspects of the Use of Mechanically Deboned Meat, Volume I-Final Report and Recommendations, Select Panel" and "Health and Safety Aspects of the Use of Mechanically Deboned Meat, Volume II-Background Materials and Details of Data." The final report basically consists of a series of subcommittee reports, which were authored by persons having special expertise in the various subject fields and unanimously accepted by the Panel as a whole, and the conclusions and recommendations of the Panel. Both volumes were made available to the public in connection with the Tissue from Ground Bone proposal discussed below. 42 FR 54437, 54439; 43 FR 26416, 26417.

The following are the Panel's conclusions and recommendations, as supplemented by certain of the subcommittees' findings:

A. Bone particle size as obtained with mechanical deboners currently available presents no hazards to health. It seems likely that the bone particles will be dissolved by the stomach acid and provide an additional source of calcium. Non-digested particles, if they occur, will provide additional "bulk" to the diet, which is considered to be beneficial. However, the Panel recommended that limits for maximum particle size be included in any regulation to be promulgated allowing the preparation in commerce of MDM. The subcommittee believed it desirable to institute quality control measures to limit particle size to those levels presently associated with good manufacturing practice.

B. A slight nutritional benefit is to be expected for most people from the calcium in MDM, especially for persons whose customary intake of calcium falls below the Recommended Dietary Allowance. The calcium which would be added to the diet by MDM is not so great in amount as to pose a hazard to the health of most people except for those persons who are hyperabsorbers of calcium and likely already to be under medical supervision to limit their calcium intakes. The subcommittee suggested appropriate labeling to indicate that meat food products contain calcium so that the small percentage of the population which may require a low calcium intake for medical reasons would have the choice to avoid purchasing them.

C. The fluoride content of MDM poses no health problem for adults. Fluoride intakes of children need to be controlled more closely than intakes of adults in order to avoid mottling of teeth. Since little is known about the fluoride intake of children, caution is advised. Data on projected consumption of MDM show that intakes of fluoride from MDM would be negligible, even for children consuming much higher than average quantities of MDM with a high fluoride content. MDM in the Panel's judgment presents no problem for children. However, fluoride intake of infants is known to be high. The Panel, therefore, concluded that prudence dictates that MDM not be incorporated into baby and junior foods at present. This recommendation was based primarily on lack of information rather than evidence of a hazard and should be subject to further evaluation as data are gathered. Long term data on the fluoride content of MDM are not available at present, and the fluoride content of MDM may vary in different localities and may also depend on the age of the cattle used.

D. The Panel concurred with its subcommittee's evaluation that, based on currently available data and relative to the magnitude of other environmental sources of lead, the amount of lead which would be provided by MDM is toxicologically insignificant for children and adults.

E. Amounts of cadmium in MDM are so small as to be not detectable by current analytical procedures and are of no public health significance.

F. Selenium was judged not to be a health problem. There is no evidence to indicate that selenium concentrates in bone.

G. Increases in dietary intakes of strontium-90 from use of MDM would be negligible, amounting to about a 1 percent increase in exposures which are already well below tolerable limits. MDM poses no health hazard in regard to strontium-90.

H. Cobalt, copper, iron, nickel, zinc, arsenic, and mercury pose no potential problems in relation to use of MDM. Consumption data indicate that MDM would probably provide about 1 percent of the expected daily intake of cobalt. Additional iron from MDM would be in the order of 2.5 percent of the total iron intake and should be readily available to the body. Zinc content of MDM is essentially the same as zinc in hand deboned meat, and use of MDM should not affect bioavailability of zinc from other dietary sources. Arsenic has not been found in mechanically deboned poultry, and poultry would be expected to have greater relative intakes of arsenic than red meat animals. Therefore, arsenic should present no problem in MDM. Mercury does not accumulate in bone.

I. Chlorinated hydrocarbon residues present no special problem in MDM because if present in measurable amounts, they are found in quantities well below established tolerance or action limits.

J. Data presently available on the lipid spectrum of MDM show that it is comparable to the lipid pattern found in hand deboned meats. Available data, while limited, did not suggest that use of MDM will lead to any appreciable increase in dietary cholesterol or other lipids thought to be involved in pathological states in humans as compared with the consumption of other meat food products with similar fat contents; and no relationship between cholesterol content and total lipids content was observed. However, because of concern over the general problem of excessive intakes of fat and their effect on health, the Panel recommended that limits be placed on the fat content of MDM, on the basis of good manufacturing practices, and that limits also be placed on the fat content of products in which MDM could be used.

K. Proposed standards for protein content and quality (PER) are reasonable. Efforts should be continued to find more rapid and economical methods for monitoring protein quality to replace the cumbersome PER assay.

L. The microbiology of MDM presents no unique hazards and should not be a problem if good manufacturing practices and quality control programs are employed.

M. Tetracyclines accumulate in the bones of young animals, and a recent German study has found tetracyclines in calf bones. The amounts are such that even at the highest level found, residues in products made with MDM derived from calf bones likely would be within present permitted tolerances. The U.S. slaughters comparatively few calves, and it is unlikely that there will be calf MDM. Tetracyclines in older cattle and swine present no problem. Though it is apparent that the use of tetracyclines in calves is on the decline in the United States, controls should be established to assure that if MDM is prepared from calves, it will not exceed established tolerances for such drugs. (Mechanically Processed Veal Product (MPVP), the product referred to as "calf MDM" in the health and safety report, has, in fact, been produced in limited amounts since the promulgation of the 1978 regulations. In 1979, MPVP was being produced by a small establishment that is no longer in business. The Department collected and

analyzed three samples of this firm's product. Antibiotic residues were not detected in any of these samples. As of 1981, another firm was producing MPVP in small volume. Therefore, the Department established a sampling program to alert it if any tetracycline residue problem developed. After analysis of 12 samples, no antibiotic residues were detected in the samples collected under this program.)

N. The Panel agreed that MDM contained in food products should be so labeled in the ingredients statement so that persons who must stringently restrict calcium intake could avoid these products. The Panel further agreed that there was no need for health or safety reasons to make nutrition labeling mandatory for products containing MDM, although nutrition labeling of all food products should be encouraged.

O. The Panel recommended that efforts should be made to inform and educate health and medical professionals and the general public about dietary effects of use of MDM, especially in relation to calcium and fluoride.

P. The Panel recommended that further research should be encouraged on MDM when it is again produced commercially. Suggestions for research are given in several of the subcommittee reports.

3. Revised Proposal and Promulgation of a Final Rule in 1978

As a result of the Panel's conclusions and recommendations, *CNI v. Butz*, and the widespread public interest in and concern about this product, a revised proposal was published on October 6, 1977. 42 FR 54437. This proposal included the following changes from the original proposal:

(1) The product would be named "Tissue From Ground Bone" (TFGB) and would be labeled "Tissue From Ground (Species) Bone" in the ingredients statement. The name of the processed product in which it was used would be qualified by the term "Tissue From Ground (Species) Bone Added."

(2) The product would be classified as a meat food product rather than as a class of meat.

(3) The number of classes of this type of product would be reduced from three to one. "Mechanically Deboned Meat" and "Mechanically Deboned Meat for Processing" would be combined because the single use limitation for TFGB would make separate classes unnecessary.

(4) The product would be limited to 20 percent of the total of all meat, meat byproducts, poultry products, and poultry meat used in a processed product.

(5) The product could not be used in baby (strained), junior, or toddler foods.

(6) The calculation of percent of essential amino acids would be in terms of total amino acids rather than in terms of total protein; and data on the essential amino acid tryptophan would be excluded in making this calculation.

(7) The size of the openings of any screens, sieves, or ports used in preparing TFGB could be no greater than 0.5 millimeter in diameter.

(8) The requirements for minimum protein and maximum fat would be set at 14 and 30 percent, respectively.

The Department received 4,537 comments on this proposal, including presentations made at a February 14, 1978 public hearing. More than four-fifths of these comments were from consumers. Significant numbers of comments were also received from industry members (including meat packers, machinery and equipment companies, food processors, food wholesalers, retail organizations, and trade groups), academia (including university faculty and students and high school teachers), professionals (including physicians, dentists, veterinarians, dietitians, attorneys, and food managers), farmers and farm-related organizations, and government agencies.

The Administrator of the Food Safety and Quality Service (FSQS, the predecessor of FSIS) reviewed these comments and, among other things, made the following determinations as regards safety concerns: (1) The amount of calcium in the product should not exceed 0.75 percent. (2) Ingestion of bone particles from the product will not cause mechanical injury. (3) In view of all of the information available, with the addition of special processing and storage requirements, the product is wholesome and safe for use in products other than baby, junior, and toddler foods.

The Administrator agreed with comments that the proposed name, "Tissue From Ground Bone" ("TFGB"), could be misleading as the product contains both meat and bone, including bone marrow, and "TFGB" would incorrectly indicate that it is made wholly from parts of bone. He considered other proposed names and determined not to adopt "Mechanically Deboned Meat" because "deboned" would incorrectly represent that the product does not contain bone or bone marrow and "meat" would incorrectly represent that the product consists solely of "meat". The Administrator went on to conclude that the product should be named "Mechanically Processed (Species) Product", noting that the term "product" includes any substance from livestock which is capable of use as human food (9 CFR 301.2(ww)). As regards labeling, the Administrator concluded (1) since MP(S)P is unique and would not be an expected ingredient, a qualifying statement should be added to finished product names to indicate its presence; (2) the need of some individuals to limit their intake of calcium is an important consideration and, therefore, finished product names should bear the additional qualifying statement, "Contains Up To —% Powdered Bone"; and (3) MP(S)P should be listed separately from "meat" in its order of predominance by weight in the ingredient statements of finished products because MP(S)P is not meat and it would be a standardized product following publication of the rule.

The proposed requirements for minimum protein content and protein quality and maximum fat content were retained in order to assure a standardized product of high nutritional quality which could be used in a wide range of finished products. Among other things, the Administrator could not agree with comments that the protein content minimum would severely restrict the kinds of materials that could be used in preparing the product based on the information available to the Department. The Panel's reluctance to approve a product that would increase the total fat composition of meat products was noted, as well as the fact that there are not limitations on the fat content of a number of products in which MP(S)P is a suitable ingredient.

The Administrator also concluded that, in order not to discourage the development of different types of processing equipment, the proposed limit on the size of openings in the equipment through which the product is strained would be replaced with a limit on the size of bone particles that would result from use of the proposed procedures. In addition, the Administrator agreed with comments that special requirements are needed to assure that establishments formulate MP(S)P to comply consistently with the regulatory requirements and thereby avoid false or misleading labeling. Therefore, the utilization of an approved quality control program was made a prerequisite to label approval and analytical requirements were specified.

As regards proposed retrictions on how the product could be used, the Administrator determined that (1) the 20 percent use limit is optimum in that it allows for the use of MP(S)P without diminishing the quality and overall

expected characteristics of products in which it is permitted and does not result in any health or safety problems; and (2) permitting MP(S)P to be used in certain products is not warranted and would violate consumers' expectations about those products. In response to concerns about economic aspects of the use of MP(S)P, it was noted that labeling requirements would enable consumers to make cost comparisons between products containing and products not containing MP(S)P and that certain of the objections were not relevant to whether MP(S)P should be produced and distributed because the Administrator has no authority to prohibit the production of wholesome, unadulterated, and properly labeled products.

In view of the Panel's findings and the views, data, and information available to the Department, and being mindful of the need for increasing food supplies and reducing waste of available proteinaceous nutritive materials, the Administrator concluded that production of MP(S)P should be allowed with the restrictions being imposed and amended Parts 317, 318, and 319 of the Federal meat inspection regulation (9 CFR Parts 317, 318, and 319) accordingly.

4. PCMA Petition

In April 1979, 9 months after these regulations became effective, the Pacific Coast Meat Association (PCMA), a regional trade association of meat packing and processing companies, petitioned the Department on behalf of its members and an ad hoc group of companies "which are effectively precluded from mechanically deboning beef, pork and veal by the negative labeling and unrealistic standards required by USDA regulations." PCMA requested that the Department (1) amend § 317.2(j)(13) of the regulations (9 CFR 317.2(j)(13)) by deleting the requirement that names of products containing MP(S)P be qualified to indicate the presence of that ingredient and by replacing the requirement that they be further qualified with a statement of powdered bone content with a declaration of calcium content either in the ingredients statement or as part of nutrition labeling and (2) amend § 319.5(a) of the regulations (9 CFR 319.5(a)) by deleting the minimum protein and maximum fat content provisions of the MP(S)P standard and leaving applicable the general fat to lean ratio requirements that apply to meat trimmings.

PCMA stated that, based on data available to it, only 898,749 pounds of MP(S)P had been produced in the 7 months following publication of the regulations (17,040 from swine, 610,959 from cattle, and 270,750 from other sources, apparently calves), despite an investment in equipment of approximately $30 million by approximately 40 meat packers and processors; and the very few MP(S)P-containing products on the market are sold almost entirely to institutions, not retail consumers. (Data from the Department's meat inspection program indicate that approximately 2.3 million pounds of MP(S)P were produced in fiscal year 1979 and approximately 2.0 million pounds were produced in fiscal year 1980.) PCMA argued that the MP(S)P regulations should be changed immediately because (1) the failure to recover this product results in unnecessary additional consumer expenditures of $1 billion to $3 billion for meat and meat products and raises the price of all beef and pork cuts at least 3 to 4 cents per pound, (2) competitive poultry products without restrictive labeling and standards have gained significant marketplace acceptance, (3) the MP(S)P labeling provisions create misleading connotations of inferiority, and (4) the MP(S)P labeling and standards provisions are not supported by comments in the rulemaking record.

To support its contentions regarding economic impact, PCMA appended an economic evaluation that it had commissioned from Dr. Willard F. Williams, Professor of Agricultural Economics, Texas Tech University. Among other things, Dr. Williams estimated that existing machinery could produce 99 million pounds of MP(S)P per year (77 million from cattle and 22 million from swine). As regards labeling requirements, PCMA argued that (1) MP(S)P will virtually never be the most prominent ingredient in a product, the name MP(S)P is legalistic and unfamiliar to consumers, and consumers associate prominent legalistic label declarations with negative health implications; and (2) the powdered bone content declaration erroneously implies that this residue is detrimental to consumers, and it does not address the nutritional issue (sensitivity to calcium) raised by the Panel. PCMA also cited rulemaking comments opposing the minimum protein and maximum fat content requirements and argued that (1) the only feasible controls on fat composition are regulation of the end product and consumer taste preferences and (2) restrictions on ingredient composition only limit blending, a process which benefits consumers economically by allowing access to the most reasonably priced ingredients. Finally, PCMA contended that the review and approval of the health and safety aspects of MP(S)P during rulemaking and the huge inflationary impact of existing regulations make expedited rulemaking under 5 U.S.C. 553(b), without notice and comment procedure, appropriate.

The Department could not find sufficient grounds in PCMA's petition for granting the relief requested and, therefore, denied the petition in May 1979. PCMA was informed that while the Department does not want effectively to bar the marketing of any safe product or to inhibit the use of any process that may reduce industry costs and consumer prices, Dr. Williams' study did not support the petitioner's claims about the effects of current regulations. A copy of the Department's Economics, Statistics, and Cooperative Service's (ESCS's) review of the study was enclosed with the denial. The Department also indicated it was open to a resubmission of the PCMA's arguments with compelling evidence on (1) the effects on consumer preference of the current regulation and the amendments proposed by PCMA, (2) the economic effects of widespread use of MP(S)P, (3) industry's capability of producing and utilizing MP(S)P, and (4) whether the labeling proposed by PCMA would be false or misleading to any purchasers. The Department emphasized that the use of MP(S)P presents substantial problems of consumer understanding and education, citing the test for labeling set out in *Federation of Homemakers v. Hardin*, 328 F. Supp. 181 (D.D.C. 1971), *aff'd*, 466 F.2d 462 (D.C. Cir. 1972), and affirming the Department's belief that the current labeling provides information necessary for informed choice and is the best available alternative given present knowledge.

In June 1979, PCMA resubmitted its request along with a further explanation of its position, Dr. Williams' comments on ESCS's review, and a response to the comments on the petition which had been submitted by the Community Nutrition Institute. Because the resubmitted petition presented no new evidence, the Department denied it in September 1979. PCMA was informed that until further evidence was submitted to alter the conclusions in the original denial, the Department believed that they continued to be valid.

5. PCMA–AMI Petition

In the middle of 1980, PCMA and the American Meat Institute (AMI), a national association of meat packing and processing companies, informed the Department that they were compiling

information of the types to which the Department has referred in denying PCMA's 1979 petition. They submitted reports on the results of their efforts on February 11, 1981, along with a petition on behalf of their members to amend what they consider to be misleading labeling and unreasonable compositional requirements for MP(S)P which effectively preclude their members from producing or marketing various types of this product (beef, pork, veal, and lamb). Specifically, the PCMA–AMI petition requested that the Department (1) designate the ingredient resulting from the mechanical separation of meat from bone as "Mechanically Deboned Meat" ("MDM") because this name is clearer and more understandable to consumers than "Mechanically Processed (Species) Product" and it is the common or usual name by which the ingredient is known in the United States, (2) require that the presence of MDM be declared only in the ingredient statement, consistent with the general requirements for listing ingredients by their common or usual names in descending order of predominance (9 CFR 317.2(c)(2)), and delete the requirement that its presence be indicated in a phrase qualifying the names of meat food products in which it is used (9 CFR 317.2(j)(13)), (3) require a declaration of calcium content in the ingredient statement or as part of any nutrition label where the quantity of calcium in the meat portion of a meat food product is a nutritionally significant portion of the Recommended Daily Allowance (RDA) in lieu of the requirement that the names of meat food products be further qualified to indicate the amount of powdered bone they contain (9 CFR 317.2(j)(13)), (4) limit the total calcium content of the meat portion of a meat food product to no more than ¾ percent in lieu of the present provision limiting use of MP(S)P to no more than 20 percent of the meat portion of any meat food product (9 CFR 319.6(b)), as a technology-forcing feature providing an incentive to lower powdered bone content, and (5) delete the minimum protein and maximum fat specifications in the product definition and standard (9 CFR 319.5(a)). The petition also recommended that the Department reexamine its limits on bone particle size (9 CFR 319.5(a)) in reference to proposed Canadian requirements and requested that the wording of the regulations be changed to substitute "Mechanically Deboned Meat" for the meat food product called "Mechanically Processed (Species) Product" (9 CFR Part 319).

PCMA and AMI stated that in view of the fact that meat packers and processors have invested approximately $30 million in equipment, one can only conclude that the limited production of MP(S)P—less than 1 percent of the potential supply—is attributable to the unreasonably restrictive compositional and misleading labeling requirements; and they cited press reports of statements by the former Assistant Secretary of Agriculture for Food and Consumer Services and the former Associate Administrator of FSQS as indicating that the Department had reason to believe the burdensome nature of the present MP(S)P regulations requires a change. The petitioners believed that their proposed changes would have an extraordinarily positive environmental impact by making hundreds of millions of pounds of additional meat available with no added burden on agricultural production, by providing supplemental calcium, a needed nutrient, and by causing a huge conservation of valuable food resources. They also concluded that stifled production under existing regulations has had an inflationary impact on meat prices and is costing U.S. citizens more than $500 million per year, and that their proposed modifications can remedy these effects without sacrificing any health or economic benefits provided by the current regulations.

As noted above, when the Department denied PCMA's 1979 petition, it indicated its willingness to reconsider the arguments raised therein if additional information in various areas were presented. In response, PCMA and AMI based their petition on the following evidence, as well as the experience gained in the 32 months since the promulgation of the MP(S)P regulations: (1) "Consumer Focus Groups Concerning Mechanically Processed Meat Product," a September 1980 report by Market Research Services, Chicago, Illinois, on a qualitative market research study which was commissioned by PCMA to provide information regarding consumer preferences and perceptions (what the current label means to them, how they feel about it, and how they feel about the product) and (2) "Economic Impacts of Regulations on Mechanically Deboned Red Meats," a July 1980 report by J. Bruce Bullock and Clement E. Ward, Associate Professors, Department of Agricultural Economics, Oklahoma State University, an AMI-supported economic analysis, the objectives of which were to identify the nature and estimate the dollar value of the economic contribution that red meat mechanical deboning technology can have on the U.S. economy, to identify the nature of the economic impacts of regulations restricting production to less than economically feasible levels and estimate the economic costs of current regulations, and to develop information for determining the type of regulations (if any) needed to provide consumers with adequate information about the mechanically deboned red meat ingredient without preventing use of the efficiency-increasing technology.

Market Research Services reached the following conclusions on the basis of 8 focus group sessions lasting 1½ to 2 hours each and including a total of 60 women aged 25 to 54 from middle income households ($15,000 to $30,000) in 4 metropolitan markets (Chicago, Los Angeles, Atlanta, and Washington) who reported doing most of the grocery shopping for their households and frequent to use of many types of processed meat products:

(1) The term mechanically processed beef product is confusing to consumers, and it fails to adequately inform them as to what the product MPBP actually is.

(2) Most consumers reacted negatively to the emphasis of powdered bone (even in very small amounts) on a product label.

(3) It appears that consumers probably will not purchase products containing MPBP if labeled according to the 1978 USDA regulation.

(4) Mechanically deboned (beef) appears to be a more favorable and informative term than mechanically processed (beef) product.

(5) Once they know that MPBP actually is beef that has been mechanically deboned, most consumers believe it is unnecessary to emphasize the mechanical deboning process if, in fact, the product is safe and nutritious. Consumers do feel strongly, however, about listing all the product ingredients in the ingredient statement. (Underlining deleted.)

Market Research Services also cautioned that their research is exploratory in nature and their findings must be seen as hypotheses which are not intended to be projectable to any larger population.

PCMA and AMI stated that Market Research Services' conclusions should be read together with quantitative research prepared for the Gerber Products Company and previously submitted to the Department, which they believed confirms consumers' negative reactions to the format and content of existing labels for products containing MP(S)P. PCMA and AMI asserted that these materials should satisfy the

Department's request that compelling evidence regarding the effects of present and proposed regulations on consumer preference and whether the proposed labeling would be false or misleading to purchasers of the product accompany a resubmission of PCMA's arguments. PCMA's and AMI's arguments reflected the following positions: (1) "Mechanically Deboned Meat" is the common or usual ingredient name long used in the United States. (2) MDM is skeletal meat. Small and safe quantities of powdered bone do not decharacterize the ingredient's fundamental nature as "meat". Therefore, MDM as an ingredient is properly identified in the ingredient statement and requires no prominent qualifying phrase. (3) The powdered bone disclosure was required to provide information on calcium, a nutrient of which most consumers need more but intake of which some consumers should restrict. Consumers concerned about calcium content are best served by express information about calcium in the ingredient statement or, where nutrition labeling is used, in that labeling; however, such information should only be required where the amount of calcium is nutritionally significant.

The petitioners contended that the responses of the focus group participants support these positions. PCMA and AMI reported that the participants responded in an informed way to "Mechanically Deboned Meat", but were totally confused by the prominent qualifying phrase "Mechanically Processed Beef Product", that they found the word "processed" to be meaningless, that they found the word "product" to be confusing, and that they were immediately able to understand the term "Mechanically Deboned Meat" as meaning meat separated from bone by a mechanical means. PCMA and AMI also reported that the prominence given to the qualifying phrase indicating the presence of MP(S)P confused the focus group participants, arousing unwarranted apprehensions about a problem with the product without conveying information. In addition, PCMA and AMI reported that after the focus group participants learned that MPBP is beef that has been mechanically deboned, most believed it is unnecessary to emphasize the mechanical deboning process so long as the ingredient is safe and nutritious and it (like all product ingredients) is identified in the ingredient statement. Finally, the petitioners reported that the focus group participants found the powdered bone content declaration derogatory and misleading (with many mistakenly thinking it referred to a separately added powdered bone ingredient and others mistakenly thinking detectable or hazardous hard pieces of bone would be present) and that they did not relate it to the presence of calcium.

Drs. Bullock and Ward studied the potential demand and supply for beef and pork product produced by mechanical deboning, the economic value of the mechanical deboning technology, the economic costs and benefits of regulations, and the potential impact of the mechanical deboning technology on livestock prices. They used published information and information from a mail survey of meat packers and processors who have commercially produced or experimented with beef and pork product produced by mechanical deboning as well as industry contacts to look at the potential economic effects of removing the requirements for phrases qualifying the names of finished products and for fat and protein content. Their analysis assumed that, as USDA's evaluation of health aspects indicates, there are no harmful effects of consuming this product; and while this may not be true for individuals who must restrict their calcium intake, the contents portion of the label will contain enough information to allow these individuals to avoid consuming the product in unhealthy amounts, and the number of such individuals is small and will have a negligible impact on the demand for processed meat food products containing this product. Their analysis also assumed that, as evidenced by consumers' ready acceptance of mechanically deboned poultry and fish products plus the growing production of MDM prior to the imposition of labeling restrictions, consumers will readily accept this product as an ingredient in processed meat food products at prices that provide an adequate incentive for its production and use.

Drs. Bullock and Ward reached the following conclusions:

> Current MDM regulations generate social costs in the neighborhood of $513 million per year. Benefits generated by the regulations are limited to a small segment of the population who must restrict their intake of calcium. An alternative regulation requiring the product label to contain information about the calcium content would generate the same benefits as the current regulations without generating social costs associated with those regulations.
>
> (Their) analysis indicates that the following changes in MDM regulations would be in the public interest.
>
> 1. Revise product labeling requirements so that labels do not impede sales of MDM. The revised label probably should include information about the calcium content of the final product for calcium sensitive consumers. This modified labeling regulation would generate the same social benefits but avoid the social costs of the current regulations.
>
> 2. Removal of the current regulations regarding fat, protein, and calcium contents of MDM. Existing regulations insure that meat products such as franks and weiners will not exceed specified fat levels. Establishing upper limits on the fat content of MDM provides the consumer with no more protection than existing regulations. Therefore, current regulations prevent processors from making efficient use of existing resources. The fat restriction will prevent a large portion of the potential raw material from being used in MDM production. The * * * analysis indicates that modification of the product labeling regulations without also removing the fat restrictions would remove less than 30 percent of the social costs associated with the current regulations.
>
> 3. The current regulations limiting the content of MDM in final products to no more than 20 percent of the meat ingredients does not appear to be generating social costs at the present time. However, there is no economic justification for this type of regulation. The success of a processed meat product in the marketplace depends on repeat purchases of satisfied customers. The rigors of the marketplace will weed out products that contain too much MDM to satisfy consumers. While this regulation is not generating social costs at the present time, it might do so in the future. Continuation of the 20 percent limit on MDM content would preclude development of potential new products that might be quite acceptable to consumers. Hence, the public interest would be served by removing this regulation.

PCMA and AMI stated that the Bullock and Ward study, as well as previous analyses and submissions, responded to the Department's request that additional information regarding the economic effects of widespread use of mechanically processed meat and industry's capability of producing and utilizing the product accompany a resubmission of PCMA's arguments. The petitioners asserted that while the methodology and conclusions regarding the aggregate dollar value of benefits in the analysis by Bullock and Ward and earlier analyses (cited in the petition) by Willard Williams and D. W. McNiel differ, each study concludes that modified regulation would result in substantial benefits and Bullock and Ward suggest that full benefits can occur within 2 years. Finally, PMCA and AMI relied on Bullock and Ward study as showing that the existing fat and protein content requirements are at least as limiting as the present labeling requirements and, therefore, as

supporting the petitioners' position that they should be deleted as limits on this ingredient and, if appropriate, should be imposed only on finished products.

6. Proposal to Amend 1978 Regulations

The Department reviewed the PCMA–AMI petition and accompany reports and it carefully considered the arguments raised therein in conjunction with other information it had accumulated over the past several years. The Department's review included the development of a Preliminary Regulatory Impact Analysis (PRIA) which, among other things, evaluated the economic anylysis by Drs. Bullock and Ward. The Department also evaluated Market Research Services' report on a series on consumer focus group sessions. As transcripts or tapes of Market Research Services' focus group sessions were not submitted with the PCMA–AMI petition, the Department had not been able to verify the conclusions drawn in the report on this research at the time the proposal was published. Therefore, references to this research reflected the information then available and Market Research Services' evaluation of the data.

Based on its review and analysis, the Department decided to respond to the PCMA–AMI petition as part of a rulemaking which proposed changes in certain of the provisions in the 1978 regulations and sought comment regarding the issues raised by these proposed changes and other provisions. The Department's proposal was published on July 31, 1981. 46 FR 39274. The comment period ended 90 days later, on October 29, 1981.

After the publication of its proposal, the Department consulted its advisory committee on meat and poultry inspection regarding this matter, and it investigated further certain of the issues raised in the rulemaking notice. A transcript of the advisory committee's November 12–13, 1981 meeting has been placed on the record of this proceeding. In addition, documents reflecting the information and analyses generated by the Department's further investigation have been placed on that record. These documents include an analysis of additional data on the relative cholesterol, purine, and nucleic acid contents of products made by mechanically deboning livestock and meat. They also include an evaluation of Market Research Services' report on the consumer focus group research it conducted along with videotapes of the sessions themselves and transcripts of six of the eight sessions. As the evaluation indicates, the Department has concluded that Market Research Services' report is a reasonable interpretation of the research as utilized in this rulemaking.

The Department received 1,604 comments that were postmarked on or before October 29, 1981, the close of the comment period. Nine hundred and fifty-seven of these comments were submitted by individual consumers. Three hundred and ninety-seven of these individuals identified themselves as being employees or relatives of employees of meat or poultry industry members as well as consumers. Five hundred and ninety-one of the comments came from industry-related individuals and groups: Meat and poultry industry members (individual producers, packers, and processors), their trade associations and organizations, equipment manufacturers and distributors, and 2 trade associations of food wholesalers. Sixteen of the comments from meat and poultry industry members and organizations endorsed, in whole or in part, the comments of trade associations or organizations. Of the 1,548 comments in these two categories, 902 were various form letters. While the specific positions taken in these letters varied, they all supported modifying the existing regulations to facilitate production and use of this product. The remaining 56 comments were submitted by a public interest organization, academia (including university faculty and students), other professionals (including physicians, dietitians, nutritionists, food scientists, and nurses), and State government officials and agencies.

Most of the comments from individual consumers focused on the requirements for finished meat food product labeling and the commenters' interest in using or avoiding product made by the mechanical separation and removal process. Most of the comments from industry, on the other hand, addressed the more technical aspects of the proposal, including various aspects of the definition and standard for this product (e.g., compositional and quality control requirements) and limitations on its use, as well as finished product labeling requirements and the benefits the product can provide.

The Department also received approximately 60 comments that were postmarked after October 29, 1981. Most of these comments were submitted by individual consumers; the remainder came from industry members, a trade association, professionals, and a State government agency. The Department has reviewed these comments. While they are not specifically referred to in the discussion of the final rule, the views they contain also were expressed by other commenters whose submissions are summarized in that discussion.

After reviewing the comments submitted by the public in light of currently available information, and in view of the importance of taking advantage of all safe and wholesome sources of food, the Department determined that certain of the regulations which it promulgated in 1978 should be amended in order to facilitate the production and use of this product while continuing to protect the public against the preparation and distribution of adulterated and misbranded products.

The Final Rule

The final rule amends the Federal meat inspection regulations by modifying the difinition and standard (including parameters for measuring compliance) and permitted uses for the product defined by regulation in 1978 as "Mechanically Processed (Species) Product" ("MS(S)P") and the labeling requirements for meat food products in which it is used as an ingredient, and by establishing labeling requirements for such product. The amendments contain the following provisions:

1. The definition and standard for the product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle of livestock carcasses and parts is amended to include a new product name and two categories of product and to clarify its scope (9 CFR 319.5).

(a) The definition and standard is amended to clarify its scope by specifying that it applies to "finely comminuted" product.

(b) The name of the product is changed to "Mechanically Separated (Species)" in order to provide a more meaningful and concise description of its characteristics.

(c) The maximum bone particle size and bone solids content requirements are retained, but the definition and standard are amended to clarify that the maximum calcium content is a measure of maximum bone solids content and that product failing to meet the maximum bone particle size requirement shall be used only in producing animal fats.

(d) The definition and standard is amended to include two categories of product; one which meets maximum fat and minimum protein content requirements (not more than 30 percent fat and not less than 14 percent protein), and a second as to which there are no

fat or protein content requirements (product for processing).

(e) The minimum protein quality requirement (a PER of 2.5) is retained, but the definition and standard is amended (1) to permit use of product failing to meet the protein quality requirement only in producing animal fats, (2) to clarify the compliance provision by specifying the amino acids included in a calculation of total amino acids and simplify the provision by focusing on the comparison that is to be made between essential amino acid content and total amino acid content, and (3) to control the costs of measuring compliance by deleting cystine from the calculation of total amino acids.

(f) An approved plant quality control system for establishments producing the product is retained as a prerequisite for label approval for products consisting of or containing the product, but the requirements are modified as follows: (1) USDA's 1980 regulations regarding applications for plant quality control, their evaluation and approval by the Administrator of FSIS, and the conditions and procedures for terminating approval (9 CFR 318.4(d) (1) and (2), (e), and (g)(2)) are incorporated, (2) provisions designed to assure compliance with fat and protein content requirements are restricted to product which purports to meet such requirements, (3) the use of Chemistry Laboratory Guidebook methods is permitted if no AOAC method is available and provision is made for the submission of alternative methods of analysis to the Administrator of FSIS to determine their acceptability, (4) the quantity of product which may constitute a "lot" is clarified, and (5) the acceptability of methods other than laboratory analyses for assuring compliance with the bone particle size requirement and of either PER assays or amino acid content analyses for assuring compliance with the protein quality requirement is clarified.

2. The requirements for the handling of material for mechanical processing and the handling of the product itself are retained, but the references to "MP(S)P" and an imitation of "MP(S)P" are replaced by "MS(S)" (9 CFR 318.18).

3. Limitations on use of the product are retained to prevent potential health and safety problems and protect the quality and integrity of the meat food product supply, but the restrictions are modified to take into account the establishment of two categories of product; the scope of the restrictions is clarified; and the cross reference to labeling requirements (9 CFR 317.2(j)(13)) is eliminated as redundant (9 CFR 319.6).

(a) Product meeting fat and protein content requirements can be used in any meat food product in which its use is not prohibited; and product for processing can be used only in such a meat food product that is subject to a regulatory definition and standard which limits fat content.

(b) The list of meat food products in which use of the product is prohibited is clarified.

(c) The restriction on the amount of product that may be used in any meat food product is retained, but the basis for determining that limit is clarified as including all livestock and poultry product ingredients.

4. The definitions and standards of identity or composition for meat food products (9 CFR Part 319) in which the product may be used are amended as follows:

(a) "Mechanically Processed (Species) Product" is replaced by "Mechanically Separated (Species)".

(b) Those definitions and standards which limit fat content by setting a maximum on the amount of trimmable fat that the ingredients used in their formulation may contain (9 CFR 319.141, 319.143, 319.144, and 319.160) are amended to define the limit in terms of a maximum analytical content (50 percent) in order that product for processing may be used in their formulation.

(c) Certain of those definitions and standards (9 CFR 319.140, 319.145(a)(3), 319.281, and 319.305) are amended to clarify that use of the product is permitted.

5. A labeling requirement is established for the product to ensure that it is used in accordance with regulatory requirements; and the labeling requirements for meat food products in which it is used are amended to continue to provide adequate, nonmisleading information while reducing their burden and avoiding unwarranted and possibly derogatory implications (9 CFR 317.2(j)(13)).

(a) On the label of the product itself, the name of the product must be followed immediately by the phrase "for processing" unless such product contains not more than 30 percent fat and not less than 14 percent protein.

(b) The requirement that the name of the product must be listed in proper order of predominance in the ingredient statements of meat food products in which it is used, consistent with the general requirements for declaring ingredients in meat food products (9 CFR 317.2(c) (1) and (2) and (f)(1)), is retained, but the repetition of this requirement (in 9 CFR 317.2(j)(13)) is deleted as redundant.

(c) The requirement that the names of meat food products must be qualified to indicate the presence of this product as an ingredient is deleted as unnecessary where such ingredient can constitute only 20 percent or less of the livestock and poultry product portion.

(d) The requirement that the names of meat food products must be further qualified to indicate the amount of powdered bone they contain is replaced with a requirement that their labels declare calcium content as part of nutrition labeling information—or if the meat food product does not bear nutrition labeling, in a prominent statement in immediate conjunction with the ingredients list—where the product contributes 20 mg or more of calcium to a serving, unless the amount that would be declared would not differ from the amount that would be declared if the meat food product contained only hand deboned ingredients or unless the calcium content of a serving of the meat food product would be 20 percent of the U.S. RDA or more if the meat food product contained only hand deboned ingredients.

The final rule is discussed below. The organization of that discussion follows the outline set out in this summary.

Discussion of the Final Rule

1. Product Definition and Standard

(a) Scope of the definition and standard.

The product definition by the name "Mechanically Processed (Species) Product" in 1978 is made by mechanically separating and removing most of the bone from attached skeletal muscle of livestock. While it is possible to use whole carcasses, the raw materials for this type of processing generally are parts of carcasses from which most of the skeletal muscle already has been removed by traditional hand deboning techniques. With the mechanical deboning technology, these bones generally are broken up and pushed under high pressure through equipment with apertures that allow a small amount of powdered bone to pass through with the soft tissue. The resulting product differs from the hand deboned product, traditionally used as an ingredient, due to its highly comminuted and spread-like consistency and its content of varying amounts of bone, including bone marrow, and certain minerals as well as muscle tissue.

Several commenters referred to the variety of deboners currently available

for commercial use as well as the characteristics of product made by these machines. One commenter also noted procedures currently in the developmental stage, including liquid separation techniques. Another commenter expressed concern that the present definition could be broad enough to extend to products which it was never intended to cover, as technology increasingly enables industry to removes bones from primal cuts by mechanical means rather than by hand, and recommended that the scope of the regulations be limited to the product intended to be covered.

The Department is aware that technological advances are occurring in the meat processing industry and it wishes to avoid confusion about the scope of the definition and standard in § 319.5 of the regulations (9 CFR 319.5). This regulation does not specify the type of equipment used to separate and remove bone because it is intended to cover the product manufactured by any such machinery that operates on the differing resistance of hard bone and soft tissue to passage through small openings, whether it employs sieves, screens, or other devices and whether or not bones are prebroken before being fed into such equipment. However, the regulation is not intended to apply to whole pieces of muscle which have been removed from livestock bones by mechanical or other means. In view of concern expressed about possible misapplication of this definition and standard to products which it is not intended to cover, the Department is amending the regulation to clarify its scope by inserting the words "finely comminuted" in the description of the product, which now will specify that it extends to:

> * * * Any finely comminuted product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle of livestock carcasses and parts of carcasses and meeting the other provisions of (9 CFR 319.5(a)).

As the modified language does not change the current scope of the regulation, it is being adopted as part of this final rule.

Several industry commenters challenged the appropriateness of retaining a separate definition and standard for this product, arguing that its characteristics clearly place it within the regulatory definition of "meat." As the Department noted in its proposal, the consistency of this product and its content of bone, including bone marrow, and certain minerals as well as muscle tissue are materially different from those of meat; and these differences have potential consequences for finished product quality and for health and safety. Thus, while the product has many of the characteristics of "meat" and, if properly regulated, can be used as a "meat" ingredient in the formulation of quality meat food products, it is sufficiently different that it cannot be regarded as falling within the category of food traditionally defined as "meat" (9 CFR 301.2(tt)). The product should be separately defined and standardized, and identified by a name that adequately differentiates it from "meat". 46 FR 39274, 39275, 39283. See also *CNI* v. *Butz, supra*; 43 FR 26416, 26420. The comments on the proposal contained no new information to refute this position. In fact, numerous comments attested to the distinctive nature of this product. These comments are summarized in the following sections of this discussion.

(b) Product name.

The Department proposed to amend the definition and standard (9 CFR 319.5(a)) by deleting the term "product" from the product name and by considering terminology such as "mechanically separated", "mechanically deboned", and "mechanically recovered" as an alternative to "mechanically processed" to distinguish the product from "meat". 46 FR 39274, 39283–84. The Department has conluded that "Mechanically Separated (Species)" ("MS(S)") should be adopted as the product name in the amended regulations because this name will provide a more meaningful and concise description of the product's characteristics than "Mechanically Processed (Species) product".

Three hundred and sixty-one comments addressed issues bearing on the name of this product. They were submitted by the full spectrum of individuals and groups commenting on the proposal, with the majority coming from individual consumers and about 25 percent from industry-related individuals and groups. Most of these commenters supported some modification of the name "Mechanically Processed (Species) Product", although a number of the comments from individual consumers expressed general opposition to changing the product name.

Many of the commenters supported the Department's proposal to delete the term "product". Some of these commenters said this should be done because the term "product" is not essential to assuring that the name accurately identifies the product and/or it is confusing.

On the other hand, a few commenters objected to this proposed change in the current product name, taking the position that the term "product" is necessary to convey that this ingredient is different from meat. One of these commenters questioned the basis for the Department's policy reversal from its 1978 conclusion that use of the term "meat" would incorrectly represent that the product consists solely of meat. Relying on Market Research Services' focus group research for this purpose was criticized because the observations of focus group research are limited to the participants and are not statistically valid or representative of the population at large; and as neither tape recordings nor transcripts of the sessions were made available and the verbatim responses to one question are restricted to the sessions in 3 of the 4 cities, one cannot be assured that there was no distortion or manipulation of consumer responses or verify Market Research Services' conclusions. Nevertheless, this commenter asserted that what was provided in Market Research Services' report contradicts the Department's posifion and demonstrates the necessity of the term "product" to prevent consumer deception.

The Department's proposed departure from its earlier policy on the need for the term "product" was based primarily on its belief that in 1978 the Administrator had failed to consider the name as a whole—as opposed to the single word "meat"—and that the requirement imposed then is inconsistent with the Department's policies and requirements regarding the names of other livestock products. In addition, from a review of Market Research Services' report, it appeared to the Department that inclusion of this term might confuse or mislead consumers and that the source of the problem might be the very inconsistency of requiring "product" in the name of this livestock product, but not others. 46 FR 39274, 39283. In citing this research report, the Department recognized that focus group research does not provide results which are projectable to a larger population and, thus, the findings of such research must be regarded as tentative or indicative of potential trends or attitudes. The Department also recognized that it had not yet completed its evaluation of the report and the conclusions drawn therein by reviewing tapes or transcripts or the sessions. 46 FR 39274, 39281. After completing this evaluation, the Department continues to be concerned that the inclusion of the term "product" in the name may result in inaccurate perceptions about the source and nature of the product. For example, Market Research Services reported that a number of the

participants perceived the term "product" as modifying the species identification (e.g., "beef") to indicate that inferior animal parts such as lips, ears, and hooves have been used in making the product, that it either contains substantial ingredients in addition to meat or does not contain meat at all, or even that it contains artificial ingredients or is fabricated from non-livestock or non-food ingredients.

Most of the commenters addressing the question of product name indicated a preference, or a first and second preference, as to what the product should be called; and a number of them also indicated why they believed other names to be inappropriate. Each of the four options set forth in the proposal—"mechanically processed", "mechanically separated", "mechanically deboned", and "mechanically recovered"—received at least some support in the comments. However, "Mechanically Recovered (Species)" ("MR(S)") was supported only by one commenter and only as a second choice that would be better than "mechanically processed" or "mechanically deboned". Other commenters who addressed this option rejected it, with some saying that, as compared with other options, it would lend itself to potential confusion, would be less understandable or misleading, is not really descriptive, and/or potentially covers a number of functions with no indication from where or what the product is recovered. Moreover, one of the comments stated that under proposed United Kingdom regulations, the product would be regarded as "meat". Thus, the one place in which this terminology has been used appears to be abandoning it.

The other three alternatives each received greater support than MR(S), but each also was the subject of criticism. "Mechanically Deboned Meat" or, as set forth in the proposal, "Mechanically Deboned (Species)" ("MD(S)") was the alternative name most favored in the comments. Many of the industry commenters supporting this alternative based their position on the extensive use of this terminology by industry (domestically and/or internationally) to describe the meat and poultry products manufactured by this technology, with some asserting that such usage has resulted in common or usual name status which should be recognized by USDA. Some stated that this name is self-explanatory, the simplest, more or the most accurate or descriptive, least misleading, and/or that it would be more understandable to consumers or less likely to be confusing or controversial than other alternatives; and Market Reserach Services' work was cited as supporting this position.

Criticism of MD(S) focused on the issue that concerned the Department in its prior rulemaking and its current proposal: that the term "deboned" would incorrectly represent to consumers that the product does not contain bone, including bone marrow. 43 FR 26416, 26420; 46 FR 39274, 39284. One commenter cited Market Research Services' report of focus group participants' reactions as confirming the Department's 1978 conclusion and contended that it is likely "mechanically deboned" evoked more positive responses from the participants because it gives an incorrect and euphemistic image.

A number of commenters supported "Mechanically Separated Meat" or, as set forth in the proposal, "Mechanically Separated (Species)" ("MS(S)") as a first or second choice on the ground that it is more descriptive of the product than other alternatives; and one said that if consumers are aware that one component is meat, most will know meat is being separated from bone. This name also was favored because of its use in several other countries and its adoption by the 10th session of the Codex Alimentarius Committee on Processed Meat and Poultry Products (1978). "Mechanically Processed (Species)" ("MP(S)") was supported by some commenters as being truthful and understandable. MP(S) and MS(S) also were preferred as not having the negative connotations associated with "mechanically deboned" or "mechanically recovered", although a few commenters asserted that because of the controversy surrounding the name MP(S)P, MD(S) should be adopted rather than MP(S).

Criticism of MP(S) and MS(S) came from commenters supporting MD(S) who took the position that "mechanically processed" and "mechanically separated" are less descriptive, having no obvious connection to the separation of meat from bone, or potentially confusing. MP(S) also was criticized as negative and as uninformative or misleading because, for example, most foods are processed at least to some degree and because "processed" has traditionally been used to describe cooked or cured products. MS(S) also criticized as not making clear what is being separated from what.

In addition to addressing the four options set out in the proposal, the comments include some support for alternative terminology. One commenter suggested "mechanically extracted" as a means to alert consumers to a new and different process. Another recommended "mechanically trimmed" as descriptive of the product and not having the negative or misleading connotations of "deboned" or "processed". Two commenters suggested "mechanically boned" as more descriptive and less burdensome than the options in the proposal. Two others favored using just the term "deboned" because, according to one of them, this is most descriptive and, according to the other, the term "mechanically" serves no useful purpose and is misleading. Finally, one commenter recommended that the name of the product be "Tissue from Ground Bone" ("TFGB") in order to provide a clearer, and thus more meaningful, description of the product.

The Department has determined that it should not adopt any of the alternatives that incorporate the word "deboned" or "boned" because such names might mislead consumers. In its proposal, the Department cited its 1978 determination on this issue and expressed its continuing concern that the phrase "mechanically deboned" would erroneously represent that the product differs from meat solely in the manner by which bone has been removed. 46 FR 39274, 39284. Nothing submitted during the comment period has allayed this concern. In fact, its legitimacy has been emphasized by the many commenters who said this product is simply meat that has been separated from the bone by mechanical means. As was noted by a number of commenters, this is not the case: the product also contains bone, including bone marrow.

The Department also still ascribes to its 1978 determination that the name "TFGB" could be misleading as this product contains both meat and bone, including bone marrow, and "TFGB" would incorrectly indicate that it is made wholly from parts of bone. 43 FR 26416, 26420. In addition, the Department has concluded that the name of this product should continue to include the term "mechanically" to indicate the nature of the process used in making the product.

The Department has determined that the name "Mechanically Processed (Species) Product" should be replaced by "Mechanically Separated (Species)" in order to provide a concise and accurate description of the product without confusing or misleading consumers. Based on the factors discussed in the proposal and the comments on this subject, the Department believes that the alternative

it has selected is most likely to achieve this goal. The adoption of this name reflects the Department's conclusion that, as with other livestock-derived ingredients (e.g., "variety meats", "partially defatted pork fatty tissue"), the term "product" is not an essential element of a nonmisleading product name and that its use in this, but not other, product names may result in consumer misperceptions. The adoption of this name also reflects the Department's conclusion that because "mechanically separated" is more specific than "mechanically processed", the new name should be more meaningful to consumers. For example, Market Research Services' report indicates that "mechanically processed" may be confusing to consumers when used on the label of a frankfurter because they believe all such products are processed. Moreover, adoption of this name will make USDA's regulations consistent with those proposed in Canada and with the ongoing work of the Codex Alimentarius Commission and other countries, an advantage not presented by the other options considered.

Finally, the Department recognizes that the ability of any name to communicate in only a few words the nature of a new product is limited. In this regard, a few commenters expressed support for an effort to provide consumers with information about this product. One urged the Department to educate consumers about the product's composition and uses. Another said that the safety aspects of consuming the product need to be addressed. Others were of the view that such an effort would be in the best interest of industry as well as consumers by correcting misconceptions about the product (e.g., that it is responsible for tooth damage).

The Department believes that it is important to inform the public about this new product. Therefore, it will be reviewing its public information program and revising it to incorporate explanatory material on the process used to make MS(S) and the product's characteristics. The Department also believes that industry has a role to play in this effort, and will work with industry members and associations interested in designing their own informational materials. Similarly, the Department is interested in working with other groups which choose to develop information for consumers.

The Department also received a number of comments that went beyond the issues set forth in the proposal. Some of these comments challenged the underlying premise of having any distinctive name for the product, asserting that it is skeletal meat and, as such, the only appropriate name is that of the species from which it was produced (e.g., "beef", "pork"). As has been noted above, MS(S) does not consist solely of skeletal meat and its composition and consistency differ materially from the product defined by regulation as "meat" (9 CFR 301.2(tt)). Therefore, it should be known by its own distinctive name.

Other industry commenters accepted the appropriateness of a distinctive product name, but raised questions about its application to their products. These concerns focused on the scope of the term "species" as used in the product name. The illustrative examples set forth in the proposal to modify the definition and standard (9 CFR 319.5(a)) include "beef", "veal", and "pork". The Department intended this generic description to include product made by applying the mechanical deboning technology to any livestock covered by the FMIA. 21 U.S.C. 601; see also 9 CFR 301.2(rr), (ss), and (ww). Therefore, "species" includes beef, veal, calf, pork, mutton, lamb, goat or chevan, horse, and equine products. In response to concerns expressed by members of the sheep industry, the Department is clarifying this by adding "Mechanically Separated Lamb" to the list of examples in the regulation.

Also, several pork product producers commented that the name should identify product made from certain primal parts such as the ham. One commenter said this should be done because listing "mechanically deboned pork" in the ingredient statements of meat food products such as chopped ham would confuse consumers. The Department did not intend the term "species" to include primal parts of livestock species, nor does it believe that such an expanded use of this term would be appropriate. Primal parts are the distinct wholesale cuts of a carcass that are customarily distributed to retailers (e.g., the round, flank, and brisket for beef and the ham, belly, and shoulder for pork) (see 9 CFR 316.9). Such cuts consist primarily of whole pieces of muscle meat. Bone is included only to the extent that it accompanies such cuts and has not been removed in the dressing process. Thus, it is muscle meat and not any accompanying bone that characterizes primal parts; and, in the Department's view, product made from any accompanying bones does not retain the distinctive characteristics of the cuts themselves.

However, these comments raised issues that concern the Department: the appropriateness of continuing to permit use of this product in meat food products, such as pressed ham, chopped ham, and deviled ham (9 CFR 319.104(f), 319.105, and 319.760), that are represented as having been made from a particular part of the carcass and, if such use continues to be permitted, whether consumers might be confused by ingredient statement declarations of "mechanically separated pork" in such products. Therefore, as discussed below, the Department plans to reconsider certain of its limitations on the use of MS(S). In addition, if the manufacturers of such products can substantiate that the mechanically separated product they are using was made solely from bones which accompany ham meat, the Department would consider permitting finished product labeling to reflect that fact in the following manner: "mechanically separated pork (made from ham bones)".

(c) Bone particle size and bone solids content

The Department did not propose changing the maximum bone particle size or bone solids content limits established in 1978 (9 CFR 319.5(a)). However, it did propose to clarify these requirements by explicitly recognizing that (1) a maximum calcium content of 0.75 percent is used as a measure of a bone solids content of not more than 3 percent and (2) product failing to meet the maximum bone particle size requirement—at least 98 percent of bone particles not exceeding 0.5 millimeter (mm) and no bone particle larger than 0.85 mm—can be used only in producing animal fats. 46 FR 39274, 39284. The Department has decided to adopt these clarifying amendments.

Additionally, in view of the Canadian government's proposal to permit larger bone particles—98 percent less than 0.84 mm and 100 percent less than 2.0 mm, the Department indicated it was open to new information that good manufacturing practice may result in somewhat larger bone particles than currently are permitted; and it requested persons commenting on this issue to submit data on the safety and digestibility of bone particles larger than those now permitted. 46 FR 39274, 39284. As adequate information on which to base a modified requirement was not submitted, the Department is retaining the existing limit. However, it continues to be willing to reexamine this limit on the basis of such information and data.

Bone Particle Size

Sixty-five comments addressed bone particle size issues. Almost all of these comments were submitted by industry-related individuals and groups. Most of those commenting on the bone particle size limit were more concerned with the compliance aspect of this requirement than with the limit itself. Those comments are addressed below in connection with the Department's quality control requirements.

Many of these commenters favored increasing the current bone particle size limit, particularly in light of the Canadian government's proposal to permit somewhat larger bone particles. It was contended that the Canadian proposal reflects the capability of deboning equipment and current good manufacturing practices and that it is premised on a much larger data base than was available when the Department promulgated its requirement, but no information was provided to support this position. It also was contended that bone particles of the sizes set forth in the Canadian proposal pose no health or safety problem, but no supporting information was submitted. Other commenters stated that product made by mechanically deboning poultry carcasses contain larger bone particles and there have not been health or safety problems with that product. Finally, several commenters suggested deleting this requirement entirely, indicating that industry should self-regulate in this area, and one suggested basing the requirement on the species and parts of the carcass used to make the product because bone particle size varies by species and part.

The commenters supporting retention of the existing limit, on the other hand, felt that it is attainable with various types of available equipment and that it is unwise to jeopardize product quality and consumer acceptance merely to accommodate the state of the art in certain types of deboning equipment. Some of those taking this position also indicated that if the limit were increased, bone particles could be detected and a gritty texture and/or dental problems might result.

Despite the assertions of a number of commenters favoring an increase in the bone particle size limit, the Department has determined that such a change should not be made on the basis of the information it now possesses. The Department imposed this regulatory restriction in response to a recommendation of the Panel convened to evaluate health and safety aspects of the use of product made by mechanically deboning livestock carcasses. After considering detailed information on the bone particles produced by a number of different machines from a variety of livestock bones, the Panel concluded that the size of such particles presents no hazard to health and recommended that regulatory maximum be imposed to, in the words of the subcommittee that addresed this question, "limit particle size to those levels presently [i.e., in 1977] associated with good manufacturing practice." "Those levels" were well within the current regulatory maximum. Since that time, the Department has not received any additional information substantiating the absence of safety or digestibility problems with larger bone particle sizes.

Contrary to assertions by several commenters, data reviewed in 1979 regarding the product made by mechanically deboning poultry carcasses with auger-type equipment indicate the bone particles in that product also fall within the existing regulatory limit for product made by mechanically deboning livestock carcasses. However, the Department notes that some commenters reported finding pieces of bone in various poultry products. In any event, determinations about the size of bone particles associated with good manufacturing practice in the production of one of these products are not necessarily applicable to the other; nor are determinations about the safety and digestibility of their bone particles.

The Department also is concerned by comments that product with bone particles in excess of 0.85 mm would be detectable and, thus, adversely affect the quality of products in which MS(S) is used as an ingredient. As the Department noted in its first proposal to regulate this product, if bone were present in such a particle size (or amount) as to be readily apparent to the taste or touch, it would be identifiable as bone and be a reason to consider the product adulterated . 41 FR 17560, 17561. Moreover, the Department has not seen any data refuting its earlier conclusion that the existing limit is readily attainable with available equipment operated in accordance with good manufacturing practice.

As the Department indicated in its proposal, it does not wish to discourage the development of additional types of mechanical deboning equipment and processing procedures, particularly those capable of separating out and removing more bone. 46 FR 39274, 39284, 39288. Such technological developments may well generate data substantiating the absence of problems with somewhat larger bone particles; and the Department remains open to a reconsideration of this aspect of the regulations on the basis of such information.

Bone Solids Content

The 7 comments addressing the Department's retention of a 0.75 percent maximum on calcium content were submitted by industry-related individuals and groups and a university faculty group. These commenters generally accepted the appropriateness of this limit, with some supporting it as consistent with the operation of various types of equipment currently in use in accordance with good manufacturing practice. Only one commenter suggested a different level—1.0 percent—and he gave no reason why the current maximum should be raised. The Department does not know what prompted this suggestion since the data reviewed by the Panel indicate that deboning equipment generally yields a product with a calcium content well below the 0.75 percent maximum and in view of other comments regarding the ability of newer equipment to yield a product with an even lower calcium content.

(d) Fat and protein content

The Department proposed amending the definition and standard (9 CFR 319.5(a)) to include two categories of product: (1) A category which meets the existing fat and protein content requirements for MP(S)P—not more than 30 percent fat and not less than 14 percent protein—and (2) a category "for processing" as to which there are no fat or protein content requirements. 46 FR 39274, 39284–86. The Department has determined that this portion of the proposal should be adopted. This determination rests on its conclusion that when applied to all uses of the product, these fat and protein content requirements are unnecessarily restrictive; but when limited to certain uses, they are a necessary and appropriate method for preserving the quality and integrity of the meat food product supply.

The absence of any significant production of mechanically separated product under the 1978 regulations, the analysis of potential supplies for mechanical deboning by Drs. Bullock and Ward and the Department, and the comments on the proposal have convinced the Department that, in order to expand food supplies significantly by taking advantage of the full range of materials available for mechanical deboning, a second category of product without fat and protein content

requirements should be established. The Department also has concluded that this can be done while continuing to prevent increases in meat food products' fat content and assuring that the public can continue to rely on such products as reasonably good sources of high quality dietary protein. This amendment will permit greater flexibility in product composition to the extent that the compositional requirements for finished meat food products established by various definitions and standards of identity and composition (9 CFR Part 319) and the requirement that MS(S) be produced under a quality control system which maintains adherence to good manufacturing practice (9 CFR 319.5(e)(2)) can be relied upon to assure that the resulting variability does not compromise the integrity of finished meat food products.

One hundred and seven comments addressed this aspect of the Department's proposal. The majority of these comments were submitted by industry-related individuals and groups. A number of individual consumers also commented on this aspect of the proposal, as did several State government officials and agencies and a public interest organization. Most of these commenters objected to the imposition of fat and protein content requirements for any category of the product. However, a number of them said they oppose such requirements either because fat or fat and protein content already is controlled in all finished meat food products in which mechanically separated product may be used as an ingredient or because the proposal would impose such requirements on mechanically separated product used in finished products the fat content of which already is limited by regulation. Neither of these assertions is correct: First, as the Department noted in its proposal, a large proportion of the meat food products consumed in this country, and in which MS(S) may be used as an ingredient, is not subject to regulatory definitions and standards. Even where standards do exist, they do not impose direct limits on finished products' protein content and frequently do not limit their fat content. 46 FR 39274, 39287. Second, the precise objective of the Department in proposing to establish two categories of product was to restrict fat and protein content requirements to MS(S) used as an ingredient in meat food products the total fat content of which is *not* already limited by regulation.

Other commenters specifically opposed the establishment of two categories of product, recommending instead that there continue to be only one category and that it not be subject to any fat or protein content requirements. The basic reasons given for this position were that such requirements are not needed, without precedent, discriminatory, and/or they will not be effective. In addition to these comments questioning the logic and legitimacy of such requirements, the Department received comments asserting that the imposition of any fat and protein content requirements will preclude the deboning of some portions of swine and cattle carcasses or the use of product made from some types of livestock carcasses in at least some meat food products. Some of these commenters did acknowledge that by not imposing fat and protein content requirements on product for processing, the proposal should enable greatly increased production of MS(S); and it should be noted that some did not appear to understand the extent to which the proposed regulations would permit use of MS(S) regardless of its fat or protein content. The proposed approach also was criticized as making the manufacture of MS(S) complex because fat and protein content would have to be monitored.

A number of commenters challenged the retention of compositional requirements for any product made by the mechanical separation and removal process on the ground that such requirements cannot control the fat content of finished meat food products. These commenters' basic point was that because the fat content of only this one ingredient would be limited, it could be combined with fatty hand trimmed ingredients into finished products with a higher fat content. Several commenters asserted these requirements also are inequitable because hand trimmed ingredients and product made by mechanically deboning poultry carcasses are not subject to such limitations and/or they are not needed because this product will have the same composition as the meat it replaces. Some commenters contended that historically the composition of nonstandarized products has been limited by competition and consumer taste, and this approach should be followed here; some concluded that if fat and/or protein content requirements are necessary, they should be applied to finished products, not intermediate ingredients; and one proposed that if two product categories are established, the "better" one (i.e., product meeting fat and protein content requirements) be considered as meat and the other (i.e., product for processing) as a meat byproduct. Finally, it was argued that the concept of "good manufacturing practice" suggested by the Panel as the basis for limiting the fat content of this product should include the conservation by mechanical deboning of product with the same general characteristics as that recovered by hand deboning; and, to the extent the Panel's recommendation was to limit the fat in this product in order to counterbalance other, unlimited sources of fats and oils in the food supply, it was outside the scope of its charge to evaluate the health and safety of mechanically separate product.

The Department must admit that it did not anticipate certain of the challenges by industry to the legitimacy of fat and protein content requirements. While the Department agrees that marketplace forces and consumer preferences and satisfaction are important factors in determining product acceptability and success, it has long been acknowledged that they are not always adequate to control product composition within appropriate parameters. For example, the development 30 years ago of equipment and technology that made it possible to hold large quantities of fat in suspension during cooking and smoking meant that the incorporation of excessive amounts of fat in cooked sausages such as hotdogs—and the resultant, undetectable diminution of protein content—would no longer make such products unmarketable. Therefore, the Department established a regulatory limit on the fat content of these products (see 9 CFR 319.180). The adoption of other technological advances also has diminished consumers' ability to evaluate the characteristics and quality of various products. As a result, the Department has found it necessary to institute compositional and labeling requirements to prevent adulteration and misbranding.

Although such requirements most frequently have been applied to finished products, the establishment of compositional limits for ingredients certainly is not unprecedented. The most obvious example of an ingredient level requirement is the one discussed in the Department's proposal: the maximum on the amount of trimmable fat that may be present in any lot of product used to make various meat food products. 46 FR 39274, 39290. The Department is replacing this limit with a limit on finished product fat content in four of its standards (9 CFR 319.141, 319.143, 319.144, and 319.160) only in order that MS(S) for processing may be used in the formulation of products they cover (fresh pork sausage, breakfast sausage, whole hog sausage, and smoked pork

sausage). Thus, the same type of requirement will continue to be employed where use of MS(S) is not permitted (see 9 CFR 319.313, the standard for beef with gravy and gravy with beef). As one commenter noted, visible lean, as opposed to trimmable fat, also is considered by the Department in determining the acceptability of hand trimmings for use as ingredients in meat food products; and such determinations take into account whether or not the total fat content of such meat food products is limited by regulation, the same criterion used in these amended regulations. As the Department noted in proposing to amend four of the standards utilizing a limit on the trimmable fat of ingredients, that type of control requires a visual evaluation of solid pieces of meat; hence, it cannot be applied to the highly comminuted product produced by mechanical deboning. 46 FR 39274, 39290. Therefore, an analytical limit is more appropriate for this product.

Similarly, while it is true that there are not compositional requirements specifically applicable to product made by mechanically deboning poultry carcasses, that product is subject to the general requirements in the poultry product regulations (9 CFR Part 381). Those regulations differentiate between "poultry meat" and "poultry", with the former term restricted to product without skin or fat (i.e., fatty tissue attached to the skin) and the latter term also encompassing other edible parts, such as skin and fat not in excess of their natural proportions. As skin and fatty tissue are the places in which most of the fat in chickens and turkeys are found, these definitions serve to limit fat content indirectly and to distinguish between classes of poultry products in terms of their relative fat and protein contents. Moreover, they have consequences for product use since many of the standards for finished poultry products include minimum poultry meat requirements. At this time the Department has made no decisions with respect to additional regulatory action regarding product made by mechanically deboning poultry carcasses or as to the appropriateness of regulating that product in the manner that these revised regulations will regulate MS(S). However, it cannot be said that there currently are no constraints on the composition of that product.

In addition to limits on the composition of ingredients, the Department protects the public by regulating the type of ingredients that various meat food products may contain and, where appropriate, assuring that the proportions of ingredients they contain are sufficient to provide the characteristics they are represented as having. See sections 1(m)(8), 1(n) (2), (7), and (9), and 7(c) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(8) and (n) (2), (7), and (9), 607(c)). The focus of interest in such inquiries frequently is the quality and quantity of livestock product components. Thus, in regulating MS(S), the Department's concern is that its use in lieu of other livestock products will be consistent with the characteristics consumers associate with and expect of various meat food products and will not result in a diminution of such products' quality. MS(S) consists largely of muscle tissue, rather than parts of the carcass such as the spleen, liver, and tripe that have traditionally been restricted to use as byproducts. Therefore, the Department has agreed that manufacturers should be able to use this product as a meat ingredient in their processing formulations so long as finished product integrity is protected and that the names of finished products need not always be qualified to indicate its presence. However, this position rests on MS(S) not deviating significantly from certain of the characteristics associated with meat. Hence, the amended regulations retain a protein quality requirement; and they retain fat and protein content requirements to the extent to which other controls have not been shown to provide adequate protection against a lowering of the quality (including the nutritional quality) and expected characteristics of the meat food product supply.

The Department thus continues to ascribe to the position it took when, in 1976, the regulation of product made by mechanically deboning livestock carcasses and parts first was considered: While the Department wishes to facilitate efforts to expand the food supply through advances in technology, its actions must be consistent with its statutory responsibilities. Therefore, any reconsideration of the regulatory requirements must take into account the differences between this product and both meat that is processed only to the extent of cutting or grinding (e.g., steaks and hamburger) and the manufacturing meats traditionally used in formulating processed meat food products. With the technological advances that permit the manufacture of products from portions of carcasses previously not considered part of the meat food product supply comes a greater potential for a diminution of quality and the characteristics associated with the meat food product supply. Although the Department has considered a number of different regulatory provisions to prevent such problems, its basic objectives and approach have remained the same. As the Department stated in its 1976 proposal, it is necessary to establish standards which assure the consumer that the inclusion of new products like MS(S) in formulated meat food products will not dilute the nutritional quality normally and traditionally associated with such products. 41 FR 17560, 17560–61. By maintaining the quality and expected characteristics of such products, these regulatory requirements prevent an erosion of public confidence in the meat food product supply and, hence, protect the agricultural community by preventing damage to the markets for their products, in accordance with the goals of the FMIA. 21 U.S.C. 601, 602.

The judgments about the appropriateness of specific regulatory provisions that are reflected in these amended regulations are based on the information currently available to the Department. The amended regulations incorporate the Department's conclusion that where other regulatory controls provide adequate protection against reductions in product quality, fat and protein content requirements serve primarily to limit the use of MS(S), but not hand trimmings, in the mixtures of livestock ingredients that generally are blended together in the manufacturing process. Therefore, the Department is amending the regulations to provide manufacturers with greater flexibility to incorporate MS(S) in these mixtures and, thus, take greater advantage of market fluctuations to produce economical products.

Moreover, from the information currently available, the Department does not agree with those commenters who asserted that the proposed two product category approach will prevent utilization of the full range of materials available for mechanical deboning. These comments presented no data to demonstrate that the establishment of a category of product for processing would not provide adequate outlets for mechanically separated product, regardless of its fat or protein content; and they disregard the extent to which processors can control the composition of mechanically separated product by techniques such as varying the degree of pretrimming performed before mechanical deboning.

In fact, the available data indicate that the amended regulations would not preclude the deboning of some parts or

types of livestock. For example, Drs. Bullock and Ward estimated the economically feasible 1979 level of beef and pork product production at 351.7 million pounds if, as they recommended, the names of finished meat food products did not have to be qualified and the fat and protein content of product made by mechanical deboning were not restricted. The economically feasible 1979 level without these labeling requirements but with the 30 percent fat content maximum and 14 percent protein content minimum was estimated to be 87.2 million pounds. 46 FR 39274, 39348–49. Thus, according to these analysts, 264.5 million pounds of the potential supply of this product would not have met one or both of these compositional requirements. The Department estimates that approximately 3.1 billion pounds of standardized cooked sausages such as hotdogs and bologna (9 CFR 319.180)—products in which fat content is limited and use of MS(S) is particularly likely—were produced in federally inspected plants in 1979. The livestock (or livestock and poultry) product portion constitutes about 85 percent of these meat food products, or 2.6 billion pounds in 1979. Thus, the estimate by Drs. Bullock and Ward of the potential supply of the product that the amended regulations categorize as product for processing is just over 10 percent of the livestock product portion of these cooked sausages, or only about half of the maximum amount permitted. Product for processing also is permitted in a number of other popular meat food products such as fresh pork sausage (9 CFR 319.141) and fresh beef sausage (9 CFR 319.142), with production of these two products totalling approximately 0.84 billion pounds in federally inspected plants in 1979. In addition to these uses, potential outlets for product for processing, as well as product meeting fat and protein content limits, exist in the export market. Finally, the Department is willing to consider expanding existing outlets for product for processing by establishing limits on the fat content of additional meat food products over time.

The Department also received a comment challenging the proposal from the opposite perspective: a public interest organization criticized the Department's proposal to restrict fat and protein content requirements to one category of product. This commenter asserted that in establishing a category of product as to which there are no fat or protein content requirements, the Department reverses its original 1978 conclusion and rejects the Panel's recommendations. It was argued that the net effect of the proposal will be to increase the amount of animal fats available for use in food products because the greater amounts of fat allowed in product for processing would displace animal fat now used in processed meat food products and that fat would (because of expected lower cost) be used in other foods where vegetable fats are now used. According to the commenter, this was the reason the Panel recommended that the fat content of mechanically separated product, as well as that of finished products in which it is used, be limited. In addition, this commenter took the position that, while construction of a category of product for processing is unwarranted, it also is a mistake not to propose a specific protein standard for this category of product because unless one is spelled out, it can never be legally controlled and because the Department should not rely on the new, almost experimental, quality control systems to prevent dilution during processing; instead, protein standards should be incorporated, at least on an interim basis while factual data can be developed as to whether quality control systems can provide adequate protection.

The Department disagrees with this commenter's interpretation of the Panel's report on fat content. While the Panel subcommittee that addressed this issue acknowledged that the net result of use of mechanically separated product may be to have more animal fat available for use in the American diet, the subcommittee went on to state that it also is to be expected that theoretical net increases will be moderated by the displacement of one meat food product in any given meal by another. (The Panel's report did not discuss potential effects on the vegetable fats used in other foods. It also should be noted that insofar as the raw materials for mechanical deboning already are available for use to produce animal fats, the extent of any such effects is questionable.) Moreover, the Panel rested its recommendations not on this factor, but rather on concern over the general problem of excessive intakes of fat and their effect on health; and its recommendation was that the fat content of mechanically separated product be limited on the basis of good manufacturing practices, not that any particular, single limit be imposed.

As the Department noted when it first proposed a single limit of 30 percent for all mechanically separated product, the Panel "was reluctant to approve a product that would increase the total fat composition of meat products in which it was used." 42 FR 54437, 54439. The Department imposed this single limit as part of its decision to establish only one category of mechanically separated product, rather than follow the multiple class approach of its first proposal (which would have allowed an unlimited amount of the top class of the product to be used in meat food product formulations). That decision rested, among other things, on the absence of limitations on the fat content of a number of meat food products in which mechanically separated product is a suitable ingredient. 41 FR 17560, 17562; 42 FR 54437, 54440. The Department has concluded that its two category approach, with the associated use limits in § 319.6 of the regulations (9 CFR 319.6), will continue to satisfy the concerns raised in the prior rulemaking.

The Department also does not agree with this commenter's position on protein content. The purpose of the proposal to establish a category of product for processing was to permit variability in product composition. The Department did not intend, therefore, to attempt to enforce any particular minimum level of protein content. Instead, its concern was that there be sufficient protection against decreases in the protein content of finished meat food products when product for processing is used as one of the livestock ingredients.

The amended regulations permit use of product for processing only in meat food products which are subject to definitions and standards that limit finished product fat content. Because livestock products are composed essentially of fat, protein, and water, and fat and protein content tend to be inversely related to at least some extent, these limits on fat content operate to some degree as an indirect control on the protein content of such meat food products. As noted by one commenter, the definitions and standards for these meat food products also control the use of added water (see, e.g., 9 CFR 319.145(b)(2) and 319.180(a)), providing another indirect control.

These controls will protect finished product quality so long as the mechanical deboning operation does not, through the introduction of extraneous sources of water, result in the dilution of mechanically separated product. While this possibility exists, the Department is not aware of any significant dilution problem to date, and it has concluded that it can prevent such problems in the future through the plant quality control system approach already in the regulations (9 CFR 319.5(e)(2)).

Production of MS(S) under an approved plant quality control system is a regulatory prerequisite for the approval of labels for all MS(S) and products in which it is used. In order to be approved, such systems must provide the controls necessary to assure the production of complying product in accordance with good manufacturing practice. Such controls include adequate procedures for cooling the product during the manufacturing process without causing dilution with water.

Finally, the Department does not agree with this commenter's criticism of its reliance on a quality control approach. Although the Department's formalized program for plant quality control was instituted on an industry-wide basis less than 2 years ago (45 FR 54310, August 15, 1980), this step was preceded by about 15 years of experience evaluating industry members' use of various methods and systems to control their procedures and products within certain specifications and utilizing the information they generate in assuring compliance with regulatory requirements. Moreover, the potential for product dilution is an area with which the Department and the regulated industry have had a great deal of experience.

Therefore, the Department has concluded that current regulatory controls should be adequate to protect the quality and expected characteristics of meat food products in which product for processing may be used as an ingredient and additional regulatory controls are not warranted. Based on these conclusions, the Department is adopting the portion of its proposal establishing two categories of MS(S) and restricing use of the second category (product for processing) to meat food products that are subject to regulatory definitions and standards which limit finished product fat content (9 CFR 319.5(a) and 319.6(c)).

(e) Protein quality.

The Department's proposal retained the minimum protein quality requirement—a Protein Efficiency Ratio (PER) of 2.5 (9 CFR 319.5(a))—as well as the acceptability of an essential amino acid content of at least 33 percent of total amino acids as evidence of compliance with that requirement (9 CFR 319.5(e)(1)). The Department did, however, propose amendments to (1) permit use of product failing to meet the minimum protein quality requirement only in producing animal fats and (2) clarify the compliance provision by specifying the amino acids included in a calculation of total amino acids. 46 FR 39274, 39286. The Department has concluded that these amendments should be adopted. It has also concluded that two further amendments should be adopted in order to control the costs of measuring compliance with this requirement and to simplify the compliance provision.

Thirty-three comments addressed protein quality issues. Almost all of these comments were submitted by industry-related individuals and groups. Comments from academia and a public interest organization were among the others received. Most of those commenting on the protein quality requirement agreed that it is reasonable and appropriate for a product used as a meat ingredient. However, a number of commenters questioned various aspects of the existing regulatory provisions implementing this requirement. Generally predicating their position on the expectation that the protein quality requirement consistently or almost always will be met, and in some cases on the premise that protein consumption is not a problem in the United States, these commenters focused their concern on the costs associated with these provisions. Their comments fell into two categories: Criticism of not permitting product failing to meet the protein quality requirement to be used for purposes other than producing animal fats (9 CFR 319.5(a)) and criticism of the provisions for assuring compliance with the protein quality requirement (9 CFR 319.5(e)(1) and (2)).

Commenters making the first criticism argued that it would be wasteful to restrict use of noncomplying product to rendering or other inedible uses. They suggested various alternatives. These included not restricting use of the occasional noncomplying lot at all, basing regulatory action on a moving average of a PER of 2.5, permitting use of noncomplying product in meat food products such as soup stocks where its lower protein quality would not affect nutritional quality, and permitting blending to bring noncomplying product into compliance. However, none of these comments objected to the Department's proposal to delete the use of product failing to meet the protein quality requirement as an imitation of the standardized product. Thus, the comments did not evidence any industry interest in the production of "Imitation MS(S)" for use in the formulation of imitation meat food products.

Nor did any of the commenters disagree with the Department's proposal to retain and clarify the amino acid content alternative to the PER assay for demonstrating compliance with the protein quality requirement (although one commenter said that while this alternative measure does give an approximation of protein quality, it does not correlate well with all PER values). Instead, criticism of the compliance provisions was directed at the time and expense they involve, particularly for PER assays and particularly for small businesses. Thus, while a few commenters supported amino acid content measurements as less onerous than PER assays, the need for any protein quality testing was questioned, at least on a long term basis. Some commenters suggested reducing or eliminating the testing requirements in the quality control provision as soon as a broader data base confirms mechanically separated product is a high quality protein source, with one commenter recommending these requirements be expressly limited to an initial period of 12 to 24 months and one recommending that they be replaced by a surveillance system that could soon assure that the protein being recovered is from skeletal meat. Another commenter suggested restricting the livestock parts that can be processed by mechanical deboning as an alternative to testing the product.

While the Department does not anticipate that processors following good manufacturing practices will have difficulties complying with the protein quality requirement and it understands the concerns of these commenters, it does not accept their proposed alternatives. The Department's expectations and concerns already are reflected in its determinations regarding limitations on the use of MS(S) and its decision to rely on an approved plant quality control system as the principal regulatory control, with limited testing to verify compliance with this part of the product standard: A processor's primary responsibility is to prevent problems from arising by controlling the ingoing ingredients and the operation of the deboning equipment. He or she need only analyze a maximum of one lot of MS(S) per month to check the effectiveness of these controls and, once their effectiveness is confirmed over a 3 month period, subsequent analyses need only be performed once every 6 months so long as the product is in compliance. Thus, instead of limiting the livestock parts that may be used as raw materials for mechanical deboning, the selection of appropriate livestock parts (including combinations of different parts) is left to the processor; and instead of requiring continual testing to confirm that the resulting product complies, confirmatory analyses need only be conducted periodically. (Given this testing rate, there is not adequate data to support a moving average approach.)

Should these test results reveal that a processor's primary controls have

proved to be ineffective, however, the Department cannot simply ignor them and permit the tested lot to be used as if it complied. This would be no more appropriate than occasionally permitting more bone in MS(S) than is allowed under the standard or occasionally permitting processors knowingly to formulate other products in violation of the standards which apply to them. The law is clear on this point: A product is misbranded if it is offered for sale under the name of another food or if it purports to be or is represented as a food for which a definition and standard has been prescribed unless it conforms to that definition and standard (21 U.S.C. 601(n) (2) and (7)). "MS(S)" is a product with a minimum PER of 2.5. Product not meeting this provision of the definition and standard cannot be marketed as "MS(S)". Moreover, if the Department were to modify the standard's requirement that product resulting from the mechanical separation and removal process must contain high quality protein in order to be called MS(S) and be used in the formulation of meat food products, it would be diminishing processors' incentive to assure that the products they manufacture comply with this requirement.

The Department is not rejecting the other suggestion put forward in the comments: that processors be permitted to blend product not meeting the protein quality requirement with other, complying product. As indicated above, when a lot of MS(S) fails to meet this requirement, it means that the primary control—the plant's quality control system—has not been effective in assuring compliance. Quality control plans provide for corrective steps to be taken in such situations. If a plant wishes to include among those actions provisions for the reprocessing of the tested lot to bring it into compliance, rather than use the tested lot in producing animal fats, it may do so. Because the tested lot has not been rejected for safety reasons (e.g., presence of a poisonous substance or production under insanitary conditions), blending may be appropriate. Therefore, the Department will consider any such proposal and approve it if, but only if, it comports with all relevant requirements (e.g., 9 CFR 318.18) and assures that the reprocessed product conforms to the definition and standard in all respects (9 CFR 319.5).

The Department's belief in the appropriateness of its existing requirements also is supported by the continuing concern of some about the quality of the protein in this new product as compared with that of meat. As stated by one commenter, this concern reflects an expectation that mechanically separated product will contain a large amount of connective tissue and, consequently, of collagen, an incomplete animal protein lacking in the essential amino acid tryptophan. Citing research it sponsored during the Department's prior rulemaking on this product, this commenter concluded that the use of mechanically separated product would result in nutritional dilution. Two other commenters contended that there is no cause for concern because collagen is discarded by mechanical deboners along with the bone (with one stating that even if collagen were higher, a protein quality requirement would not be needed because mechanically separated product is high in protein quality, it is used in conjunction with meats high in protein quality, and consumption of enough high quality protein is not a problem in the United States). Research also was cited to support the position that the protein quality of mechnically separated product is comparable to that of meat and that it has a PER equal to or greater than 2.5.

No data or information that was not available to the Department in 1978 was submitted on either side of this issue. The Department continues to ascribe to the position that its regulatory requirements can be readily attained and complying product has protein of high quality. 43 FR 26416, 26421. However, the conclusion that problems are not to be anticipated was predicated on the assumption that the product standard will be enforced. Therefore, the Department is retaining the quality control provisions that bear on protein quality (9 CFR 319.5(e)(2)). Moreover, as explained below in the discussion of use limitations (9 CFR 319.6), in any future reconsideration of whether to permit the usage level of MS(S) to exceed 20 percent of the livestock and poultry product portion, the Department plans to pursue further questions regarding possible effects on the tryptophan content of meat food products in which MS(S) is the sole or major livestock ingredient.

In addition, the Department is making two further changes to control the costs of monitoring protein quality and to simplify the compliance provision (9 CFR 319.5(e)(1)). The first of these changes is the deletion of the nonessential amino acid cystine from the calculation of total amino acids. In response to comments contending that verifying compliance with the protein quality requirement would be burdensome, the Department reviewed the procedures needed to determine the percent that essential amino acid content is of total amino acid content. This review indicated that quantitative estimation of cystine is difficult and costly because during the acid hydrolysis step used to prepare protein samples for amino acid analysis, cystine undergoes oxidative degradation, producing a series of products all of which must be totalled to estimate the cystine content of the protein sample. Accurate measurement of the cystine content of a protein requires conversion of all cystine to a single substance (cysteic acid) by oxidative treatment of a separate sample of the protein. This treatment partially destroys many of the other amino acids in the sample, rendering it inappropriate for estimation of nearly all other amino acids. Therefore, the method which accurately measures the other amino acids included in the regulatory provision does not provide an accurate measure of cystine content without an additional sample analysis. As a result, exclusion of cystine from the calculation of total amino acids will cut in half the number of analyses required and thereby reduce significantly the cost of verifying compliance with the protein quality requirement. (A number of private laboratories charge approximately $150 for analyzing a protein sample for all of the amino acids other than cystine that are included in the regulatory provision, and approximately $50 more to analyze an additional sample for cystine content. Thus, this change reduces testing costs by approximately 25 percent.)

As cystine is not an essential amino acid, it is included only in the denominator of the ratio in the provision—total amino acid content—and does not affect the numerator of the ratio—essential amino acid content. The Department has concluded, however, that excluding cystine would, at most, result in a slight increase in the percent that essential amino acid content is of total amino acid content. This determination is based on a review of data on the amino acids present in various proteins in meat and in the samples of mechanically separated beef evaluated by the Panel in 1977. These data confirm that the cystine content of such proteins is low. For example, in myosin and myoglobin, the major skeletal muscle proteins, cystine either is absent or present at a level of about 1 percent of the total amino acids present. Moreover, collagen is devoid of cystine.Therefore, excluding cystine will not mask the presence of high levels of collagen. (Hydroxyproline, proline, and

glycine, which are found in greater amounts in collagen than in muscle proteins, are including in the calculation.) In the samples of mechanically separated beef evaluated by the Panel, the average cystine content was 1.3 to 1.6 percent of the total amino acids present.

The Department also applied the compliance provision to the amino acid data on these samples of mechanically separated beef. When cystine content was included in the calculation, the mean value for essential amino acid content was 40.19 percent of total amino acids (and none of the values fell below the minimum criterion of 33 percent). When cystine content was excluded, the mean value was 40.85 percent. Thus, the deletion of cystine content produced a mean increase of 0.66 percent. Because the relationship between this measure and actual protein quality is an imprecise and indirect one, a mean difference of 0.66 percent does not have any practical impact on the results obtained.

Based on this review, the Department has concluded that the provision need not be further modified to reflect this change. Furthermore, because this change is restricted to the method used for assuring compliance with the regulatory criterion and does not have any substantive effect on the criterion itself, the Department has determined that it can be incorporated as part of this final rule.

The Department also is willing to consider the possibility of reducing costs further by eliminating the periodic testing requirement if and when it is demonstrated that such testing no longer is needed to verify compliance with the protein quality requirement. However, it does not agree with the commenter who asked that an explicit time limit be placed on the periodic testing requirement as part of these amendments, without first evaluating additional data on the protein quality of MS(S).

The Department is actively investigating the protein quality of livestock and poultry products, including the identification of accurate and cost-effective methods for determining protein quality. Depending on the results of that investigation, the Department will evaluate whether the method for protein quality determinations should be modified. During the pendency of the investigation, the Department is willing to reevaluate the need for periodic testing to verify compliance with the protein quality requirement on the basis of additional data on the protein quality of MS(S). Persons interested in the subject are hereby notified that the Department is prepared to cooperate with them in designing the appropriate procedures for collecting and analyzing data on this question.

The second change being adopted by the Department is to simplify the compliance provision by focusing solely on the comparison that is to be made between essential amino acid content and total amino acid content. The first sentence of the provision clearly states the criterion to be met when this comparison is used as evidence of compliance with the protein quality requirement: an essential amino acid content of at least 33 percent of the total amino acids present. To apply this provision, the only additional information needed is the particular amino acids to be considered. Therefore, the Department is restricting the second sentence of this provision to a specification of the 7 essential amino acids to be included in "essential amino acid content" and the 17 amino acids to be included in "the total amino acids present".

(f) Quality control.

The Department proposed modifying the regulatory requirements for quality control systems in establishments producing mechanically separated product (9 CFR 319.5(e)(2)) to (1) incorporate the provisions regarding applications for plant quality control, their evaluation and approval by the Administrator of FSIS, and the conditions and procedures for terminating approval that were promulgated by the Department on August 15, 1980 (see 9 CFR 318.4 (d) (1) and (2), (e), and (g)(2)), (2) permit the use of Chemistry Laboratory Guidebook methods if no AOAC (Association of Official Analytical Chemists) method is available and provide for the submission of alternative methods of analysis to the Administrator of FSIS to determine their acceptability, (3) clarify the quantity of product which may constitute a "lot", and (4) restrict the provisions designed to assure compliance with fat and protein content requirements to product which purports to meet such requirements. 46 FR 39274, 39286–87. The Department has concluded that all of these amendments should be adopted for the reasons stated in the proposal. In addition, the Department is further amending the quality control requirements to clarify that compliance with the bone particle size limit can be assured by methods other than laboratory analysis and to clarify that, in monitoring compliance with the protein quality requirement, either PER assays or amino acid content analysis, but not both, must be performed.

Twenty-three comments addressed quality control issues. All of these comments were submitted by industry-related individuals and groups; and only one of them addressed any of the modifications proposed by the Department. That commenter said the proposal to clarify the quantity of product which may constitute a lot seems adequate for the purpose of this regulation in that it sets a reasonable maximum limit and allows establishments to choose to use a smaller lot size.

After reviewing this and other comments, which are discussed below, the Department determined that the regulatory requirements for quality control systems in establishments producing MS(S) should be amended as proposed for the following reasons: The first amendment incorporates certain of the Department's regulatory provisions for plant quality control in order to facilitate the development and maintenance of appropriate quality control programs for producing MS(S) by providing greater specificity as to the procedures and criteria for assessing the adequacy of such programs. This amendment also will facilitate the integration of plant quality control under this regulation with any other, voluntary plant quality control programs that manufacturers choose to operate. (The information collection requirements regarding plant quality control have been approved by the Office of Management and Budget (OMB). The OMB approval number is 0583–0015.)

The second amendment expands the types of analytical methods that may be used in determining compliance with the product standard. This is being done because official AOAC methods do not exist for all of the analyses required by the regulation and in order to increase the regulation's flexibility by providing for the approval of alternative methods which yield accurate and reliable data. The amended regulation also incorporates citations to current AOAC and chemistry Laboratory Guidebook methods, and it tells the public where it can obtain copies of these methods. (Errors in certain of these citations as they appeared in the proposal have been corrected in the final rule. A notice of any change in these methods will be published in the **Federal Register**.)The third amendment clarifies that, as used in this regulation, a "lot" constitutes the quantity of product designated as such by the establishment from the product produced from a single livestock species in no more than one continuous shift of up to 12 hours. The fourth amendment is necessitated by the Department's

decision to include within the definition and standard a category of product as to which there are no fat or protein content requirements. The absence of such requirements means that chemical analyses to verify the fat and protein content of product for processing are not needed to determine its compliance with the product standard. Therefore, these analyses are limited to product which is represented as containing not more than 30 percent fat and not less than 14 percent protein.

Most of the other comments addressing this portion of the product standard focused on how processors should assure that MS(S) meets the bone particle size limit, the testing needed to verify that MS(S) meets the protein quality minimum, and/or the requirement that a plant quality control system must include methods "to maintain uniformity of the raw ingredients" used in manufacturing MS(S). As noted above, most of those commenting on the bone particle size limit were more concerned with the compliance aspect of this requirement than with the limit itself. These commenters' basic position was that processing establishments should not be required to test for bone particle size on an ongoing basis; instead, compliance should focus on the equipment to be used in manufacturing MS(S). In support of this position, several of them questioned the ability of processors to test accurately for bone particle size, said that enforcement through testing would be difficult and burdensome because such analyses cannot be conveniently accomplished at the processing plant level, and/or argued that there is no need for expensive testing once equipment is approved. It was contended that bone particle size is a function of equipment design and apparently does not vary significantly with other factors such as heat, pressure, or wear. Therefore, some commenters recommended that the Department control the size of the openings in the screens or other equipment used in making the product or that the Department allow use of any equipment—including types which do not employ screens or other straining devices—shown to yield product meeting the bone particle size requirement. In addition, several commenters said that the bone particle size control should be implemented as part of the Department's equipment approval process; and one suggested that this be accomplished through field tests and the submission of test data to support requests for approval, with USDA devising a mechanical and visual method for inspection at the point of production.

As one commenter noted, the Department's first proposal for controlling bone particle size was stated in terms of a limit on the size of the openings in the screens, sieves, or ports through which product resulting from the mechanical separation and removal process is strained. 42 FR 54437, 54441. This provision was included in response to the Panel's recommendation that bone particle size be limited to the levels then associated with good manufacturing practice. 42 FR 54437, 54440. Because the bone particles evaluated by the Panel and found to present no hazards to health had been produced by equipment with openings not exceeding 0.5 mm in diameter, the proposed rule incorporated this dimension as the maximum size for equipment openings. 43 FR 26416, 26422. In the final 1978 rule, the Department replaced this maximum with a limit on the size of the bone particles that resulted from use of such equipment in accordance with the proposed procedures. The purpose of this change was to avoid discouraging the development of equipment that does not employ screens, sieves, or ports by focusing on the size of the bone particles produced rather than the characteristics of the equipment used. 43 FR 26416, 26422.

The Department did not intend this modification of the product definition (9 CFR 319.5(a)) to be interpreted as imposing a requirement that the resulting product must be tested as part of any quality control system approved under § 319.5(e)(2) of the regulations (9 CFR 319.5(e)(2)). The processors responsibility is to assure that the product complies with the bone particle size limit. The most important factor affecting bone particle size is the type of equipment used. Protection against use of inappropriate equipment already is provided by the equipment approval process implemented in § 308.5 of the regulations (9 CFR 308.5): To be used for preparing any edible product or ingredient, equipment must be of such material and construction as, in the judgment of the Administrator of FSIS, will avoid adulteration and misbranding of such product. When equipment is proposed for use in an official establishment, the Administrator specified the information (to be submitted by the establishment operator) that is necessary to determine whether these criteria are met and then evaluates that information to determine the acceptability of the equipment model for its proposed use. (A copy of the listing of equipment that has been evaluated and found acceptable for use in mechanically deboning livestock carcasses can be obtained from Technical Services, Meat and Poultry Inspection Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.)

The role of the quality control system in assuring complying product focuses on the operation of equipment that has been found to be acceptable: Any conditions for use prescribed as a result of evaluation during the equipment approval process must be followed. Use must accord with good manufacturing practice. Other factors that affect bone particle size (e.g., the wearing down of parts, the level of pressure applied) must be controlled. Methods other than laboratory testing should be adequate to verify the effectiveness of these controls. However, as the processor remains responsible for any violation that does occur, he or she may wish to analyze samples of the product, particularly during the initial periods of operation of newer types of equipment. Those interested in reviewing the methodology the Department currently uses in its analyses to verify compliance with the bone particle size limit will find a copy of the procedures in the record of this rulemaking.

In view of the comments on this issue, the Department reviewed the quality control provision and determined that it should be clarified to avoid future misinterpretation by the public. Therefore, it is amending the fourth sentence of § 319.5(e)(2) of the regulations (9 CFR 319.5(e)(2)), which describes the methodological requirements for quality control systems, to include language specifically providing for procedures for assuring compliance in addition to chemical analyses.

Comments on the testing needed to verify that MS(S) meets the protein quality requirement are addressed above in conjunction with the discussion of that requirement. As is indicated there, the Department does not believe that the testing requirement in the quality control provision should be modified at this time, but it plans to reevaluate this requirement in the future. The Department does believe, however, that here too a modification of the language used will prevent misinterpretation of this provision. Under § 319.5(a) of the regulations (9 CFR 319.5(a)), MS(S) must have a minimum PER of 2.5 except as modified by § 319.5(e)(1) (9 CFR 319.5(e)(1)), which accepts an essential amino acid content of at least 33 percent of the total

amino acids present as evidence of compliance with this requirement. While these provisions clearly indicate that either PER assays or amino acid content analyses may be used to verify protein quality, § 319.5(e)(2) of the regulations (9 CFR 319.5(e)(2)) can be read as requiring that both types of testing be performed because that provision refers to analyses to verify content of essential amino acids "and" protein efficiency ratio. To clarify that in monitoring protein quality, either one of these tests, but not both of them, must be performed, the Department is amending the two sentences that refer to such testing to require analysis of "essential amino acid content and/or protein efficiency ratio".

The last criticism of the specific requirements of the quality control provision was made by a few commenters who questioned the requirement that a plant quality control system must include methods to maintain uniformity of the raw ingredients. According to these commenters, this requirement is inappropriate because the raw ingredients used are not uniform; they vary with the species and parts of the livestock carcass and, there is no uniformity to be maintained.

The Department agrees with these commenters that diverse raw materials may be used in making MS(S). However, that very variation is the reason why this requirement is necessary. As indicated above, the Department is relying on an approved plant quality control system to assure compliance with the product standard, with only periodic testing to check the effectiveness of this control. The Department took this approach, rather than requiring continual testing of the product, to keep the costs of production down. In order that the results of the analyses that are conducted can be used in assessing whether or not the processing operation is, in fact, under control, the Department must be certain that the lots of MS(S) tested are comparable to those which are not tested. Therefore, the factors that can affect the characteristics of MS(S) must be controlled by the processor. These factors include such characteristics of the ingoing ingredients as the proportions of different parts of the carcass being used and the extent to which skeletal muscle has been removed by hand trimming before mechanical deboning. Thus, for example, if a processor wishes to make mechanically separated beef from certain parts of choice grade steers on some days and from other parts of utility grade cows on other days, he or she should handle these under the quality control system as different types of MS(S).

In addition to the comments discussed above, several commenters expressed more general concerns about the quality control provision. Some of these comments evidenced confusion about the types of establishments to which this provision applies or whether it applies unequally to processors who manufacture only mechanically separated product as compared with those who manufacture both mechanically separated product and finished meat food products in which it is used as an ingredient; and one argued that the provision is too complex. Others questioned the need for any quality control system in these regulations, with some contending that this requirement discriminates against the red meat industry because no such requirements are imposed on manufacturers of product made by mechanically deboning poultry carcasses.

The Department believes that the scope of this provision is clear: MS(S) must be produced by an establishment under an approved plant quality control system as a prerequisite for the approval of labels for the MS(S) itself or any product in which it is used as an ingredient. Therefore, only establishments manufacturing MS(S) must have such a quality control system. This provision does not apply unequally to different types of processors as it only covers the portion of their operations involving the manufacture of MS(S). The Department also does not agree with the comment that this provision is too complex. MS(S) is a product of advanced technology. To the extent that the provision for the quality control system regarding its production appears to be complex, this reflects the nature of the technological process involved in the manufacture of MS(S).

Finally, the Department continues to believe that the quality control provision is necessary and appropriate to avoid adulteration and misbranding and is not burdensome. It is the result of an extensive rulemaking which concluded that special requirements are needed to assure that establishments formulate this product to comply consistently with the requirements of the product standard and thereby avoid false or misleading labeling. 43 FR 26416, 26422. No new information challenging this conclusion has been brought to the Department's attention. No similar regulatory review of product made by mechanically deboning poultry carcasses has been conducted and, therefore, a comparison with the regulation of that product is inapt. In addition, as Drs. Bullock and Ward noted in their analysis, the current regulations have a small impact on costs of producing this product. Insofar as any of these costs are attributable to the quality control provision, there are countervailing benefits to processors of MS(S): by providing controls and information that maximize the likelihood that product of consistent and uniform quality which complies with regulatory requirements will be manufactured at a predicted cost, quality control helps to minimize a processor's costs.

2. Handling Requirements

The Department did not propose changing the requirements established in 1978 for the handling of material for mechanical deboning and the handling of the product itself (9 CFR 318.18); and it has concluded that no amendments to these requirements are warranted. However, adoption of amendments to the product definition and standard necessitates changes to reflect the new product name and the elimination of "Imitation MP(S)P" as a product to be used in the formulation of imitation meat food products. 46 FR 39274, 39287. Therefore, the Department is amending this regulation by replacing the references to "Mechanically Processed (Species) Product" and "an imitation of such product" with the new product name—"Mechanically Separated (Species)".

Only 2 comments addressed the handling requirements for mechanically separated product. One commenter, an industry member, said that this product, as well as all meat products, should be handled in a manner best designed to assure it is wholesome, sanitary, and unadulterated; but he contended that consumers' interests could be protected without another layer of requirements through the inspection system and existing industry procedures. Another commenter, a veterinarian with a State inspection program, expressed reservations about mechanically separated product, stating that no adequate testing of shelf life and keeping qualities under normal market distribution methods appears to be accomplished.

In its prior rulemaking, the Department evaluated the microbiology of mechanically separated product and the opportunities that it and its production present for bacterial growth and spoilage. The Department concluded that microbiological standards are not approriate and found no evidence of any bacterial hazard so

long as handling accords with good manufacturing practices. However, because of the potential rise in the temperature of this product during the mechanical separation and removal process and the fact that the product consists of small particles having more surface area than most meat food products, the Department concluded that special processing and storage requirements are warranted for the raw materials used to make the product and for the product itself. 43 FR 26416, 26419. The Department has reached similar conclusions in other situations in which the particular characteristics of a livestock product make its general processing requirements inadequate. Thus, it has prescribed treatments for various pork products to destroy trichinae (9 CFR 318.10) and established procedures for hermetically sealed canned products to assure proper cleaning, closure, and heat processing (9 CFR 318.11). The Department has received no additional information on the basis of which to modify its earlier conclusions. Therefore, it continues to believe that these provisions are necessary and appropriate to assure that MS(S) and products in which it is used are wholesome and unadulterated; and it continues to believe that these provisions, in combination with its other regulatory requirements and plant quality control, are adequate for this purpose.

3. Use Limitations

The Department proposed amending the limitations on the use of mechanically separated product (9 CFR 319.6) in accordance with the proposed amendments to the product definition and standard (9 CFR 319.5) and also to encourage the development of machinery capable of producing product with a lower bone content, as follows: (1) Use of product for processing would be restricted to 20 percent of the livestock and poultry product portion of meat food products that are subject to definitions and standards of identity or composition which limit finished product fat content and (2) the 20 percent restriction on the amount of product meeting maximum fat and minimum protein content requirements would be replaced with a set of limits—from 20 percent to 100 percent—based on the product's calcium content. 46 FR 39274, 39287–89. The Department has decided to adopt the portion of the proposal that would permit use of product for processing in meat food products subject to regulatory definitions and standards which limit fat content (9 CFR 319.6(c)). The Department's reasons for restricting use of this category of MS(S) to certain standardized meat food products are discussed above in conjunction with amendments to § 319.5(a) of the regulations (9 CFR 319.5(a)). The Department also has decided to withdraw the portion of the proposal that would have permitted usage levels of MS(S) meeting fat and protein content requirements to increase above the 20 percent level as hard bone content—measured by calcium content—decreases (9 CFR 319.6(b)). This decision is based primarily on the Department's conclusion that, contrary to its belief when the proposal was published, use of MS(S) at higher levels could result in significant increases in the cholesterol content of meat food products, increases that consumers would not expect and could not evaluate without additional information. As use at up to the 20 percent level does not present this problem and this limit is unlikely to constrain production and use of MS(S), the Department has decided to retain the existing restriction and not to engage in further rulemaking at this time. It is, however, amending the regulations to clarify the basis on which the 20 percent restriction is to be calculated (9 CFR 319.6 (b) and (c)).

The Department did not propose changing the existing prohibitions against use of different species of mechanically separated product in meat food products required to be prepared from one species and against its use in certain meat food products, but it did propose amendments to clarify the mandatory nature of these provisions. It also proposed to simplify the regulations be deleting an unnecessary cross reference to the labeling requirements for meat food products containing mechanically separated product. 46 FR 39274, 39287–89. The Department has concluded that these proposed amendments should be adopted and that, in addition, the list of meat food products in which use of MS(S) is prohibited should be amended to clarify its scope (9 CFR 319.6 (a) and (d)).

One hundred and thirty-four comments addressed limitations on the use of mechanically separated product. More than half of these comments were submitted by industry-related individuals and groups. Many individual consumers also commented on this aspect of the proposal, as did a number of professionals and State government officials or agencies and a public interest organization.

Limitations on Product for Processing

The majority of these commenters objected to the imposition of maximum fat and minimum protein content requirements on any category of mechanically separated product and, hence, to distinctions in use limitations based on the proposed two category approach. Insofar as such comments addressed the proposal to restrict use of product for processing to certain standardized meat food products, they are summarized above in the discussion of the Department's decision to establish a category of MS(S) as to which there are no fat or protein content requirements. Insofar as they addressed the proposal to permit usage levels to increase as bone content decreases, they frequently supported replacement of the current 20 percent restriction with a restriction based on calcium content for all mechanically separated product; and some of these comments challenged the Department's retention of the 20 percent restriction for product for processing as being without apparent justification. The Department's response to these comments is included in the following discussion.

Amount of Product Limitation

Most of those commenting on the proposal to replace the 20 percent use level restriction with a set of limits on calcium content supported a calcium content approach, but criticized specific aspects of the proposed provision implementing this approach. A few of these commenters said they support such a change in the basis for the restriction because it should encourage development of better technology, because it is more acceptable than the current regulation, or because the question of product quality with use above the 20 percent level is for the manufacturer and the industry, not the government. The 20 percent restriction also was criticized as without economic justification by a commenter who said it seems logical that the market place would resolve the use level issue as the success of processed products depends on repeat purchases by satisfied consumers, and the current limit might be restrictive and create costs with future technology.

The focus on these commenters' concern with the proposal was the maximum of 0.15 percent calcium for mechnically separated product to be permitted to constitute up to 100 percent of the livestock and poultry product portion of meat food products. This limit was characterized as unrealistic and restrictive; and it was challenged as without justification in that it is based on the allegedly arbitrary 20 percent use level limit in the current regulation. Most commenters criticizing the 0.15 percent proposal recommended that 0.22

percent, 0.25 percent, or a level between 0.20 and 0.25 percent be used instead. The first of these amounts received the most support, with some of the commenters reasoning that this is the same level of calcium that currently is allowed in product made by mechanically deboning turkey and mature chicken carcasses. In addition, a few commenters criticized the proposal to tie a set of maximums on calcium content to different use level limits, suggesting that use just be limited on the basis of calcium content; and a few favored basing the limit on the calcium content of finished products or on their meat portions, with one stating that use of an ingredient level limit would only restrict the carcass parts used. It appears, however, that at least some of those commenting on these issues did not understand the proposed provision. Thus, for example, some of the commenters thought the 0.15 percent maximum would apply to finished products or to their livestock and poultry product portion, rather than to just the mechanically separated livestock product; and others based their recommendations on the erroneous assumption that the Department's objective was to control the calcium content of mechanically separated product or of finished products, as opposed to the livestock bone content of finished products.

Several other commenters supported retention of the 20 percent restriction. These commenters generally based their position on maintaining the character or quality of meat food products in which mechanically separated product is used, with one stating that his company's data and testing show this to be a maximum level and pork sausage quality is not reduced with use of this level. Finally, one commenter took the position that in proposing to allow varying amounts of mechanically separated product depending on its calcium content, the Department reverses its prudent 1978 conclusions and proposes to permit a product that was not analyzed for health and safety by the 1977 Panel. This commenter contended that while the proposed 0.15 percent calcium maximum may deal with the health problems stemming from the greater content of certain metals and other elements in the product, it does not address the greater problems of nucleic acid and protein quality; thus, it presents an imprudent and unacceptable result for groups of consumers with certain health conditions—gout sufferers and other hyperuricemics, who must strictly limit nucleic acid consumption—and for the public at large because products with mechanically separated product used at up to the 100 percent level could be expected (due to its collagen content) to be seriously deficient in the essential amino acid tryptophan, and it is unknown what other health problems could result.

As indicated above, the Department has decided to withdraw its proposal to permit use of MS(S) meeting fat and protein content requirements to increase above 20 percent of the livestock and poultry product portion. The reasons for this decision were not the focus of concern of those favoring the proposed calcium content approach. Therefore, the Department's primary goal in responding to those commenters is to clarify the issues involved in order to avoid further misinterpretation or misunderstanding in any future evaluation or discussion of this subject by reviewing the basis for the proposal and its limited purpose.

The calcium content approach to regulating use of mechanically separated product was developed in response to the PCMA–AMI petition, which advocated this approach as a means of providing a technology-forcing incentive to lower the powdered bone content of mechanically separated product. The only information submitted in support of this request to amend the regulations was the economic analysis of Drs. Bullock and Ward. They took the position that the current 20 percent limit does not appear to be generating social costs at present and is not likely to become an effective constraint on production or use of mechanically separated product. They nevertheless recommended that it be removed because it is without economic justification: consumer satisfaction should be relied on to weed out products containing too much mechanically separated product and the development of potential new products that might be acceptable with higher levels should not be precluded.

The Department accepted the value of encouraging technological developments that would increase the capability of deboning machinery to keep hard bone from passing through the equipment along with soft muscle tissue because a number of the health and safety, as well as quality, issues presented by mechanically separated product are associated with its bone content. The Department did not accept, however, the apparant assumption that consumer satisfaction considerations are the sole basis for the current use level limit. As just noted, this is not the case: among other things, the 20 percent restriction, in combination with the 0.75 percent maximum on the calcium content of MS(S), limits the hard bone content of finished products and, hence, their content of substances which may concentrate in livestock bone (e.g., fluoride and lead). No new information was submitted on this aspect of the restriction. Therefore, the basic premise on which the proposal to permit higher use levels rested was that the livestock bone content of no finished meat food product would be any higher than is permitted under the existing regulations. 46 FR 39274, 39288–89. Of course, this premise also was essential to assuring that the proposed provision would fulfill its underlying objective: the provision would not function as an incentive to develop deboning equipment capable of separating out and removing more bone if manufacturers could use MS(S) at higher levels without a concomitant decrease in bone content.

The regulations employ calcium content as a measure of hard livestock bone content and they permit mechanically separated product with a calcium content of 0.75 percent to constitute no more than 20 percent of the livestock and poultry product portion of any meat food product. The same amount of livestock bone would be present if mechanically separated product with a calcium content of 0.15 percent were used as 100 percent of that portion. Therefore, use of MS(S) at the 100 percent level would be inconsistent with the premise underlying the proposal if its calcium content exceeded 0.15 percent, as recommended by a number of commenters, because it would result in an increase in the bone content of finished meat food products. Thus, for example, if MS(S) containing 0.22 percent calcium were used as 100 percent of the livestock and poultry product portion of a hotdog (which is 85 percent of the finished product), it could contain approximately 50 percent more livestock bone than permitted under the existing regulations or the proposal (i.e., 0.22 percent calcium in 85 percent of the hotdog would contribute 0.187 percent calcium, or up to 0.75 percent hard bone, whereas either 0.75 percent calcium in 17 percent of the hotdog (20 percent of 85 percent) or 0.15 percent calcium in 85 percent of the hotdog would contribute 0.1275 percent calcium, or up to 0.51 percent hard bone).

By the same token, the particular calcium content limits used in the current and proposed regulations reflect determinations about the maximum amount of hard livestock bone and accompanying substances in product made by mechanically deboning livestock carcasses, and not an effort to

control the amount of the essential nutrient calcium that is provided by meat food products. Therefore, it would be inappropriate here to apply this restriction so as to include or reflect the calcium contributed by any ingredient other than MS(S), as also was suggested by some commenters (e.g., product made by mechanically deboning turkey and mature chicken carcasses, which contains only up to 0.235 percent calcium).

In these circumstances, the proposal to permit use at higher levels represented a potential for the future—for the development of acceptable new products and for increased use levels in existing products with improvements in the deboning technology and with the application of that technology to whole livestock carcasses or parts from which most of the skeletal muscle has not first been removed by hand deboning. The Department proposed to provide that potential to the extent that, based on the available information, it appeared that limits on calcium, fat, and protein content could be relied upon to prevent potential health and safety problems and maintain the nutritional quality of finished products. 46 FR 39274, 39287–88. (See also the discussion of the amendment to § 319.5(a) of the regulations (9 CFR 319.5(a)) establishing a category of product for processing.)

Moreover, despite its decision to withdraw the proposal to permit use of MS(S) meeting fat and protein content requirements at higher levels, the Department disagrees with the criticism by one commenter that this proposed amendment is a reversal of its 1978 conclusions and would permit a product not analyzed by the 1977 Panel. First, the Department believes that the proposal was consistent with the Panel's evaluation of the health and safety aspects of the use of mechanically separated product. Insofar as the Panel considered the amount of this product that might be used, the focus of its concern was the potential effects of the product's hard bone content on dietary intake levels of substances (e.g., fluoride and lead) that are found in higher concentrations in the skeletal portion of livestock than in muscle tissue. Thus, the major issue here for the Panel was the extent to which use of mechanically separated product as an ingredient could be accompanied by consumption of hard bone and, hence, increased levels of these substances in the total diet, not the proportion (let alone the absolute amount) of any given meat food product that may consist of mechanically separated product. The proposal would not have permitted any increase in hard bone consumption over the maximum allowed under the existing regulations and, therefore, does not reflect a reversal of the Department's earlier position regarding the need to prevent unsafe increases in dietary intake levels of various substances evaluated by the Panel.

Second, the evidence does not support this commenter's contentions regarding the health problems of use of mechanically separated product for gout sufferers and other hyperuricemic individuals due to MS(S)'s content of bone marrow and, hence, nucleic acids. Nucleic acids—deoxyribonucleic acid (DNA) and ribonucleic acid (RNA)—are complex molecules made up of the purines adenine and guanine plus many units of other compounds (e.g., sugar, phosphate). They are broken down into these components in the body. Purines, which also are found in free form, are further broken down to form uric acid. Because high purine intakes may increase blood and urine uric acid levels, they may be of concern in conditions, such as gout, where there is either a reduced ability to excrete uric acid or an increased endogenous production of uric acid. Thus, the appropriate focus of interest here is purine content. Moreover, the issue is whether the use of mechanically separated product would present an increased risk for these hyperuricemic individuals as compared with the mix of livestock products now used as ingredients in meat food products, not the absolute levels of these substances in mechanically separated product. Livestock products are recognized as sources of nucleic acids and purines.

Because increases in the levels of mechanically separated product might be accompanied by increases in the levels of bone marrow in meat food products and in response to the concern expressed by this commenter in the prior rulemaking regarding the nucleic acid content of bone marrow, the Department evaluated the available data before publishing the proposal and found no reason to believe that use of mechanically separated product in compliance with either the existing or proposed regulations would present an increased risk for gout sufferers or other hyperuricemic individuals. However, in view of the nucleic acid levels reported in a recently published article (P. Arasu, *et al., Journal of Food Science*, 46:1114, 1981) and its desire to obtain additional information on this subject, the Department solicited further data and comments on the relative purine and nucleic acid contents of meat and mechanically separated product (46 FR 39274, 39289); and it collected and analyzed samples of mechanically separated product from all plants producing the product in August 1981. No further data were submitted by the public during the comment period.

In the Department's study, pairs of samples of mechanically separated beef and beef or pairs of samples of mechanically separated veal and veal from four processing plants were analyzed for purine content (adenine, guanine, hypoxanthine, xanthine, and total) and nucleic acid content (DNA, RNA, and total). Consistent with previously available data, the total purine content of mechanically separated product was found to be similar to that of meat. A difference of 10 percent is judged to be of little or no metabolic importance. The mean levels found in mechanically separated beef as compared with beef were well within 10 percent of one another. There was greater variation in the data on mechanically separated veal as compared with veal: the mean could be anywhere in the range between 5 percent lower and 27 percent higher. Even if one assumes the uppermost value of 27 percent higher total purine content, a meat food product could contain mechanically separated veal at up to the 37 percent usage level without being more than 10 percent higher in total purine content than a similar meat food product formulated without mechanically separated veal; and if a meat food product is formulated with mechanically separated veal at the 20 percent level, the potential increase in total purine content would be only 5 percent with the potential difference ranging from 1 percent lower to 5 percent higher). The greater variability, and higher total purine levels, found in livestock products made from veal carcasses is not surprising in view of the young age at which such animals are slaughtered. Rapid cell formation, rapid growth, rapid development, and stress, and hence higher bone marrow and total purine levels, characterize young animals.

In general, any diets that restrict purine intakes are based on total purine content. There should be no difference in the impact on such diets of consuming mechanically separated product as compared with meat. However, in view of the variation in the currently available data on mechanically separated veal and the potential those data indicate for increases in the total purine content of meat food products if mechanically separated veal were the sole or major livestock ingredient used, the relative purine contents of

mechanically separated veal and veal will be an issue in any future reconsideration of the 20 percent use limitation. Persons interested in pursuing such a reconsideration are hereby notified that the Department is prepared to cooperate with them in designing the appropriate procedures for collecting and analyzing data on this question.

In addition, research has shown that two individual purines—adenine and hypoxanthine—are of particular importance in raising blood uric acid levels (Clifford, *et al., Journal of Nutrition,* 106:428–34, 1976). The average combined content of these two purines was lower in mechanically separated product than in meat. Hypoxanthine levels were lower in mechanically separated beef and mechanically separated veal than in beef and veal, respectively. Adenine levels were higher, but by amounts smaller than the differences in hypoxanthine content. The lower hypoxanthine levels should counteract the higher adenine levels in mechanically separated product, with no difference in impact from consumption of mechanically separated product than from consumption of meat. Differences in the proportions of the four individual purines found in mechanically separated beef and mechanically separated veal, on the one hand, and beef and veal, on the other, in part reflect differences in their nucleic acid contents: Levels of nucleic acids were higher in mechanically separated beef and mechanically separated veal than in beef and veal, respectively. However, as indicated above, relative purine levels are the appropriate focus of interest here.

Based on all of the information on this question, the Department has concluded that formulation of meat food products with mechanically separated product does not present an increased risk to gout sufferers and other hyperuricemic individuals, particularly in view of its decision to retain the 20 percent restriction on the amount of mechancially separated product that may be used in meat food product formulations. In this regard it also should be noted that current medical practices do not support view that gout sufferers and other hyperuricemic individuals must strictly limit their consumption of nucleic acids or purines. Drugs have been developed which are so effective in lowering serum urate levels that dietary restriction is seldom employed. Furthermore, if dietary management is used, recommended intake levels would require restricting consumption of all livestock products (as well as many other foods).

The additional analytical work conducted by the Department did, however, raise a different concern. When the proposal was published, the Department believed that the cholesterol content of meat food products formulated with higher levels of mechanically separated product would not differ significantly from that of comparable meat food products formulated without mechanically separated product or with mechanically separated product limited to 20 percent of the livestock and poultry product portion. This belief was based on the findings in the Panel's report and, in particular, the finding that the cholesterol content of product made by mechanically deboning livestock varied within the same range as that of product made by hand deboning. But because the data reviewed by the Panel seemed to indicate potentially greater variability in the cholesterol content of mechanically separated product and were limited in scope, the Department noted its interest in receiving additional information on the relative cholesterol contents of ingredients made by mechanically and hand deboning livestock carcasses and parts. 46 FR 39274, 39285. No information was submitted by the public (although a few commenters did express concern about possible increases in cholesterol content). Recognizing that the Panel subcommittee which addressed this issue had suggested that periodic reevaluation might be desirable and in order to confirm its observation that there was no relationship between cholesterol content and total fat content, the Department reviewed the area.

The same samples of mechanically separated beef, mechanically separated veal, beef, and veal that were analyzed for purines and nucleic acids also were analyzed for cholesterol and fat content. In addition, the published literature on the relationships between cholesterol content and the component parts (i.e., spinal cord, bone marrow, muscle and fatty tissue) of mechanically separated product was reviewed. Evaluation of this information has led the Department to conclude that, based on all the data now available, it can no longer be said that the cholesterol content of product made by mechanically deboning livestock falls within the same range as that of product made by hand deboning. Instead, it appears that to the extent that mechanically separated product is made from materials which contain spinal cord and bone marrow (as opposed to hard bone) in addition to muscle and fatty tissue, its cholesterol content will be greater than the cholesterol content of meat. In the samples analyzed by the Department, the mean cholesterol values for mechanically separated beef and mechanically separated veal were 209 mg and 239 mg per 100 grams, respectively, as compared with mean cholesterol values for beef and veal of 59 mg and 108 mg per 100 grams, respectively. Also, researchers at the University of Wyoming have found cholesterol levels in mechanically separated beef and mechanically separated pork that are higher than the representative values given for beef and pork (Field, R. A., "Mechanically Deboned Red Meat," *Advances in Food Research,* 27:23 80–81, 1980).

So long as mechanically separated product constitutes 20 percent or less of the livestock and poultry product portion, the cholesterol content of finished meat food products formulated with MS(S) will be only slightly higher than that of comparable products formulated without MS(S); and use of MS(S) will not lead to any appreciable increase in dietary cholesterol intakes. If, however, as the Department proposed, higher usage levels were permitted, the magnitude of the differences in cholesterol content could easily become quite striking; and the use of MS(S) could result in significant increases in the cholesterol content of meat food products. For example, it is to be expected that persons who have been advised by their physicans to restrict their intake of cholesterol would have to modify the foods they consume if they included such products in their diets (e.g., by reducing their consumption of other foods of animal origin such as milk, eggs, or cheese). Finally, the information reviewed confirms the earlier observation that cholesterol content and total fat content are not positively correlated. (Thus, restricting the fat content of MS(S) would not serve as a means for limiting its cholesterol content.)

Because the Department did not anticipate this problem when it proposed to permit mechanically separated product to be used at higher levels, the proposal did not deal with the issues these potential differences in composition raise. The Department has decided not to engage in further rulemaking on these issues at this time, in large part because use of MS(S) in compliance with the existing regulatory restriction of 20 percent is unlikely to constrain production and use: at the current stage of product development, formulations that are satisfactory to the

vast majority of processors contain MS(S) at less then the 20 percent level. Moreover, developments in mechanical deboning technology and practices may affect the extent to which higher usage levels would be a cause for concern. For example, it is possible that the cholesterol values found in the samples recently collected by the Department are higher than those found in the samples evaluated by the Panel because the more recent samples were made from raw materials that had a lower proportion of meat to bone or because they had a higher proportion of spinal cord and/or bone marrow. Similarly, MS(S) produced by applying the mechanical deboning technology to whole carcasses or parts from which most of the skeletal muscle has not first been removed by hand deboning might well have a cholesterol content comparable to that of meat of the same species. As production of MS(S) increases, the Department expects that additional information relevant to these issues will be compiled. Persons interested in pursuing the possibilities for a reconsideration of this use limitation are hereby notified that the Department is prepared to cooperate with them in designing the appropriate procedures for collecting and analyzing data on the questions of concern here.

In addition, the public should be aware that in any future reconsideration of this use limitation, the Department plans to pursue further an issue raised by one of the commenters: possible effects on the tryptophan content of meat food products if MS(S) were used as the sole or major part of the livestock and poultry product portion. As indicated above in the discussion of the product definition and standard (9 CFR 319.5), the Department continues to ascribe to its 1978 position on protein quality: the regulatory requirements can be readily attained and complying product has protein of high quality. That assessment was based on the Panel's evaluation of protein quality issues and on an additional evaluation conducted as a result of comments submitted during the prior rulemaking on this product which criticized the Panel for not comparing the amino acid profile of mechanically separated product with that of the hand trimmed meat that it could replace. In response to this concern, the Department made such a comparison and found that, on a gram per gram of nitrogen basis, the amino acid content of mechanically separated product is comparable to values given for beef in "Amino Acids Content of Foods—Home Economics Research Report No. 4" and to more recent values accumulated by the Consumer and Food Economics Institute-Science and Education Administration, USDA. 43 FR 26416, 26421.

In response to this commenter's concerns regarding the proposal to permit use to increase to up to the 100 percent level, the Department reviewed the available information on the relative tryptophan contents of beef and mechancially separated beef. This review confirms the basic conclusions drawn by the Department in 1978. (Thus, for example, because hydroxyproline, proline, and glycine—nonessential amino acids that are found in greater amounts in collagen than in muscle protein—are included in calculating the proportion of total amino acids that are essential amino acids, the presence of collagen in MS(S) will not be masked.) But it also led the Department to conclude that additional information should be obtained before permitting use of MS(S) at higher levels because the data currently available on mechanically separated beef (which were obtained from samples selected to reflect a wide range of PER'S) indicate that as the proportion of mechanically separated beef in a meat food product approaches the 100 percent level, the difference between that product's tryptophan content and the tryptophan content of a product in which beef is the sole livestock ingredient could become significant. The Department expects that the likelihood of such a result would be lower where MS(S) is produced from whole carcasses or parts from which most of the skeletal muscle has not first been removed by hand deboning and that as production of MS(S) increases and the mechanical deboning technology develops, further information on this question will be compiled. (As indicated above, the relative total purine contents of mechanically separated veal and veal also will be an issue in any such proceeding.)

Finally, the Department is amending the regulations to clarify the basis on which the 20 percent restriction is to be calculated. None of the comments addressed the Department's proposal to replace the phrase "meat portion" with "livestock and poultry product portion" (although one commenter misunderstood the proposed phrase as referring to the finished products in which mechanically separated product may be used). This change is being made in order to communicate more clearly the ingredients the phrase is intended to encompass: all ingredients derived from livestock or poultry carcasses, including meat byproducts and various poultry products as well as "meat". 46 FR 39274, 39288.

Meat Food Product Limitations

None of those commenting on use limitations addressed either the proposal to clarify the mandatory nature of the existing prohibitions against use of different species of mechanically separated product in meat food products required to be prepared from one species or against its use in certain meat food products. Nor did they address the proposal to simplify the regulation by deleting an unnecessary sentence cross referencing the labeling requirements for meat food products containing mechanically separated product. The Department is amending the regulations to incorporate these proposed changes to § 319.6 (a) and (d) (9 CFR 319.6 (a) and (d)).

Those commenters who submitted views on these provisions instead addressed the existing prohibitions against certain uses of mechanically separated product, prohibitions that the Department did not propose to change. All but one of these commenters focused on the meat food products in which mechanically separated product is not a permitted ingredient. That commenter supported retention of the provision that meat food products required to be from one species shall not contain mechanically separated product of any other species.

Several commenters criticized the prohibition against use of mechanically separated product in baby, junior, and toddler foods. One of these commenters stated that the more efficient use of this product could be accomplished by changing the exclusion. The others took the position that the product's fluoride content does not justify the exclusion. They contended that, if anything, the additional fluoride provided by mechanically separated product would help to overcome inadeqaute intakes, with some referring to recommendations for supplementation of this essential nutrient to prevent dental caries or for proper bone development and/or to benefits for those in areas where the water supply is not fluoridated. One of these commenters also contended that the major portion of fluoride in this product may not be bioavailable, that consumption from the source would be relatively low, and that the Panel's evaluation of this issue was based on erroneous intake data and overestimated consumption by an order of magnitude (no information or data were submitted to substantiate these contentions). Another group argued that while the appearance of baby teeth

could be affected, health would not be affected and mottling to teeth is an unusual occurrence; and they and a third commenter said that the exclusion is open to question as years of experience with infant foods containing product made by mechanically deboning poultry carcasses have not produced any documented cases of mottling of teeth. Finally, one of these commenters said it would seem mechanically separated product could be used in infant foods if the ingredient statement indicated it is "a source of calcium and fluoride".

Several commenters, on the other hand, stated that they support this prohibition. Two of these commenters rested their position on the product's fluoride content, with one saying use in these foods should not be allowed until better data are available. One favored exclusion of the product from infant foods and other foods for special dietary use. Another commenter gave protecting small children as her reason for why mechanically separated product should not be sold.

The Department has reviewed the comments on the exclusion of mechanically separated product from baby, junior, and toddler foods, the materials referenced in those comments, and the Panel's evaluation of this subject. It has found no reason to reconsider this prohibition on the basis of currently available information. Like other essential nutrients, there is a range within which intakes of fluoride are both adequate and safe and beyond which adverse effects can occur; and this range varies with factors such as age. Permanent mottling of teeth can occur with excessive fluoride intakes during the period when the teeth are being formed—the "crown calcification" period (which lasts from about 4 months to 8 years of age). The decision that mechanically separated product should be excluded from baby, junior, and toddler foods reflects the Department's determination that there is not sufficient information to conclude that the regulatory restrictions on this product (i.e., the 0.75 percent calcium content limit in combination with the 20 percent use level restriction) are adequate to prevent this problem in infants on a nationwide basis. This determination recognizes that infants' fluoride intakes can vary greatly depending, among other factors, on the level of fluoride in their drinking water. For example, several cities in South Carolina appear to have high levels of naturally-occurring fluoride in their drinking water. According to the preliminary findings of a study by the South Carolina Health Department and the Communicable Disease Center, Department of Health and Human Services, fluorosis exists in these areas. Addition of even an extremely small amount of fluoride to the diets of infants in areas such as these through use of mechanically separated product would not be prudent. It also should be noted that, while the Department has at this time made no decisions with respect to what further regulatory action to take regarding product made by mechanically deboning poultry, available data show only slight differences between the fluoride content of poultry meat and that of product made by mechanically deboning poultry other than mature female chickens (fowl); and data from the Department's Meat and Poultry Inspection Program indicate that only about 10 percent of the product made by mechanically deboning poultry was made from mature chickens in 1979.

The exclusion of mechanically separated product from various other meat food products also was challenged by a number of commenters. Some of these commenters advocated a general position, stating that use of mechanically separated product should be permitted in any meat food product in which chopped or ground meat normally would be used, can be used, or can be used in small quantities at functional levels or in natural proportions, or that its use should be permitted in those meat food products in which finely ground or comminuted meat or product made by mechanically deboning poultry can be used. Certain of these commenters gave examples of particular meat food products in which they believe use should be permitted and others focused their concern on the exclusion of mechanically separated product from particular meat food products. Thus, it was contended that use of mechanically separated product in restructured meat food products, sectioned and formed hams and other products, and fabricated steaks and roasts should be evaluated; and one commenter also supported allowing use in meat pies, beef with gravy, and lima beans with ham. Possibilities for cost savings, improved finished product quality, certain advantageous functional characteristics (e.g., good binding) of mechanically separated product manufactured with newer types of equipment, encouraging innovation, optimizing use of protein resources, and offering consumers a wider variety of products were reasons given in support of some of these uses. In addition, one commenter supported allowing use in ground beef, stating that proper labeling ought to be the key; and another supported use in ground beef and/or hamburger, provided they are appropriately labeled, based on his erroneous belief that soy is permitted at up to a 30-percent level in such products (see 9 CFR 319.15 (a) and (b)). Finally, two commenters criticized § 319.15 of the regulations (9 CFR 319.15)—the standard for miscellaneous beef products—as restricting use of lamb and mutton products; and they suggested amending that section to permit use of mechanically separated product in any meat food product which includes finely ground or comminuted meat.

Two commenters disagreed with those calling for a reconsideration of some of these restrictions on the use of mechanically separated product. One of them stated that use of mechanically separated product in meat food products such as hamburger, chopped beef, and chopped steaks would significantly change their texture. He took the position that these products have been standardized for many years and the consumer has come to expect them to be the "better quality" ground beef products, and that inclusion of mechanically separated product would create a price difference between the traditional products and those made with this ingredient and the consumer would be deceived, particularly in advertising, because both products would bear the same name.

After reviewing these comments and the provisions of Part 319 of the regulations (9 CFR Part 319) bearing on the use of MS(S) as an ingredient, the Department still ascribes to the position that MS(S) is not an appropriate ingredient in certain meat food products. As the Department noted when, in 1976, it first considered the regulation of product made by mechanically deboning livestock carcasses and parts, the consumer purchases meat in two principal forms: One form is processed only to the extent of cutting or grinding. The other form is in processed meat food products in which manufacturing meats are mixed with other ingredients of animal and/or vegetable origin to form a new product. 41 FR 17560. The Department has consistently taken the position that product made by mechanically deboning livestock should not be included in meat food products sold in a form that is processed only to the extent of cutting or grinding (e.g., ground beef) or in processed meat food products that are convenience versions of cuts or solid pieces of meat (e.g., corned beef brisket, barbecued pork), but that its use should be permitted in processed meat food products that may

contain comminuted meat as well as other ingredients of animal or animal and vegetable origin. In other words, the Department's position has been and continues to be that its use should be permitted in processed meat food products where inclusion of this finely comminuted product would not be inconsistent with the basic characteristics, such as textural consistency, expected in such meat food products. See 42 FR 54437, 54440 and 43 FR 26416, 26422. Therefore, the Department does not agree with those commenters who suggested that use of mechanically separated product be permitted in products such as ground beef, fabricated steaks and roasts, or any product in which use of ground meat is permitted.

Nor does the Department agree with those commenters who suggested permitting its use in structured or sectioned and formed products such as hams. Such products frequently are associated with a particular cut of meat. To the extent that trimmings removed in the process of sectioning a cut of meat such as a ham are reincorporated in the shaping of the finished product, the product's constituents remain the same and it can retain the characteristics associated with that particular cut. The Department regards this as a distinctly different process than using product made by mechanical deboning as an ingredient. As stated above in response to comments suggesting that the product name identify mechanically separated product made from certain primal parts (9 CFR 319.5(a)), it is muscle meat and not any accompanying bone that characterizes primal parts; and product made from accompanying bones does not retain the distinctive characteristics of the cuts themselves.

In fact, the Department's review of this area has raised concerns about the appropriateness of the regulatory provisions which permit use of MS(S) in meat food products, such as pressed ham, chopped ham, and deviled ham (9 CFR 319.104(f), 319.105, and 319.760), that are represented as having been made from a particular part of the carcass. The Department's first proposal to regulate mechanically separated product would not have permitted it to be used as an ingredient in these meat food products. 41 FR 17560, 17566. While use was permitted in the 1978 regulations because the product's textural consistency would not impair finished quality, the Department now plans to reconsider these provisions in light of the concerns discussed herein.

The Department's review also has indicated that the scope of some of the existing restrictions is unclear. In its prior rulemaking, the Department amended Part 319 of the regulations (9 CFR Part 319), the definitions and standards of identity or composition for meat food products. Mechanically separated product was added to the livestock products named as ingredients permitted in various meat food products where its use was to be allowed. Mechanically separated product was not added to such named ingredients where its use was not to be allowed, leaving the existing restrictions on the livestock ingredients permitted in such products intact. The list of meat food products included in § 319.6 of the regulations (9 CFR 319.6) was intended to reflect the Department's determinations regarding this latter category of meat food products, as well as its decision to prohibit use of mechanically separated product in baby, junior, and toddler foods. However, as currently worded it does not accurately reflect all of the determinations that the Department made in this area. In order to make this provision consistent with exclusions contained in the definitions and standards in the remaining sections of Part 319 of the regulations (9 CFR Part 319) and avoid future misunderstanding, the Department is amending the list of standardized products in § 319.6(d) of the regulations (9 CFR 319.6(d)), by adding the italicized language, to read as follows:

* * * ground beef, hamburger, fabricated steaks (§ 319.15 (a), (b), and (d)), barbecued meats (§ 319.80), roast beef—parboiled and steam roasted (§ 319.81), corned (*cured*) beef cuts §§ 319.100–*319.103*), *certain cured pork products (§§ 319.104(a)–(e) and 319.106), tripe with milk (§ 319.306),* lima beans with ham and similar products (§ 319.310), beef with gravy and gravy with beef (§ 319.313), and meat pies (§ 319.500).

(For similar reasons, the Department also is amending several of the definitions and standards for meat food products in which use of MS(S) is permitted. Those amendments are discussed below.)

As amended, § 319.6(d) of the regulations (9 CFR 319.6(d)) includes all of the standardized meat food products in which the Department determined, as part of its prior rulemaking, that use of mechanically separated product should be precluded. The Department still regards this set of products as inappropriate condidates for use of MS(S) , with one possible exception: meat pies. In view of the interest expressed in the comments, the Department is hereby notifying the public that it is willing to reconsider the exclusion of MS(S) from meat pies upon a petition to amend §§ 319.6(d) and 319.500 of the regulations (9 CFR 319.6(d) and 319.500) because use of MS(S) does not appear to be inconsistent with the basic characteristics of this type of meat food product.

The Department expects that with the adoption of amendments to the regulations for mechanically separated product, production and use of this product will increase significantly. As this happens, the Department may well be confronted with additional questions about the appropriateness of using MS(S) in particular meat food products. Thus, for example, processors may wish to begin using MS(S) in meat food products that are not now included within a specific regulatory definition and standard, but that are similar to meat food products that are already covered by such regulations. These products may differ only in the species of livestock products used as ingredients the relative proportions of livestock products and other ingredients used, or the inclusion of additional ingredients to produce a distinctive flavor or style of product. The Department intends to handle such questions on a product-by-product basis consistent with the principles set forth above and, to the extent appropriate, amend Part 319 of the regulations (9 CFR Part 319) to reflect its determinations. One such question already is before it. The Department has been petitioned regarding regulation of the composition of ground pork, a meat food product that is not now covered by a specific regulatory definition and standard. The Department regards this product as analogous to ground beef, which is covered by a regulatory definition and standard (9 CFR 319.15(a)), with the only difference being the species of lifestock from which the product is made. Therefore, it plans to propose amendments to the regulations that would establish requirements for ground pork that are comparable to the existing requirements for chopped or ground beef an thus would not include MS(S) among the ingredients permitted in ground pork for the same reasons that its use is not permitted in chopped or ground beef.

4. Finished Product Definitions and Standards

Adoption of amendments to the regulations for mechanically separated product necessitates only one change in the definitions and standards of identity or composition for finished meat food products in Part 319 of the regulations (9 CFR Part 319): Replacing the name "Mechanically Processed (Species) Product" with "Mechanically Separated (Species)" in each of the regulations

which states that "MP(S)P" may be used as an ingredient (9 CFR 319.15(c), 319.104(f), 319.105(b)(10), 319.141–319.144, 319.145(a)(1)–(3), 319.180(a)–(c), 319.182, 319.260, 319.261, 319.280, 319.281(a)(1), 319.300–319.302, 319.303(b)(9), 319.304–319.307, 319.311, 319.312, 319.600(a) and (b), 319.760(a), and 319.762). However, in view of its proposal to establish a category of product for processing to be used as an ingredient in meat food products with regulatory limits on their total fat content, the Department proposed an additional change in the definitions and standards for four meat food products in which use of mechanically separated product is permitted: replacing the 50 percent maximum on trimmable fat in the definitions and standards for fresh pork sausage (9 CFR 319.141), breakfast sausage (9 CFR 319.143), whole hog sausage (9 CFR 319.144), and smoked sausage (the smoked version of fresh pork sausage) (9 CFR 319.160), with a 50 percent maximum limit on the analytical fat content of the finished product. 46 FR 39274, 39289–90. The Department has concluded that the proposed amendments should be adopted so that product for processing may be used as an ingredient in these meat food products. The Department also has concluded that certain of the other definitions and standards (9 CFR 319.140, 319.145(a)(3), 319.281, and 319.305) should be amended to clarify that use of MS(S) is permitted.

Two comments addressed the proposal to replace the limit on trimmable fat in four definitions and standards with a limit on the fat content of the finished meat food products that they cover. Both of these comments were submitted by industry members and both supported the proposed amendments, with one commenter stating that fat analyses are preferable to the obsolete trim method as an indication of fat content.

As the Department noted in the proposal, the definitions and standard for fresh pork sausage, breakfast sausage, whole hog sausage, and smoked pork sausage currently state that they may not be made with any lot of product which, in the aggregate, contains more than 50 percent trimmable fat (i.e., fat that can be removed by thorough, practicable trimming and sorting). These controls operate on ingoing ingredients, and not the total fat content of finished products; and they require the visual evaluation of solid pieces of meat, and thus obviously cannot be applied to the finely comminuted product produced by mechanical deboning. Therefore, they do not meet the Department's criteria for meat food products in which product for processing can be used. Those criteria are met once the regulations are amended by replacing the 50 percent trimmable fat limit with a 50 percent maximum on the analytical fat content of the finished product. The Department has concluded that the level in the amended regulations is appropriate for a finished product made with product containing no more than 50 percent trimmable fat in the aggregate of the ingoing ingredients.

The Department also has decided to amend certain other definitions and standards to clarify that MS(S) may be used as an ingredient in the meat food products they cover. As was just noted in the discussion of limitations on the use of MS(S) (9 CFR 319.6(d)), in 1978 the Department amended various definitions and standards that restrict the livestock products permitted as ingredients by adding language to allow use of mechanically separated product. These changes included amendments that specifically allow use of mechanically separated product in each particular type of standardized sausage product covered by the regulations. (References to use of mechanically separated product were added to §§ 319.141–319.145, 319.180, 319.182, and 319.281 of the regulations (9 CFR 319.141–319.145, 319.180, 319.182, and 319.281). No reference was needed in § 319.160 and § 319.181 of the regulations (9 CFR 319.160 and 319.181), which cover distinctive versions of sausage products that are also subject to the provisions of §§ 319.141 and 319.180 of the regulations (9 CFR 319.141 and 319.180), respectively. The intended effect of those changes was to permit use of mechanically separated product in various standardized sausage products, whether or not they are subject to the definitions and standards for particular types of sausage products. This intention may not be clear, however, because use of mechanically separated product is not referred to in § 319.140, the regulations that covers sausage generally (9 CFR 319.140). Therefore, to avoid possible misinterpretation in the future, the Department is clarifying the regulations by adding the following sentence to the end of § 319.140 (9 CFR 319.140):

> Sausage may contain Mechanically Separated (Species) used in accordance with § 319.6.

The Department is amending §§ 319.145(a)(3), 319.281, and 319.305 of the regulations (9 CFR 319.145(a)(3), 319.281, and 319.305), the definitions and standards for certain Italian sausage products, bockwurst, and tamales, respectively, for a similar reason. Each of these regulations covers more than one distinctive version of a type of meat food product. Each was amended in 1978 to provide that mechanically separated product may be used as an ingredient. The Department intended those amendments to result in mechanically separated product being permitted as an ingredient in each of the versions of the meat food products covered by these regulations. In order to clarify this intention, it is amending §§ 319.145(a)(3), 319.281(a)(1), and 319.305 of the regulations (9 CFR 319.145(a)(3), 319.281(a)(1), and 319.305) by moving the second sentence, referring to use of mechanically separated product, to the end of the provision.

5. Labeling

(a) The product.

In 1978 the Department did not see a need for special requirements for the labeling of mechanically separated product itself. With one category of standardized product subject to a unitary use limitation, no particular compliance problems were presented: mechanically separated product either could or could not be used as an ingredient in a particular meat food product; and if its use was permitted, it could constitute no more than 20 percent of the livestock and poultry product portion. Because the proposed amendments to the regulations would have changed this situation by establishing two categories of product, one of which could be used as an ingredient in more meat food products than the other and, at least potentially, at higher levels, the Department proposed the following labeling requirements to assure compliance with the amended use limitations: First, on the label of any mechanically separated product, the name of the product must be followed immediately by the phrase "for processing" unless the establishment is representing that the product contains not less than 14 percent protein and not more than 30 percent fat. Second, such product shall be deemed to have a calcium content of 0.75 percent unless the establishment represents that it has a different calcium content by qualifying the product's name with a phrase to this effect. 46 FR 39274, 39290. The Department has decided that the first of these proposed requirements is necessary in view of the adoption of amended regulations establishing a category of product for processing to be used as an ingredient only in meat food products with regulatory limits on their

total fat content. Therefore, it is amending the regulations to incorporate this requirement (9 CFR 317.2(j)(13)(i)). The Department has decided to withdraw the second of these proposed requirements as unnecessary in view of the withdrawal of the portion of the proposal that would have permitted usage levels of mechanically separated product meeting fat and protein content requirements to increase above 20 percent of the livestock and poultry product portion.

Three comments from industry addressed the proposal to establish special labeling requirements for mechanically separated product itself. While these commenters objected to the imposition of fat and protein content requirements on any category of mechanically separated product and, hence, to distinctions in use limitations based on the proposed two category approach, the concern here was that if the Department adopted this approach, the regulations make it clear that the phrase "for processing" is required only on the label of the mechanically separated product itself and not in the ingredient statements on finished meat food product labels.

The Department notes that the provision of the regulations incorporating this requirement (9 CFR 317.2(j)(13)(i)) specifically states that it applies to "the label of any 'Mechanically Separated (Species)' described in § 319.5(a)" of the regulations, *not* to the labels of meat food products in which MS(S) is used as an ingredient (compare 9 CFR 317.2(j)(13)(ii)). As this provision also indicates, § 319.5(a) of the regulations (9 CFR 319.5(a)) defines this product by the name "Mechanically Separated (Species)"; and, in accordance with § 317.2(c) (1) and (2) and (f)(2) of the regulations (9 CFR 317.2(c) (1) and (2) and (f)(2)), it is the name specified in the product standard that must be shown in the list of ingredients on the labels of meat food products, as further discussed below.

(b)–(d) Finished meat food products.

Ingredient Statement Listing

The Department continues to believe that mechanically separated product cannot be regarded as falling within the category of food traditionally defined as "meat" and that it should be defined as a distinctive, standardized ingredient. Therefore, it did not propose changing the requirement that the product must be declared, by the name specified in its definition and standard, in the ingredient statements of meat food products in which it is used. See *CNI v. Butz, supra;* 43 FR 26416, 26420–21; 46 FR 39274, 39283, 39290–91; 9 CFR 317.2(c) (1) and (2) and (f)(1). However, because the general labeling regulations already require a separate declaration of mechanically separated product (9 CFR 317.2(c) (1) and (2) and (f)(1)), repeating this requirement in the product-specific regulation (9 CFR 317.2(j)(13)) is unnecessary. Consequently, the Department proposed to delete the redundant reference to ingredient statement declarations in § 317.2(j)(13) of the regulations (9 CFR 317.2(j)(13)). 46 FR 39274, 39290–91. The Department has determined that this proposed amendment should be adopted.

No comments addressed this proposed amendment, but 141 comments addressed the ingredient statement requirement itself. The majority of these comments were submitted by industry-related individuals and groups. Many individuals also commented on this requirement, as did several State government officials and agencies.

Most of these commenters either accepted or affirmatively supported the requirement that mechanically separated product must be listed, by name, in the ingredient statements of meat food products in which it is used. Among the reasons given for their position were that this is consistent with all of the major Federal food statutes, the recommendation of the Panel, and the decision in *CNI v. Butz, supra,* and/or with the way other ingredients are declared. A number of commenters disagreed, however. These commenters generally took the position that this product is meat and no further identification, designation, or explanation is needed on finished product labels except, according to some, information on calcium content (in certain situations) because any added calcium in such products is the distinguishing characteristic involved here. Some of them also argued that this requirement should be removed because mechanically separated product is fit for human consumption or is wholesome and nutritious, because this would help to assure consumer acceptance or overcome adverse publicity about the product, and/or because the poultry and fish industries do not have to make such declarations; and one commenter contended that this requirement will result in the need for a number of labels to reflect different orders of predominance. In addition, a few commenters suggested that the requirement need not be applied where mechanically separated product is used at the 20 percent level because the calcium content is not nutritionally significant at this level. And a few took the position that the requirement need not be applied to whole hog sausage labels because it is only natural that mechanically separated product flow right along with the rest of the carcass and/or the product name indicates all primal cuts are deboned and this should include mechanically separated product.

As is indicated above in the discussion of the product definition and standard (9 CFR 319.5), MS(S) does not consist solely of muscle tissue; it also contains bone, including bone marrow. The Department has determined material differences in composition and consistency place MS(S) outside the scope of the product defined by regulation as "meat" (9 CFR 301.2(tt)) and that its characteristics are such that it should be defined as a distinctive, standardized product. Therefore, this product must be declared on finished product labels by the name specified in its definition and standard. It is this distinctive character and separate regulatory standard that are the basis for the ingredient declaration requirement, and not the product's wholesomeness or fitness for consumption or the level or particular meat food product in which it is included as an ingredient. Furthermore, any concerns about consumer acceptance of this product, or about other products as to which the Department has not made such determinations, cannot be addressed by disregarding the Department's obligations to assure that the labels of meat food products containing MS(S) apprise the public of its presence. See 21 U.S.C. 601(n) (7) and (9) and 607(b); 9 CFR 317.2(c) (1) and (2) and (f)(1).

Supplementary Labeling Information

The Department proposed the following changes in the requirements for labeling in addition to a separate listing of MS(S) in ingredient statements: (1) the requirement that the names of all finished meat food products containing mechanically separated product must be qualified to indicate its presence would be deleted; however the need to retain the requirement for such a qualifier in particular situations would be considered on the basis of information submitted in the rulemaking. (2) The requirement that the names of all finished meat food products containing mechanically separated product must be qualified to indicate their powdered bone content would be replaced with a requirement that their labels declare calcium whenever the amount so declared would be different than the amount that would be declared if a particular finished product contained only hand deboned ingredients; and

alternative options that would serve the needs of calcium-sensitive individuals would be considered on the basis of information submitted in the rulemaking 46 FR 30274, 29290–94. The Department has reviewed and reevaluated the supplementary labeling requirements in light of the comments on the proposal, the provisions of the amended regulations, its current labeling policies, information on the use of calcium-restricted diets in managing health problems, and the information accompanying the PCMA–AMI petition. It has concluded that the qualifying phrases required in 1978 are not necessary to prevent misbranding of finished products containing MS(S) when MS(S) is used in accordance with the amended regulations and that, by modifying the requirements, it can reduce their burden and avoid unwarranted and possibly derogatory implications about meat food products containing mechanically separated product while continuing to assure that such products are accurately and adequately labeled. Therefore, the Department is amending § 317.2(j)(13) of the regulations (9 CFR 317.2(j)(13)) as follows: (1) The requirement that finished product names must be qualified to indicate the presence of mechanically separated product is deleted. (2) the requirement that finished product names must be further qualified to indicate their maximum powdered bone content is replaced with a requirement that information must be provided on such products' calcium content where there is a meaningful increase in the total calcium content of a meat food product that would otherwise be acceptable in the diets of persons on calcium-restricted diets. (That is, the meat food product's calcium content must be stated whenever MS(S) contributes 20 mg or more of calcium to a serving of the product unless the amount so declared would not be different than the amount that would be declared if the product contained only hand deboned ingredients or unless the calcium content of the product would be 20 percent of the U.S. RDA or more per serving if it contained only hand deboned ingredients (9 CFR 317.2(j)(13)(ii)).)

Five hundred and fifty-two comments addressed issues bearing on requirements for supplementary labeling information (i.e., information in addition to a separate listing of mechanically separated product in the ingredient statement). These comments can be divided into two general groups: (1) Comments that favor eliminating requirements that the names of meat food products containing mechanically separated product must be accompanied by qualifying phrases and/or replacing powdered bone content declarations with a calcium content declaration approach and (2) comments that oppose eliminating one or both of the qualifying phrases required by the 1978 regulations or eliminating information regarding the presence of bone on the label.

About 70 percent of the comments fall into the first group. The majority of these comments were submitted by individuals. This group also includes numerous comments from industry members and groups, as well as several from professionals and State government officials and agencies. A few of these commenters restricted their criticism to any requirement that the presence of mechanically separated product must be indicated other than in the ingredient statement or that powdered bone content must be declared. The remainder advocated the elimination of all requirements for qualifying phrases. The qualifying phrases required by the 1978 regulations were characterized as negative, disparaging, derogatory, unnecessary, inappropriate, and/or onerous by these commenters. These phrases were criticized as giving undue prominence to a single ingredient which is virtually indistinguishable from or very similar to meat and as confusing and misleading to consumers, with research conducted by Market Research Service and for the Gerber Products Company cited in support of this position.

Those specifically addressing the qualifying phrase indicating the presence of mechanically separated product generally took the position that the appropriate place for this information is in the ingredient statement. Some of them said that there is no legitimate reason for indicating its presence elsewhere and/or that eliminating this requirement would minimize negative attitudes. Finally, a few commenters stated that if the ingredient statement is to serve a useful purpose, it must be relied on as the place that consumers interested in knowing what is in products will look. These commenters expressed concern that the recent trend toward qualifying phrases minimizes the importance of the ingredient statement almost to the extent that consumers are discouraged from looking at it.

Those specifically addressing the powdered bone content declaration generally supported replacing it with a calcium content approach. Some of them said that this approach is a sufficient and acceptable means of informing those for whom calcium may be a problem, that it would be more useful to consumers, and/or that unlike the powdered bone content declaration it would not confuse consumers and would avoid erroneous implications of inferiority or mistaken concerns about the presence of hard pieces of bone. And one said that if powdered bone labeling is required, the same reasoning would require "blood residue", "blood vessels", "nerves", etc, to be stated on the label.

The argument that without qualifying phrases, the economies and efficiencies available from mechanical deboning will not be passed through to consumers also was criticized in a comment which contended that the wide range of meat food products now offered at very different prices shows the marketplace has proved efficient in assigning premium prices to premium products and passing through economies to the consumer. In addition, a number of commenters attributed the low levels of production and use of mechanically separated product since 1978 to the qualifying phrase requirements. They contended that with this labeling, meat food products would be unmarketable or would be erroneously perceived as inferior or as decharacterized and/or that this labeling has resulted in the waste of a valuable food resource. This situation was contrasted with that of products containing ingredients made by mechanically deboning poultry; and eliminating these qualifying phrases was supported as putting the red meat industry in a comparable and competitive position with other industries using the mechanical deboning technology.

A majority of the comments in the first group also addressed the proposal to replace information on meat food products' powdered bone content with information on their calcium content and to consider alternative options for serving the needs of calcium-sensitive individuals. Almost all of these commenters supported a calcium content approach as the appropriate method for dealing with the issues involved. Several of these commenters endorsed requiring calcium content or nutrition labeling declarations generally or as proposed. However, most of them criticized specific aspects of the proposed provisions implementing the calcium content approach, most frequently for resulting in calcium content information being required on the labels of too many meat food products. Their recommendations varied, and in certain cases reflected confusion about when the proposal

would and would not require calcium content to be declared; but they tended to advocate restricting calcium content information to where the amount present either in the finished meat food product or the mechanically separated ingredient is significant or nutritionally significant (a situation that a few of them thought would occur only occasionally). Those who quantified the concept of significance most often suggested 10 percent of the U.S. Recommended Daily Allowance (U.S. RDA) or 10 percent of the Recommended Dietary Allowance (RDA) per serving as the minimum level or minimum difference below which a label declaration of calcium content should not be required. (Exceeding the average content of hand deboned meat, a contribution of 2 percent or 15 percent of the U.S. RDA, and use of mechanically separated product above the 20 percent level also were suggested as criteria for determining whether or not a label declaration of calcium content is required.) The 10 percent of the U.S. RDA per serving position was supported by some as being consistent with the level set in the nutrition labeling regulations of the Food and Drug Administration (FDA) (21 CFR 101.9(c)(7)(v)); and a few comments also cited a 1974 proposal for a threshold for nutrient claims in food advertising by the Federal Trade Commission (39 FR 39841; notice of proposed termination and availability of staff revisions, 45 FR 23705). According to several of these commenters, mechanically separated product is only a moderate source of calcium; therefore, labels should not imply that meat food products containing it are excellent sources when such claims are not allowed for other products unless they contain at least 10 percent of the U.S. RDA per serving. It also was contended that below a significant level, the information is not needed and requiring it will clutter labels and result in processors having to maintain numerous labels for a single product, when such information is not required on other meat food products with higher calcium contents; and removing the requirement below the 10 percent per serving level was advanced as a way of encouraging the development of technology capable of producing mechanically separated product with a lower calcium content.

In addition, exemptions from any calcium content declaration requirement were requested by a few commenters who felt such a requirement would create problems for those manufacturing meat food products containing other ingredients high in calcium. While the basis for this concern is not entirely clear, these commenters apparently misunderstood the proposed labeling as tying the amount of calcium declared to the mechanically separated ingredient and, thus, implying a higher use level of MS(S) when other ingredients contribute calcium. Finally, a few commenters opposed requiring calcium content declarations as unnecessary regulation and in order to save industry and consumers money or because mechanically separated product has been determined to be safe and wholesome, and calcium is an essential nutrient in which the average diet is likely to be somewhat deficient.

As regards the alternative statement proposed for use where nutrition labeling information is not provided, a few commenters took the position that "A—— serving contains ——% of the U.S. RDA of calcium" would be sufficient and the words "of this product" are superfluous. Opposition to requiring full nutrition labeling also was expressed. Very little comment was received regarding the alternative approaches discussed in the proposal. Two commenters supported restricting supplementary labeling information to a parenthetical statement in the ingredient statement of the fact that mechanically separated product is a calcium-containing ingredient. A few commenters specifically opposed such an approach, saying that it would be undesirable because mechanically separated product contains nutrients other than calcium or that information should be presented on finished meat food product content; and one said that it would be confusing to put nutrition information in ingredient statements. In addition, a few commenters specifically supported an information program to meet the needs of those on calcium-restricted diets as a supplement to labeling information. No additional information was submitted on the nature and treatment of the population segment for whom mechanically separated product's calcium content may pose a problem other than a statement by one commenter that recent statistics indicate less than 1 percent of our population must limit calcium intake.

About 30 percent of the comments addressing supplementary labeling information fall into the second group—opposition to the elimination of one or both of the qualifying phrases required by the 1978 regulations or to not providing information regarding the presence of bone on the label. Most of these comments were submitted by individuals. This group also includes comments from a public interest organization and several professionals and State government officials or agencies. The basic position taken by most of these commenters was that the 1978 regulations should not be changed to provide less, or less prominent, information to consumers. Those few who did advocate changes made suggestions for additional labeling information, including declaration of the powdered bone content in the ingredient statement, the parts of the animal included in the product, and the amounts of calcium, fluoride, strontium 90, fat, and/or cholesterol.

Some of these commenters regarded the proposal as designed to serve the needs or convenience of industry rather than consumers and as making it more difficult for them to avoid a product that they believe should not be marketed, that they regard as unsafe, and/or that they do not want to purchase. Frequently they focused their remarks either on where information regarding the presence of mechanically separated product should appear or on the type of information that should be provided regarding bone content.

Those commenters specifically addressing the qualifying phrase indicating the presence of mechanically separated product favored this requirement because consumers have a right to know that mechanically separated product has been used or because this phrase clearly informs consumers of what they are buying. Providing this information solely in the ingredient statement was criticized as requiring the consumer to search for what actually is used and burying the information in fine print that is not normally noticed by consumers. One commenter who identified herself as someone who should avoid calcium objected to not having a prominent declaration of mechanically separated product. In addition, one commenter described the proposal to delete this requirement as applying an inventive regulatory standard which completely contradicts the Department's longstanding policy governing the substitution of a different or unusual product for a portion of the meat block. According to this commenter, not requiring specific nomenclature changes or qualifiers when a portion of the meat block is removed and an unexpected product is added also results in deliberate deception of the consumer, conflicts with the order in *CNI v. Butz* by ignoring the finding that a product in which mechanically separated product is substituted could not carry the conventional product name, and constitutes adulteration in contravention

of the Federal Meat Inspection Act (21 U.S.C. 601(m)(8)) because quality and value dilution would be concealed, especially where products contain more than insignificant amounts of mechanically separated product. The last of these conclusions was based on the argument that (1) mechanically separated product routinely contains a large amount of connective tissue, which lacks the essential amino acid tryptophan, and with use at up to the 100 percent level, products could be expected to be seriously deficient in tryptophan; (2) mechanically separated product has up to 60 times more lead, fluoride, cadmium, and other elements of questionable safety than meat and a product with "less" of these elements is preferable to one with "more"; and (3) products containing mechanically separated product are less expensive to produce, yet without nomenclature qualifiers, the likelihood is great that consumers could not distinguish between products with and without this ingredient and could thus be overcharged. This commenter's remarks regarding use in more than insignificant amounts and at up to the 100 percent level and another commenter's view that presence should most definitely be noted next to the finished product name if mechanically separated product is contained in a dominant amount (e.g., 51 percent) where the only submissions which suggested a basis for retaining this requirement for particular, but not all, uses of mechanically separated product. See 46 FR 39274, 39292.

Those commenters specifically addressing bone content labeling generally asserted that consumers have a right to know what is in the products they buy, including information on powdered bone content. Replacing this information with a calcium content declaration was criticized as disguising the bone content and as deceptive because bone contains other substances (e.g., fluoride, lead), calcium is regarded as a valuable nutrient, or calcium from mechanically separated product should not be grouped with calcium from sources such as milk solids. A few of these commenters accepted the calcium content approach so long as information on the amount or the presence of bone continues to be provided (e.g., by a declaration that the calcium is "from bone"); and some of those commenters regarded the bone content declaration as indicating a potential hazard to health. In addition, one commenter opposed the proposal as dangerous for calcium hyperabsorbers and as resulting in a potentially more serious problem for gout sufferers and other hyperuricemic individuals. According to this commenter, in every likelihood, calcium hyperabsorbers who have already chosen a particular brand of products, and who are aware of the calcium content of those products, will not detect a new calcium declaration within the nutrition label or added in a separate place because most consumers do not reread ingredient or nutrition labels once they have become comfortable with a particular brand; so health problems could develop. This commenter also asserted that the proposal does not provide gout sufferers and other hyperuricemic individuals with the information they need because calcium is not the same as bone, bone brings bone marrow to finished products, bone marrow contains nucleic acid, and gout suffers and other hyperuricemic persons must strictly limit consumption of nucleic acids; and contended that the Department is eliminating this important health protection before it is crystal clear that these people would not be at risk from the consumption of mechanically separated product, despite the admonition of the Court in *CNI v. Butz*.

The diversity of views expressed in these comments illustrates that, as the Department observed in publishing the proposal, the resolution of questions regarding the need for supplementary labeling information and the form any such information should take was controversial in 1978 and continues to be so today. Decisions in this area require difficult factual and policy determinations in which the Department must exercise its judgment, based on its accumulated experience, about the appropriate role of such information, if any, in preventing misbranding of products, as defined in the FMIA (21 U.S.C. 601(n)). 46 FR 39274, 39290–91. Requiring supplementary labeling information is one of a number of regulatory tools that the Department may utilize to achieve this goal.

In reaching conclusions about whether this regulatory tool should be used here and if so, how, the Department has carefully reviewed the comments and the information currently available in the context of the other regulatory controls it has imposed to prevent the use of mechanically separated product from resulting in misbranding as well as adulteration. 21 U.S.C. 601 (m) and (n). Thus, the Department has, among other things, utilized its authority to prescribe definitions and standards of identity or composition (21 U.S.C. 607(c)) to establish requirements for the processing and characteristics of MS(S) (9 CFR 319.5) and for its use as an ingredient (9 CFR Part 319); and it has established requirements for the handling of MS(S) and the materials from which it may be made (9 CFR 318.18). These requirements not only assure that meat food products in which MS(S) is used as up to 20 percent of the livestock and poultry product portion are wholesome and safe, they also protect the quality (including the nutritional quality) and expected characteristics of such products. And, in particular, they reflect determinations that it is appropriate to include mechanically separated product among the livestock ingredients permitted in certain meat food products already subject to regulatory definitions and standards. 21 U.S.C. 601(m)(8) and (n)(2), (7), and (9). The Department also has required that the labels of all meat food products in which MS(S) is an ingredient bear the name of the species of the product used, in accordance with the definitions and standards for MS(S) and various finished meat food products and other regulatory requirements (9 CFR 317.2(c) (1) and (2) and (f)(1), 319.5(a), and Part 319). 21 U.S.C. 601(n) (7) and (9).

With these regulatory controls in place, the issue in this rulemaking is whether the Department should continue to require that the labels of meat food products containing mechanically separated product as 20 percent or less of the livestock and poultry product portion bear two qualifying phrases, or require alternative supplementary information, in order to assure that their labels are not otherwise misleading. 21 U.S.C. 601(n) (1) and (12). This issue is narrower in scope than many commenters suggested. For example, the issue here is not the consumer's right to know that mechanically separated product has been used in formulating a meat food product. The ingredient statement already provides that information. Moreover, the Department does not agree that listing MS(S) in the ingredient statement fails clearly to inform consumers of what they are buying. In fact, this listing includes such information in the one place that is specifically and explicitly designated for this purpose. The ingredient statement is the very place consumers should look, not ignore, if they are interested in the contents of the foods they purchase, in seeking out or avoiding any particular ingredients, or in distinguishing between brands of meat food products on the basis of their ingredient contents. Thus, the Department is concerned by commenters who indicate that they may

not be relying on ingredient statements for this purpose.

The issue in this rulemaking also is not the need for supplementary labeling information to apprise consumers that the formulations of meat food products they are accustomed to buying has changed. Such changes are reflected by modifications in the ingredient statement (and sometimes in other label information (e.g., nutrition labeling) that is affected). Thus, for example, if a manufacturer of chili con carne (9 CFR 319.300) chooses to replace up to 25 percent of the skeletal muscle trimmings it has been using with head, cheek, and/or heart meat, the change will be reflected by including head, cheek, and/or heart meat in the ingredient statement, as will a decision to include nonfat dry milk as up to 8 percent of the product. Because use of these new ingredients is consistent with the definition and standard for the product, its name will stay the same. However, where a manufacturer chooses to alter the basic identify of the product significantly by including beans and reducing the livestock product portion commensurately, the result will be a different meat food product with its own name—chili con carne with beans (9 CFR 319.301).

As manufacturers may modify the formulations of their products over time, particularly the formulations of products that have not been standardized, those interested in evaluating the contents of processed meat food products (e.g., in order to make interbrand value comparisons or to avoid or restrict consumption of particular ingredients) should consult ingredient statement information on a continuing basis, as opposed to relying solely on the fact that they have purchased a brand before. The legitimate concern of persons with health problems which involve dietary managemet is that they be able to determine when formulations are changed in ways that affect the acceptability of meat food products in their diets. The Department's requirements assure that the information necessary to make such determination is provided when mechanically separated product is used as an ingredient.

The ability to make such determinations also was the focus of concern in *CNI v. Butz, supra*. Noting that the question of misbranding under section 1(n)(1) of the FMIA (21 U.S.C. 601(n)(1)) had not been as fully argued, the Court said it appeared that the Department's 1976 interim regulation, which would have allowed the identical label to be used on a meat food product with and without mechanically separated product, permitted misbranding since the calcium content of a product would be higher if mechanically separated product were used; and this could prove especially harmful to persons on calcium-restricted diets. (The Court used the possibility that "all beef franks" could contain mechanically separated product to illustrate the potential it saw for misleading the public. The Department agrees that such a characterization could be misleading in this instance and in others. Therefore, it does not permit cooked sausages, including franks, to be labeled with terms that indicate they do not contain nonmeat ingredients or are prepared only from meat (9 CFR 319.180(f)).)

Furthermore, the Department does not agree that its proposal contradicts a longstanding policy under which the "meat block" of meat food products is basically immutable unless product names are changed or accompanied by qualifying phrases. In actuality, the "meat block" is the portion of a meat food product that consists of livestock, or livestock and poultry, products; and the make-up of this portion can vary greatly from meat food product to meat food product and also from brand to brand of a given meat food product. In addition to skeletal muscle, it may include other meat ingredients (e.g., muscle found in the tongue or heart) (9 CFR 301.2(tt)), meat byproducts (e.g., tripe, spleen) (9 CFR 301.2(uu)), poultry meat or poultry (9 CFR 381.118), and/or poultry byproducts (9 CFR 381.1(c)). The degree of variation in the types, amounts, and proportions of these products depends primarily on the extent to which the Department has restricted meat food product formulations in order to prevent misbranding and adulteration and on the formulation decisions of individual manufacturers.

For example, the Department has established a definition and standard for liver sausage (9 CFR 319.182) that permits the use of a broad range of livestock products—such as cured pork, beef, and veal; beef and pork byproducts; mechanically separated product; pork skin; and pork fat—but only in addition to a minimum liver content requirement of 30 percent. The individual manufacturer determines which of these optional ingredients to use and in what proportions, as well as whether to include only the minimum required amount of liver or more. As neither the presence nor the amount of any of the optional ingredients can be expected (and mechancially separated product cannot replace the minimum liver content), inclusion of MS(S) in the formulation would not substitute for any particular ingredient. In this rulemaking the Department has asked why, when MS(S) is used as one of the livestock products, its presence should be noted in a qualifying phrase on the label of this meat food product, when the use of a broad range of other livestock products does not result in such a requirement. Other meat food products present similar situations, including the potential for even greater variability in the types and amount of livestock and poultry ingredients used in formulating nonstandardized meat food products—particularly in the proportion that is "meat"—which are marketed under the same name and without qualifying phrases to indicate the presence of certain livestock products (e.g., byproducts). Moreover, inclusion of MS(S) in the formulations of these meat food products could, among other things, result in an increase in the size of the livestock and poultry product portion, or in a partial replacement of nonlivestock ingredients such as chicken or cereal.

These examples are not cited to deny the appropriateness of ever requiring that the names of meat food products be changed or accompanied by qualifying phrases when certain ingredients are used or are used at certain levels. Instead, the point is that the Department's approach to this question has been to consider the facts of each situation and make its determination in light of the information available and its contemporary labeling policies. The issue frequently arises in the context of a proceeding to establish or amend a standard of identity or composition when, in addition to determining whether the inclusion of different amounts of various ingredients is appropriate at all in a particular type of meat food product, the Department considers whether any of the possible ingredient combinations affect product identity sufficiently to result in distinctive versions of that type of product.

Thus, in the case of cooked sausages such as hotdogs and bologna, the Department has determined there are two distinctive versions possible—one in which different byproducts can make up the predominant portion of the livestock and poultry product portion and one in which they may not be used (compare 9 CFR 319.180(b) with 319.180(a)). The supplemental phrase "with byproducts" or "with variety meats" is required to distinguish these two versions (9 CFR 319.180(d)). Yet, as just indicated, the Department has never taken the position that the use of

byproducts *per se* automatically results in the need for a qualifying phrase, even where such use may mean that one brand of a meat food product has less meat than another brand of the same product and, therefore, is less expensive to produce. Moreover, the Department's decision that cooked sausages such as hotdogs and bologna can contain poultry meat as up to 15 percent of the total ingredients, excluding water, without any finished product name qualifier (9 CFR 319.180(a)), even though this change would result in a reduction in the proportion of livestock meat ingredients used, illustrates that the Department has not automatically required supplementary labeling whenever there is a departure from traditional formulations or the inclusion of ingredients in the "meat block" which differ from those that usually have been used.

As this discussion and the proposal indicate, in determining whether to delete the requirement that the names of all meat food products must be qualified to indicate the presence of mechanically separated product, the fundamental question is whether inclusion of mechanically separated product as an ingredient—regardless of the meat food product or usage level involved—always significantly alters the basic identity of the finished product. The Department has determined that such a finding is not warranted, even if, as the Administrator concluded in the prior rulemaking, mechanically separated product is regarded as unexpected and unique. 43 FR 26416, 26420. The mere fact that an ingredient is new means that its presence in at least some existing products may not be expected by at least some consumers. However, this does not mean that its inclusion always alter a meat food product's identity sufficiently that its presence always should be noted in a product name qualifier. Such a *per se* approach simply is not appropriate or even feasible in an era when advances in food technology regularly result in the modification of existing product formulations to include new forms of ingredients, or even totally new ingredients. The mechanical deboning technology has made possible the introduction of a new form of livestock product. The unique properties of this product distinguish it from the livestock product "meat" produced by traditional hand deboning techniques (9 CFR 301.2(tt)); but the properties of different types of meat (e.g., "beef" vs. "veal", "beef" vs. "beef cheek") and various byproducts (e.g., "beef tripe" vs. "partially defatted beef fatty tissue") also distinguish other livestock products from one another. The Department regards distinctive properties or newness as an inadequate basis for a conclusion that all finished product names should be qualified.

In addition, while mechanically separated product does not fall within the category of food traditionally defined as "meat", it does consist largely of muscle tissue and shares many of the characteristics of "meat" when manufactured and used in accordance with the regulatory requirements established by the Department. As discussed above, these requirements protect the wholesomeness, safety, and quality of meat food products containing MS(S) as one of the livestock product ingredients. Among other things, they assure that MS(S) has protein of high quality and that its powdered bone content affects neither the safety nor acceptability of finished products. They also reflect an evaluation of whether or not it is appropriate to allow use of MS(S) in meeting up to 20 percent of the livestock or livestock and/or poultry ingredient requirements—including meat requirements—established for various standardized meat food products.

In the context of these regulatory requirements, the Department has determined that the mere presence of MS(S) does not significantly alter the basic identity of meat food products, let alone make them inferior to all other, similar products in which MS(S) is not used. Members of the public who do not want to purchase meat food products with MS(S), or want to purchase them only at lower prices than other products, can do so on the basis of ingredient statement declarations. This enables them to exercise their preferences in the marketplace, as they do with respect to other ingredients. The Department does, of course, hope that such decisions are not based on misperceptions about the product. As a number of commenters remarked and as this and the Department's earlier rulemaking demonstrate, health and safety aspects of the use of mechanically separated product have been thoroughly reviewed and the Department will continue to evaluate new data as they become available. Therefore, the Department is concerned by comments which indicate that the results of this process either are not understood, not accepted, or simply ignored. For example, as the Panel reported in 1977, cadmium concentrates in the liver and kidneys, not skeletal tissue, and was not even found at an analytically detectable level in mechanically separated product. There is no evidence that selenium concentrates in bone and the upper levels found in mechanically separated product were either lower than or similar to those reported for beef and pork. The amount of lead that might be added to the diet by mechanically separated product is difficult to measure (since the products that could be replaced have variable lead contents), but it would, in any event, be toxicologically insignificant. And the amount of fluoride (an essential nutrient) that could potentially be added to the daily diet of a teenager consuming mechanically separated product with a 90th percentile fluoride concentration would be less than half the amount that researchers have found in 6 ounces of a soft drink.

The Department noted in the proposal its concern that the additional declaration of mechanically separated product in a qualifying phrase might contribute to misperceptions about the characteristics and quality of finished meat food products. 46 FR 39274, 39291. A number of the comments confirmed the concern that consumers may draw unwarranted conclusions from the labeling required in 1978. In addition, in the consumer focus group sessions conducted by Market Research Services, some participants who were shown a simulated label for a chili product felt that it contained a fairly large amount of mechanically processed beef product (MPBP) and began to wonder what was wrong with MPBP that would require its being labeled in such large letters. A number of these participants felt that there must be something wrong with MPBP if the government requires this type of labeling; and more than half felt it was unnecessary to emphasize MPBP in a qualifying phrase if there is nothing wrong with it, but it should be emphasized if the product is not safe or nutritious or if it denotes an inferior finished product.

The proposal also raised the possibility of retaining the requirement for a qualifying phrase indicating the presence of mechanically separated product in particular situations if the comments provided a basis for concluding that certain uses of mechanically separated product do alter the basic identity of meat food products significantly. 46 FR 39274, 39292. Neither the comments nor the Department's own evaluation has provided a basis for such a requirement where MS(S) can constitute only 20 percent or less of the livestock and poultry product portion. In fact, retention of the 20 percent restriction assures that MS(S) will not be the major portion of any meat food

product. In addition, other information indicates that MS(S) is likely to be used at below this maximum level. In their survey of meat packers and processors who have commercially produced or experimented with mechanically separated pork or beef, Drs. Bullock and Ward found that recommended formulations with mechanically separated pork were in the 5 to 15 percent range and most using mechanically separated beef included it at the 10 to 15 percent level. Drs. Bullock and Ward concluded that the usage level would be 5 to 10 percent of the meat block in most processed products (although it might be as high as 100 percent in some products if this were permitted by the regulations). The comments also evidenced industry interest in using mechanically separated product in small or functional amounts for technical purposes (e.g., as a binder) in various meat food products. In other words, MS(S) usually will be a relatively minor livestock product ingredient. To give its presence more labeling prominence than other livestock products used in the formulation is a disproportionate emphasis on a single ingredient.

The Department's determination that the labels of meat food products are not misleading without this qualifying phrase deals only with the use of MS(S) in accordance with the amended regulations. In other words, the Department is not by its action agreeing with those commenters who took the position that additional, qualifying label information never is necessary or appropriate. Therefore, future reconsideration of the limitations on use of MS(S) will involve not only the appropriateness of permitting expanded use, but also whether such use should be accompanied by a qualifying phrase indicating the presence of MS(S). In a future inquiry of this type, the Department will be particularly interested in the implications of expanded use for meat food products that include a species designation as part of their names. The Department's regulations already require that "meat" and the names of particular kinds of meat (e.g., "beef", "lamb") not be used in such a manner as to be false or misleading (9 CFR 317.8(b)(2)). The public should be aware that the Department considers it to be misleading to use this type of terminology in the name of a meat food product which does not contain "meat" or the kind of meat indicated.

The Department also has determined that the labels of meat food products containing MS(S) are not misleading without a qualifying phrase indicating their maximum powdered bone content. However, unless supplementary labeling information is provided where there is a meaningful increase in the total calcium content of meat food products that would otherwise be acceptable in the diets of persons on calcium-restricted diets, such persons could be misled. This supplementary labeling issue arises because the mechanical deboning technology lets some hard bone pass through the equipment along with the soft tissue and, consequently, MS(S) has a higher calcium content than the livestock products traditionally used as ingredients in meat food products. As already discussed, other regulations are designed to assure that meat food products containing MS(S) with the maximum amount of hard bone and accompanying calcium which could be present are wholesome and safe. In fact, a slight benefit might be expected to result from the presence of additional calcium, especially for persons whose customary intake of this essential nutrient falls below the Recommended Daily Allowance. However, intakes below that level may be required for a small group of Americans. These persons are likely to be under medical supervision that includes dietary management to restrict their consumption of calcium-containing foods. Therefore, the Department's concern here is that such persons could be misled if they are not informed about those increases in meat food products' calcium content which should be taken into account in planning their diets.

This concern distinguishes the second qualifying phrase from the other labeling required in 1978, which was designed with the general population in mind. In reevaluating the second qualifying phrase, the question with respect to the general population is restricted to a consideration of whether this labeling can have unintended consequences on how meat food products containing MS(S) are perceived and evaluated. To the extent that there may be such unintended consequences, the question becomes whether these effects can be avoided while continuing to be responsive to the needs of the limited segment of the population for which this supplementary information is intended. In other words, the Department's objective here is to assure that persons on calcium-restricted diets have adequate information while not misinforming the general population.

The method selected in 1978 to reach this objective was labeling information on the component of MS(S) which results in increased calcium content—powdered bone—presented in a qualifying phrase stating the maximum amount of the component that the regulations permit MS(S) to contribute to the finished meat food product. By proposing to replace this declaration with a calcium content approach, the Department was not, as some commenters thought, attempting to disguise the bone content or ignore the other substances in bone. Instead it was proposing to replace an indirect method of informing persons on calcium-restricted diets—those for whom this information is intended—with label information that is more useful because it directly addresses the content question of concern to them.

By adopting the calcium content approach, the Department also is providing information that is more consistent with the other types of content information on food labels: ingredient content, nutrient content, and quantity of contents information. Powdered bone content falls into none of these categories. It is a physical component of an ingredient—MS(S). In no other instance has the Department gone beyond the individual ingredients in a food (including the ingredients in a food used as an ingredient in another food) and required that their physical components be declared. In addition, this is the only instance in which the Department has required a quantitative declaration that may consistently and significantly overstate the amount actually present. Furthermore, adoption of a calcium content approach does not, as one commenter alleged, eliminate important health protection for gout sufferers and other hyperuricemic individuals. As discussed above in connection with the limitations on use of MS(S) (9 CFR 319.6), the Department has concluded that the formulation of meat food products with mechanically separated product used in accordance with the regulations does not present an increased risk to these people. It also should be noted that the Department never intended the second qualifying phrase, which declares powdered or hard bone content, to be misused by these people, or anyone else, as a statement of bone marrow content; and the amended regulations will continue to provide adequate identification of mechanically separated product to enable these people to avoid the product if they so choose. See 43 FR 28416, 28419.

Finally, the Department has concluded that the calcium content approach is preferable because it will respond to the needs of calcium-sensitive individuals without having unwarranted, negative

effects on the general population's evaluation of meat food products containing MS(S). As the Department noted in the proposal, the second qualifying phrase required in 1978 may misinform the general population about the characteristics of such meat food products. 46 FR 39274, 39294. When Market Research Services asked focus group participants to record their initial reactions to frankfurter labeling which included a statement that the product "contains up to 0.51 percent powdered bone" (i.e., to write down what it told them about the product), many of the respondents commented on this declaration, frequently negatively, and some misread the figure as 51 percent of thought that powdered bone was a separately added ingredient. As reported by Market Research Services, even after a discussion of the labeling, many of the participants felt that bone was added to the frankfurter, rather than associated with the machanically separated ingredient, and they did not associate bone content with calcium content. Some of the comments also indicate that a powdered bone content declaration might be misunderstood to mean that bones have been ground up and used as an ingredient in meat food products such as hotdogs or luncheon meats or might be misinterpreted as a warning. In promulgating this requirement, it was not the Department's intention to disparage unfairly meat food products made with mechanically separated product. 43 FR 26416, 26420. Becaue the amended regulation provides information which is more consistent with the other types of content information on food label and which is relevant and useful for both persons on calcium-restricted diets and the general population, it is less likely to confuse the public.

The remaining questions in this area involve the implementation of the calcium content approach: on which finished meat food product labels should supplementary information on calcium content be provided and how should such information be presented. The Department has concluded that the proposed provision basically incorporates the appropriate answers to these questions. However, after reviewing the comments and information on the use of calcium-restricted diets in managing health problems, the Department has decided that the proposed provision should be modified somewhat. Under the amended provision (9 CFR 317.2(j)(13)(ii)), the amount of calcium, expressed as a percentage of the U.S. Recommended Daily Allowance (U.S. RDA) in a serving, must be stated on the label of a meat food product containing MS(S) whenever MS(S) contributes 20 mg or more of calcium to a serving unless the amount to be declared would not differ from the amount that would be declared if the meat food product contained only hand deboned ingredients or unless the calcium content of the meat food product would be 20 percent of the U.S. RDA or more per serving if the meat food product contained only hand deboned ingredients.

The Department agrees with those commenters who took the position that it is not necessary to declare calcium content on the labels of all meat food products containing MS(S) and that labels should not imply that such products are better sources of calcium than they actually are. The Department does not agree, however, with a number of the commenters' recommendations regarding the level below which a calcium content declaration should not be required. In particular, the Department disagrees with suggestions that 10 percent of the U.S. RDA per serving should be used as a cut-off because that is the level FDA employs in regulating claims that a food is a significant or superior source of a nutrient (21 CFR 101.9(c)(7)(v)). The focus of concern in this rulemaking is not the appropriate minimum amount that should be required before a food is promoted to the general population on the basis of its value as a nutrient source. In that situation, the concern is that the public not be misled into thinking a food makes a greater nutrient contribution than it actually does. Here the concern is quite different: making sure that a population segment with particular health problems is not misled into thinking a food makes a smaller calcium contribution than it actually does. Put another way, FDA's regulation is designed to prevent claims from being made in the absence of nuturitional significance; the Department's regulation is designed to assure content information is not omitted when increases occur that should be taken into account in planning calcium-restricted diets. Thus, these commenters, like a number of those who opposed replacement of the powdered bone content declaration, failed to focus on the needs of the special audience for which this information is intended. They presented no evidence as to whether or not persons on calcium-restricted diets would be misled if the labels of meat food products containing less than 10 percent of the U.S. RDA, or more than 10 percent of the U.S. RDA, of calcium in a serving did not provide calcium content information.

The Department has concluded that persons on calcium-restricted diets could be misled if the labels of all of these meat food products were exempted from the calcium content declaration requirement. While the U.S. RDA for calcium is 1000 mg (1 g), persons on calcium-restricted diets are counselled to limit their calcium intakes to 600 or even 400 mg per day. (More severely restricted diets sometimes are used in hospital settings for people suffering from an acute condition or undergoing a diagnostic procedure, but generally only for a few days.) Thus, for these individuals, 10 percent of the U.S. RDA—100 mg—is about 17 to 25 percent of their daily intake. The calcium contribution of foods providing less than this amount is relevant to them; in fact, persons on calcium-restricted diets rely primarily on foods providing less than 10 percent of the U.S. RDA per serving in planning their diets.

The Department also has concluded that providing information on the labels of meat food products containing less than 10 percent of the U.S. RDA in a serving will not mislead either persons on calcium-restricted diets or the general population into thinking that such products contain more calcium than they actually do so long as this information is presented in the form of a quantitative declaration. FDA's nutrition labeling regulations provide for the declaration of the amounts of nutrients for which U.S. RDA's have been established in 2 percent increments up to and including the 10 percent of U.S. RDA level, with nutrients present in amounts less than 2 percent indicated by a zero or by an asterisked statement which explains that less than 2 percent of the U.S. RDA is present. These nutrients frequently are declared at levels below 10 percent of the U.S. RDA as part of a nutrition labeling profile of the food (see 21 CFR 101.9(c)).

The Department regards nutrition labeling as the most appropriate place for the information required by this regulation. Therefore, the regulation requires that the calcium content declaration appear as part of any nutrition labeling that a meat food product bears. However, as many meat food products do not bear nutrition labeling and the Department continues to ascribe to its 1978 conclusion that the issue of when nutrition labeling should be required is broader than the subject of this rulemaking (43 FR 26416, 26421), the regulation provides for an alternative declaration: If a meat food product bears no nutrition labeling

information, the calcium content declaration will appear in immediate conjunction with the ingredients list as part of a prominent statement which includes the serving size (i.e., the quantity of food) used in determining the amount present; for example, "A 2 ounce serving contains 4% of the U.S. RDA of calcium". (The alternative statement in the proposed provision has been shortened by deletion of the words "in this product" in response to comments that they are superfluous; the Department agrees that the statement is adequate without these words.) This exception to the general rule that nutrient information should appear in the context of a nutrition labeling profile is similar to the exception that FDA permits for sodium content information (21 CFR 101.9(a)).

Because it presents the amount of calcium in a prescribed format, the alternative declaration should not imply that the labeled product is a better calcium source than it actually is. The Department agrees, however, that such implications would be a problem if the amount of calcium were not stated. This is a major reason why the Department is not adopting one of the options raised as an alternative in the proposal: a parenthetical declaration, in the ingredient statement, of the fact that mechanically separated product is a calcium-containing ingredient. 46 FR 39274, 39294. In addition, incorporating nutrient information into a single ingredient listing in the ingredient statement of a meat food product which may well include other calcium-containing ingredients is inconsistent with the way nutrient information generally is presented and could be confusing.

As proposed and adopted, the regulation references the procedures and rules for determining and expressing the amount of calcium that are used by FDA in its nutrition labeling program (21 CFR 101.9 (b)(1), (c)(7) (i) and (iv), and (e)). The Department has concluded that these portions of FDA's nutrition labeling requirements are appropriate for the meat food products covered by its regulations. Among other things, these FDA regulations establish the increment levels for expressing calcium content: 2 percent increments up to and including the 10 percent of the U.S. RDA level, 5 percent increments above 10 percent and up to and including the 50 percent of the U.S. RDA level, and 10 percent increments above the 50 percent of the U.S. RDA level (with 1 gram (1000 mg) of calcium being equal to 100 percent of the U.S. RDA) (21 CFR 101.9(c)(7)). The proposal relied on these 2, 5, and 10 percent of the U.S. RDA increment levels to define the scope of exceptions to the calcium content declaration requirement: A label need not bear a statement of calcium content when the amount to be declared would not differ from the amount that would be declared if the meat food product were made solely with hand deboned ingredients. When such a meat food product contains up to 10 percent of the U.S. RDA, increments of 2 percent of the U.S. RDA—or 20 mg of calcium—mean that relatively small calcium increases will result in calcium content being stated; but when such a meat food product contains greater amounts of calcium, increments of 5 or 10 percent of the U.S. RDA mean that greater increases will be necessary before calcium content must be stated. 46 FR 39274, 39293.

The Department continues to regard this proposed exception to the calcium content declaration requirement as appropriate and, therefore, has incorporated it in the amended regulation. However, the Department has determined that two other, similar modifications of the requirement can and should be added to control the costs of the requirement while assuring that calcium content information is not omitted when there are meaningful increases in meat food products' calcium content that should be taken into account in planning calcium-restricted diets. Therefore, the amended regulations do not require a calcium content declaration where MS(S) contributes less than 20 mg of calcium to a serving of a meat food product or where the calcium content of a meat food product would be 20 percent of the U.S. RDA or more per serving if such product contained only hand deboned ingredients.

The Department expected that the use of 2 percent per serving as the minimum amount to be declared as a percentage of the U.S. RDA would mean that calcium content need not be stated where small amounts of mechanically separated product are used in a meat food product that otherwise contains almost no calcium. While in theory this expectation is correct, in practice relying on the 2 percent per serving increment level for this purpose could result in a great deal of uncertainty. Manufacturers of meat food products who use mechanically separated product in small amounts still would have to monitor the composition of all of the other ingredients they use to assure that they contain "almost no" calcium. Even slight variations in the calcium content of these other ingredients could make the difference between whether or not a calcium content declaration is required. Moreover, as many ingredients contain low levels of calcium, calcium content declarations might well be required even where a very small amount of mechanically separated product is used. For example, if the other ingredients in a meat food product contributed 14 mg of calcium (1.4 percent of the U.S. RDA) to a serving, a declaration would be required if 1 gram of mechanically separated product with the maximum calcium content of 7.5 mg (0.75 percent of the U.S. RDA) were used; but if the other ingredients contributed 11 mg, it would not be.

To rectify these problems, the Department is limiting the requirement to situations in which MS(S) contributes 20 mg or more—i.e., 2 percent of the U.S. RDA or more—of calcium to a serving of a meat food product. FDA uses 2 percent of the U.S. RDA not only as the minimum measurable difference to be stated in nutrition labeling (21 CFR 101.9(c)(7)(i)), but also in determining whether a food contains a nutrient in a measurable amount or any reduction in the content of a nutrient in its imitation labeling regulation (21 CFR 101.3(e)(4)). The Department has determined that it is not necessary to require a calcium content declaration where the MS(S) used in a serving of a meat food product results in an increase of less than this amount of calcium.

Moreover, incorporation of this exemption will facilitate compliance with the regulation by enabling manufacturers of meat food products in which MS(S) is used at low levels to determine with certainty that a calcium content declaration is not required either solely on the basis of the amount of MS(S) used in their formulations or on the basis of that information plus information on the calcium content of the MS(S) ingredient. For example, the livestock (or livestock and poultry) product portion of a hotdog with a 56.8 gram—2 ounce—serving size is about 85 percent of the total meat food product, or 48.28 grams. If mechanically separated product were used as 5 percent of this portion, it would constitute 4.25 percent, or 2.414 grams, of the total product; and its maximum calcium contribution (7.5 mg per gram) would be 18.11 mg, which does not have to be declared. Finally, this modification may encourage the development of technology capable of producing MS(S) with a lower bone content since the lower the bone content, the greater the amount of MS(S) that can be used without making a 20 mg contribution to a meat food product's calcium content.

As indicated above, the Department also expected that where meat food products made solely with hand deboned ingredients contain substantial amounts of calcium, the use of 5 and 10 percent increment levels would mean that calcium content need not be declared if use of the mechanical deboning technology resulted in only a relatively minor increase in calcium content; and it noted that a further exemption from the calcium content declaration requirement should be considered where the calcium content of meat food products is high enough to make them inappropriate for persons on calcium-restricted diets even without the inclusion of ingredients made by mechanical deboning. 46 FR 39274, 39292–93. Here, as well, the Department has concluded that the proposal relied too heavily on the increment levels to accomplish its objective and that in practice this would result in too much uncertainty for meat food product manufacturers. For example, because pizza with sausage (9 CFR 319.600(b)) is made with cheese, it contains a substantial amount of calcuim—about 25 percent of the U.S. RDA in a 6 ounce serving—without any calcium contribution from the sausage. In addition, cooked sausage can constitute as little as 12 percent and dry sausage as little as 10 percent of the total product. It is, therefore, unlikely that use of the mechanical deboning technology in formulating the sausage part of this product would result in a large enough increase in calcium content to trigger a calcium content declaration; but there could be marginal situations in which a declaration of 30 percent of the U.S. RDA per serving would be required under the proposed provision.

The Department has determined that this result is not necessary to prevent the labels of meat food products such as pizza with sausage from misleading persons on calcium-restricted diets. Because these products already are regarded as high calcium foods, their inclusion in low calcium diets is unlikely; so any potential increase in their calcium content would not affect calcium intakes of persons at risk. To assure that calcium content declarations are not required in such situations, the Department is exempting the labels of meat food products that would have a calcium content of 20 percent of the U.S. RDA or more per serving if they contained only hand deboned ingredients. As with the exemption included in the proposal, in determining whether or not calcium content must be stated, the meat food product in question must be compared with one that contains no ingredients produced by mechanical deboning, thereby taking into account the potential calcium contribution of product produced by mechanically deboning poultry carcasses. The Department has concluded that it would be inappropriate to base these exemptions on comparisons with products containing other ingredients made by mechanical deboning because unexpected increases in the calcium content of meat food products results from use of the mechanical deboning technology.

In its amended form, the regulation takes into account the fact that the calcium contributed by MS(S) can vary widely across a broad range of meat food products with very different ingredients. It recognizes the diluting effect that can occur when MS(S) is mixed with other ingredients and does not require quantitative information on calcium content when there is not a meaningful increase in the calcium content of meat food products that would otherwise be acceptable for persons on calcium-restricted diets.

While this is the only requirement in the regulations that may necessitate chemical analyses of finished products made with ingredients manufactured by mechanical deboning (other requirements necessitating chemical analyses are controlled at the ingredient manufacturing level), the Department has determined that the costs of complying with this requirement are not unreasonable and should not discourage meat food product manufacturers from using MS(S). In accordance with the Regulatory Flexibility Act (Pub. L. 96–354), the Department has considered the impact of the regulatory changes on small entities and the possibility that alternative requirements may substantially accomplish its objectives while minimizing this impact. (The Department's analysis of these issues is included in its Regulatory Impact Analysis.)

As discussed above, the Department has determined that one of the options considered as an alternative to quantitative information—a parenthetical statement in the ingredient statement of the fact that MS(S) is a calcium-containing ingredient—should not be adopted. The Department also has determined that, on the basis of currently available information, it cannot conclude that the other option considered as an alternative—an informational campaign about the calcium-containing characteristic of mechanically separated product—will, by itself, substantially achieve the objective of assuring that the labels of meat food products containing MS(S) do not mislead persons on calcium-restricted diets. The Department does believe, however, that such a program has an important role to play in meeting the needs of these persons. Therefore, it will work with and take steps to inform and educate health professionals involved in the treatment of this group.

Other Comments

In addition to the views summarized above in the discussion of the final rule, the Department received numerous comments that expressed general views about the use of mechanically separated product. Many commenters supported use of mechanically separated product as acceptable and/or advantageous from a health and safety perspective. The extensive review and evaluation of this product and the 1977 Panel report were said to show that mechanically separated product and its constituents and composition present no problems and that the product is comparable to meat. Government control of factors such as handling and sanitation also was cited as assuring a safe, wholesome, and nutritious product. Some commenters advocated use of mechanically separated product as an additional source of food or protein and/or for its contribution of needed additional amounts of other essential nutrients—calcium and iron. Use of mechanically separated product also was supported as consistent with the production of meat food products with sensory characteristics (e.g., taste, appearance, texture) comparable to or, sometimes, better than those now produced. Some of these commenters expressed concern that the public has been misinformed about the characteristics of mechanically separated product; for example, that people expect the product to contain chips or pieces of bone when this actually is more likely to be a problem with hand trimmed meat.

A number of other commenters opposed use of mechanically separated product or indicated their desire not to consume it based on health and safety and/or quality concerns. Damage to teeth, the problems of persons on calcium-restricted diets and gout sufferors, protecting children, the inferiority of the product to meat, and the belief that the product is impure, contains substances that may be hazardous, or adulterates were given as reasons for this position.

Use of mechanically separated product also was supported by many commenters as a way to increase

productivity, improve or optimize resource utilization, reduce the current waste or inefficient use (e.g., for rendering or animal feed) of materials suitable for mechanical deboning, and/or increase the utilization of lower quality cuts of meat. A number of economic benefits for various groups and the American public at large were predicted to result from the production of mechanically separated product and the consequent increases in carcass yields and food supplies. These included increases in employment, the return to animal producers on their investment, and competition in domestic and international markets; providing a new source of product for export and a means of reducing meat imports; and reducing the cost of producing meat food products and reducing or slowing the rise in the prices paid by consumers. Other commenters agreed that the cost of producing meat food products would or could decrease, but doubted that this would be reflected in lower prices for consumers (e.g., due to the cost of the deboning equipment).

Finally, a number of commenters addresed the Department's approach to the regulation of this product. The proposal was supported as decreasing overregulation and as making the regulatory treatment of product made by mechanically deboning livestock more consistent with that of similar products made by mechanically deboning poultry and fish. Differences in the regulatory treatment of these products were criticized as without foundation, discriminating against the red meat industry, and confusing to importing countries. Applying the same requirements to products made by mechanically deboning livestock and poultry carcasses was advocated, as was merging these products into a single classification. Consistency in the standards applied by different countries also was advocated, as was permitting meat food products for export to be formulated and labeled to meet the requirements of the countries to which they are being sent where these differ from the ones established by the Department.

As a number of these views also were expressed in comments relating to specific provisions of the regulations, they already have been discussed. Economic aspects of the regulations, as promulgated in 1978 and as amended herein, are discussed in greater detail in the Department's Regulatory Impact Analysis.

The Department agrees that it is important to take advantage of all safe amd wholesome sources of food. This final rule is designed to help achieve that goal while continuing to fulfill the Department's statutory responsibility to protect the public against adulterated and misbranded products. The final rule rests on rulemaking proceedings in which health and safety as well as quality aspects of the use of mechanically separated product have been thoroughly assessed. It incorporates regulatory requirements and restrictions that the Department has determined to be appropriate as a result of those proceedings. While various regulatory provisions have been considered during the proceedings, the Department's objectives have remained the same. At each stage of this process, the Department has had to exercise its judgment based on the information available at the time; and it has indicated that additional information may warrant further action regarding the regulation of this product.

As noted in the discussion of the final rule, this continues to be the case. Thus, for example, the Department continues to be willing to reexamine the maximum bone particle size limit on the basis of data substantiating that good manufacturing practice may result in somewhat larger bone particles which do not present safety or digestibility problems; and it expects that additional questions about the appropriateness of using MS(S) in particular meat food products will arise and be handled on a product-by-product basis. Similarly, the development of potential outlets for MS(S) in the export market may well raise questions in the future. While the Department understands the desire for consistency in the standards applied by different countries, it cannot anticipate the requirements that other countries may develop over time, nor assure that those requirements will be consistent with one another. Moreover, as each country's requirements reflect the law developed to meet the needs of its population, it is quite likely that such requirements will differ, at least to some extent. The Department generally regulates product prepared for export in the same manner as product prepared for domestic consumption, but it does permit deviations from United States requirements where such action is consistent with its statutory responsibilities.

Regulatory Impact Analysis

As indicated above, this action has been reviewed under USDA procedures established to implement Executive Order 12291. In compliance with section 2 of that order, the Department's review is reported in its Regulatory Impact Analysis (RIA), which is available upon request and summarized herein.

The objectives of the RIA are as follows: First, to determine whether or not there is substantial information regarding the necessity and potential consequences of the regulatory changes. Second, to determine whether or not the potential benefits to society resulting from the regulatory changes outweigh the costs of such changes. Third, on the basis of an analysis of alternative ways of satisfying the objectives of the regulatory changes, to determine whether or not the amendments will tend to maximize the net benefits to society. The Department's analysis indicates that each of these questions should be answered in the affirmative.

The following outline describes the steps that the Department took in reaching these conclusions:

1. The objectives of the changes were set forth along with their justification. The causes of the problems which the amendments are designed to address and the methods by which they would correct these problems were analyzed.

2. Three alternatives were analyzed: the 1978 regulations, the amended regulations, and "no regulatory action" (i.e., rescinding the 1978 regulations).

3. In analyzing the changes and possible alternatives, the costs and benefits of the current regulations were compared with the potential costs and benefits that could result from changing these regulations. The direct and indirect costs to be borne both by consumers and various segments of industry were explored and compared with the direct and indirect benefits to such groups. Costs and benefits were quantified in monetary terms where possible and where this could not be done, they were described in detail. The RIA includes an explanation of the types of benefits anticipated and the mechanism by which the changes are expected to result in these benefits. In addition, it responds to comments submitted by the public on the Department's preliminary analysis of these issues.

The RIA also satisfies the analysis requirements of the Regulatory Flexibility Act (Pub. L. 96-354), which deals with the impact of regulations on small entities. The objective of this portion of the analysis is to consider the impact of the regulatory changes on small entities and the appropriateness of tailoring regulatory requirements to the sizes and types of businesses involved. The Department's analysis in this area indicates that the costs that small businesses entering the mechanically separated product market will face

under the amended regulations basically are the costs of entering any new market; and, thus, while such costs will be relatively greater for small than for large businesses, this is not the result of the regulations *per se*.

The PCMA–AMI attributed the limited production of mechanically separated product since 1978 to "unreasonably restrictive compositional requirements and misleading labeling requirements": (1) Mechanically separated product must contain not less than 14 percent protein and not more than 30 percent fat. (2) The labels of meat food products containing mechanically separated product must bear qualifying phrases indicating its presence and their maximum powdered bone content; and they must identify the product by the name "Mechanically Processed (Species) Product". In support of this position the petitioners submitted a report on a series of consumer focus group sessions and an analysis of the economic impacts of the 1978 regulations by Bullock and Ward. Bullock and Ward agreed that the 1978 regulations have had the unintended effect of making it uneconomical to use an efficiency-improving technology. They found these regulations to have a small impact on the costs of producing mechanically separated product, but a large impact on the potential supply. The economic costs of the 1978 regulations were attributed to the labeling requirements for products containing mechanically separated product and to the fat and protein content requirements for the product. Bullock and Ward concluded that requiring the meat food product label to contain information on calcium content would generate the same benefits as the 1978 regulations without the social costs associated with them. Bullock and Ward also concluded that the 20-percent restriction on the usage level of mechanically separated product does not appear to be generating social costs at the present time and and will not likely restrict the total output of the product (although they recommended that this restriction be removed as without economic justification and in order to preclude development of potential new products that might be acceptable).

In view of these arguments and the information in the Bullock and Ward analysis, the Department analyzed the three alternatives set forth above (see steps 2 and 3). The following table and text summarizes the Department's conclusions regarding each of these alternatives. They are based on data for 1979.

ECONOMIC IMPACTS OF THE ALTERNATIVES [1]

Alternative	Economic benefits	Economic costs	Net economic benefits
	In millions of dollars		
The 1978 Regulations	0	(2)	
The Amended Regulations	495.0	[3] 1.9	493.1
No Regulatory Action	495.0	0	495.0

[1] Estimates are based on projected levels of production of mechanically separated beef and mechanically separated pork. Lamb and calf carcasses and parts also can provide raw materials for mechanical deboning, but only in amounts that are very small in comparison with potential production from cattle and hog carcasses.

[2] Direct costs were not estimated due to the low levels of mechanically separated product produced since promulgation of the 1978 regulations. Indirect costs of $495 million are equal to the projected economic benefits of the amended regulations.

[3] These economic costs reflect estimates of the testing component of quality control costs. No attempt was made to estimate the aggregate costs relating to reporting or management of a quality control system and labeling due to lack of available data. These costs are not considered to be a major component of direct economic costs.

The 1978 Regulations

The regulations promulgated in 1978 generated indirect economic costs (such as foregoing market opportunities and productivity losses) that are equal to the economic value of the technology not realized because of the existence of these regulations. The Department estimate these costs to be about $495 million. This estimated was obtained by multiplying an average retail price for meat by the amount of mechanically separated product likely to be produced and then subtracting out raw material and processing costs and profit. (Bullock and Ward did not include profit in their estimate and, therefore, estimated higher costs.) There are no substantial direct economic costs or benefits generated under these regulations as the levels of production of mechanically separated product have been so low.

The Amended Regulations

The economic benefits of the amended regulations are the benefits that will result from the production which is estimated to have been foregone because of the 1978 regulations. Therefore, the economic benefits of the amended regulations are the same as the indirect economic costs generated by the 1978 regulations: $495 million.

Bullock and Ward estimated the economically feasible 1979 level of production at 351.7 million pounds without the finished product labeling and fat and protein content requirements described above. The Department has concluded that potential production under the amended regulations would have been the same as that estimated by Bullock and Ward because (1) the names of finished products containing MS(S) need not be accompanied by qualifying phrases and (2) retaining fat and protein content requirements for MS(S) used in meat food products without regulatory limits on their total fat content will not constrain the potential supply of MS(S). (The Department also does not expect the 20 percent restriction on the amount of MS(S) that may be used to constrain the potential supply of MS(S). This is consistent with the findings of Bullock and Ward.)

Use of the mechanical deboning technology also is expected both to increase and decrease the value of carcasses. On the one hand, the value of a carcass would be increased as several pounds of MS(S) can be recovered that would otherwise have been sold for lower value uses. On the other hand, widespread use of the technology would increase the total supply of ingredients for making processed meat food products. This increased supply is expected to cause the prices of processed meat food products to fall. As their prices fall, it is expected that these products will capture part of the market for table cuts. As the demand for table cuts falls in response to lower prices for processed meat food products, prices for table cuts also should fall, resulting in a decrease in the value of carcasses. The net impact on the value of carcasses depends on the magnitude of these price movements. The effect of increased supplies could more than offset the increased value of carcasses and result in a net lowering of live animal prices and a lowering of net farm income.

In such a situation, processors would benefit from being able to use less expensive ingredients and consumers would benefit from lower retail prices. Livestock producers, however, would receive lower livestock prices and, therefore, income would be transferred from producers to processors and consumers. Consumers are expected to receive most of this transfer due to the competitive nature of the food processing industry. The Department estimated the income transfer at $493 million, using the Bullock and Ward estimate of 1979 potential production. That would represent a 0.3 percent decrease in total farm revenue, based on the Department's estimate of farm revenue in 1979. This conclusion was challenged by a few of those commenting on the proposal, and a statement by Bullock and Ward was submitted which suggested that the negative impact on livestock prices and net farm income which they calculated would not be as great as estimated or could even disappear because there should be a price incentive to replace some imported beef with mechanically separated beef.

The Department agrees that MS(S) might replace some of the imported meat now used in various meat food products due to the substantially lower expected price of MS(S). No attempt has been made however, to predict the extent to which this will occur because the current levels of production of mechanically separated product are so low that the market has not been established to the point where a reasonable estimate can be made. (In their statement, Bullock and Ward said it does not seem unreasonable that perhaps as much as 10 percent of imported beef could be replaced by mechanically separated beef in processed products.) To the extent that production of MS(S) is offset by a decrease in imported meat, the increase in the supply of ingredients for use in processed meat food products would not be as great and, hence, the negative impact on livestock prices and net farm income would be less than estimated, or could even disappear, and would be replaced by a loss to foreign exporters in the form of decreased sales. Net economic gains would still result as processors benefit from using less expensive ingredients and consumers benefit from the savings passed on to them.

The direct economic costs under the amended regulations relate to compliance with the requirements that MS(S) be produced under a plant quality control system and that the labels of meat food products containing MS(S) declare its presence in their ingredient statements and, with exceptions, declare their calcium content. The Department has concluded that the costs of complying with these requirements are very small compared with the economic value of increased production and use of MS(S) and that they are not unreasonable and should not discourage production or use of MS(S) as an ingredient in meat food products. These conclusions are consistent with the finding by Bullock and Ward that the 1978 regulations have only a small impact on production costs and their assumption that the contents portion of meat food products labels will bear enough information to allow individuals who must restrict their calcium intake to avoid consuming too much mechanically separated product.

The Department estimated the aggregate yearly quality control testing costs for producing 351.7 million pounds of mechanically separated product to be $1.9 million, or 0.38 percent of $495 million, the estimated value of the product at this level of production. (These costs are somewhat lower than the costs under 1978 regulations as a result of amendments to the quality control provision.) Reporting and administrative costs of plant quality control were not estimated due to the lack of data, but they are considered not to be a major component of direct economic costs. Moreover, institution of plant quality control should be accompanied by countervailing benefits: by providing controls and information that maximize the likelihood that product of consistent and uniform quality which complies with regulatory requirements will be manufactured at a predicted cost, quality control helps to minimize costs. Finally, the plant quality control required in the amended regulations may be integrated with other, voluntary plant quality control programs or with a total quality control system.

There also will be costs associated with changing the labels of meat food products in which MS(S) is used. As very few products currently are being formulated with mechanically separated product, these costs are not the result of amending the regulations. Moreover, the Department regards the costs of changing labels to include MS(S) in the ingredient statement as costs that are incurred whenever a manufacturer decides to modify its product formulation to include a different ingredient.

Finally, the Department evaluated the costs of requiring that calcium content be declared where there is a meaningful increase in the total calcium content of meat food products containing MS(S) which would otherwise be acceptable for persons on calcium-restricted diets. It is difficult to estimate these costs because the frequency with which meat food products' calcium content may have to be analyzed and the costs of such analyses will vary a great deal and because manufacturers will control these costs to some extent through their formulation decisions.

A number of private laboratories charge $15 to $25 to test for calcium content. (In-house testing costs are lower.) If such analyses were conducted once a month at an average cost of $20 per test, the annual expenditure would be approximately $240. However, in a number of instances, manufacturers should be able to determine the calcium content of meat food products, or determine that a calcium content declaration is not required, from information on the ingredients used. Manufacturers also can use this information in making their formulation decisions. In addition, the Bullock and Ward analysis of the levels at which many manufacturers are likely to use mechanically separated product and the likely production of mechanically separated product with less than the maximum amount of calcium permitted mean that MS(S) probably will contribute less than 20 mg of calcium per serving to a number of meat food products in which it is used. Nor will additional costs be incurred where calcium content information already is provided as part of nutrition labeling.

The Department also does not regard the costs of incorporating calcium content information in meat food product labels that do not bear nutrition information as a major component of direct economic costs. The alternative statement included in the regulations can be included with the changes that manufacturers regularly make for marketing purposes or to reflect modifications in their formulations.

No Regulatory Action

The no regulatory action alternative (i.e., rescinding the 1978 regulations) would not be consistent with the Department's statutory responsibilities. If such action could be taken, the economic benefits of this alternative would be the same as those that are projected under the amended regulations because the amended regulatory requirements will not constrain the potential supply of MS(S) or the production or marketing of meat food products in which MS(S) is used. (This conclusion is consistent with the findings of Bullock and Ward regarding various regulatory requirements and the production of and demand for the product.) However, as the economic costs of no regulatory action would be somewhat less, net economic benefits would be somewhat greater.

Legal Memorandum Regarding USDA Authority to Promulgate This Rule

Pursuant to section 4(a) of Executive Order 12291, issued on February 17, 1981, the Office of the General Counsel of this Department has reviewed the above referenced rule and determined that its promulgation is clearly within the authority delegated by law to the Secretary and is consistent with the Congressional intent of the Federal Meat Inspection Act, as amended, 21 U.S.C. 601 *et seq.*

Under the Act, the Secretary is required to cause inspection of meat and meat food products and take other actions to assure that they are wholesome, not adulterated or misbranded, and properly marked, labeled and packaged. Section 21 of the Act, 21 U.S.C. 621, requires the Secretary

to appoint inspectors to examine meat and meat food products and sanitary conditions of establishments in which they are produced to assure that they are not adulterated. Section 21 also authorizes the Secretary to "* * * make such rules and regulations as are necessary for the efficient execution of the provisions of this Act * * *." Section 7 of the Act, 21 U.S.C. 607, gives the Secretary authority to prescribe definitions and standards of identity or composition for articles subject to the Act whenever he determines such action is necessary for the protection of the public. Consistent with these provisions and the intent of Congress, as expressed in Section 2 of the Act, 21 U.S.C. 602, this rule aids in the economical expansion of the nation's food supply while protecting the health and welfare of the consuming public.

Final Rule

List of Subjects

9 CFR Part 317

Mechanically Separated (Species), Food labeling.

9 CFR Part 318

Mechanically Separated (Species), Preparation of products.

9 CFR Part 319

Mechanically Separated (Species), Meat and meat food products, Standards of identity or composition, Quality control, Food labeling.

On the basis of the foregoing, the Federal meat inspection regulations (Parts 317, 318, and 319) are revised as follows:

1. The authority citation for Parts 317, 318, and 319 reads as follows:

Authority.—34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 607, 621.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

2. Section 317.2(j)(13) (9 CFR 317.2(j)(13)) is revised to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(j) * * *

(13)(i) On the label of any "Mechanically Separated (Species)" described in § 319.5(a) of this subchapter, the name of such product shall be followed immediately by the phrase "for processing" unless such product has a protein content of not less than 14 percent and a fat content of not more than 30 percent.

(ii) When any "Mechanically Separated (Species)" described in § 319.5 of this subchapter is used as an ingredient in the preparation of a meat food product and such "Mechanically Separated (Species)" contributes 20 mg or more of calcium to a serving of such meat food product, the label of such meat food product shall state the calcium content of such meat food product, determined and expressed as the percentage of the U.S. Recommended Daily Allowance (U.S. RDA) in a serving in accordance with 21 CFR 101.9(b)(1), (c)(7) (i) and (iv), and (e), as part of any nutrition information included on such label, or if such meat food product does not bear nutrition labeling information, as part of a prominent statement in immediate conjunction with the list of ingredients, as follows: "A ——— serving contains ——% of the U.S. RDA of calcium", with the blanks to be filled in, respectively, with the quantity of such product that constitutes a serving and the amount of calcium provided by such serving: *Provided*, That, calcium content need not be stated where (*a*) the percent of the U.S. RDA of calcium to be declared would not differ from the percent of the U.S. RDA that would be declared if the meat food product contained only hand deboned ingredients or (*b*) the calcium content of a serving of the meat food product would be 20 percent of the U.S. RDA or more if the meat food product contained only hand deboned ingredients.

* * * * *

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

§ 318.18 [Amended]

3. Section 318.18 (9 CFR 318.18) is amended by replacing the words " 'Mechanically Processed (Species) Product' or into an imitation of such product" in the first sentence with the words " 'Mechanically Separated (Species)' " and by replacing the words " 'Mechanically Processed (Species) Product' or an imitation of such product" in the second sentence with the words " 'Mechanically Separated (Species)' ".

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

4. Section 319.5(a) and (e) (1) and (2) (9 CFR 319.5 (a) and (e) (1) and (2)) are revised to read as follows:

§ 319.5 Mechanically Separated (Species).

(a) Mechanically Separated (Species) is any finely comminuted product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle of livestock carcasses and parts of carcasses and meeting the other provisions of this paragraph. Examples of such product are "Mechanically Separated Beef", "Mechanically Separated Veal", "Mechanically Separated Pork", and "Mechanically Separated Lamb". At least 98 percent of the bone particles present in such product shall have a maximum size no greater than 0.5 millimeter in their greatest dimension and there shall be no bone particles larger than 0.85 millimeter in their greatest dimension. The product resulting from the separating process shall not have a calcium content exceeding 0.75 percent, as a measure of a bone solids content of not more than 3 percent, and shall have a minimum PER of 2.5 (except as modified in paragraph (e)(1) of this section). Such product also shall have a protein content of not less than 14 percent and a fat content of not more than 30 percent, or it shall be deemed to be product for processing. Such product failing to meet the bone particle size, calcium, or PER requirements of this paragraph shall only be used in producing animal fats. Where such product meets the bone particle size, calcium, and PER requirements of this paragraph, it may also be used in the formulation of meat food products in accordance with § 319.6.

* * * * *

(e)(1) An essential amino acid content of at least 33 percent of the total amino acids presents in "Mechanically Separated (Species)" shall be accepted as evidence of compliance with the protein quality requirement set forth in paragraph (a) of this section. For purposes of this paragraph, essential amino acid content includes isoleucine, leucine, lysine, methionine, phenylalanine, threonine, and valine content, and the total amino acids present include isoleucine, leucine, lysine, methionine, phenylalanine, threonine, valine, tyrosine, arginine, histidine, alanine, aspartic acid, glutamic acid, glycine, proline, serine, and hydroxyproline content.

(2) A prerequisite for label approval for products consisting of or containing "Mechanically Separated (Species)" is that such "Mechanically Separated (Species)" shall have been produced by an establishment under an approved plant quality control system. The Administrator shall receive, evaluate, and approve requests for plant quality control in accordance with § 318.4(d)(1) and (2) and (e) of this subchapter. Such a plant quality control system shall provide the controls and information necessary to assure that the product will

meet the requirements described in § 319.5(a) and to enable establishment personnel and program employees to monitor the system for effectiveness. The system shall include a written description of the methods used by the establishment to maintain uniformity of the raw ingredients used in manufacturing product, to control the handling and processing of the raw ingredients and the finished product, and shall contain provisions for chemical analyses of the product and other procedures to determine and assure compliance with standards for the product. For purposes of this paragraph, a lot shall consist of the "Mechanically Separated (Species)" designated as such by the operator of the establishment or his or her agent from the product produced from a single species of livestock in no more than one continuous shift of up to 12 hours. All units of any lot must be available for inspection by program employees. Analysis of a sample of at least 1 pound from each lot to verify contents of fat, protein, and calcium in "Mechanically Separated (Species)" shall be performed by the operator of the establishment or his or her agent to assure that finished product will meet the requirements in § 319.5(a), except that such analyses with respect to fat, protein, and calcium content shall be required to be performed with respect to only one randomly selected lot of every five lots if the preceding ten analyses and all such analyses performed by the Department during the preceding ten analyses period establish compliance with the requirements of § 319.5(a), and that no analyses with respect to fat or protein content shall be required where the finished product is represented as product for processing. An analysis of a sample of at least 1 pound to verify essential amino acid content and/or protein efficiency ratio in "Mechnaically Separated (Species)" shall be performed by the operator of the establishment or his or her agent at the rate of at least one per month during production to assure that finished product will meet the requirements of § 319.5(a), except that such analyses with respect to essential amino acid content and/or protein efficiency ratio shall be required to be performed only once every 6 months if the preceding three analyses and all such analyses performed by the Department during the preceding three analyses period establish compliance with the requirements of § 319.5(a). Finished product samples shall be analyzed in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th ed., 1980, sections 24.005 (page 376), 24.006–24.008 (page 376), 24.027 (page 379), and 43.212–43.216 (page 774–75) and the "2nd Supplement to the 13th Edition" (J. AOAC, Vol. 64, No. 2, 1981), section 24.B01–24.B03 (pages 509–10), which are incorporated by reference, or if no AOAC method is available, in accordance with the "Chemistry Laboratory Guidebook," U.S. Department of Agriculture, Washington, D.C., sections 6.009–6.009F (pages 6–31 through 6–34) and 6.010–6.010D (pages 6–35 through 6–41). Alternative methods of analysis may be submitted to the Administrator to determine their acceptability based upon their accuracy, repeatability, reproducibility, and lowest level of reliable measurement, as demonstrated by at least 3 laboratories. (Copies of the AOAC methods may be obtained from: AOAC, 1111 N. 19th Street, Arlington, VA 22209. Copies of the Chemistry Laboratory Guidebook may be obtained from: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. This incorporation by reference was approved by the Director of the Federal Register on December 30, 1981 and March 15, 1982. These materials are incorporated as they exist on the date of the approval. A notice of any change in the sections of the AOAC methods or the Chemistry Laboratory Guidebook cited herein will be published in the Federal Register.) The plant quality control system shall be subject to periodic review, and the approval of such system may be terminated in accordance with § 318.4(g)(2) of this subchapter.

5. Section 319.6 (9 CFR. 319.6) is revised and reorganized to read as follows:

§ 319.6 Limitations with respect to use of Mechanically Separated (Species).

(a) Meat food products required to be prepared from one species shall not contain Mechanically Separated (Species) of any other species.

(b) Mechanically Separated (Species) described in § 319.5 that has a protein content of not less than 14 percent and a fat content of not more than 30 percent may constitute up to 20 percent of the livestock and poultry product portion of any meat food product except those listed in paragraph (d) of this section.

(c) Mechanically Separated (Species) for processing described in § 319.5 may constitute up to 20 percent of the livestock and poultry product portion of any meat food product that is subject to a definition and standard of identity or composition in Part 319 which establishes a maximum limit on the fat content of such meat food product except those listed in paragraph (d) of this section.

(d) Mechanically Separated (Species) and Mechanically Separated (Species) for processing described in § 319.5 shall not be used in baby, junior, or toddler foods, ground beef, hamburger, fabricated steaks (§ 319.15 (a), (b), and (d)), barbecued meats (§ 319.80), roast beef-parboiled and steam roasted (§ 319.81), corned (cured) beef cuts (§§ 319.100–319.103) certain cured pork products (§§ 319.104 (a)–(e) and 319.106), tripe with milk (§ 319.308), lima beans with ham and similar products (§ 319.310), beef with gravy and gravy with beef (§ 319.313), and meat pies (§ 319.500).

6. Section 319.140 (9 CFR 319.140) is amended by adding the following sentence at the end of that section:

§ 319.140 Sausage.

* * * Sausage may contain Mechanically Separated (Species) used in accordance with § 319.6.

§§ 319.15, 319.104, 319.105, 319.141–319.145, 319.180, 319.182, 319.260, 319.261, 319.280, 319.281, 319.300–319.307, 319.311, 319.312, 319.600, 319.760, 319.762 [Amended]

7. Sections 319.15(c) *Beef patties,* 319.104(f) *Pressed ham, spiced ham, and similar products,* 319.105(b)(10) Chopped ham, 319.141 Fresh pork sausage, 319.142 Fresh beef sausage, 319.143 Breakfast sausage, 319.144 Whole hog sausage, 319.145(a) (1)–(3) Italian sausage products, 319.180 (a)–(c) Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and smilar products, § 319.182 Liver sausage and braunschweiger, § 319.260 Luncheon meat, § 319.261 Meat loaf, § 319.280 Scrapple, § 319.281(a)(1) Bockwurst, § 319.300 Chili con carne, § 319.301 Chili con carne with beans, § 319.302 Hash, § 319.303(b)(9) Corned beef hash, § 319.304 Meat stews, § 319.305 Tamales, § 319.306 Spaghetti with meatballs and sauce, spaghetti with meat and sauce, and similar products, § 319.307 Spaghetti sauce with meat, § 319.311 Chow mein vegetables with meat and chop suey vegetables with meat, § 319.312 Pork with barbecue sauce and beef with barbecue sauce, § 319.600 (a) and (b) Pizza, § 319.760(a) Deviled ham, deviled tongue, and similar products, and § 319.762 Ham spread, tongue spread and similar products (9 CFR 319.15(c), 319.104(f), 319.105(b)(10), 319.141–319.144, 319.145(a) (1)–(3), 319.180(a)–(c), 319.182, 319.260, 319.261, 319.280, 319.281(a)(1), 319.300–319.302, 319.303(b)(9), 319.304–

319.307, 319.311, 319.312, 319.600 (a) and (b), 319.760(a), and 319.762) are amended by replacing the term "Mechanically Processed (Species) Product" with the term "Mechanically Separated (Species)".

8. Section 319.141 (9 CFR 319.141) is further amended by revising the second sentence as follows:

§ 319.141 Fresh pork sausage.

* * * The finished product shall not contain more than 50 percent fat.* * *

9. Section 319.143 (9 CFR 319.143) is further amended by revising the second sentence as follows:

§ 319.143 Breakfast sausage.

* * * The finished product shall not contain more than 50 percent fat.* * *

10. Section 319.144 (9 CFR 319.144) is further amended by revising the second sentence as follows:

§ 319.144 Whole hog sausage.

* * * The finished product shall not contain more than 50 percent fat. * * *

§ 319.145 [Amended]

11. Paragraph (a)(3) of § 319.145 (9 CFR 319.145) is further amended by moving the second sentence to the end of the paragraph.

12. Section 319.160 (9 CFR 319.160) is amended by revising the third sentence as follows:

§ 319.160 Smoked pork sausage.

* * * The finished product shall not contain more than 50 percent fat. * * *

§ 319.281 [Amended]

13. Paragraph (a)(1) of § 319.281 (9 CFR 319.281) is further amended by moving the second sentence to the end of the paragraph.

§ 319.305 [Amended]

14. Section 319.305 (9 CFR 319.305) is further amended by moving the second sentence to the end of the section.

Done at Washington, D.C., on June 22, 1982.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 82-17187 Filed 6-28-82; 8:45 am]

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federal register

Tuesday
June 29, 1982

Part III

Environmental Protection Agency

Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 415

[WH-FRL 2080-6]

Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation limits the discharge of pollutants into navigable waters and into publicly owned treatment works by existing and potential new sources that manufacture certain inorganic chemicals.

The Clean Water Act and a consent decree require EPA to issue this regulation.

The purpose of this regulation is to specify effluent limitations for "best practicable technology", "best available technology", "best conventional technology", and "new source performance standards" for direct dischargers and to establish pretreatment standards for indirect dischargers.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation shall be considered issued for purposes of judicial review at 1:00 p.m. Eastern time on July 13, 1982. These regulations shall become effective (August 12, 1982).

Under Section 509(b)(1) of the Clean Water Act judicial review of this regulation can be made only by filing a petition for review in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under Section 509(b)(2) of the Clean Water act, the requirements in this regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: The basis for this regulation is detailed in four major documents. See Supplementary Information under "XVI Availability of technical information" for a description of each document.

Technical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH-552), EPA, 401 M Street, SW., Washington, D.C. 20460, or through calling (202) 426-2562. Copies of the technical documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000). The economic analysis may also be obtained from the National Technical Information Service.

The Record will be available for public review three weeks after the effective date in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Fielding, (202) 426-2562.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Legal Authority.
II. Scope of This Rulemaking.
III. Summary of Legal Background.
IV. Methodology and Data Gathering Efforts.
V. Control Treatment Options and Technology Basis for Final Regulations.
A. Control Treatment Options.
B. Techology Basis for Final Regulations.
1. Chlor-Alkali.
a. Mercury Cell Segment.
b. Diaphragm Cell Segment.
2. Hydrofluoric Acid.
3. Titanium Dioxide.
a. Chloride Process Segment.
b. Sulfate Process Segment.
c. Chloride—Ilmenite Process Segment.
4. Aluminum Fluoride.
5. Chrome Pigments.
6. Hydrogen Cyanide.
7. Sodium Dichromate.
8. Copper Sulfate.
9. Nickel Sulfate.
10. Sodium Bisulfite.
11. Sodium Hydrosulfite (Formate Process).
VI. Costs and Economic Impacts.
VII. Non-Water-Quality Environmental Impacts.
A. Air Pollution.
B. Solid Waste.
C. Consumptive Water Loss.
D. Energy Requirements.
VIII. Pollutants and Subcategories Not Regulated.
A. Exclusion of Pollutants.
B. Exclusion of Subcategories.
IX. Responses to Major Comments.
X. Best Management Practices.
XI. Upset and Bypass Provisions.
XII. Variances and Modifications.
XIII. Relationship to NPDES Permits.
XIV. Public Participation.
XV. Small Business Administration (SBA) Financial Assistance.
XVI. Availability of Technical Assistance.
XVII. Appendices.
A. Appreviations, Acronyms, and Other Terms Used in this Notice.
B. Toxic Pollutants Excluded in All Subcategories.
C. Toxic Pollutants Excluded in Particular Subcategories.
D. Subcategories Excluded.
E. Subcategories Deferred to Phase II.

I. Legal Authority

This regulation is being promulgated under the authority of Sections 301, 304, 306, 307, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, Pub. L. 95-217), also called the "Act". It is also being promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.*, v. *Train*, 9 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979.

II. Scope of This Rulemaking

The inorganic chemicals manufacturing industry is included within the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) 281, Industrial Inorganic Chemicals. The final regulation applies to parts of subgroups 2812, Alkalies and Chlorine; 2813, Industrial Gases; 2816, Inorganic Pigments; and 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified.

The most important pollutants or pollutant parameters found in inorganic industry wastewaters are: (a) toxic pollutants (chromium, nickel, lead, mercury, copper, cadmium, zinc, and cyanide); (b) conventional pollutants (TSS and pH); and (c) nonconventional pollutants (COD, fluoride, iron, and ammonia). EPA's 1973 to 1976 round of rulemaking emphasized the achievement of best practicable technology currently available (BPT) by July 1, 1977. In general, BPT represents the average of the best existing performances of well-known technologies for control of familiar (i.e., "classical") pollutants.

In contrast, this round of rulemaking aims for the achievement by July 1, 1984, of the best available technology economically achievable (BAT) that will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. At a minimum, BAT represents the best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

EPA is promulgating BPT, BCT, BAT, NSPS, and PSNS for the following 6 subparts:

- subpart V (Titanium Dioxide)
- subpart AH (Chrome Pigments)
- subpart AJ (Copper Sulfate)
- subpart AP (Hydrogen Cyanide)
- subpart AU (Nickel Sulfate)
- subpart BB (Sodium Bisulfite)

BPT, BAT, NSPS, and PSNS for the following 2 subparts:

- subpart F (Chlor-Alkali Diaphragm Cell Process)
- subpart H (Hydrofluoric Acid)

BCT, BAT, NSPS, and PSNS for the following 2 subparts:

- subpart F (Chlor-Alkali Mercury Cell Process)
- subpart Q (Sodium Dichromate)

and BPT, BCT, BAT, and NSPS for the following subpart:

- subpart W (Aluminum Fluoride)

PSES are being promulgated for the following subparts:

- subpart F (Chlor-Alkali Diaphragm Cell Process)
- subpart AH (Chrome Pigments)
- subpart AJ (Copper Sulfate)
- subpart AU (Nickel Sulfate)

Technical amendments consisting of non-substantive format changes are being promulgated for the remaining subparts. At the request of the industry, EPA is reconsidering the BAT limitations in the Calcium Chloride (subpart D), Sodium Chloride-Brine Mining Process (subpart P), and Sodium Sulfite (subpart T) subparts. We intend to address separately the issues raised pertaining to these subparts in the near future.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (Section 101(a)). To implement the Act, EPA was to issue effluent standards, pretreatment standards, and new source performance standards for industry dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a court-approved "Settlement Agreement". This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines, and pretreatment standards for 65 "priority" pollutants and classes of pollutants, for 21 major industries. See *Natural Resources Defense Council, Inc* v. *Train*, 9 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

Many of the basic elements of this Settlement Agreement program were incorporated into the Clean Water Act of 1977. Like the Agreement, the Act stressed control of toxic pollutants, including the 65 "priority" pollutants. In addition, to strengthen the toxic control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMPs) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA program is to set a number of different kinds of effluent limitations. These are discussed in detail in the proposed regulation and Development Document. The following is a brief summary:

1. Best Practicable Control Technology (BPT). BPT limitations are generally based on the average of the best existing performance by plants of various sizes, ages, and unit processes within the industry or subcategory.

In establishing BPT limitations, we consider the total cost of applying the technology in relation to the effluent reduction derived, the age of equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, and non-water-quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. Best Available Technology (BAT). BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters.

In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction, and non-water-quality environmental impacts. The Administrator retains considerable discretion in assigning the weight to be accorded these factors.

3. Best Conventional Pollutant Control Technology (BCT). The 1977 Amendments added Section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharge of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(a)(4) [biological oxygen demanding pollutants (BOD5), total suspended solids (TSS), fecal coliform and pH], and any additional pollutants defined by the Administrator as "conventional" [oil and grease, 44 FR 44501, July 30, 1979].

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required).

4. New Source Performance Standards (NSPS). NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. Pretreatment Standards for Existing Sources (PSES). PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of well-operated publicly owned treatment works (POTW) with secondary treatment installed. They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for toxic pollutants that pass through the POTW in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The general pretreatment regulations, which served as the framework for the categorical pretreatment regulations are found at 40 CFR Part 403 (43 FR 27736 June 26, 1978; 46 *FR* 9462 January 28, 1981).

We are promulgating PSES for the Chlor-Alkali(Diaphragm Cell) and Chrome Pigments subcategories and we are amending the existing PSES for the Copper Sulfate and Nickel Sulfate

subcategories. We are excluding the Chlor-Alkali (Mercury Cell), Hydrofluoric Acid, Sodium Dichromate, Titanium Dioxide, Hydrogen Cyanide, and Sodium Bisulfite subcategories from national categorical PSES under the provisions of Paragraph 8(b) of the Settlement Agreement because the toxic pollutants in discharges to POTWs from sources in those subcategories are below treatable levels or are so insignificant as not to justify developing pretreatment standards. We are not promulgating PSES for the Aluminum Fluoride subcategory because a well-operated POTW with secondary treatment installed achieves better percent removal of toxic pollutants than is provided by the BAT model treatment system for this subcategory.

6. Pretreatment Standards for New Sources (PSNS). Like PSES, PSNS are to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of the POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Methodology and Data Gathering Efforts

The data gathering efforts and methodology used in developing the proposed regulations were summarized in the "Preamble to the Proposed Inorganic Chemicals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards" (45 FR 49450, July 24, 1980). The *Development Document for Effluent Guidelines, New Source Performance Standards, and Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category* greatly expands and details this summary, and includes the use of new data we acquired since July 1980. This new data includes:

(1) a contractor's report prepared in July 1980 entitled *Treatability Studies for the Inorganic Chemicals Manufacturing Point Source Category, EPA 440/1–80/103*, (2) *Treatability Manual, Volume III—Technologies for Control/Removal of Pollutants*, EPA 600/8–80–042c, and (3) public comments on the draft development document, the proposed rule, and the treatability studies. The treatability studies were issued approximately the same time as the draft development document, but the results of the treatability studies were not available in time to affect the proposed rules.

Each of those sources affected the final regulation. After receiving information from the treatability studies, we reevaluated treatment technologies for particular subcategories, which, in turn, led to changes in the technological basis for parts of the regulation. The information in the treatability manual added data to existing treatability information for the final development document. On the basis of industry comments, we decided not to regulate several toxic metals which are adequately controlled by the technologies on which other limitations are based. The comments were also the basis for changes in the control technology option for BAT in certain subcategories.

V. Control Treatment Options and Technology Basis for Final Regulations

A. Control Treatment Options

The control and treatment technologies that we investigated for use in this industry are enumerated below. Not all apply to all subcategories. Options 1 through 8 are the basis for this regulation. We investigated options 9 through 13 but rejected them because of high capital and operating costs, lack of use in the industry, or lack of performance data.

Option 1—Equalization, alkaline precipitation, and settling or clarification to remove toxic and other metals and fluorides.

Option 2—Addition of dual-media filtration to Option 1 to remove additional precipitated toxic metals.

Option 3—Sulfide precipitation to precipitate additional mercury, lead, copper, silver, cadmium, and arsenic.

Option 4—Use of coagulants to improve the settling or filtering of the metal precipitates generated in Options 1, 2, and 3.

Option 5—Sulfur dioxide, ferrous iron, or sulfide reduction to reduce hexavalent chromium to trivalent chromium in preparation for alkaline precipitation.

Option 6—Air oxidation to reduce COD, to oxidize ferrous to ferric iron to make it settleable, and to coprecipitate additional toxic metals.

Option 7—Alkaline chlorination, which raises pH to 10–11 and adds chlorine gas, to convert toxic cyanide to the less toxic cyanate.

Option 8—Dechlorination, which uses thermal, chemical, or catalytic decomposition to destroy free chlorine.

Option 9—Breakpoint chlorination, which adds more chlorine to Option 7 to convert cyanate to carbon dioxide and ammonia.

Option 10—Carbon adsorption, which uses beds of granular activated carbon to remove metals and/or organic materials.

Option 11—Xanthate precipitation, which uses a starch or cellulose xanthate to precipitate toxic metals.

Option 12—Ion exchange, which uses ion exchange resin beds to remove toxic metals from the waste stream.

Option 13—Membrane processes (ultrafiltration and reverse osmosis) in which a waste stream is directed under pressure through a membrane to remove inorganic pollutants from the wastes.

B. Technology Basis for Final Regulations

We are promulgating substantive changes to existing regulations for the 10 subcategories detailed below. Two of the subcategories are segmented, and specific regulations are promulgated for each segment. The Chlor-Alkali subcategory is divided into two segments: mercury cell plants and diaphragm cell plants. The Titanium Dioxide subcategory is divided into three segments; chloride process plants, sulfate process plants, and chloride-ilmenite process plants.

1. Chlor-Alkali (Subpart F). Chlorine and its coproduct caustic soda (alkali) are produced by the electrolysis of a sodium or potassium chloride solution using either the mercury cell or diaphragm cell process, or both. The processes differ in cell design and in the quantity and quality of wastewater generated. Because of these differences, we consider them separately under the Chlor-Alkali subcategory.

(a) Mercury Cell Segment. (i) Background. The mercury cell process uses mercury to form the cathode of the electrolytic cell. This segment of the industry now has 25 plants, 23 of which are direct dischargers and two are indirect dischargers.

The process wastewater flow rate of a model mercury cell chlor-alkali plant is 2.1 m3/kkg. Mercury cell plant wastewater is derived from several sources: brine mud, cell room wastes, chlorine condensate, spent sulfuric acid, tail gas scrubber liquid, caustic filter washdown, and hydrogen condensate. The toxic pollutants in these wastewaters include antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, thallium and zinc.

(ii) Final Limits. The BPT limitations for the Chlor-Alkali (Mercury Cell) subcategory are now in effect, 40 CFR 415.62(a). We are not promulgating any

changes to the BPT regulation for this segment of the industry. The technology basis for the existing BPT is Option 3 for mercury-laden streams and Option 1 for brine muds. This treatment scheme involves sulfide precipitation and filtration of mercury-laden streams and neutralization and settling of brine muds. Of the 23 direct dischargers, 22 now have BPT technology installed. The remaining plant has treatment technology installed, but it is not the same as BPT technology and does not perform as well. The pollutants regulated under BPT are TSS, mercury, and pH.

While EPA has not yet proposed or promulgated a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision mentioned earlier, EPA is promulgating BCT limitations for this subcategory. These limits are identical to those for BPT. EPA is not promulgating any more stringent limitations since we have identified no technology option which would remove significant additional amounts of conventional pollutants. The dechlorination technology added to BPT for BAT does not remove additional conventional pollutants. As BPT is the minimal level of control required by law, no possible application of the BCT cost tests could result in BCT limitations lower than those promulgated today. Accordingly, there is no need to wait until EPA revises the BCT methodology before promulgating BCT limitations.

We are promulgating BAT limitations based on the technology basis for BPT plus Option 6 (dechlorination). While the technology basis for BPT and BAT limitations is the same for removal of mercury, the BAT limitation on mercury is more stringent. The more stringent limitation is based on recently submitted industry data. All plants meeting the BPT limitations can also meet the BAT limitations. The more stringent limitations, therefore, do not result in additional costs. Dechlorination is known to be in place at two plants in this segment of the industry. The chlorine limitations are based on long-term monitoring data. Dechlorination will remove 2.4 million pounds per year of chlorine from the effluent at an annual cost of $1.8 million per year. We considered adding Option 10 (carbon adsorption) but did not because of its high cost and questionable performance in this industry. Pollutants regulated under BAT limitations are mercury and total residual chlorine.

We have previously promulgated NSPS (39 *FR* 9616, March 12, 1974) which were equal to BPT. However, we are now amending those standards and setting NSPS equal to the new BAT limitations. Pollutants regulated under NSPS are TSS, mercury, total residual chlorine, and pH.

We are promulgating PSNS that are equal to NSPS limitations on mercury because the direct discharge NSPS standard provides better removal of mercury than is achieved by a well-operated POTW with secondary treatment installed and hence mercury will pass through the POTW in the absence of pretreatment. Dechlorination is unnecessary because POTW influent often is chlorinated. For the reasons stated below, we are excluding the subcategory from categorical PSES.

(iii) Changes from Proposal. We have deleted limitations for all toxic metals except mercury because the technology necessary to comply with the effluent limitations and standards established for mercury effectively controls the other toxic metal pollutants present in the untreated wastewater. We have also revised the limitations for chlorine based on new industry data and comment, and the limitations are now less stringent.

We proposed categorical PSES equal to BAT for toxic metals for this subcategory. However, we are not promulgating PSES for this subcategory. Instead, the subcategory is excluded from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement because the discharge of total toxic metals to POTWs from the two existing sources combined is below treatable levels and amounts to only 40 pounds per year.

(b) Diaphragm Cell Segment. (i) Background. The diaphragm cell segment of the industry now has 36 plants, 35 of which are direct dischargers and 1 is an indirect discharger.

The diaphragm cell contains a porous asbestos diaphragm separating the anode from the cathode. In the past, the predominant material used for anodes was graphite, with lead providing an electrical contact and support. In recent years, many graphite anodes have been replaced by stabilized metal anodes of titanium with a platinum or ruthenium oxide coating. The advantages of using metal anodes instead of graphite anodes are increased power efficiency of the cells, longer anode life, and a reduction in potential pollutant loads of lead and chlordinated organics.

The process wastewater flow rate for a model diaphragm cell chlor-alkali plant is 8.8 m3/kkg. The wastewater is derived from cell room wastes, chlorine cooling condensate, spent sulfuric acid, tail gas scrubber liquid, filter backwashes, hydrogen condensate, and barometric condensers. The toxic pollutants in these wastewaters include antimony, aresnic, cadimium, choromium, copper, lead, nickel, silver, thallium, and zinc.

(ii) Final Limits. BPT limitations for the Chlor-alkali (Diaphragm Cell) subcategory are now in effect, 40 CFR 415.62(b). However, we are revising the BPT limitations because new data demonstrates that the flow in this segment is 8.8 m3/kkg, not the 3.3 m3/kkg previously used. The new lead limit is based on an analysis of long-term self-monitoring data at one plant that uses graphite anodes. The TSS limit is based on achieving 35 mg/1 by settling the effluent. The technology basis for BPT is equalization, alkaline precipitation, and settling. All plants in the subcategory have installed BPT technology or have installed metal anodes and meet the limitations without treatment. Pollutants regulated under the BPT limitations are TSS, copper, lead, nickel, and pH. EPA has determined that the BAT technology for this subcategory is capable of removing significant amounts of conventional pollutants. However, EPA has not yet proposed or promulgated a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision mentioned earlier. Thus, it is not now possible to apply the BCT cost test to this technology option. Accordingly, EPA is deferring a decision on the appropriate BCT limitations until EPA proposes the revised BCT methodology.

We are promulgating BAT limitations based on Options 2 and 8, which add dual-media filtration and dechlorination to BPT technology. Total residual chlorine limits are based on long-term monitoring data from the chlorine mercury cell subcategory. Two plants are known to have dechlorination treatment systems. The lead, nickel, and copper limits are based on published treatability data and data on industrial wastewater treatment system performance. Three of four plants that use metal anodes now meet the limitations for lead. One plant that was sampled meets the limitations for nickel. For all plants in this segment, BAT will remove an additional 240,000 pounds per year of toxic metals and 7.0 million pounds per year of residual chlorine at an annual cost of $5.5 million per year. Pollutants regulated by the BAT limitations are copper, lead, nickel, and total residual chlorine.

We are promulgating NSPS that are equal to BAT limitations with the additional exclusion of lead in cell

construction. The limitations are based on published treatability data. The limitations for lead can be met by the use of metal anodes which new plants would probably use anyway because they are more efficient. Pollutants regulated under NSPS are TSS, lead, total residual chlorine, and pH.

We are promulgating PSES that are equal to BPT limitations and PSNS that are equal to NSPS except for dechlorination, which is unnecessary because POTW influent often is chlorinated. Pretreatment is necessary because the direct discharge standards provide better removal of lead, copper, and nickel than is achieved by a well-operated POTW with secondary treatment installed and hence these pollutants would pass through a POTW in the absence of pretreatment. PSES are being set equal to BPT, because the POTW achieves equal or greater removal of the toxic metals remaining after application of BPT (PSES) technology than is achieved by the filtration required by BAT.

(iii) Changes from Proposal. We have deleted limitations on all toxic metals except copper, lead, and nickel, because the technology necessary to comply with the effluent limitations and standards established for copper, lead, and nickel effectively controls the other toxic metal pollutants present in the untreated wastewater. We have revised the limitations for chlorine, copper, lead, and nickel based on new industry data and the results of our treatability study, and the limitations are now less stringent. We have deferred establishing BCT limitations pending development of a new BCT cost test.

PSES were proposed equal to BAT. PSES are now set equal to BPT, because the POTW achieves equal or greater removal of the toxic metals remaining after application of BPT (PSES) technology than is achieved by the filtration required by BAT. Thus, a filter is not required for PSES because there is no pass-through. See 46 FR 9462 (January 28, 1981).

2. Hydrofluoric Acid (Subpart H) (a) Background. Hydrofluoric acid, or hydrogen fluoride (HF), is produced as both anhydrous and aqueous products.

Fluorspar, mainly calcium fluoride (CaF_2), and sulfuric acid are the raw materials used for the manufacture of HF. The fluorspar and sulfuric acid react to form HF. This subcategory now has nine direct dischargers. There are no indirect dischargers.

The process wastewater flow rate for a model hydrofluoric acid plant is 96 m3/kkg. Hydrofluoric acid plant wastewater sources include gypsum solids treatment wastes, drip acid, noncontact cooling water, scrubber wastewater distillation wastes, and the treatment of other solid waste sources. The toxic pollutants in these wastewaters include antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, thallium, and zinc.

(b) Final Limits. We are promulgating BPT limitations based on Option 1, which involves equalization, lime precipitation, and clarification or settling plus reuse of at least 43 percent of the effluent for kiln residue slurrying. All nine plants in the industry have installed this technology. The BPT limitations for TSS and fluoride are based on long-term data from one plant that does not reuse treated wastewater. Five plants are meeting BPT limits, according to long-term self-monitoring data. Limitations for toxic metals are based on averaged effluent sampling data unless the observed pollutant concentration is below the treatability level cited in the literature. In such cases, the lowest applicable treatability level is used. Pollutants limited by the BPT limitations are TSS, fluoride, nickel, zinc, and pH. We are deferring promulgation of BCT for the reasons described in Section V.B.1.(b)(ii) above.

We are promulgating BAT limitations based on Option 1 plus reuse of at least 65 percent of the effluent for kiln residue slurring. This level of treatment includes BPT plus recycle to remove additional toxic metals and fluorides. This technology will remove an additional 35,000 pounds per year of toxic metals at an annual cost of $514,000 per year. The limitation for fluoride is based on long-term monitoring data from one plant that reuses 83 percent of the treated effluent. For toxic metals, the limitations are based on the reduced flow achieved by recycle. After conducting additional treatability studies, we concluded that adding dual-media filtration after alkaline precipitation and settling is not particularly effective in reducing final TSS, total fluoride and toxic metal concentrations. Hence we did not select Option 2 (addition of dual-media filtration) for BAT or NSPS.

We considered using treatment Option 3 (addition of sulfide precipitation) but did not because of the lack of performance data. We also considered using a variation of Option 2 that would substitute soda ash in the lime precipitation step and allow 90 percent recycle of effluent. We rejected this option because of its high cost. Pollutants regulated under BAT limitations are fluoride, nickel, and zinc.

We are promulgating NSPS equal to BAT. Pollutants limited by NSPS are TSS, flouoride, nickel, zinc, and pH.

We are promulgating PSNS that are equal to NSPS because NSPS provides better removal of nickel and zinc than is achieved by a well-operated POTW with secondary treatment installed and therefore these pollutants would pass through a POTW in the absence of pretreatment. Pollutants limited by PSNS are fluoride, nickel, and zinc. For the reasons described below we are excluding this subcategory from categorical PSES.

(c) Changes from Proposal. We have deleted limitations for all toxic metals except nickel and zinc because the technology necessary to comply with the effluent limitations and standards established for nickel and zinc effectively control the other toxic metal pollutants present in untreated wastewater. We have revised the limitations on fluoride, nickel, and zinc based on new industry data and the results of our treatability study, and they are now less stringent. We have deferred establishing BCT limitations pending development of a new BCT cost test.

We proposed PSES equal to BAT for this subcategory. However, there are no indirect dischargers in the subcategory, and we are excluding the subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

3. Titanium Dioxide (Subpart V). Titanium dioxide (TiO_2) is manufactured by a chloride process, a sulfate process, and a chloride-ilmenite process. This subcategory is subdivided into three segments, one for each process, because of the difference in raw materials used, wastewater flows, and raw waste characteristics.

(a) Sulfate Process Segment. (i) Background. This subcategory now has four plants, all of which are direct dischargers. One plant discharges a portion of its waste to a municipal system.

Ilmenite is a low-grade titanium ore with a TiO_2 content varying from 45 to 60 percent. Ilmenite ore or slag containing titanium from iron production generally comprises the raw materials used for production of titanium dioxide by the sulfate process.

The process wastewater flow rate for a model plant using the TiO_2 sulfate process is 475 m3/kkg. The process wastewater comes from digester sludge, copperas, strong acid waste, weak acid waste, scrubber waste, and wet milling waste. The toxic pollutants in these wastewaters are antimony, arsenic, cadmium, chromium, copper, lead, nickel, selenium, thallium, and zinc.

(ii) Final Limits. We are promulgating BPT limitations based on Option 1, which involves limestone precipitation, clarification, lime precipitation, and settling. One of the four plants in this segment of the industry now has BPT technology, and we based BPT limitations on this plant's performance and treatability data. BPT treatment will remove 330,000 pounds per year of toxic metals, 21,000 tons per year of TSS, and neutralize 48,000 tons per year of acid at an annual cost of $8.8 million. Pollutants regulated under BPT limitations are TSS, chromium, nickel, and pH.

We are promulgating BAT limitations that are equal to BPT because additional treatment is too costly for existing plants. Toxic and nonconventional pollutants regulated under BAT are the same as for BPT. While EPA has not yet proposed or promulgated a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision mentioned earlier, EPA is promulgating BCT limitations for this subcategory. These limits are identical to those for BPT because the only technology option that removes significant amounts of conventional pollutants is not economically achievable. See the discussion of BAT under "Changes from Proposal" below. Removal of significant additional amounts of conventional pollutants can be achieved in this subcategory only if iron is also removed.

As BPT is the minimal level of control required by law, no possible application of the BCT cost tests could result in BCT limitations lower than those promulgated today. Accordingly, there is no need to wait until EPA revises the BCT methodology before promulgating BCT limitations.

We are promulgating NSPS and PSNS based on Option 1 plus Option 6, which adds oxidation of ferrous iron to ferric iron to improve settling and toxic metal removal. In addition to the toxic pollutants regulated under BPT, for the reasons described below we are regulating the non-conventional pollutant iron under NSPS and PSNS. We are also regulating TSS and pH under NSPS. We considered requiring a 55 percent waste recycle through the substitution of soda ash precipitation, but rejected it because its performance has not been demonstrated. PSNS are necessary because NSPS provides better removal of chromium, nickel, and iron than is achieved by a well-operated POTW with secondary treatment installed and therefore chromium, nickel, and iron would pass through the POTW in the absence of pretreatment. This subcategory is excluded from categorical PSES for the reasons described below.

(iii) Changes from Proposal. We have deleted limitations on all toxic metals except chromium and nickel because the technology necessary to comply with the effluent limitations and standards established for chromium and nickel effectively controls the other toxic metal pollutants present in the untreated wastewater.

We decided not to regulate the non-conventional pollutant iron under BPT and BAT because of the increased cost of the treatment when iron is controlled and because the gypsum solids produced by the treatment with iron removal can be reused only if dissolved iron is not controlled. One plant has developed a market for reuse of the gypsum. We estimate that requiring iron removal at existing plants would increase treatment costs by up to 40 percent and generate large quantities of waste solids for disposal. Control of toxic metal pollutants will be adequate at existing plants even without an iron removal step.

We have revised the limitations on TSS, chromium, and nickel based on long-term performance data from a plant using the model treatment technology without iron removal, and they are now less stringent. An iron removal step added to BPT/BAT technology is retained for NSPS/PSNS because the additional treatment provides better removal of toxic metals, and the more stringent standards are unlikely to pose a significant barrier to entry. New sulfate process plants are unlikely because the two alternate processes are more economical. However, if a company did want to construct a new sulfate-process plant, a process change involving the recycle and reuse of the strong acid wastewater would likely be adopted. This process change would reduce production costs, and would also reduce the amount of strong acid wastewater treated and discharged by 70 to 90 percent. Reducing the flow of the strong acid wastewater reduces treatment costs substantially and also substantially reduces the amount of gypsum solids produced by treatment. With the smaller amount of gypsum solids produced, disposal of the solids as waste is competitive with sale of the solids for reuse, when cost of sales is considered. At least one company using the sulfate process is actively developing the recycle/reuse technology. One other company using the chloride-ilmenite process has recently built a new plant that discharges 50 percent less total wastewater than comparable plants.

We proposed PSES equal to BAT for this subcategory. However, the only wastewater discharged to the POTW from the one existing indirect discharger is a small portion of the weak acid stream. Based on data provided in response to Section 308 request, it is unlikely that this wastewater contains any toxic metals at treatable levels. Therefore, we are excluding this subcategory from categorical PSES under the provisions of paragraph 8(b).

(b) Chloride-Ilmenite Process Segment. (i) Background. This subcategory now has three plants, all of which are direct dischargers.

The direct use of ilmenite ore for the manufacture of titanium dioxide pigments requires the application of either the sulfate process or the one-step ore beneficiation/chlorination process which we call the chloride-ilmenite process. Processes that involve a separate ore beneficiation step (either on-site or at the ore source) which result in an upgraded or a synthetic rutile product to be used as feed material for a chloride process are not considered chloride-ilmenite processes. A separate ore beneficiation process would be regulated under the Ore Mining and Dressing Category, and the manufacture of TiO_2 from an upgraded ilmenite or synthetic rutile would be in the same classification as a chloride process using natural rutile ore.

The process wastewater flow rate for a model plant using the titanium dioxide chloride-ilmenite process is 120 m3/kkg. The sources of wastewater include chlorination process waste, product finishing waste, and dilute acid waste. The toxic pollutants in this wastewater include antimony, arsenic, cadmium, chromium, copper, lead, nickel, selenium, thallium, and zinc.

(ii) Final Limits. We are promulgating BPT limitations based on Option 1, which involves limestone precipitation, primary clarification, lime precipitation, and settling. Selection of this option is based on the similarity of the toxic pollutants in these wastes to those in the titanium dioxide sulfate process wastes. We used flow data from existing plants using the chloride-ilmenite process and performance data from a plant using the sulfate process to establish the limitations. All three plants in this segment of the industry are achieving results comparable to BPT limitations. Pollutants regulated under final BPT limitations are TSS, chromium, nickel, and pH.

We are promulgating BAT limitations that are equal to BPT limitations because additional treatment is too costly for existing plants. Pollutants

regulated under BAT limitations are chromium and nickel. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Section V.B.3.(a)(ii) above.

We are promulgating NSPS based on Options 1, 2, and 6. These options add iron removal, a dual-media filter, and a reduced wastewater flow level that is achievable only in newly constructed plants. One recently constructed plant is operating at this reduced flow. Pollutants regulated under NSPS are TSS, iron, chromium, nickel, and pH.

We are promulgating PSNS that are equal to NSPS because these standards provide better removal of iron, chromium and nickel than is achieved by a well-operated POTW with secondary treatment installed and therefore iron, chromium and nickel would pass through a POTW in the absence of pretreatment. Pollutants regulated under PSNS are iron, chromium, and nickel. For the reasons described below we are excluding this subcategory from categorical PSES.

(iii) Changes from Proposal. Since the limitations for the chloride-ilmenite process are based on data for the sulfate process, we made the same type of changes for the chloride-ilmenite process as were described previously for the sulfate process. We proposed PSES equal to BAT. However, since there are no indirect dischargers in this subcategory, we are excluding this subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

(c) Chloride Process Segment. (i) Background. Six plants currently use the chloride process, all of which are direct dischargers.

In the chloride process, the raw materials used are rutile or upgraded ilmenite ore; both are relatively pure materials with a high titanium and low iron content. For upgrading ilmenite ($FeTiO_3$), a beneficiation process removes part or all of the iron. The wastes from the chloride process using direct, one-step beneficiation of ilmenite in titanium dioxide production are different from those produced using high-grade titanium ore (rutile or upgraded ilmenite).

The process wastewater flow rate for a model plant using the TiO_2 chloride process is 100 m3/kkg. The process wastewater sources include wastes from cooling chlorinator gas, chlorinator process tail gas scrubber waste, distillation bottoms, oxidation tail gas scrubber waste, and finishing operations waste. The toxic pollutants in these wastewaters include chromium, lead, nickel, and zinc.

(ii) Final Limits. We are promulgating BPT limitations based on Option 1, which involves equalization, alkaline precipitation, and settling or clarification. All six plants in this segment of the industry now have installed BPT techology. Limitations are based on sampling data and long-term data from a plant that is meeting the limits. Pollutants regulated by the BPT limitations are TSS, chromium, and pH.

For the reasons discussed in paragraph (iii) below, we are promulgating BAT limitations that are equal to BPT limitations. We are promulgating BCT limitations equal to BPT limitations for TSS for the reasons described in Section V.B.3.(a)(ii) above.

We are promulgating NSPS and PSNS based on Option 2. Limitations for this level of treatment are based on published treatability data for filtration of precipitated wastes. Pollutants limited by NSPS regulations are TSS, iron, chromium, and pH. Pollutants regulated by PSNS are iron and chromium. These pollutants are regulated because NSPS provides better removal of iron and chromium than is achieved by a well-operated POTW with secondary treatment installed and therefore iron and chromium would pass through the POTW in the absence of pretreatment.

The Agency also considered adding Option 3 (sulfide precipitation) but did not do so because that option does not effectively remove chromium from the wastewater. We are excluding this subcategory from categorical PSES for the reasons described below.

(iii) Changes from Proposal. We decided to delete the limitations on iron for existing sources because of the increased cost of treatment when iron is controlled and because two plants operate both the chloride process and the sulfate process and send wastewater from both processes to the same treatment facility. In order for these two plants to treat the chloride process wastewater to remove iron, they would either also have to treat the sulfate process wastewater to remove iron or undertake a massive reconstruction of the treatment facility. Such a reconstruction or removal of iron in the sulfate process would wipe out the recycle benefits and treatment cost reduction associated with the final BPT/BAT limitations for the sulfate process, and would probably result in the closure of the two sulfate process lines, with attendant increase in unemployment. Control of toxic metal pollutants will be adequate at existing plants even without an iron removal step. We have revised the limitations on TSS and chromium because of the change in treatment system and they are now less stringent.

For NSPS, we have revised the limitations on TSS, iron and chromium, based on new data; the iron and TSS limitations are more stringent while the chromium limitation is less stringent. NSPS are based on the addition of an iron removal step to BPT/BAT treatment. New plants can achieve significant reductions in wastewater flow, thus reducing overall treatment costs, even with the inclusion of the iron-removal step.

We proposed PSES equal to BAT for this subcategory. However, since there are no indirect dischargers in this subcategory, we are not promulgating PSES but are instead excluding this subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

4. Aluminum Fluoride (Subpart W) (a) Background. The subcategory now has 5 plants, all of which are direct dischargers.

This regulation applies only to the dry process for the manufacture of aluminum fluoride, in which partially dehydrated alumina hydrate is reacted with hydrofluoric acid gas.

The process wastewater flow rate for a model aluminum fluoride plant is 11.9 m3/kkg. The process wastewater comes from noncontact cooling water, floor and equipment washings, scrubber wastewater, and solid waste handling. The toxic pollutants in this wastewater include arsenic, selenium, chromium, copper, lead, mercury, nickel, zinc, cadmium, antimony, and beryllium.

(b) Final Limits. We are promulgating BPT limitations based on treatment Option 1, which includes equalization, lime precipitation, and settling. All plants in this subcategory now have BPT technology. Limitations for TSS and fluoride are based on the similarity of the wastes to those in the Hydrofluoric Acid subcategory. Limitations for chromium and nickel are based on published treatability data. Pollutants regulated under BPT limitations are TSS, fluoride, chromium, nickel, and pH.

We are promulgating BAT limitations that are equal to the BPT limitations because additional treatment is too costly. The limitation for fluoride is based on the similarity of wastes to those of the Hydrofluoric Acid Subcategory. The limitations for chromium and nickel are based on published treatability data. After conducting additional treatability studies we concluded that adding dual-media filtration after alkaline precipitation and settling is not particularly effective in reducing total

fluoride or toxic metal concentrations. Hence, we did not select Option 2 (addition of dual-media filtration) for BAT. Pollutants regulated under BAT limitations are fluoride, nickel, and chromium. While EPA has not yet proposed or promulgated a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision mentioned earlier, EPA is promulgating BCT limitations for this subcategory. These limits are identical to those for BPT. EPA is not promulgating any more stringent limitations since we have identified no technology option which would remove significant additional amounts of conventional pollutants. As BPT is the minimal level of control required by law, no possible application of the BCT cost tests could result in BCT limitations lower than those promulgated today. Accordingly, there is no need to wait until EPA revises the BCT methodology before promulgating BCT limitations.

We are promulgating NSPS that are equal to BAT/BPT limitations. Pollutants regulated under NSPS are TSS, fluoride, chromium, nickel, and pH.

We are not promulgating PSES and PSNS because a well-operated POTW with secondary treatment installed provides equal or better removal of chromium and nickel than is achieved by BAT for this subcategory, and therefore there is no pass through of these toxic pollutants. There are no indirect dischargers in this subcategory.

We considered using Option 3 (sulfide precipitation) and requiring the use of soda ash to increase recycle. However, we rejected these options because they remove only small additional amounts of toxic pollutants in this subcategory.

(c) Changes from Proposal. The proposed regulations specified Option 2 for BAT. We have since established that adding dual-media filtration is ineffective in removing total fluoride or toxic metals. Therefore, the technology basis for BAT is Option 1 in this final rule. BAT limitations will now be equal to BPT in this subcategory. We are not promulgating PSES and PSNS for Aluminum Fluoride in this final rule, because a POTW provides equal or better removal of chromium and nickel (the only toxic pollutants regulated under BAT for this subcategory) than is achieved by BAT for this subcategory. Therefore, there is no pass through of these toxic pollutants in the Aluminum Fluoride subcategory.

5. Chrome Pigments (Subpart AH). (a) Background. This subcategory has 12 plants, 4 of which are direct dischargers and 8 are indirect dischargers.

The following products are regulated in this subcategory:

Anhydrous chrome oxide is almost pure chromium oxide (Cr_2O_3) and the commercial grade consists of a minimum of 98.5 percent Cr_2O_3. It is prepared by calcination of sodium dichromate with sulfur or carbon.

Hydrous chromium oxide ($Cr_2O_3.2H_2O$ or $Cr_2O(OH)_4$), also known as chromium hydrate and Guigets Green, is a brilliant blue green. It is made by reacting sodium dichromate with boric acid.

Chrome yellow is made by reacting sodium dichromate, caustic soda, and lead nitrate, forming lead chromate.

Molybdenum orange is made by the coprecipitation of lead chromate ($PbCrO_4$) and lead molybdate ($PbMoO_4$).

Chrome greens are a coprecipitate of chrome yellow and iron blues. Iron blues are manufactured by reacting an aqueous solution of iron sulfate and ammonium sulfate with sodium ferrocyanide. The precipitate formed is separated and oxidized with sodium chlorate or sodium chromate to form iron blues ($FeNH_4.Fe(CN)_6$). Chrome green is produced by mechanically mixing chrome yellow and iron blue pigments in water.

Zinc yellow, also called zinc chromate, has the approximate composition 4ZnO.K2O.4CrO3.3H2O. It is made by reacting zinc oxide, hydrochloric acid, sodium dichromate, and potassium chloride.

The process wastewater flow rate for a model plant that produces chrome pigments is 105 m3/kkg. Some variation in the wastewater sources may occur depending on the particular type of chrome pigment being produced. The sources generally include filter backwash, equipment washdown, and scrubber discharges. The toxic pollutants in this wastewater are antimony, cadmium, chromium, copper, lead, nickel, zinc, mercury, and cyanide.

(b) Final Limits. We are promulgating BPT limitations based on treatment Option 2 plus Option 5. This treatment requires reductions of hexavalent chromium followed by alkaline precipitation, clarification, and filtration. Of the four direct dischargers in this subcategory, one now has installed BPT technology. This plant represents a significant portion of the subcategory production, and its performance is the basis for the limitations. One other direct discharger, with a different treatment system, meets the promulgated BPT/BAT limitations. Other plants have no treatment or inadequate treatment of their wastes. This technology will remove 2,400,000 pounds per year of toxic metals from the effluent of direct and indirect dischargers, at an annual cost of $7.8 million.

Pollutants regulated under BPT limitations are TSS, chromium, lead, zinc, and pH.

We are promulgating BAT limitations equal to BPT limitations, because the cost of additional treatment is too high in relation to the additional removal that could be achieved. Chromium, which is the primary toxic metal pollutant, is not affected by the next higher level of treatment considered, sulfide precipitation. Pollutants regulated under BAT limitations are chromium, lead, and zinc. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Sections V.B.4.(b) above.

We are promulgating NSPS equal to BPT limitations for those reasons mentioned above in regard to BAT. Pollutants regulated under NSPS, are TSS, chromium, lead, zinc, and pH.

We are promulgating PSES and PSNS that are equal to BPT/BAT limitations because BPT provides better removal of chromium, lead, and zinc than is achieved by a POTW, and, therefore, without pretreatment these toxic pollutants would pass through a well-operated POTW with secondary treatment installed. In particular, 1.4 million pounds per year of hexavalent chromium would pass through in the absence of pretreatment. The pretreatment regulations promulgated today will remove over 1.3 million pounds of hexavalent chromium per year. Pollutants regulated under PSES and PSNS are chromium, lead, and zinc. Chrome Pigments plants discharging annually less than 210,000 m^3 per year (55 million gallons per year) to a POTW are excluded from these categorical pretreatment standards and would be subject only to the general pretreatment standards in 40 CFR Part 403, for the reasons given in Section VI.

(c) Changes from Proposal. We have deleted limitations on all toxic metals except chromium, lead, and zinc because the technology necessary to comply with the limitations and standards established for chromium, lead, and zinc effectively controls the other toxic metal pollutants present in the untreated wastewater. Based on new industry data and our treatability study, we have revised the limitation for TSS, chromium, and zinc; the limitations for TSS are more stringent while the limitations for chromium and zinc are less stringent.

We are excluding small plants discharging less than 210,000 m^3 process wastewater per year to POTW from compliance with these PSES. They will be subject only to the general pretreatment standards in 40 CFR Part

403. Plants discharging less than 210,000 m^3 process wastewater per year produce less than 2000 kkg per year chrome pigments. There would be very significant economic impacts on this segment of the industry if it was required to comply with these PSES. See Section VI.

6. Hydrogen Cyanide (Subpart AP). (a) Background. This subcategory has 7 plants, 6 of which are direct dischargers and 1 is an indirect discharger. All plants in this subcategory now have BPT technology.

The Hydrogen Cyanide subcategory is confined to plants using the Andrussow process, in which air, ammonia, and methane are reacted to produce hydrogen cyanide. The raw materials are reacted to produce hydrogen cyanide and water at elevated temperatures.

The process wastewater flow rate for a model hydrogen cyanide plant is 57 m3/kkg. Plant wastewater comes from distillation bottoms, scrubber streams, and equipment washing. The only toxic pollutant in this wastewater is cyanide.

(b) Final Limits. We are promulgating BPT limitations based on Option 7, which uses alkaline chlorination to destroy cyanide amenable to chlorination, followed by clarification. The limitations are based on long-term data. Because one plant uses refrigeration to recirculate cooling water and thus reduce flow, we considered the low flow option. However, we rejected that method because it is energy intensive and doubles the treatment cost. Pollutants regulated under BPT limitations are TSS, cyanide A, total cyanide, and pH.

We are promulgating BAT limitations based on the addition of Option 8, dechlorination, to BPT technology. The dechlorination technology will remove 1.4 million pounds per year of chlorine at an annual cost of $0.97 million. The chlorine limitations are based on the process wastewater flow rate for a model hydrogen cyanide plant and performance data from chloralkali industry plants which practice dechlorination. Pollutants regulated under BAT limitations are cyanide A, total cyanide, and total residual chlorine. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Section V.B.1.(a)(ii) above.

We are promulgating NSPS that are equal to BAT limitations. Pollutants regulated under NSPS are TSS, cyanide A, total cyanide, total residual chlorine, and pH.

We are promulgating PSNS that are equal to BPT limitations for cyanide A and total cyanide because BPT provides better removal of cyanide A and total cyanide than is achieved by a well-operated POTW with secondary treatment installed and, therefore, these pollutants would pass through a POTW in the absence of pretreatment. Dechlorination is not needed because POTW influent often is chlorinated. Pollutants regulated under PSNS are cyanide A and total cyanide. We are not promulgating categorical PSES for this subcategory for the reasons described below.

(c) Changes from Proposal. We have revised the limitations on TSS, cyanide A, and chlorine based on new industry data, and they are now less stringent. Industry commented that the alkaline chlorination treatment to control cyanide amenable to chlorination does not control ammonia. We agree with this comment and have deleted limitations on ammonia in this final rule. No other economically achievable technologies were identified to control ammonia in this subcategory. We proposed PSES equal to BPT limitations for this subcategory. This subcategory is excluded from categorical PSES in this final rule under the provisions of paragraph 8(b) of the Settlement Agreement because the concentrations of toxic pollutants in the effluent to POTW from the one existing indirect discharger are below treatable levels.

7. Sodium Dichromate (Subpart Q). (a) Background. This subcategory has 3 plants, all of which are direct dischargers.

The starting materials for the preparation of sodium dichromate are chromite ore, limestone, and soda ash. When these materials are reacted, sodium chromate is formed, which is reacted with sulfuric acid to produce sodium dichromate.

The process wastewater flow rate for a model plant that produces sodium dichromate is 8.5 m3/kkg. Plant wastewater sources include spent ore treatment, cooling tower blowdown, and boiler blowdown. The toxic pollutants in this wastewater are chromium, copper, nickel, silver, zinc, selenium, and arsenic.

(b) Final Limits. BPT limitations for this subcategory are now in effect (40 CFR 415.172). The technology basis for the existing BPT limitations is ferrous iron reduction of hexavalent chromium, followed by alkaline precipitation of metals and clarification. All three plants in this subcategory now have BPT technology. Pollutants regulated under BPT limitations are TSS, total chromium, hexavalent chromium, nickel, and pH.

We are promulgating BAT limitations equal to BPT because the cost of additional removal is too high. Pollutants regulated under BAT limitations are total chromium, hexavalent chromium, and nickel. We are promulgating BCT limitations equal to BPT for the reasons described in Section V.B.4.(b) above.

NSPS are now in effect for this subcategory (40 CFR 415.175). We have decided to amend the NSPS standards to set the TSS limitation equal to BPT, because additional technology does not remove significant additional amounts of a TSS. Pollutants regulated under NSPS are TSS, total chromium, hexavalent chromium, nickel, and pH.

We are not promulgating categorical PSES for this subcategory for the reasons described below.

PSNS regulations are now in effect, 40 CFR 415.176. Pollutants regulated under PSNS are total chromium, hexavalent chromium, and nickel. We are not amending these standards.

(c) Changes from Proposal. The proposed BAT regulation was based on Option 2 plus Option 5, that is, a filter was to be used to "polish" the effluent from clarification. The final BAT regulation is based on Option 1 plus Option 5 and therefore BAT limitations are equal to the BPT limitations, because the cost of the additional treatment provided by Option 2 is too high. We added limitations for nickel to the BPT limitations because it provides a means of controlling the group of toxic metals removed at slightly higher pH than chromium. We included limitations for nickel under BAT at the time of proposal. The BPT limitations for nickel are also based on Option 1 plus Option 5. We proposed PSES equal to BAT. However, since there are no indirect dischargers in this subcategory, we are not promulgating PSES but are instead excluding this subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement.

8. Copper Sulfate (Subpart AJ). (a) Background. Of the 16 plants, 10 report they have no discharge of copper sulfate process wastewater, 5 are direct dischargers, and 1 is an indirect discharger.

Copper sulfate is produced by reacting copper with sulfuric acid, air, and water. Various forms of copper feed material are used, from pure copper to copper slag. The purity of raw materials significantly affects the quality and quantity of raw waste generated.

If pure copper is used as a raw material, there is little or no wastewater. If impure copper feed is used, a wastewater containing significant amounts of metal impurities is generated.

The process wastewater flow rate for a model plant that produces copper sulfate is 0.94 m3/kkg. Plant wastewater sources include washdown water, mother liquor purges, and sludge treatment. The toxic pollutants in this wastewater are antimony, arsenic, cadmium, copper, lead, nickel, zinc, chromium, and selenium.

(b) Final Limits. BPT limitations for this subcategory are now in effect (40 CFR 415.362). The BPT limitations are based on Option 2 technology, which is alkaline precipitation plus filtration. All the direct dischargers now have BPT technology.

The BPT regulations now in effect have different limitations for pure and impure raw material processes. In the final BPT limitations, we omit the separate limitations for pure raw material processes because both processes are adequately covered by the existing BPT limitations for impure raw material processes. Also, we did not set different limits for these processes in the promulgated BCT and BAT limitations and NSPS, PSES, and PSNS, since both processes are adequately covered by one regulation.

We are promulgating BAT limitations equal to BPT limitations because the cost of additional treatment is too high. Pollutants regulated under BAT limitations are copper, nickel, and selenium. We considered control Option 3 (sulfide precipitation), but rejected it because it removes only a small additional amount of toxic metals in this subcategory. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Section V.B.4.(b) above.

We are promulgating NSPS equal to BPT/BAT limitations. Pollutants regulated under NSPS are TSS, copper, nickel, selenium, and pH.

PSES based on BPT technology are now in effect for this subcategory (40 CFR 415.374). In the final rule, however, we are amending the PSES limitations to make them equal to the BPT/BAT effluent concentrations for copper, nickel, and selenium. We are also promulgating PSNS that are equal to BPT/BAT limitations. Pretreatment standards are necessary because BPT/BAT provides better removal of copper, nickel, and selenium than is achieved by a well-operated POTW with secondary treatment installed, and, therefore, these pollutants would pass through a POTW in the absence of pretreatment. Pollutants regulated under PSES and PSNS are copper, nickel, and selenium.

(c) Changes from Proposals. We have deleted limitations for all toxic metals except copper, nickel, and selenium because the technology necessary to comply with the effluent limitations and standards established for copper, nickel, and selenium effectively controls the other toxic metals present in the untreated wastewater.

We proposed BAT limitations based on BPT technology, but with more stringent limitations because information indicated that the BPT technology performed better than had been indicated in our 1973–74 study, and therefore we believed the more stringent limitations could be met at no additional cost. However, industry comment stated that the more stringent limits would require additional treatment and therefore additional cost. We believe our treatability study shows that the more stringent limits can be met with existing treatment, but we have been unable to identify a copper sulfate plant treating copper sulfate wastewater separate from all other wastewaters that does meet the proposed BAT limits with existing treatment. Hence, considering the small daily volume of wastewater discharged from this industry, we have revised the proposed BAT limitations, and they are now equal to BPT. We have also revised the PSES, NSPS, and PSNS to equal BPT, for the same reason.

9. Nickel Sulfate (Subpart AU). (a) Background. This subcategory has 11 plants, 5 of which are direct dischargers and 6 are indirect dischargers.

Nickel sulfate is produced by reacting various forms of nickel with sulfuric acid. Two different types of raw materials are used to produce nickel sulfate. Pure nickel or nickel oxide powder may be used as a pure material source, while spent nickel catalysts, nickel plating solutions or residues are impure sources.

The process wastewater flow rate for a model plant that produces nickel sulfate is 0.68 m3/kkg. Plant wastewater sources include treated filter sludge and backwash. The toxic pollutants in this wastewater are antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, thallium and zinc.

(b) Final Limits. BPT limitations for this subcategory are now in effect (40 CFR 415.472). The technology basis for the existing BPT limitations is Option 2 (alkaline precipitation plus dual-media filtration). All five direct discharge plants in this subcategory have installed BPT. Pollutants regulated under the existing BPT limitations are TSS, nickel, and pH.

In the existing BPT limitations, pure and impure raw material processes are regulated separately. In this final rule, the separate limitations for pure raw material are omitted, since both processes are adequately covered by one regulation. We are also not setting different limits for these processes in BCT and BAT limitations and NSPS, PSES and PSNS.

We are promulgating BAT limitations and NSPS, PSES, and PSNS based on BPT technology, but the limitations are more stringent because additional data from this study show better performance than that on which the existing BPT limitations were based. The data base available when the existing BPT limitations were promulgated was extremely limited. Much more data is available now. All plants currently meeting BPT limitations can meet the BAT limitations with their existing treatment facilities, and therefore the more stringent BAT limitations do not require additional costs. Pretreatment standards are necessary because BAT provides better removal of copper and nickel than is achieved by a well-operated POTW with secondary treatment installed and, therefore, these pollutants would pass through a POTW in the absence of pretreatment. The pollutants regulated under the BAT limitation and PSES and PSNS are copper and nickel. Pollutants regulated under NSPS are the same with the addition of TSS and pH limits equal to those in the promulgated BPT regulations. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Section V.B.4.(b) above.

We considered Option 3 (sulfide precipitation), but rejected it because the treatment removed only small additional amounts of nickel in this subcategory.

PSES that are based on BPT technology are now in effect (40 CFR 415.474). However, while the technology basis remains the same, we are amending the PSES limits to equal BAT. Again, only the performance requirements and not their technology basis are changed.

(c) Changes from Proposal. We have deleted limitations on all toxic metals except nickel and copper because the technology necessary to comply with the effluent limitations and standards established for nickel and copper effectively controls the other toxic metal pollutants present in the untreated wastewater. Based on new data from industry and our treatability study, we have revised the BAT limitations on copper and nickel; the limitation on copper is now more stringent while the limitation on nickel is now less stringent.

10. Sodium Bisulfite (Subpart BB). (a) Background. This subcategory has 7

plants, 6 of which are direct dischargers and 1 is an indirect discharger.

Sodium bisulfite is produced by reacting sodium carbonate (soda ash) with sulfur dioxide and water. This reaction produces a slurry of sodium bisulfite crystals, which can be sold, but which is usually processed to form anhydrous sodium metabisulfite. This process requires thickening, centrifuging, drying, and packaging.

The process wastewater flow rate for a model plant producing sodium bisulfite is 1.5 m3/kkg. The principal wastewater sources are filter backwash and equipment washdown. The toxic pollutants in this wastewater are arsenic, copper, zinc, cadmium, chromium, lead, mercury, nickel, antimony, thallium, and silver.

(b) Final Limits. We are promulgating BPT limitations based on Option 1 plus Option 6, which include hydroxide precipitation of metals plus batch aeration and settling. The six direct dischargers in this subcategory have installed BPT technology. The basis for the limitations for TSS and COD is the *Treatability Study* (EPA 440/1–80/103). The basis for the limitations for zinc and chromium is industry data on wastewater treatment system performance. Pollutants regulated under BPT limitations are TSS, COD, chromium, zinc, and pH. We are promulgating BCT limitations that are equal to BPT limitations for the reasons described in Section V.B.4.(b) above.

We are promulgating BAT limitations, NSPS and PSNS equal to BPT limitations. Pollutants regulated under BAT limitations are COD, chromium and zinc. Pollutants regulated under NSPS are TSS, COD, chromium, zinc and pH. Pretreatment is necessary because NSPS treatment provides better removal of chromium than is achieved by a well-operated POTW, with secondary treatment installed, and, therefore, chromium would pass through a POTW in the absence of pretreatment. The pollutant regulated under PSNS is chromium. We are not promulgating categorical PSES or this subcategory for the reasons described below.

We considered adding treatment such as chlorination, sulfide precipitation, and filtration but rejected those options because of their high cost in removing additional toxic metals.

(c) Changes from Proposal. We have deleted limitations on all toxic metals except chromium and zinc because the technology necessary to comply with the effluent limitations and standards for chromium and zinc effectively controls the other toxic metal pollutants present in the untreated wastewater. Based on new industry data and the results of our treatability study, we have revised the limitations on TSS, chromium, and zinc, and they are now less stringent. The COD limitations have also been adjusted slightly, based on the new data.

The proposed PSES and PSNS for the Sodium Bisulfite subcategory included limitations for COD and the toxic pollutants chromium, copper, lead, nickel, and zinc. In this final rule, we are promulgating PSNS that regulate only chromium, because only for chromium does BAT for this subcategory provide better removal than is achieved by a well-operated POTW with secondary treatment installed. Therefore, in the Sodium Bisulfite subcategory, only chromium would pass through a POTW in the absence of pretreatment. We are not promulgating PSES for this subcategory but instead are excluding the subcategory from categorical PSES under the provisions of paragraph 8(b) of the Settlement Agreement. The total toxic metal discharge from the one existing indirect discharger to POTW is 120 pounds per year, which is so insignificant as not to justify developing a national standard.

11. Sodium Hydrosulfite (Formate Process) (Subpart BE). We proposed BPT, BCT, and BAT limitations and NSPS, PSES, and PSNS for this subcategory. The proposed regulation basically added control of selected toxic metal pollutants to existing treatment practiced in the industry. We have reviewed the basis for the proposed regulation and we concluded that the total current treated discharge load of only 0.42 pounds per day total toxic metals from all plants in the subcategory is too insignificant to justify developing a national regulation. Accordingly, we have excluded this subcategory from national regulation development under Paragraph 8(a)(iv) of the Settlement Agreement.

VI. Costs and Economic Impacts

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of "major rules", defined as rules which impose an annual cost on the economy of $100 million or more or meet other economic impact criteria. EPA does not consider this final regulation to be a major rule. This rulemaking satisfies the requirements of the Executive Order for a non-major rule.

The economic impact assessment is presented in *Economic Impact Analysis of Pollution Control Technologies For Segments of the Inorganic Chemicals Manufacturing Industry*, EPA 440/2–81–023. Copies of the analysis can be obtained by contacting the National Technical Information Service, 5282 Port Royal Road, Springfield, VA 22161 (703/487–4600). The analysis details the investment and annual costs for the industry as a whole and for model plants in each subcategory covered by the regulation. The analysis also assesses the impact of effluent control costs in terms of price changes, profitability changes, plant closures, production changes, employment effects, and balance of trade effects. The analysis addresses the combined impact of the effluent limitations and the Interim Status Standards of the Resource Conservation and Recovery Act (RCRA–ISS) for segments of the industry that will incur both sets of compliance costs.

EPA has identified 144 plants that manufacture the chemicals covered by this regulation. Total investment for BPT, BAT and PSES is estimated to be $28.9 million, with annualized costs of $26.2 million (including depreciation and interest). These costs are expressed in 1981 dollars, and were updated from 1978 dollars using the Department of Commerce Composite Index for Construction Costs. A maximum of two potential production line closures are projected as a result of this regulation. In terms of unemployment, the potential line closures could affect approximately 60 employees—less than one percent of total employment for the regulated industry.

EPA evaluated the impacts of the pollution control costs for 13 segments of the inorganic chemicals industry using a model plant approach. The industry segments correspond to the product and, in some cases, the manufacturing process. Model plants were developed by product, process, and production size. The methodology involved calculating price and profitability impacts for each model plant. The profitability analysis assumes that the industry is unable to pass through any of the pollution control costs in the form of higher prices, and increased costs are fully absorbed. Changes in the return on investment (ROI) and internal rate of return (IRR) were calculated under this assumption. For each industry segment, plant or line closure projections were based on maximum possible price increase, profitability decline, capital availability, and other relevant factors. In summary, EPA concludes that the economic impacts of the additional water pollution controls likely to be incurred by this regulation are not significant and are justified in light of the benefits associated with compliance with the limitations and standards.

BPT/BAT: In five subcategories (Aluminum Fluoride, Copper Sulfate, Nickel Sulfate, Sodium Bisulfite, and Sodium Dichromate), and Titanium Dioxide-Chloride Process segment of the Titanium Dioxide subcategory, BAT technology is equivalent to BPT technology, and BPT is in place and operating for all direct dischargers. In the Titanium Dioxide-Chloride Ilmenite Process segment, all plants are achieving removal levels equivalent to BAT limitations. Thus, there will be no incremental costs over BPT required for compliance with BAT in five subcategories and two segments of a sixth subcategory. In the remaining four subcategories (Chlor-Alkali, Chrome Pigments, Hydrogen Cyanide, and Hydrogen Fluoride), and in the Titanium Dioxide-Sulfate Process segment of the Titanium Dioxide Subcategory, 77 plants will incur investment costs up to $18.9 million and annualized costs up to $18.6 million.

PSES: The total annualized costs of compliance with PSES limitations required for the 6 indirect dischargers not pretreating wastewater are approximately $7.6 million. Total investment costs are approximately $9.9 million. These costs affect two subcategories (Chlor-Alkali Diaphragm Cell and Chrome Pigments). In only the Chrome Pigments subcategory, discussed below, will profitability decline significantly.

NSPS/PSNS: Regulations for new sources are not expected to significantly discourage entry or result in any differential economic impacts on new plants. The pollution control investment required to install a treatment technology is the same for new and existing producers in the industry. Therefore, new plants will not be operating at a cost disadvantage relative to current manufacturers.

Chrome Pigments: For this subcategory, BPT, BCT, BAT, and PSES limitations are the same. Four of the twelve plants producing chrome pigments are direct dischargers and are subject to BPT/BAT regulations. Two of the direct dischargers have sufficient pollution control technology installed and will incur no incremental costs for compliance with BAT regulations. The other two direct dischargers will incur capital investment costs of $1.9 million with total annualized costs of $1.1 million, but our analysis indicates that both plants will continue production of chrome pigments at those plants.

Under the proposed regulations, all eight indirect dischargers would have been subject to the categorical pretreatment standards. However, we are now excluding from compliance with categorical PSES existing plants that discharge less than 210,000 m^3 per year of chrome pigments process wastewater to POTWs. (General pretreatment standards remain applicable). This exclusion effectively applies to small indirect dischargers producing less than 2,000 kkg per year of chrome pigments and is necessary in order to avoid excessive economic impacts on this segment of the industry. Without the exclusion, the analysis of compliance costs for this subcategory indicates significant financial impacts for these smaller plants. The estimated price increase needed to recover pollution control costs for the smallest model plant is 14.0 percent. The profitability decline for this model exceeds 100 percent of baseline profitability. Plants corresponding to the small model plant are the least profitable and are currently operating at marginal levels. Another significant factor for these small manufacturers is the potential difficulty of securing the capital needed to invest in pollution control equipment.

Three plants, which were predicted to close under the proposed regulation, will not be subject to PSES. These three plants, if they were subject to PSES, would have incurred capital investment costs of $2.1 million and annualized costs of $0.9 million. The remaining five indirect dischargers are subject to pretreatment standards. Capital investment costs for the five indirect dischargers incurring costs are approximately $8.7 million, with total annualized costs of $6.8 million.

Two of the five indirect dischargers who will be subject to the regulations are medium-sized plants discharging more than 210,000 m^3 per year to POTWs. These two plants may decide to close their chrome pigments production operations rather than construct wastewater treatment facilities to comply with the PSES. If so, up to 60 employees could be affected. However, at both of these plants, chrome pigments production accounts for less than 10 percent of the total facility production. Therefore, it is probable that the 60 employees could be transferred to other production operations at the facilities, with no increase in unemployment.

The Agency was unable to identify any technologies less costly than the one chosen which would remove significant amounts of toxic pollutants. The small plant cut-off was the only option available to avoid the severe economic impact on the three small producers.

Regulatory Flexibility Analysis: Public Law 96-354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. Although this regulation was proposed in July 1980, an RFA is included as part of the economic impact analysis. Many of the provisions of the RFA have been addressed in detail in other sections of this preamble.

The economic impact analysis (discussed above) outlines the costs and economic impacts for each subcategory covered by the regulation. The small entities in each subcategory were defined as those plants corresponding to the small model plant size, which represents small plant production levels within each subcategory. Sixty-nine plants covered by the regulations were identified as small. The possible impacts on small plants and the alternatives the Agency considered are discussed above and in the economic analysis.

VII. Non-Water-Quality Environmental Impacts

Eliminating or reducing one form of pollution may cause other environmental problems. Sections 304(b) and 306 of the Act require EPA to consider the non-water-quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, we considered the effect of this regulation on air pollution, solid waste generation, water scarcity, and energy consumption. This regulation was circulated to and reviewed by EPA personnel responsible for non-water-quality programs. While it is difficult to balance pollution problems against each other and against energy use, we believe that this regulation will best serve often competing national goals.

The following non-water-quality environmental impacts (including energy requirements) are associated with the final regulation. The Administrator has determined that the impacts identified below are justified by the benefits associated with compliance with the limitations and standards.

A. Air Pollution

Imposition of BPT and BAT limitations and NSPS, PSES, and PSNS will not create any substantial air pollution problems. Some acid vapor and dust releases may occur as a result of proposed NSPS for the Hydrofluoric Acid subcategory. These can be prevented with available technology. We included the cost of this technology in the cost analysis.

B. Solid Waste

A substantial amount of solid waste has been generated under the existing limitations and standards. The largest amount of solid waste is generated by BPT treatment. Less than 500 pounds per day (dry basis) will be produced by implementation of BAT limitations and PSES and PSNS. The largest amount of solid waste will come from the implementation of BPT for the Titanium Dioxide subcategory. Plants in this subcategory will generate 4,720 tons per day of solid wastes, compared with approximately 900 tons/day for existing BPT limitations in other subcategories. A process has been developed for converting the solid wastes (gypsum) from the titanium dioxide (sulfate process) to a useful product and one plant has developed a market for the solid waste.

Regulations recently promulgated by EPA under Section 3001 of the resource Conservation and Recovery Act (RCRA) list as hazardous a number of solid wastes resulting from the production of inorganic chemicals. These include wastes from the Chrome Pigments subcategory (40 CFR Part 28, 45 FR 33084 (May 19, 1980)) and the Chlor-Alkali subcategory (45 FR 47832 (July 16, 1980)). Other inorganic chemical wastes may be hazardous because they exhibit one or more of EPA's hazardous characteristics identified in 40 CFR Part 261. If a waste is identified or listed as hazardous, it is subject to handling, transportation, treatment, storage, and disposal requirements under Sections 3002–3005 of RCRA and EPA regulations promulgated under RCRA. See 40 CFR Parts 261–267.

Compliance with these requirements involves costs in addition to the costs for compliance with the effluent limitations established by this regulation. The specific standards necessary to estimate these costs have been established, and costs for compliance with RCRA–ISS requirements are specifically considered in the economic impact analysis for this regulation.

C. Consumptive Water Loss

Treatment and control technologies that require extensive recycling and reuse of water may require cooling mechanisms. Evaporative cooling mechanisms can cause water loss and contribute to water scarcity problems—a primary concern in arid and semi-arid regions. This regulation assumes some recycling, thus assuming some cooling mechanisms may be required which could create additional consumptive water loss. However, the quantity of water involved is not significant, and most of the industry is located in coastal areas or areas with sufficient water resources. Moreover, we concluded that the pollution reduction benefits of recycle technologies outweigh their impact on consumptive water loss.

D. Energy Requirements

We estimate that the achievement of BPT effluent limitations and PSES will increase electrical energy consumption by approximately 410 million kilowatt-hours per year. Implementing BAT limitations will consume another 2 million kilowatt-hours. Achievement of BPT and BAT effluent limitations will require a typical direct discharger to increase total energy consumption by less than one percent of the energy now consumed in production purposes.

VIII. Pollutants and Subcategories Not Regulated

The Settlement Agreement contains provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories. These provisions have been rewritten in a Revised Settlement Agreement which was approved by the District Court for the District of Columbia on March 9, 1979, 12 ERC 1633.

A. Exclusion of Pollutants

Paragraph 8(a)(iii) of the Settlement Agreement authorizes the Administrator to exclude the following toxic pollutants from regulation: (a) Those not detectable by Section 304(h) analytical methods or other state-of-the-art methods; (b) those present in amounts too small to be effectively reduced by available technologies; (c) those present only in trace amounts and neither causing nor likely to cause toxic effects; (d) those detected in the effluent from only a small number of sources within a subcategory and uniquely related to those sources; and (e) those that will be effectively controlled by the technologies on which other effluent limitations and standards are based. The toxic pollutants excluded from regulation in all subcategories, under paragraph 8(a)(iii) of the Settlement Agreement, are listed in Appendix B of this Notice.

We are also excluding certain toxic pollutants from particular subcategories. Since the date of the proposed regulation (July 24, 1980), we excluded additional pollutants from particular subcategories under paragraph 8(a)(iii) of the Settlement Agreement. Justification for these additional exclusions is based on the review of more reliable industry data and the results of treatability studies showing that these pollutants will be effectively controlled by the technologies on which other effluent limitations and standards are based. These pollutants and the reason for their exclusion under paragraph 8(a)(iii) are listed in Appendix C of this Notice.

In addition to the pollutants excluded under the Settlement Agreement, we are excluding asbestos from this regulation at this time because no standardized 304(h) analytical method for asbestos in water is available.

B. Exclusion of Subcategories

Paragraph 8(a)(i) of the Settlement Agreement authorizes the Administrator to exclude from regulation industry categories or subcategories for which equal or more stringent limitations are already provided by existing effluent limitations and standards. Also, paragraph 8(a)(iv) of the Settlement Agreement authorizes the exclusion of subcategories in which the amount and toxicity of each pollutant in the discharge does not justify developing national regulations.

Paragraph 8(b) of the Settlement Agreement authorizes the Administrator to exclude from regulation under the pretreatment standards a subcategory if (i) 95 percent or more of all point sources in the subcategory introduce into POTWs only pollutants which are susceptible to treatment by the POTW and which do not interfere with, do not pass through, or are not otherwise incompatible with such treatment works; or (ii) the toxicity and amount of the incompatible pollutants introduced by such point sources into POTWs is so insignificant as not to justify developing a pretreatment regulation. The subcategories excluded under paragraphs 8(a)(1), 8(a)(iv), and 8(b) of the Settlement Agreement are listed in Appendix D of this Notice.

In addition to the subcategories excluded under the Settlement Agreement, many subcategories of the Inorganic Chemicals Manufacturing Point Source Category are being deferred. The subcategories under Phase II of the Inorganic Chemicals Manufacturing Point Source Category are listed in Appendix E of this notice. The phase I regulation promulgated today covers 85 percent of the discharges containing toxic pollutants from the Inorganic Chemicals Industry.

IX. Responses to Major Comments

In this section, we will respond to those issues raised in a large number of the comments received and affecting essentially all subcategories. A

summary of the comments received and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Inorganic Chemicals Manufacturing Effluent Guidelines and Standards", which is a part of the public record for this regulation.

A. Toxic Metals To Be Limited In Final Regulation

In the proposed regulations toxic metals selected for proposed limitations included all those for which the maximum concentration observed in screening or verification sampling was above the level of treatability. Many commenters recommended the limitation of only one or two of the dominant toxic metals because this will control all other toxic metals and reduce analytical cost. We agree with this comment. Chemical treatment for removal of a metal from a waste stream will also affect and remove all metals in that waste stream with a different percent removal for individual metals. The design, construction and operation of a wastewater treatment system to preferentially remove a single metal from a wastewater stream which contains several metals is just not feasible. Since the source of metals in this industry is primarily the ore, it is not possible to bypass the regulations by substituting a metal that is not limited for one that is limited.

Accordingly, since the date of proposal we excluded additional pollutants from particular subcategories under paragraph 8(a)(iii) of the Settlement Agreement. The pollutants are present in the untreated wastewater at relatively low concentrations and, as demonstrated by review of industry data and the treatability study, will be effectively controlled by the technology necessary to comply with the effluent limitations and standards established for the pollutants present in untreated wastewater at high concentrations. These pollutants are listed in Appendix C of this notice.

B. Numerical Values of Specific Toxic Metal Pollutant Limitations

In the proposed regulations many of the specific toxic metal pollutant limitations were derived from literature data, and the lower end of the range of literature values was generally selected as the maximum thirty-day average limitation. Many commenters stated that the lower end of the range of literature values was not representative of the maximum thirty-day average performance expected from a treatment facility, and provided additional data for our consideration.

We agree with this comment, and are very appreciative of the additional data provided, which has greatly expanded the data base available. Based on this new data, and the results of our treatability study, we have changed many of the numerical values of specific pollutant limitations in this final rule. In general, they are now less stringent. The new data has led to more accurate numerical averages, and more accurate variability factors for use in establishing limitations.

X. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs). EPA intends to develop BMPs that are (a) applicable to all industrial sites; (b) applicable to a designated industrial category; and (c) offer guidance to permit authorities in establishing BMPs required by unique circumstances for a given plant.

Although EPA is not proposing them at this time, we are considering development of BMPs specific to the Inorganic Chemicals Industry. The industry has numerous problem areas including leaks and spills, storm water runoff, and groundwater infiltration from storage areas and on-site solid waste disposal. Most subcategories have problems in some or all of these areas. Sections 11–25 of the development document describe possible BMPs for each regulated subcategory. This information can guide the permitting agency in developing case-by-case BMPs for NPDES permits.

Future BMPs may require dikes, curbs, or other measures to contain leaks and spills, as well as the treatment of toxic pollutants in these wastes.

XI. Upset and Bypass Provisions

A recurring issue of concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion", is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because techology based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra*, and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).

An upset is an unintentional episode during which effluent limits are exceeded; a bypass however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset the bypass provisions should be included in NPDES permits and have promulgated Consolidated Permit regulations that include upset and bypass permit provisions (See 40 CFR 122.60, 45 FR 33290 (May 19, 1980)). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the Inorganic Chemicals Industry will be entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

XII. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the Inorganic Chemicals Industry. In addition, on promulgation, the pretreatment limitations are directly applicable to any indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. du Pont de Nemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–76 industry regulations, it is now included in the NPDES regulations and will not be included in the inorganic chemicals or other industry regulations. See the NPDES regulations at 40 CFR Part 125, Subpart D.

The BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance. BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines.

The economic modification section (301(c)) gives the Administrator authority to modify BAT requirements for nonconventional pollutants (Section 301(1) precludes the Administrator from modifying BAT requirements for any pollutants which are on the toxic pollutant list under section 307(a)(1) of the Act) for dischargers who file a permit application after July 1, 1977, upon a showing that such modified requirements will (1) represent the maximum use of technology within the economic capability of the owner or operator and (2) result in reasonable further progress toward the elimination of the discharge of pollutants. The environmental modification section (301(g)) allows the Administrator, with the concurrence of the State, to modify BAT limitations for nonconventional pollutants from any point source upon a showing by the owner or operator of such point source satisfactory to the Administrator that:

(a) Such modified requirements will result at a minimum in compliance with BPT limitations or any more stringent limitations necessary to meet water quality standards;

(b) such modified requirements will not result in any additional requirements on any other point or non-point source; and

(c) such modification will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity or teratogenicity), or synergistic propensities.

Section 301(j)(1)(B) of the Act requires that application for modifications under section 301 (c) or (g) must be filed within 270 days after the promulgation of an applicable effluent guideline. Initial applications must be filed with the Regional Administrator and, in those States that participate in the NPDES program, a copy must be sent to the Director of the State program. Initial applications to comply with 301(j) must include the name of the permittee, the permit and outfall number, the applicable effluent guideline, and whether the permittee is applying for the 301(c) or 301(g) modification or both. Applicants interested in applying for both must do so in their initial application. For further details, see 43 FR 40859, September 13, 1978.

The nonconventional pollutants limited under BAT in this regulation are chemical oxygen demand (COD), fluoride, and residual chlorine. No regulations establishing criteria for 301(c) and 301(g) determinations have been proposed or promulgated, but the Agency recently announced in the April 12, 1982 Regulatory Agenda plans to propose such regulations by December, 1982 (47 FR 15702). All dischargers who file an initial application within 270 days will be sent a copy of the substantive requirements for 301(c) and 301(g) determinations once they are promulgated. Modification determinations will be considered at the time the NPDES permit is being reissued. Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTW. (See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978)).

Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *E. I. du Pont de Nemours and Co.* v. *Train*, supra.

XIII. Relationship to NPDES Permits

The BPT limitations and NSPS in this regulation will be applied to individual inorganic chemicals manufacturers through NPDES permits issued by EPA or approved state agencies, under Section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized. Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts and conserves enforcement resources for those who fail to make good-faith efforts to comply with the Act.

XIV. Public Participation

Numerous agencies and groups have participated during the development of these effluent guidelines and standards. Following the publication of the proposed rules on July 24, 1980 in the Federal Register, we provided the development document supporting the proposed rules to industry, Government agencies, and the public sector for comments. Two workshops were held on the Inorganic Chemicals BAT Rulemaking in Philadelphia, PA, and Dallas, TX, on October 7, and October 9, 1980, respectively. On October 15, 1980, in Washington, D.C., a public hearing was held on the proposed pretreatment standards.

The following organizations responded with comments: The Chlorine Institute, Inc.; N.L. Industries; Freeport Minerals Company; Virginia Chemicals, Inc.; Olin Chemicals Inc.; PPG Industries; Office of the President, Council on Wage and Price Stability; Dow Chemical U.S.A.; Chemical Manufacturers Association; Gulf and Western; U.S. Department of Commerce, General Council; Rohm & Haas Company; Allied Chemical Corporation; Kaiser Aluminum and Chemical Corporation; Brunswick Pulp & Paper Company; Diamond Shamrock; Texas Department of Water Resources; South Carolina Department of Health and

Environmental Control; Weyerhaeuser Company; American Cyanamid Company; New York State Department of Environmental Conservation; Hooker Chemicals and Plastics Corporation; Babcock & Wilcox; Vulcan Materials Company; Georgia Pacific Corporation; E.I. du Pont de Nemours & Company; Pennwalt Corporation; FMC Corporation; Monsanto Corporation; Hamilton Standard; Linden Chemicals and Plastics, Inc.; and SCM Chemical/Metallurgical Division.

Fifty-four letters with comments have been received. These letters included 27 addressing the Chlor-Alkali subcategory, 12 addressing Titanium Dioxide, 3 addressing Hydrofluoric Acid, 2 each addressing Hydrogen Cyanide, Chrome Pigments, Aluminum Fluoride, Copper Sulfate, and Sodium Bisulfite, and 1 each addressing Sodium Hydrosulfite, and Sodium Dichromate. Seven letters addressed general topics only. Several letters addressed multiple topics. Nine letters contained effluent data and 2 contained economic data. Eight of the 11 subcategories for which limitations and standards were proposed received 2 or fewer comment letters.

All comments received have been carefully considered, and appropriate changes in the regulation have been made whenever available data and information supported those changes. Major issues raised by the comments are addressed under the relevant section within the body of this preamble. A summary of the comments received and our detailed responses to all comments are included in a report "Responses to Public Comments, Proposed Inorganic Chemical Manufacturing Effluent Guidelines and Standards," which is a part of the public record for this regulation. This report, along with the rest of the public record, will be available for public review three weeks after the effective date in EPA's Public Information Reference Unit, Room 2004 (Rear), (EPA Library), 401 M Street, SW., Washington, D.C.

XV. Small Business Administration (SBA) Financial Assistance

The Agency is continuing to encourage small manufacturers to use Small Business Administration (SBA) financing as needed for pollution control equipment. Three basic programs are in effect: the Guaranteed Pollution Control Bond Program, the Section 503 Program, and the Regular Guarantee Program. All the SBA loan programs are only open to businesses with net assets less than $6 million, with an average annual after-tax income of less than $2 million, and with fewer than 250 employees.

The guaranteed pollution control bond is a full faith and credit instrument with a tax free feature, making it the most favorable of the programs. Although all 1981 funds have already been committed, the SBA is attempting to obtain additional funding for this program. The program applies to projects that cost from $150,000 to $2,000,000.

The Section 503 Program, as amended in July 1980, allows for long-term loans to small and medium-sized businesses. These loans are made by SBA-approved local development companies, which for the first time are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Though SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 426–7874.

For further information and specifics on the Guaranteed Pollution Control Bond Program contact: U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235–2902.

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: June 16, 1982.

Anne M. Gorsuch,

Administrator.

XVI. Availability of Technical Information

The basis for this regulation is detailed in four major documents. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in *Development Document for Effluent Guidelines, New Source Performance Standards and Pretreatment Standards for the Inorganic Chemicals Manufacturing Point Source Category* EPA 440/1–82–007. The Agency's economic analysis is presented in *Economic Impact Analysis of Pollution Control Technologies for Segments of the Inorganic Chemicals Manufacturing Industry,* EPA 440/2–81–023. A contractor's report on treatability studies is presented in *Treatability Studies for the Inorganic Chemical Manufacturing Point Source Category (EPA 440/1–80/103).* A summary of the public comments received on the proposed regulation is presented in a report "Responses to Public Comments, Proposed Inorganic Chemicals Manufacturing Effluent Guidelines and Standards", which is a part of the public record for this regulation.

Technical information may be obtained by writing to Dr. Thomas E. Fielding, Effluent Guidelines Division (WH–552), EPA, 401 M Street, SW., Washington, D.C. 20460, or through calling (202) 426–2582. Copies of the technical documents may be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487–6000). The economic analysis may also be obtained from the National Technical Information Service.

The Record will be available for public review three weeks after the effective date in EPA's Public Information Reference Unit, Room 2004 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

XVII. Appendixes

Appendix A—Abbreviations, Acronyms, and Other Terms Used in This Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act

BMPs—Best management practices under Section 304(e) of the Act

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Public Law 95–217)

Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States

Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act

NSPS—New source performance standards under Section 306 of the Act

POTW—Publicly owned treatment works

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(b) of the Act

PSNS—Pretreatment standards for new sources of indirect discharges under Section 307(b) and (c) of the Act

RCRA—Resource Conservation and Recovery Act (Public Law 94–580) of 1976, Amendments to Solid Waste Disposal Act

Appendix B—Toxic Pollutants Excluded in All Subcategories

(1) Toxic Pollutants Not Detected in Wastewaters:

Acenaphthene
Acrolein
Acrylonitrile
Benzidine
1,2,4-Trichlorobenzene
Hexachlorobenzene
1,1-Dichloroethane
Chlorethane
Bis(2-chloroethyl) ether
2-Chloroethyl vinyl ether (mixed)
2-Chloronaphthalene
2,4,6-Trichlorophenol
Parachlorometa cresol
2-Chlorophenol
1,3-Dichlorobenzene
1,4-Dichlorobenzene
3,3-Dichlorobenzidine
1,2-Trans-dichloroethylene
2,4-Dichlorophenol
1,2-Dichloropropane
2,4-Dimethylphenol
2,4-Dinitrotoluene
1,2-Diphenylhydrazine
4-Chlorophenyl phenyl ether
4-Bromophenyl phenyl ether
Bis(2-Chloroethoxy) methane
Methyl chloride (chloromethane)
Methyl bromide (bromomethane)
Bromoform (tribromomethane)
Hexachlorobutadiene
Hexachlorocyclopentadiene
Isophorone
2-Nitrophenol
4,6-Dinitro-o-cresol
N-nitrosodimethylamine
N-nitrosodiphenylamine
N-nitrosodi-n-propylamine
Di-n-octyl phthalate
Benzo(k)fluoranthane (11,12-benzo-fluroanthene)
Acenaphthylene
Benzo(ghi)perylene(1,12-benzoperylene)
Dibenzo(a,h)anthracene(1,2,5,6-dibenzanthracene)
Indeno(1,2,3-cd)pyrene(2,3-o-phenylenepyrene)
Vinyl chloride (chloroethylene)
Aldrin
Dieldrin
Chlordane (technical mixture & metabolites)
4,4'-DDT
4,4'-DDE (p,p'-DDX)
4,4'DDD (p,p'-TDE)
A-endosulfan-Alpha
B-endosulfan-Beta
Endosulfan sulfate
Endrin
Endrin aldehyde
Heptachlor
Heptachlor epoxide
Hexachlorocyclohexane
A-BHC-Alpha
B-BHC-Beta
R-BHC-(lindane)-Gamma
G-BHC-Delta
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1016 (Arochlor 1016)
Toxaphene

Note.—2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) was not measured because of the hazard in laboratory analysis associated with handling TCDD standards.

(2) Toxic Pollutants in Effluents Below the Level of Treatability:

Benezene—Present in one case at a higher level only in a raw waste, not in the BPT effluent
Carbon Tetrachloride
Chlorobenzene
1,2-Dichloroethane
1,1,1-Trichloroethane—Present in one case at a higher level only in a raw waste, not in the BPT effluent
Hexachloroethane
1,1,2-Trichloroethane
Choloroform—Present in three cases at higher levels only in raw wastes, not in the BPT effluents
1,1,2,2-Tetrachloroethane
1,2-Dichlorobenzene
1,1-Dichloroethylene
2,6-Dinitrotoluene
Ethylbenzene—Present in one case at a higher level only in a raw waste, not in the BPT effluent
Fluoroethane
Bis(2-chloroisopropyl) ether
Methylene chloride—Present in four cases at higher levels only in raw wastes, not in the BPT effluents
Dichlorobromomethane
Chlorodibromomethane
Naphthalene—Present in one case at a higher level only in raw waste, not in the BPT effluent
Nitrophenol
Phenol
Bis(2-Ethylhexyl phthalate)
Butyl benzyl phthalate
Di-n-butyl phthalate
Diethyl phthalate
Benzo(a) anthracene
Benzo(a) pyrene
3,4-Benzofluoroethane
Cirysene
Anthracene
Fluorene
Phenanthrene
Pyrene
Tetrachloroethylene
Toluene—Present in one case at a higher level only in raw waste, not in the BPT effluent
Trichloroethylene
Thallium
Beryllium
Antimony
Arsenic
Cadmium
Silver

(3) Toxic Pollutants Found in One or Two Plants Where Such Pollutants Are Unique to These Plants:

Nitrobenzene—Present at a single plant as a result of organic products manufactured on the plant site
2,4-Nitrophenol—Present at a single site as a result of organic products manufactured on the plant site
Dichloropropylene—Present at one plant site in the raw waste at the treatability level but not in the treated effluent
Pentachlorophenol—Present at one plant where it was used as a weed killer near a waste treatment lagoon. This practice was discontinued as a result of this finding

Appendix C—Toxic Pollutants Excluded in Particular Subcategories

Under Paragraph 8(a)(iii) of the Settlement Agreement, EPA is excluding certain toxic pollutants from regulation in particular subcategories, for one or all of the following reasons:

(a) The pollutant is not detectable in the effluent with the use of analytical methods approved pursuant to 304(h) of the Act or other state of the art methods.

(b) The pollutant is present only in trace amounts and is neither causing nor likely to cause toxic effects.

(c) The pollutant is present in amounts too small to be effectively reduced by technologies known to the Administrator.

(d) The pollutant will be effectively controlled by the technologies upon which are based other effluent limitations and guidelines, standards of performance or pretreatment standards.

The reason(s) for each of the following exclusions is keyed to the above list.

Chlor-Alkali Subcategory (Subpart F)

Antimony-c	Cyanide-a
Arsenic-d	Selenium-a
Cadmium-d	Silver-d
Chromium-d	

The pollutants limited are mercury at mercury cell plants, and copper, lead, and nickel at diaphragm cell plants.

Hydrofluroic Acid Subcategory (Subpart H)

Antimony-d	Cyanide-a
Arsenic-c,d	Lead-d
Cadmium-a	Mercury-d
Chromium-d	Selenium-a
Copper-d	Silver-a

The pollutants limited are nickel and zinc.

Titanium Dioxide Subcategory (Subpart V)

Antimony-d	Mercury-a
Arsenic-d	Selenium-a
Cadmium-d	Silver-a
Copper-d	Zinc-d
Lead-d	

The pollutants limited are chromium and nickle.

Aluminum Fluoride Subcategory (Subpart W)

Antimony-c	Lead-d
Arsenic-c,d	Mercury-c
Cadmium-c	Selenium-c
Copper-c,d	Silver-a
Cyanide-a	Zinc-c

The pollutants limited are chromium and nickle.

Chrome Pigments Subcategory (Subpart AH)

Antimony-d	Mercury-d
Arsenic-a	Nickel-d
Cadmium-d	Selenium-a
Copper-d	Silver-a

The pollutants limited are chromium lead and zinc.

Hydrogen Cyanide Subcategory (Subpart AP)

Antimony-a	Lead-a
Arsenic-a	Mercury-a
Cadmium-a	Selenium-a
Chromium-a	Silver-a
Copper-a	

The only toxic pollutant found at significant levels in this subcategory was cyanide.

Sodium Dichromate Subcategory (Subpart Q)

Antimony-a	Lead-a
Arsenic-a	Mercury-a
Cadmium-a	Selenium-a
Copper-c,d	Silver-a
Cyanide-a	Zinc-d

The pollutants limited are chromium and nickel.

Copper Sulfate Subcategory (Subpart AJ)

Antimony-d	Lead-d
Arsenic-d	Mercury-a
Cadmium-d	Silver-a
Chromium-d	Zinc-d
Cyanide-a	

The pollutants limited are copper, nickel, and selenium.

Nickel Sulfate Subcategory (Subpart AU)

Antimony-d	Lead-d
Arsenic-c	Mercury-a
Cadmium-d	Selenium-c
Chromium-d	Silver-a
Cyanide-a	Zinc-d

The pollutants limited are copper and nickel.

Sodium Bisulfite Subcategory (Subpart BB)

Antimony-c	Lead-d
Arsenic-c	Mercury-c
Cadmium-d	Nickel-d
Copper-d	Selenium-a
Cyanide-a	Silver-a

The pollutants limited are chromium and zinc.

Appendix D—Subcategories Excluded

The following subcategories are excluded under Paragraph 8(a)(i) of the Settlement Agreement because existing BPT or BAT limitations prohibit discharge of process wastewater pollutants for direct dischargers in these subcategories.

Bromine (Subpart AC)
Calcium Oxide (Subpart E)
Chromic Acid (Subpart AI)
Calcium Hydroxide (Subpart AE)
Fluorine (Subpart AN)
Hydrogen (Subpart AO)
Iodine (Subpart AQ)
Potassium Chloride (Subpart AX)
Stannic Oxide (Subpart BH)
Zinc Sulfate (Subpart BK)
Calcium Carbide (Subpart C)
Potassium Metal (Subpart K)
Sodium Bicarbonate (Subpart N)
Borax (Subpart AA)
Ferric Chloride (Subpart AL)
Lead Monoxide (Subpart AR)
Sodium Fluoride (Subpart BC)
Potassium Sulfate (Subpart M)
Calcium Chloride (Subpart D)
Sodium Chloride (Subpart P)
Sodium Sulfite (Subpart T)
Aluminum Sulfate (Subpart B)
Potassium Dichromate (Subpart L)

The following subcategories are excluded under Paragraph 8(a)(iv) of the Settlement Agreement because the amount and the toxicity of each pollutant observed in samples collected from plants in each subcategory does not justify developing national regulations:

Ammonium Chloride (Subpart X)
Ammonium Hydroxide (Subpart Y)
Barium Carbonate (Subpart Z)
Calcium Carbonate (Subpart AD)
Carbon Dioxide (Subpart AF)
Carbon Monoxide/Hydrogen (Subpart AG)
Hydrochloric Acid (Subpart G)
Hydrogen Peroxide (Organic Process) (Subpart I)
Nitric Acid (strong) (Subpart AV)
Oxygen and Nitrogen (Subpart AW)
Potassium Iodide (Subpart AV)
Sodium Hydrosulfide (Subpart BD)
Sodium Metal (Subpart R)
Sodium Silicate (Subpart S)
Sodium Thiosulfate (Subpart BG)
Sulfur Dioxide (Subpart BG)
Sulfuric Acid (Subpart U)
Nitric Acid (Subpart J)
Sodium Hydrosulfite (Subpart BE)

The following subcategories are excluded under Paragraph 8(a)(iv) of the Revised Settlement Agreement because these subcategories consist of only one plant or one known discharger.

Zinc Oxide (Subpart BJ)
Lithium Carbonate (Subpart AS)
Manganese Sulfate (Subpart AT)
Sodium Carbonate (Subpart O)
Boric Acid (Subpart AB)
Hydrogen Peroxide (Electrolytic Process) (Subpart I)
Cuprous Oxide (Subpart AK)
Potassium Permanganate (Subpart AZ)
Ferrous Sulfate (Subpart AM)

The following subcategories are excluded from categorical pretreatment regulations for existing sources under paragraph 8(b) of the Revised Settlement Agreement because there are no existing indirect dischargers:

Hydrofluoric Acid (Subpart H)
Sodium Dichromate and Sodium Sulfate (Subpart Q)
Titanium Dioxide (Chloride Process) (Subpart V)
Titanium Dioxide (Chloride/Ilmenite Process) (Subpart V)

The following subcategories are excluded from categorical pretreatment regulations for existing sources under paragraph 8(b) of the Revised Settlement Agreement because the concentrations of toxic pollutants in effluent to POTW from existing sources are below treatable levels.

Chlor-Alkali (Mercury Cells) (Subpart F)
Titanium Dioxide (Sulfate Process) (Subpart V)
Hydrogen Cyanide (Subpart AP)

The following subcategory is excluded from categorical pretreatment regulations for existing sources under paragraph 8(b)(ii) of the Revised Settlement Agreement because the amount and toxicity of incompatible pollutants in effluent to POTW from existing sources is too insignificant to justify developing a pretreatment regulation:

Sodium Bisulfite (Subpart BB)

Appendix E—Subcategories To Be Deferred To Phase II Study

- Beryllium Oxide (2819)
- Chromium Sulfate (2819)
- Chromium Oxide (2819)
- Copper Chloride (2819)
- Copper Iodide (2819)
- Lead Silicate (2819)
- Lead Arsenate (2819)
- Mercury Chloride (2819)
- Mercury Oxide (2819)
- Nickel Ammonium Sulfate (2819)
- Nickel Carbonate (2819)
- Nickel Chloride (2819)
- Nickel Fluoroborate (2819)
- Nickel Nitrate (2819)
- Potassium Cyanide (2819)
- Silver Bromide (2819)
- Silver Chloride (2819)
- Silver Carbonate (2819)
- Silver Cyanide (2819)
- Silver Iodide (2819)
- Silver Oxide (2819)
- Sodium Antimoniate (2819)
- Sodium Cyanide (2819)
- Zinc Chloride (2819)
- Zinc Sulfide (2819)
- White Lead Pigment ($Pb(OH)_2 + PbCO_3$) (2816)
- Lead Dioxide, Brown (PbO_2) (2816)
- Lead Dioxide, Red (Pb_3O_4) (2816)
- Potassium Carbonate (2812)
- Gases, Industrial Compressed Liquid or Solid (2813)
- Nitrous Oxide (2813)
- Barium Sulfate (2816)
- Barytes Pigments (2816)
- Iron Colors (2816)
- Iron Oxide, Black (2816)
- Iron Oxide, Magnetic (2816)
- Iron Oxide, Yellow (2816)
- Ochers (2816)
- Satin White Pigment (2816)
- Siennas (2816)
- Ultramarine Pigment (2816)
- Umbers (2816)
- Whiting (2816)
- Aluminum Compounds (2819)
- Aluminum Hydroxide (2819)
- Aluminum Oxide (2819)
- Alums (2819)
- Ammonia Alum (2819)
- Ammonium Molybdate (2819)
- Ammonium Compounds (2819)
- Ammonium Perchlorate (2819)
- Ammonium Thiosulfate (2819)
- Barium Compounds (2819)
- Bleaching Powder (2819)
- Boron Compounds (not produced at mines) (2819)
- Borosilicate (2819)
- Brine (2819)
- Calcium Hypochlorite (2819)
- Calcium Compounds (inorg) (2819)
- Cerium Salts (2819)
- Chlorosulfuric Acid (2819)
- Cobalt Chloride (2819)
- Cobalt 60 (radioactive) (2819)
- Cobalt Sulfate (2819)
- Fissionable Materials Production (2819)
- Heavy Water (2819)
- Hydrated Alumina Silicate Powder (2819)
- Hydrogen Sulfide (2819)
- Hydrophosphites (2819)
- Indium Chloride (2819)

- Inorganic Acids (except HN03 or H3P04) (2819)
- Iodides (2819)
- Isotopes Radioactive (2819)
- Lithium Compounds (2819)
- Luminus Compounds (radium) (2819)
- Magnesium Compounds (inorg) (2819)
- Manganese Dioxide (powder synthetic) (2819)
- Nuclear Cores, Inorganic (2819)
- Nuclear Fuel Reactor Cases, Inorganic (2819)
- Nuclear Fuel Scrap Re-Processing (2819)
- Oleum (fuming sulfuric acid) (2819)
- Oxidation Catalyst from Porcelain (2819)
- Perchloric Acid (2819)
- Peroxides, Inorganic (2819)
- Potash Alum (2819)
- Potassium Aluminum Sulfate (2819)
- Potassium Bromide (2819)
- Potassium Chlorate (2819)
- Potassium Compounds Inorganic (except KOH and K2CO3) (2819)
- Potassium Hypochlorate (2819)
- Potassium Nitrate and Sulfate (2819)
- Radium Chloride (2819)
- Radium Luminous Compounds (2819)
- Rare Earth Metal Salts (2819)
- Reagent Grade Chemicals (inorganics refined from technical grades) (2819)
- Salts of Rare Earth Metals (2819)
- Silica Amorpus (2819)
- Silica Gel (2819)
- Soda Alum (2819)
- Sodium Chlorate (2819)
- Sodium Compounds, Inorganic (2819)
- Stannic and Stannous Chloride (2819)
- Strontium Carbonate (precipitated and oxide) (2819)
- Strontium Nitrate (2819)
- Potash Magnesia (2819)
- Sulfides and Sulfites (2819)
- Sulfocyanides (2819)
- Sulfur Chloride (2819)
- Sulfur Hexafluoride (2819)
- Sulfur (recovered or refined including sour natural gas) (2819)
- Thiocyanates, Inorganic (2819)
- Tin Compounds, Inorganic (2819)
- Uranium Slag, Radioactive (2819)
- Sodium Hydrosulfite (Zinc Process)
- Silver Nitrate (2819)
- Sodium Silicofluoride (2819)
- Aluminum Chloride (2819)

The following subcategories involve only indirect discharges:
Bromine (Subpart AC)
Calcium Oxide (Subpart E)
Chromic Acid (Subpart AI)
Calcium Hydroxide (Subpart AE)
Fluorine (Subpart AN)
Hydrogen (Subpart AO)
Iodine (Subpart AQ)
Potassium Chloride (Subpart AX)
Stannic Oxide (Subpart BH)
Zinc Sulfate (Subpart BK)
Calcium Carbide (Subpart C)
Potassium Metal (Subpart K)
Sodium Bicarbonate (Subpart N)
Borax (Subpart AA)
Ferric Chloride (Subpart AL)
Lead Monoxide (Subpart AR)
Sodium Fluoride (Subpart BC)
Potassium Sulfate (Subpart M)
Calcium Chloride (Subpart D)
Sodium Chloride (Subpart P)
Sodium Sulfite (Subpart T)
Aluminum Sulfate (Subpart B)
Potassium Dichromate (Subpart L)

List of Subjects in 40 CFR Part 415

Inorganic chemicals Water pollution control, Waste treatment and disposal.

EPA has amended 40 CFR Chapter I by revising Part 415 to read as follows:

PART 415—INORGANIC CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Aluminum Chloride Production Subcategory

Sec.
415.10 Applicability; description of the aluminum chloride production subcategory.
415.11 Specialized definitions. [Reserved]
415.12 [Reserved]
415.13 [Reserved]
415.14 Pretreatment standards for existing sources (PSES).
415.15 [Reserved]

Subpart B—Aluminum Sulfate Production Subcategory

415.20 Applicability; description of the aluminum sulfate production subcategory.
415.21 Specialized definitions. [Reserved]
415.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.24 Pretreatment standards for existing sources (PSES).
415.25 New source performance standards (NSPS).
415.26 Pretreatment standards for new sources (PSNS).

Subpart C—Calcium Carbide Production Subcategory

415.30 Applicability; description of the calcium carbide production subcategory.
415.31 Specialized definitions. [Reserved]
415.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.34 [Reserved]
415.35 New source performance standards (NSPS).
415.36 Pretreatment standards for new sources (PSNS).

Subpart D—Calcium Chloride Production Subcategory

415.40 Applicability; decription of the calcium chloride production subcategory.
415.41 Specialized definitions.
415.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.44 [Reserved]
415.45 New source performance standards (NSPS).
415.46 Pretreatment standards for new sources (PSNS).

Subpart E—Calcium Oxide Production Subcategory

415.50 Applicability; description of the calcium oxide production subcategory.
415.51 Specialized definitions [Reserved]
415.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.54 [Reserved]
415.55 New source performance standards (NSPS).
415.56 Pretreatment standards for new sources (PSNS).

Subpart F—Chlor-alkali Subcategory (Chlorine and Sodium or Potassium Hydroxide Production)

415.60 Applicability; description of the chlorine and sodium or potassium hydroxide production subcategory.
415.61 Specialized definitions.
415.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.64 Pretreatment standards for existing sources (PSES).
415.65 New source performance standards (NSPS).
415.66 Pretreatment standards for new sources (PSNS).
415.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart G—Hydrochloric Acid Production Subcategory [Reserved]

Subpart H—Hydrofluoric Acid Production Subcategory

415.80 Applicability; description of the hydrofluoric acid production subcategory.
415.81 Specialized definitions. [Reserved]

415.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.84 [Reserved]
415.85 New source performance standards (NSPS).
415.86 Pretreatment standards for new sources (PSNS).
415.87 [Reserved]

Subpart I—Hydrogen Peroxide Production Subcategory

415.90 Applicability; description of the hydrogen peroxide production subcategory.
415.91 Specialized definitions.
415.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart J—Nitric Acid Production Subcategory [Reserved]

Subpart K—Potassium Metal Production Subcategory

415.110 Applicability; description of the potassium metal production subcategory.
415.111 Specialized definitions. [Reserved]
415.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.114 [Reserved]
415.115 New source performance standards (NSPS).
415.116 Pretreatment standards for new sources (PSNS).

Subpart L—Potassium Dichromate Production Subcategory

415.120 Applicability; description of the potassium dichromate production subcategory.
415.121 Specialized definitions. [Reserved]
415.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.124 Pretreatment standards for existing sources (PSES).
415.125 New source performance standards (NSPS).
415.126 Pretreatment standards for new sources (PSNS).

Subpart M—Potassium Sulfate Production Subcategory

415.130 Applicability; description of the potassium sulfate production subcategory.
415.131 Specialized definitions. [Reserved]
415.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.134 [Reserved]
415.135 New source performance standards (NSPS).
415.136 Pretreatment standards for new sources (PSNS).

Subpart N—Sodium Bicarbonate Production Subcategory

415.140 Applicability; description of the sodium bicarbonate production subcategory.
415.141 Specialized definitions. [Reserved]
415.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.144 [Reserved]
415.145 New source performance standards (NSPS).
415.146 Pretreatment standards for new sources (PSNS).

Subpart O—Sodium Carbonate Production Subcategory [Reserved]

Subpart P—Sodium Chloride Production Subcategory

415.160 Applicability; description of the sodium chloride production subcategory.
415.161 Specialized definitions.
415.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.163 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.164 [Reserved]
415.165 New source performance standards (NSPS).
415.166 Pretreatment standards for new sources (PSNS).

Subpart Q—Sodium Dichromate and Sodium Sulfate Production Subcategory

415.170 Applicability; description of the sodium dichromate and sodium sulfate production subcategory.
415.171 Specialized definitions.
415.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.173 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.174 [Reserved]
415.175 New source performance standards (NSPS).
415.176 Pretreatment standards for new sources (PSNS).
415.177 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart R—Sodium Metal Production Subcategory [Reserved]

Subpart S—Sodium Silicate Production Subcategory [Reserved]

Subpart T—Sodium Sulfite Production Subcategory

415.200 Applicability; description of the sodium sulfite production subcategory.
415.201 Specialized definitions.
415.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.204 [Reserved]
415.205 New source performance standards (NSPS).
415.206 Pretreatment standards for new sources (PSNS).

Subpart U—Sulfuric Acid Production Subcategory [Reserved]

Subpart V—Titanium Dioxide Production Subcategory

415.220 Applicability; description of the titanium dioxide production subcategory.
415.221 Specialized definitions.
415.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.224 [Reserved]
415.225 New source performance standards (NSPS).
415.226 Pretreatment standards for new sources (PSNS).
415.227 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart W—Aluminum Fluoride Production Subcategory

415.230 Applicability; description of the aluminum fluoride production subcategory.
415.231 Specialized definitions.
415.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.234 [Reserved]
415.235 New Source performance standards (NSPS).
415.236 [Reserved]
415.237 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart X—Ammonium Chloride Production Subcategory

415.240 Applicability; description of the ammonium chloride production subcategory.
415.241 Specialized definitions.
415.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart Y—Ammonium Hydroxide Production Subcategory—[Reserved]

Subpart Z—Barium Carbonate Production Subcategory—[Reserved]

Subpart AA—Borax Production Subcategory

415.270 Applicability; description of the borax production subcategory.
415.271 Specialized definitions. [Reserved]
415.272 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AB—Boric Acid Production Subcategory

415.280 Applicability; description of the boric acid production subcategory.
415.281 Specialized definitions.
415.282 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AC—Bromine Production Subcategory

415.290 Applicability; description of the bromine production subcategory.
415.291 Specialized definitions. [Reserved]
415.292 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AD—Calcium Carbonate Production Subcategory

415.300 Applicability; description of the calcium carbonate production subcategory.
415.301 Specialized definitions.
415.302 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AE—Calcium Hydroxide Production Subcategory

415.310 Applicability; description of the calcium hydroxide production subcategory.
415.311 Specialized definitions.
415.312 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AF—Carbon Dioxide Production Subcategory [Reserved]

Subpart AG—Carbon Monoxide and By-product Hydrogen Production Subcategory

415.330 Applicability; description of the carbon monoxide and by-product hydrogen production subcategory.
415.331 Specialized definitions.
415.332 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AH—Chrome Pigments Production Subcategory

415.340 Applicability; description of the chrome pigments production subcategory.
415.341 Specialized definitions.
415.342 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.343 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.344 Pretreatment standards for existing sources (PSES).
415.345 New source performance standards (NSPS).
415.346 Pretreatment standards for new sources (PSNS).
415.347 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart AI—Chromic Acid Production Subcategory

415.350 Applicability; description of the chromic acid production subcategory.
415.351 Specialized definitions. [Reserved]
415.352 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AJ—Copper Sulfate Production Subcategory

415.360 Applicability; description of the copper sulfate production subcategory.
415.361 Specialized definitions.
415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.364 Pretreatment standards for existing sources (PSES).
415.365 New source performance standards (NSPS).
415.366 Pretreatment standards for new sources (PSNS).
415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart AK—Cuprous Oxide Production Subcategory—[Reserved]

Subpart AL—Ferric Chloride Production Subcategory

415.380 Applicability; description of the ferric chloride production subcategory.
415.381 Specialized definitions.
415.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.383 [Reserved]
415.384 Pretreatment standards for existing sources (PSES).

Subpart AM—Ferrous Sulfate Production Subcategory—[Reserved]

Subpart AN—Fluorine Production Subcategory

415.400 Applicability; description of the fluorine production subcategory.
415.401 Specialized definitions.
415.402 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AO—Hydrogen Production Subcategory

415.410 Applicability; description of the hydrogen production subcategory.
415.411 Specialized definitions.
415.412 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AP—Hydrogen Cyanide Production Subcategory

415.420 Applicability; description of the hydrogen cyanide production subcategory.
415.421 Specialized definitions.

415.422 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.423 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.424 [Reserved]
415.425 New source performance standards (NSPS).
415.426 Pretreatment standards for new sources (PSNS).
415.427 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart AQ—Iodine Production Subcategory

415.430 Applicability; description of the iodine production subcategory.
415.431 Specialized definitions.
415.432 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AR—Lead Monoxide Production Subcategory

415.440 Applicability; description of the lead monoxide production subcategory.
415.441 Specialized definitions.
415.442 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.443 [Reserved]
415.444 Pretreatment standards for existing sources (PSES).

Subpart AS—Lithium Carbonate Production Subcategory

415.450 Applicability; description of the lithium carbonate production subcategory.
415.451 Specialized definitions.
415.452 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AT—Manganese Sulfate Production Subcategory—[Reserved]

Subpart AU—Nickel Sulfate Production Subcategory

415.470 Applicability; description of the nickel sulfate production subcategory.
415.471 Specialized definitions.
415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.474 Pretreatment standards for existing sources (PSES).
415.475 New source performance standards (NSPS).
415.476 Pretreatment standards for new sources (PSNS).
415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart AV—Strong Nitric Acid Production Subcategory—[Reserved]

Subpart AW—Oxygen and Nitrogen Production Subcategory

415.490 Applicability; description of the oxygen and nitrogen production subcategory.
415.491 Specialized definitions. [Reserved]
415.492 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AX—Potassium Chloride Production Subcategory

415.500 Applicability; description of the potassium chloride production subcategory.
415.501 Specialized definitions. [Reserved]
415.502 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AY—Potassium Iodide Production Subcategory

415.510 Applicability; description of the potassium iodide production subcategory.
415.511 Specialized definitions.
415.512 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart AZ—Potassium Permanganate Production Subcategory—[Reserved]

Subpart BA—Silver Nitrate Production Subcategory

415.530 Applicability; description of the silver nitrate production subcategory.
415.531 Specialized definitions.
415.532 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.533 [Reserved]
415.534 Pretreatment standards for existing sources (PSES).

Subpart BB—Sodium Bisulfite Production Subcategory

415.540 Applicability; description of the sodium bisulfite production subcategory.
415.541 Specialized definitions.
415.542 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.543 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
415.544 [Reserved]
415.545 New source performance standards (NSPS).
415.546 Pretreatment standards for new sources (PSNS).
415.547 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Subpart BC—Sodium Fluoride Production Subcategory

415.550 Applicability; description of the sodium fluoride production subcategory.
415.551 Specialized definitions.
415.552 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
415.553 [Reserved]
415.554 Pretreatment standards for existing sources (PSES).

Subpart BD—Sodium Hydrosulfide Production Subcategory—[Reserved]

Subpart BE—Sodium Hydrosulfide Production Subcategory—[Reserved]

Subpart BF—Sodium Silicofluoride Production Subcategory—[Reserved]

Subpart BG—Sodium Thiosulfate Production Subcategory—[Reserved]

Subpart BH—Stannic Oxide Production Subcategory

415.600 Applicability; description of the stannic oxide production subcategory.
415.601 Specialized definitions.
415.602 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Subpart BI—Sulfur Dioxide Production Subcategory—[Reserved]

Subpart BJ—Zinc Oxide Production Subcategory—[Reserved]

Subpart BK—Zinc Sulfate Production Subcategory

415.630 Applicability; description of the zinc sulfate production subcategory.
415.631 Specialized definitions.
415.632 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Authority: Sections 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 (b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 1311, 1314 (b), (c), (e), and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart A—Aluminum Chloride Production Subcategory

§ 415.10 Applicability; description of the aluminum chloride production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of aluminum chloride.

§ 415.11 Specialized definitions. [Reserved]

§ 415.12 [Reserved]

§ 415.13 [Reserved]

§ 415.14 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART A—ALUMINUM CHLORIDE

Pollutant or pollutant property	PSES limitations
pH	Within the range 5.0 to 10.0.

§ 415.15 [Reserved]

Subpart B—Aluminum Sulfate Production Subcategory

§ 415.20 Applicability; description of the aluminum sulfate production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of aluminum sulfate.

§ 415.21 Specialized definitions. [Reserved]

§ 415.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

(a) Subject to the provisions of paragraphs (b), (c) and (d) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process wastewater impoundment either a volume of process wastewater equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation for that month, or if greater, a volume of process wastewater equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

(d) Any process wastewater discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

SUBPART B—ALUMINUM SULFATE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l	
TSS	50	25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.24 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART B—ALUMINUM SULFATE

Pollutant or pollutant property	PSES limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l	
Zinc	5.0	2.5

§ 415.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.26 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as the new source performance standards specified in § 415.25.

Subpart C—Calcium Carbide Production Subcategory

§ 415.30 Applicability; description of the calcium carbide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium carbide in uncovered furnaces.

§ 415.31 Specialized definitions. [Reserved]

§ 415.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.34 [Reserved]

§ 415.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.36 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart D—Calcium Chloride Production Subcategory

§ 415.40 Applicability; description of the calcium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium chloride by the brine extraction process.

§ 415.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean calcium chloride.

§ 415.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART D—CALCIUM CHLORIDE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/Mg (or pounds per 1,000 lbs of product	
TSS	0.016	0.0062
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.44 [Reserved]

§ 415.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.46 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart E—Calcium Oxide Production Subcategory

§ 415.50 Applicability; description of the calcium oxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium oxide.

§ 415.51 Specialized definitions. [Reserved]

§ 415.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the

volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process wastewater impoundment either a volume of process wastewater equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation for that month, or, if greater, a volume of process wastewater equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

(d) Any process wastewater discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

SUBPART E—CALCIUM OXIDE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
TSS	50	25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.54 [Reserved]

§ 415.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.56 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as the new source performance standards specified in § 415.55.

Subpart F—Chlor-alkali Subcategory (Chlorine and Sodium or Potassium Hydroxide Production)

§ 415.60 Applicability; description of the chlorine and sodium or potassium hydroxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of chlorine and sodium or potassium hydroxide by the diaphragm cell process and by the mercury cell process.

§ 415.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean chlorine.

(c) The term "mercury" shall mean the total mercury present in the process wastewater stream exiting the mercury treatment system.

(d) The term "lead" shall mean total lead.

§ 415.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and using the mercury cell process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART F—CHLOR-ALKALI MERCURY CELLS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dkg (or pounds per 1,000 lb) of product	
TSS	0.64	0.32
Mercury (T)	.00026	.00014
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and using the diaphragm cell process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART F—CHLOR-ALKALI DIAPHRAGM CELLS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1dkg (or pounds per/ 1,000 lb) of product	
TSS	1.1	0.51
Copper (T)	0.018	0.0070
Lead (T)	0.026	0.010
Nickel (T)	0.014	0.0056
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and using the

mercury cell process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART F—CHLOR-ALKALI-MERCURY CELLS

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Mercury (T)	0.00023	0.00010
Total Residual Chlorine	0.0032	0.0019

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the diaphragm cell process must achieve the following effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART F—CHLOR-ALKALI-DIAPHRAGM CELLS

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Copper (T)	0.012	0.0049
Lead (T)	0.0059	0.0024
Nickel (T)	0.0087	0.0037
Total Residual Chlorine	0.013	0.0079

§ 415.64 Pretreatment standards for existing sources (PSES).

(a) [Reserved]

(b) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart and using the diaphragm cell process, which introduces pollutants into a publicly owned treatment works, must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART F—CHLOR-ALKALI-DIAPHRAGM CELLS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	2.1	0.80
Lead (T)	2.9	1.1
Nickel (T)	1.6	0.64

In cases when POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Copper (T), Lead(T) and Nickel (T) are the same as specified in §415.62(b).

§415.65 New source performance standards (NSPS).

(a) Any new source subject to this subpart and using the mercury cell process must achieve the following new source performance standards (NSPS):

SUBPART F—CHLOR-ALKALI-MERCURY CELLS

Pollutant or pollutant property	NSPS limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.64	0.32
Mercury (T)	0.00023	0.00010
Total Residual Chlorine	0.0032	0.0019
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any new source subject to this subpart and using the diaphragm cell process must achieve the following new source performance standards (NSPS):

SUBPART F—CHLOR-ALKALI-DIAPHRAGM CELLS

Pollutant or pollutant property	NSPS limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	1.1	0.51
Lead (T)	0.0047	0.0018
Total Residual Chlorine	0.013	0.0079
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.66 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart and using the mercury cell process, which introduces pollutants into a publicly owned treatment works, must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.64(a).

(b) Except as provided in 40 CFR 403.7, any new source subject to this subpart and using the diaphragm cell process, which introduces pollutants into a publicly owned treatment works, must compy with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART F—DIAPHRAGM CELLS

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Lead(T)	0.53	0.21

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Lead(T) are the same as specified in § 415.65(b).

§ 415.67 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the mercury cell process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.62(a).

(b) [Reserved]

Subpart G—Hydrochloric Acid Production Subcategory [Reserved]

Subpart H—Hydrofluoric Acid Production Subcategory

§ 415.80 Applicability; description of the hydrofluoric acid production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of hydrofluoric acid.

§ 415.81 Specialized definitions. [Reserved]

§ 415.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART H—HYDROFLUORIC ACID

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
TSS	11.0	5.3
Fluoride (T)	6.1	2.9
Nickel (T)	0.036	0.011
Zinc (T)	0.12	0.038
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART H—HYDROFLUORIC ACID

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
Fluoride (T)	3.4	1.6
Nickel (T)	0.020	0.0059
Zinc (T)	0.072	0.022

§ 415.84 [Reserved]

§ 415.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART H—HYDROFLUORIC ACID

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
TSS	6.0	3.0
Fluoride (T)	3.4	1.6
Nickel (T)	0.020	0.0059
Zinc (T)	0.072	0.022
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.86 Pretreatment standards for new sources (PSNS).

Except as provided for in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in §415.84.

§ 415.87 [Reserved]

Subpart I—Hydrogen Peroxide Production Subcategory

§ 415.90 Applicability; description of the hydrogen peroxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of hydrogen peroxide by the electrolytic process and by the oxidation of alkyl hydroanthraquinones.

§ 415.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean hydrogen peroxide as a one hundred percent hydrogen peroxide solution.

(c) The term "Cyanide A" shall mean those cyanides amenable to chlorination and is determined by the methods specified in 40 CFR 136.3.

(d) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(e) The term "process wastewater pollutants" means pollutants present in process wastewater.

(f) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and manufacturing hydrogen peroxide by the oxidation of alkyl hydroanthraquinones must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART I—HYDROGEN PEROXIDE ORGANIC PROCESS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
TSS	0.80	0.40
TOC	0.44	0.22
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and manufacturing hydrogen peroxide by the electrolytic process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART I—HYDROGEN PEROXIDE ELECTROLYTE PROCESS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
TSS	0.0060	0.0025
Cyanide A	0.00040	0.00020
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart J—Nitric Acid Production Subcategory [Reserved]

Subpart K—Potassium Metal Production Subcategory

§ 415.110 Applicability; description of the potassium metal production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium metal.

§ 415.111 Specialized definitions. [Reserved]

§ 415.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.114 [Reserved]

§ 415.115 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.116 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart L—Potassium Dichromate Production Subcategory

§ 415.120 Applicability; description of the potassium dichromate production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants resulting from the production of potassium dichromate into treatment works which are publicly owned.

§ 415.121 Specialized definitions. [Reserved]

§ 415.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.124 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART L—POTASSIUM DICHROMATE

Pollutant or pollutant property	PSES limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Hexavalent chromium	0.25	0.050
Total chromium	3.0	1.0

§ 415.125 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.126 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart M—Potassium Sulfate Production Subcategory

§ 415.130 Applicability; description of the potassium sulfate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium sulfate.

§ 415.131 Specialized definitions. [Reserved]

§ 415.132 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed and operated so as to contain the precipitation from the 10-year, 24-hour rainfall event as established by the National Climatic

Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10-year, 24-hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process wastewater impoundment either a volume of process wastewater equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation for that month, or, if greater, a volume of process wastewater equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

(d) Any process wastewater discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

SUBPART M—POTASSIUM SULFATE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
TSS	50	25
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.133 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.134 [Reserved]

§ 415.135 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.136 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as the new source performance standards specified in § 415.135.

Subpart N—Sodium Bicarbonate Production Subcategory

§ 415.140 Applicability; description of the sodium bicarbonate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium bicarbonate.

§ 415.141 Specialized definitions. [Reserved]

§ 415.142 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.143 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.144 [Reserved]

§ 415.145 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.146 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart O—Sodium Carbonate Production Subcategory [Reserved]

Subpart P—Sodium Chloride Production Subcategory

§ 415.160 Applicability; description of the sodium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium chloride by the solution brine-mining process and by the solar evaporation process.

§ 415.161 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and

methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean sodium chloride.

(c) The term "bitterns" shall mean the saturated brine solution remaining after precipitation of sodium chloride in the solar evaporation process.

§ 415.162 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the solar evaporation process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that unused bitterns may be returned to the body of water from which the process brine solution was originally withdrawn, provided no additional pollutants are added to the bitterns during the production of sodium chloride.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the solution brine mining process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART P—SODIUM CHLORIDE BRINE MINING PROCESS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb.) of product	
TSS	0.34	0.17
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0.

§ 415.163 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the solar evaporation process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters, except that unused bitterns may be returned to the body of water from which the process brine solution was originally withdrawn, provided no additional pollutants are added to the bitterns during the production of sodium chloride.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the solution brine-mining process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.164 [Reserved]

§ 415.165 New source performance standards (NSPS).

(a) Any new source subject to this subpart and using the solar evaporation process must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters, except that unused bitterns may be returned to the body of water from which the process brine solution was originally withdrawn, provided no additional pollutants are added to the bitterns during the production of sodium chloride.

(b) Any new source subject to this subpart and using the solution brine-mining process must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.166 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as the new source performance standards specified in § 415.165.

Subpart Q—Sodium Dichromate and Sodium Sulfate Production Subcategory

§ 415.170 Applicability; description of the sodium dichromate and sodium sulfate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium dichromate and by-product sodium sulfate.

§ 415.171 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean sodium dichromate.

(c) The term "Cr(T)" shall mean total chromium.

(d) The term "Cr(+6)" shall mean hexavalent chromium.

§ 415.172 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART Q—SODIUM DICHROMATE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.44	0.22
Hexavalent Chromium	0.00990	0.00363
Chromium (T)	0.0396	0.0044
Nickel (T)	0.0396	0.0334
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.173 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Chromium (T),

Hexavalent Chromium, and Nickel (T) are the same as specified in § 415.172.

§ 415.174 [Reserved]

§ 415.175 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations are the same as specified in § 415.172.

§ 415.176 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.174.

§ 415.177 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.172.

Subpart R—Sodium Metal Production Subcategory [Reserved]

Subpart S—Sodium Silicate Production Subcategory [Reserved]

Subpart T—Sodium Sulfite Production Subcategory

§ 415.200 Applicability; description of the sodium sulfite production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of sodium sulfite by reacting sulfur dioxide with sodium carbonate.

§ 415.201 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean sodium sulfite.

§ 415.202 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART T—SODIUM SULFITE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.032	0.016
COD	3.4	1.7
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.203 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process wastewater pollutants into navigable waters.

(b) A process wastewater impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25-year, 24-hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration for the area in which such impoundment is located may discharge that volume of process wastewater which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25-year, 24-hour rainfall event, when such event occurs.

§ 415.204 [Reserved]

§ 415.205 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): There shall be no discharge of process wastewater pollutant to navigable waters.

§ 415.206 Pretreatment standards for new sources (PSNS).

Except as provided in § 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as the new source performance standards specified in § 415.205.

Subpart U—Sulfuric Acid Production Subcategory [Reserved]

Subpart V—Titanium Dioxide Production Subcategory

§ 415.220 Applicability; description of the titanium dioxide production subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works resulting from the production of titanium dioxide by the sulfate process, the chloride process, and the simultaneous beneficiation-chlorination (chloride-ilmenite) process.

§ 415.221 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean titanium dioxide.

§ 415.222 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing titanium dioxide by the sulfate process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART V—TITANIUM DIOXIDE-SULFATE PROCESS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	140	38
Chromium (T)	0.48	0.21

SUBPART V—TITANIUM DIOXIDE-SULFATE PROCESS—Continued

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Nickel (T)	0.028	0.014
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided for in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing titanium dioxide by the chloride process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE PROCESS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	25	8.4
Chromium (T)	0.057	0.020
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and producing titanium dioxide by the simultaneous beneficiation-chlorination (chloride/ilmenite) process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE-ILMENITE PROCESS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	35	9.8
Chromium (T)	0.12	0.053
Nickel (T)	0.072	0.035
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.223 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing titanium dioxide by the sulfate process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations are the same for Chromium(T) and Nickel(T) as specified in § 415.222(a).

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing titanium dioxide by the chloride process must achieve the following effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Chromium(T) are the same as specified in § 415.222(b).

(c) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and producing titanium dioxide by the simultaneous beneficiation-chlorination (chloride-ilmenite) process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Chromium(T) and Nickel(T) are the same as specified in § 415.222(c).

§ 415.224 [Reserved]

§ 415.225 New source performance standards (NSPS).

(a) Any new source subject to this subpart producing titanium dioxide by the sulfate process must achieve the following new source performance standards (NSPS):

SUBPART V—TITANIUM DIOXIDE-SULFATE PROCESS

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	110	30
Iron (T)	4.1	1.2
Chromium (T)	0.27	0.14
Nickel (T)	0.18	0.095
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Any new source subject to this subpart producing titanium dioxide by the chloride process must achieve the following new source performance standards (NSPS):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE PROCESS

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	14	4.0
Iron (T)	0.52	0.16
Chromium (T)	0.026	0.012
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(c) Any new source subject to this subpart producing titanium dioxide by the simultaneous beneficiation-chlorination (chloride-ilmenite) process must achieve the following new source performance standards (NSPS):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE-ILMENITE PROCESS

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	8.4	2.4
Iron (T)	0.32	0.096
Chromium (T)	0.014	0.0072
Nickel (T)	0.020	0.010
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.226 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing titanium dioxide by the sulfate process which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART V—TITANIUM DIOXIDE—SULFATE PROCESS

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Iron (T)	8.5	2.5
Chromium (T)	0.57	0.30

SUBPART V—TITANIUM DIOXIDE—SULFATE PROCESS—Continued

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Nickel (T)	0.38	0.20

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Iron(T), Chromium(T), and Nickel(T) are the same as specified in § 415.225(a).

(b) Except as provided in 40 CFR 403.7, any new source subject to this subpart and producing titanium dioxide by the chloride process which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE PROCESS

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Iron (T)	5.3	1.8
Chromium (T)	0.23	0.12

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance: The limitations for Iron(T) and Chromium(T) are the same as specified in § 415.255(b).

(c) Except as provided in § 403.7, any new source subject to this subpart and producing titanium dioxide by the simultaneous beneficiation-chlorination (chloride-ilmenite) process which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART V—TITANIUM DIOXIDE-CHLORIDE-ILMENITE PROCESS

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Iron (T)	5.3	1.8
Chromium (T)	0.23	0.12

SUBPART V—TITANIUM DIOXIDE-CHLORIDE-ILMENITE PROCESS—Continued

Pollutant or pollutant property	PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Nickel (T)	0.38	0.17

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Iron (T), Chromium (T), and Nickel (T) are the same as specified in § 415.225(c).

§ 415.227 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.172.

Subpart W—Aluminum Fluoride Production Subcategory

§ 415.230 Applicability; description of the aluminum fluoride production subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicy owned treatment works resulting from the production of aluminum fluoride.

§ 415.231 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" means aluminum fluoride produced by the dry process in which partially dehydrated alumina hydrate is reacted with hydrofluoric acid gas.

§ 415.232 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART W—ALUMINUM FLUORIDE

BPT effluent limitations	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	2.4	1.2
Flouride (T)	1.3	0.63
Chromium (T)	0.015	0.0045
Nickel (T)	0.0079	0.0024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.233 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Fluoride(T), Chromium(T), and Nickel(T) are the same as specified in § 415.232.

§ 415.234 [Reserved]

§ 415.235 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations are the same as specified in § 415.232.

§ 415.236 [Reserved]

§ 415.237 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.232.

Subpart X—Ammonium Chloride Production Subcategory

§ 415.240 Applicability; description of the ammonium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of ammonium chloride by

the reaction of anhydrous ammonia with hydrogen chloride gas and by the recovery process from Solvay process wastes.

§ 415.241 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean ammonium chloride.

(c) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated nonprocess wastewater, as defined below.

(d) The term "process wastewater pollutants" means pollutants present in process wastewater.

(e) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.242 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and reacting anhydrous ammonia with hydrogen chloride gas must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

(b) Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart and using the recovery process from Solvay process wastes must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART X—AMMONIUM CHLORIDE SOLVAY PROCESS

Pollutant or pollutant property	BPT limitations: Maximum for any 1 day	BPT limitations: Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Ammonia (as N)	8.8	4.4
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart Y—Ammonium Hydroxide Production Subcategory [Reserved]

Subpart Z—Barium Carbonate Production Subcategory [Reserved]

Subpart AA—Borax Production Subcategory

§ 415.270 Applicability; description of the borax production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of borax by the ore-mining process and by the Trona process.

§ 415.271 Specialized definitions. [Reserved]

§ 415.272 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

Subpart AB—Boric Acid Production Subcategory

§ 415.280 Applicability; description of the boric acid production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of boric acid from ore-mined borax and from borax produced by the Trona process.

§ 415.281 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean boric acid.

§ 415.282 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using borax produced by the Trona process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using remined borax must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AB—BORIC ACID MINED BORAX PROCESS

Pollutant or pollutant property	BPT limitations: Maximum for any 1 day	BPT limitations: Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Arsenic	0.0028	0.0014
TSS	0.14	0.07
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AC—Bromine Production Subcategory

§ 415.290 Applicability; description of the bromine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of bromine by the brine-mining process and by the Trona process.

§ 415.291 Specialized definitions. [Reserved]

§ 415.292 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

Subpart AD—Calcium Carbonate Production Subcategory

§ 415.300 Applicability; description of the calcium carbonate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium carbonate by the milk of lime process and by the recovery process from Solvay process wastes.

§ 415.301 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean calcium carbonate.

§ 415.302 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the milk of lime process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AD—CALCIUM CARBONATE MILK OF LIME PROCESS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.56	0.28
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the recovery process from Solvay process wastes, must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AD—CALCIUM CARBONATE SOLVAY RECOVERY PROCESS

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	1.16	0.56
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AE—Calcium Hydroxide Production Subcategory

§ 415.310 Applicability; description of the calcium hydroxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of calcium hydroxide by the lime slaking process.

§ 415.311 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated nonprocess wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: *Provided,* that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.312 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart AF—Carbon Dioxide Production Subcategory [Reserved]

Subpart AG—Carbon Monoxide and By-Product Hydrogen Production Subcategory

§ 415.330 Applicability; description of the carbon monoxide and by-product hydrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of carbon monoxide and by-product hydrogen by the reforming process.

§ 415.331 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean carbon monoxide plus hydrogen.

(c) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated nonprocess wastewater, as defined below.

(d) The term "process wastewater pollutants" means pollutants present in process wastewater.

(e) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are

repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.332 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AG—CARBON MONOXIDE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
COD	0.50	0.25
TSS	0.12	0.060
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AH—Chrome Pigments Production Subcategory

§ 415.340 Applicability; description of the chrome pigments production subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works resulting from the production of chrome pigments.

§ 415.341 Specialized definitions.

For the purposes of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "chrome pigments" means chrome yellow, chrome orange, molybdate chrome orange, anhydrous and hydrous chromium oxide, chrome green, and zinc yellow.

(c) The term "product" means chrome pigments.

§ 415.342 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AH—CHROME PIGMENTS

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1kg (or pounds per 1,000 lb) of product	
TSS	9.1	3.8
Chromium (T)	0.31	0.13
Lead (T)	0.36	0.15
Zinc (T)	0.31	0.13
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.343 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Chromium(T), Lead(T), and Zinc(T) are the same as specified in § 415.342.

§ 415.344 Pretreatment standards for existing sources (PSES).

(a) Existing sources which annually introduce less than 210,000 cubic meters per year (55 million gallons per year) of chrome pigments process wastewater into a publicly owned treatment works are subject only to the standards specified in 40 CFR Part 403.

(b) Except as provided in 40 CFR 403.7 and 403.13 and paragraph (a) of this section, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AH—CHROME PIGMENTS

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Chromium (T)	2.9	1.2
Lead (T)	3.4	1.4
Zinc (T)	2.9	1.2

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Chromium(T), Lead(T), and Zinc(T) are the same as specified in § 415.342

415.345 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations are the same as specified in § 415.342.

§ 415.346 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same for TSS and pH as specified in § 415.344.

§ 415.347 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same as specified in § 415.342.

Subpart AI—Chromic Acid Production Subcategory

§ 415.350 Applicability; description of the chromic acid production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of chromic acid in facilities which also manufacture sodium dichromate.

§ 415.351 Specialized definitions.
[Reserved]

§ 415.352 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except as provided for in § 415.172.

Subpart AJ—Copper Sulfate Production Subcategory

§ 415.360 Applicability; description of the copper sulfate production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of copper sulfate.

§ 415.361 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean copper sulfate.

§ 415.362 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AJ—COPPER SULFATE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (lbs pounds per 1,000 lb) of product	
TSS	0.060	0.025
Copper (T)	0.0030	0.0010
Nickel (T)	0.0060	0.0020
Selenium (T)	0.0015	0.00050
pH	(1)	(1)

(1) Within the range of 6.0 to 9.0.

§ 415.363 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations for Copper(T), Nickel(T), and Selenium(T) are the same as specified in § 415.362.

§ 415.364 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AJ—COPPER SULFATE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Copper (T)	3.2	1.1
Nickel (T)	6.4	2.1
Selenium (T)	1.6	0.53

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for Cooper (T), Nickel (T), and Selenium (T) are the same as specified in § 415.362.

§ 415.365 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations are the same as specified in § 415.362.

§ 415.366 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.364.

§ 415.367 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.362.

Subpart AK—Cuprous Oxide Production Subcategory [Reserved]

Subpart AL—Ferric Chloride Production Subcategory

§ 415.380 Applicability; description of the ferric chloride production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of ferric chloride from pickle liquor.

§ 415.381 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated nonprocess wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.382 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.383 [Reserved]

§ 415.384 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AL—FERRIC CHLORIDE

Pollutant or pollutant property	PSES limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total Chromium	5.0	1.0
Hexavalent Chromium	0.25	0.09
Copper (T)	1.0	0.50
Nickel (T)	2.0	1.0
Zinc (T)	5.0	2.5

Subpart AM—Ferrous Sulfate Production Subcategory [Reserved]

Subpart AN—Fluorine Production Subcategory

§ 415.400 Applicability; description of the fluorine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of fluorine by the liquid hydrofluoric acid electrolysis process.

§ 415.401 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers, and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.402 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart AO—Hydrogen Production Subcategory

§ 415.410 Applicability; description of the hydrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of hydrogen as a refinery by-product.

§ 415.411 Specialized definitions.

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated nonprocess wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.412 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except as provided for in Part 419 of this chapter (39 FR 16560).

Subpart AP—Hydrogen Cyanide Production Subcategory

§ 415.420 Applicability; description of the hydrogen cyanide production subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works resulting from the production of hydrogen cyanide by the Andrussow process.

§ 415.421 Specialized definitions.

For the purposes of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" means hydrogen cyanide.

(c) The term "Cyanide A" means those cyanides amenable to chlorination and is determined by the methods specified in 40 CFR § 136.3.

§ 415.422 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AP—HYDROGEN CYANIDE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	8.6	3.2
Cyanide A	0.10	0.021
Total Cyanide	0.65	0.23
pH	(1)	(1)

[1] Within the range 6.0 to 10.5.

§ 415.423 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AP—HYDROGEN CYANIDE

Pollutant or pollutant property	BAT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Cyanide A	0.10	0.021
Total Cyanide	0.65	0.23
Total Residual Chlorine	0.068	0.051

§ 415.424 [Reserved]

§ 415.425 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART AP—HYDROGEN CYANIDE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	8.6	3.2
Cyanide A	0.10	0.021
Total Cyanide	0.65	0.23
Total Residual Chlorine	0.068	0.051
Ph	(1)	(1)

[1] Within the range 6.0 to 10.5.

§ 415.426 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.424.

§ 415.427 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.422.

Subpart AQ—Iodine Production Subcategory

§ 415.430 Applicability; description of the iodine production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of iodine.

§ 415.431 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure or process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.432 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart AR—Lead Monoxide Production Subcategory

§ 415.440 Applicability; description of the lead monoxide production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into treatment works which are publicly owned resulting from the production of lead monoxide.

§ 415.441 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include

contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure or process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment; Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact one it has occurred.

§ 415.442 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.443 [Reserved]

§ 415.444 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 40 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AR—LEAD MONOXIDE

Pollutant or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Lead	2.0	1.0

Subpart AS—Lithium Carbonate Production Subcategory

§ 415.450 Applicability; description of the lithium carbonate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of lithium carbonate by the Trona process and from spodumene ore.

§ 415.451 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean lithium carbonate.

§ 415.452 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using the Trona process must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best praticable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

(b) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart and using spodumene ore must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AS—LITHIUM CARBONATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/tdg (or pounds per 1,000 pounds) of product	
TSS	2.7	0.90
	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AT—Manganese Sulfate Production Subcategory [Reserved]

Subpart AU—Nickel Sulfate Production Subcategory

§ 415.470 Applicability; description of the nickel sulfate subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the production of nickle sulfate from pure and impure raw materials.

§ 415.471 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean nickel sulfate.

§ 415.472 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AU—NICKEL SULFATE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/tdg (or pounds per 1,000 lb) of product	
Nickel (T)	0.0356	0.0329
TSS	0.096	0.032
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.473 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to the subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

SUBPART AU—NICKEL SULFATE

Pollutant or pollutant property	Bat effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/1ag (or pounds per 1,000 pound) of product	
Copper (T)	0.00074	0.00024
Nickel (T)	0.00074	0.00024

§ 415.474 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART AU—NICKEL SULFATE

Pollutant or pollutant property	PSES Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
Copper (T)	1.1	0.36
Nickel (T)	1.1	0.36

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as an alternate: The limitations for copper (T) and nickel (T) are the same as specified in § 415.473.

§ 415.475 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SUBPART AU—NICKEL SULFATE

Pollutant or pollutant property	NSPS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per/ 1,000 pound) of product	
TSS	0.096	0.032
Copper (T)	0.00074	0.00024
Nickel (T)	0.00074	0.00024
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415/476 Pretreatment standard for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.474.

§ 415.477 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 415.472.

Subpart AV—Strong Nitric Acid Production Subcategory—[Reserved]

Subpart AW—Oxygen and Nitrogen Production Subcategory

§ 415.490 Applicability; description of the oxygen and nitrogen production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oxygen and nitrogen by air liquification.

§ 415.491 Specialized definitions. [Reserved]

§ 415.492 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AW—OXYGEN AND NITROGEN

Pollution or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Oil and grease	0.0020	0.0010
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AX—Potassium Chloride Production Subcategory

§ 415.500 Applicability; description of the potassium chloride production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium chloride by the Trona process and by the mining process.

§ 415.501 Specialized definitions. [Reserved]

§ 415.502 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters, except that residual brine and depleted liquor may be returned to the body of water from which the process brine solution was originally withdrawn.

Subpart AY—Potassium Iodide Production Subcategory

§ 415.510 Applicability; description of the potassium iodide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of potassium iodide.

§ 415.511 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this Chapter shall apply to this subpart.

(b) The term "product" shall mean potassium iodide.

§ 415.512 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART AY—POTASSIUM IODIDE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.090	0.030
Sulfide	0.015	0.0050
Iron	0.015	0.0050
Barium	0.0090	0.0030
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

Subpart AZ—Potassium Permanganate Production Subcategory—[Reserved]

Subpart BA—Silver Nitrate Production Subcategory

§ 415.530 Applicability; description of the silver nitrate production subcategory

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the production of silver nitrate.

§ 415.531 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" shall mean silver nitrate.

(c) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(d) The term "process wastewater pollutants" means pollutants present in process wastewater.

(e) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.532 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BA—SILVER NITRATE

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
Silver	0.0090	0.0030
TSS	0.069	0.023
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.533 [Reserved]

§ 415.534 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BA—SILVER NITRATE

Pollution or pollutant property	PSES limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligram per liter (mg/l)	
Silver	1.0	0.5

Subpart BB—Sodium Bisulfite Production Subcategory

§ 415.540 Applicability; description of the sodium bisulfite production subcategory.

This subpart applies to discharges to waters of the United States and introduction of pollutants into publicly owned treatment works resulting from the production of sodium bisulfite.

§ 415.541 Specialized definitions.

For the purposes of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "product" means sodium bisulfite.

§ 415.542 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

SUBPART BB—SODIUM BISULFITE

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
TSS	0.32	0.099
COD	3.8	0.95
Chromium (T)	0.0020	0.00068
Zinc (T)	0.0051	0.0015
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 415.543 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT): The limitations on COD, Chromium(T), and Zinc(T) are the same as specified in § 415.542.

§ 415.544 [Reserved]

§ 415.545 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS): The limitations are the same as specified in § 415.542.

§ 415.548 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart which introduces pollutants into a

pulbicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS): The limitations are the same as specified in § 415.544.

§ 415.547 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–125.32 any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT): The limitations are the same for TSS and pH as specified in § 414.542.

Subpart BC—Sodium Fluoride Production Subcategory

§ 415.550 Applicability; description of the sodium fluoride production subcategory.

The provisions of this subpart are applicable to discharges and to the introduction of pollutants into publicly owned treatment works resulting from the production of sodium fluoride by the anhydrous neutralization process and by the silico fluoride process.

§ 415.551 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control, such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.552 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control techology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

§ 415.553 [Reserved]

§ 415.554 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 493.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART BC—SODIUM FLUORIDE

Pollution or pollutant property	PSES effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Fluoride	59	25

Subpart BD—Sodium Hydrosulfide Production Subcategory [Reserved]

Subpart BE—Sodium Hydrosulfite Production Subcategory [Reserved]

Subpart BF—Sodium Silicofluoride Production Subcategory [Reserved]

Subpart BG—Sodium Thiosulfate Production Subcategory [Reserved]

Subpart BH—Stannic Oxide Production Subcategory

§ 415.600 Applicability; description of the stannic oxide production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of stannic oxide by the reaction of tin metal with air or oxygen.

§ 415.601 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated nonprocess wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, byproduct or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.602 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

Subpart BI—Sulfur Dioxide Production Subcategory [Reserved]

Subpart BJ—Zinc Oxide Production Subcategory [Reserved]

Subpart BK—Zinc Sulfate Production Subcategory

§ 415.630 Applicability; description of the zinc sulfate production subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of zinc sulfate.

§ 415.631 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The term "process wastewater" does not include contaminated non-process wastewater, as defined below.

(c) The term "process wastewater pollutants" means pollutants present in process wastewater.

(d) The term "contaminated non-process wastewater" shall mean any water which, during manufacturing or processing, comes into incidental contact with any raw material, intermediate product, finished product, by-product or waste product by means of (1) rainfall runoff; (2) accidental spills; (3) accidental leaks caused by the failure of process equipment, which are repaired within the shortest reasonable time not to exceed 24 hours after discovery; and (4) discharges from safety showers and related personal safety equipment: Provided, that all reasonable measures have been taken (i) to prevent, reduce and control such contact to the maximum extent feasible; and (ii) to mitigate the effects of such contact once it has occurred.

§ 415.632 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT): There shall be no discharge of process wastewater pollutants to navigable waters.

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Part IV

Department of Health and Human Services

Food and Drug Administration

Boil Ointment Drug Products for Over-the-Counter Human Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 82N-0054]

Boil Ointment Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would classify boil ointment drug products for over-the-counter (OTC) human use as not generally recognized as safe and effective and as being misbranded. This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by September 27, 1982 and reply comments by October 27, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on December 14, 1980 a report on OTC boil ointment drug products from the Advisory Review Panel on OTC Miscellaneous External Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed order containing: (1) The monograph recommended by the Panel, which establishes conditions under which OTC boil ointment drug products are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify such conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The Panel's recommendations on OTC boil ointment drug products contain no Category I or Category III conditions, and FDA is issuing the Panel's recommendations proposing Category II classification of OTC boil ointment drug products.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations that the ingredients in OTC boil ointment drug products be classified as Category II. If the agency proposes to adopt the Panel's recommendations, a regulation declaring these products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) will be proposed for inclusion in Part 310, Subpart E (21 CFR Part 310, Subpart E). The agency is including, in this advance notice of proposed rulemaking, a regulation based upon the Panel's recommendations in order to obtain full public comment at this time.

After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a notice of proposed rulemaking on OTC boil ointment drug products. The agency's position on OTC boil ointment drug products will be stated initially when that notice of proposed rulemaking is published in the **Federal Register**. In the notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the notice of proposed rulemaking is published. At that time FDA also will consider whether the proposed rule has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979; 44 FR 71742).

The agency invites public comment regarding any impact that this rulemaking would have on OTC boil ointment drug products. Types of impact may include, but are not limited to, the following: increased costs due to relabeling, repackaging, or reformulating; removal of unsafe or ineffective products from the OTC market; and testing, if any. Comments regarding the impact of this rulemaking on OTC boil ointment drug products should be accompanied by appropriate documentation.

If FDA proposes to adopt the Panel's recommendations, the agency will propose that boil ointment drug products be eliminated from the OTC market, effective 6 months after the date of publication of a final rule in the **Federal Register**, regardless of whether further testing is undertaken to justify their future use.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC boil ointment drug products submitted for consideration by the Panel. All this information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after July 29, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address above).

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1982 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous external drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31697). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of

disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in drug product in a modified form intended to furnish the specified activity or effect." An "inactive ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the Federal Register of August 27, 1975 (40 FR 38179) a notice supplemented the initial notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous external drug products to be considered in the OTC drug review. The list, which included boil ointment active ingredients, was provided to give guidance on the kinds of active ingredients for which data should be submitted. The notices of November 16, 1973, and August 27, 1975, informed OTC drug product manufacturers of the opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a) (1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these miscellaneous extenal drug products:

William E. Lotterhos, M.D., Chairman
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976)
George C. Cypress, M.D. (resigned November 1978)
Yelva L. Lynfield, M.D. (appointed October 1977)
Harry E. Morton, Sc. D.
Marianne N. O'Donoghue, M.D.
Chester J. Rossi, D.P.M.
J. Robert Hewson, M.D. (appointed September 1978)

Representatives of consumer and industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union, served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

Two nonvoting consultants, Albert A. Belmonte, Ph. D., and Jon J. Tanja, R.Ph., M.S., have provided assistance to the Panel since February 1977.

The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Authur Auer until September 1978, followed by John T. McElroy, J.D. Thomas D. DeCillis, R.Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D. Joseph Hussion, R.Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for OTC boil ointment drug products in this document. The Panel's findings on other categories of miscellaneous external drug products are being published periodically in the Federal Register.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on February 27 and 28, April 3 and 4, December 11 and 12, 1977; April 16 and 17, 1978; October 5 and 6, November 7 and 8, and December 14, 1980.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above).

No individuals requested to appear before the Panel to discuss OTC boil ointment drug products, nor was any individual requested to appear by the Panel.

The Panel has thoroughly reviewed the literature and data submissions, and has considered all pertinent information submitted through December 14, 1980 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations in § 330.10, the Panel classified OTC boil ointment drug products with respect to the following three categories:

Category I. Conditions under which OTC boil ointment drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC boil ointment drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel considered 24 active ingredients in boil ointment drug products and classified all ingredients in Category II.

In an attempt to make this review as extensive as possible and to aid manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or use in marketed products, as active ingredients contained in boil ointment products. Notices were published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC boil ointment drug products.

A. Submissions of Data and Information

Pursuant to the above notices, the following submissions were received:

Firms and Marketed Products

Bowman Pharmaceuticals, Inc., Canton, OH 44702—Bowman Drawing Paste
Commerce Drug Co., Inc., Farmingdale, NY 11735—Boil-Ease
Press Chemical and Pharmaceutical Laboratories, Inc., Columbus, OH 43206—Epsal Ointment

B. Ingredients

1. *Labeled ingredients contained in marketed products submitted to the Panel.*

Benzocaine
Camphor
Ichthammol
Juniper tar (oil of cade)
Magnesium sulfate
Phenol
Rosin
Thymol

2. *Other ingredients.* The following list contains ingredients which appeared in the call-for-data notice published in the Federal Register of August 27, 1975 (40 FR 38179) and were not contained in marketed products submitted to the Panel.

Aminoacridine hydrochloride
Bismuth subnitrate
Cholesterol
Extract of ergot
Hexachlorophene
Isobutyl para-aminobenzoate
Lanolin
Menthol
Mercurous chloride
Methyl salicylate
Oil of sassafras
Oxyguinoline sulfate
Petrolatum
Pine tar
Rosin cerate
Zinc oxide

C. Classification of Ingredients

The Panel did not specifically review any of the ingredients in paragraph B. above. The Panel, however, recommends that all of these ingredients or any other ingredients contained in products labeled as boil ointments be placed in Category II. This recommendation is based on the Panel's conclusion that self-treatment of boils is not desirable because improper treatment or a delay in receiving proper professional treatment may cause the infection to spread. (See paragraph E. below—General Discussion.)

D. Referenced OTC Volumes

The "OTC Volumes" cited in this document include submissions made by interested persons in response to the call-for-data notices published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All of the information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after July 29, 1982. In the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

E. General Discussion

A boil or furuncle can be defined as an abscess or pyogenic infection of a sweat gland or hair follicle, usually caused by *Staphylococcus aureus* (Refs. 1 and 2).

Most adults are continously exposed to staphylococci, but overt infection is infrequent. Approximately 5 percent of the population has one symptomatic staphylococcal infection per year, but these infections are usually minor (Ref. 3). The nasal reservoir appears to be the major source for dissemination of *S. aureus* and infection. Occasionally lesions of sporotrichosis or skin infiltration with neoplastic cells will resemble boils caused by staphylococcal infection. These lesions can be differentiated from boils by the failure to demonstrate staphylococci by culture or by a gram stain, by culturing *Sporothrix schenckii*, or by demonstrating leukemic or other neoplastic cells on biopsy (Ref. 3). Certain anaerobic bacteria may play a more important role in chronic skin ulcers, decubiti (bed sores), or soft tissue abscesses around the neck or perineal area (Ref. 3).

Some small boils recede without specific therapy. Sometimes moist heat allows a boil to point and drain spontaneously (Refs. 2 and 4). When boils become localized and show fluctuance (central softening indicating pus formation), incision and drainage by a doctor will hasten healing (Refs. 3 and 5). The use of systemic antimicrobial therapy is indicated for boils associated with a surrounding redness or those associated with fever, or located on the upper lip, nose, cheeks, or forehead (Refs. 2 and 5). Because there is a marked variability in the susceptibility of staphylococci to the commonly utilized antimicrobial agents, the responsible organism should be isolated and tested for susceptibility to antibiotics (Ref. 3).

Three submissions were received by the Panel (Refs. 6, 7, and 8). One of these submissions contained a brief statement on the effectiveness of a saturated solution of magnesium sulfate in a hydrophilic ointment base and described the product as "a drawing ointment for pimples, blackheads, boils, and carbuncles" (Ref. 8). The Panel concludes that drawing salves to treat boils do not have any merit. Self-treatment of boils is not in the best interest of the consumer because improper treatment or a delay in receiving proper professional treatment for boils may cause the infection to spread. Therefore, the Panel concludes that any product containing an ingredient listed in paragraph B. above, or any other product labeled for use as an OTC boil treatment, is Category II.

References

(1) "Dorland's Illustrated Medical Dictionary," W. B. Saunders Co., Philadelphia, p. 624, 1979.

(2) Arndt, K. A., "Manual of Dermatologic Therapeutics", 2d Ed., Little, Brown, and Co., Boston, pp. 25–31, 1978.

(3) Hoeprich, P. D., editor, "Infectious Diseases," 2d Ed., Harper and Row, Hagerstown, MD, pp. 785–793, 1977.

(4) "Determatologic Disorders," *in* "The Merck Manual," 13th Ed., edited by R. Berkow, Merck, Sharp, and Dohme Research Laboratories, Rahway, NJ, p. 1577, 1977.

(5) Domonkos, A. N., "Andrews' Diseases of the Skin," 6th Ed., W. B. Saunders Co., Philadelphia, pp. 273–274, 1971.

(6) OTC Volume 160005.

(7) OTC Volume 160182.

(8) OTC Volume 160214.

List of Subjects in 21 CFR Part 310

New drugs.

PART 310—NEW DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended in Part 310 by adding to Subpart E new § 310.531, to read as follows:

§ 310.531 Drug products containing active ingredients offered over-the-counter (OTC) for external use as boil ointments.

Aminoacridine hydrochloride, benzocaine, bismuth subnitrate, camphor, cholesterol, extract of ergot, hexachlorophene, ichthammol, isobutyl *para*-aminobenzoate, juniper tar (oil of cade), lanolin, magnesium sulfate, menthol, mercurous chloride, methyl salicylate, oil of sassafras, oxyquinoline sulfate, petrolatum, phenol, pine tar, rosin, rosin cerate, thymol, and zinc oxide have been present as ingredients in drug products for external use as boil ointments. There is a lack of adequate data to establish the safety and effectiveness of these, or any other, ingredients for OTC external use as boil ointments. therefore, any OTC drug product containing ingredients offered for external use as a boil ointment cannot be considered generally recognized as safe and effective.

(b) Any OTC drug product that is labled, represented, or promoted for external use as a boil ointment is misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act and is regarded as a new drug within the meaning of section 201(p) of the act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted OTC as a boil ointment for external use is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any such drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

Interested persons may, on or before July 29, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62,, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance

notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before October 27, 1982. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: June 21, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-17481 Filed 6-28-82; 8:45 am]

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June 29, 1982

Part V

Department of Health and Human Services

Food and Drug Administration

Pediculicide Drug Products for Over-the-Counter Human Use; Establishment of a Monograph; Advance Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 81N-0201]

Pediculicide Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing an advance notice of proposed rulemaking that would establish conditions under which over-the-counter (OTC) pediculicide drug products are generally recognized as safe and effective and not misbranded.) Pediculicide drug products are used for the treatment of head, pubic (crab), and/or body lice.) This notice is based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments by September 27, 1982, and reply comments by October 27, 1982.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305) Food and Drug Adminsitration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on December 15, 1980 a report on OTC pediculicide drug products from the Advisory Review Panel on OTC Miscellaneous External Drug Products. FDA regulations (21 CFR 330.10(a)(6)) provide that the agency issue in the **Federal Register** a proposed order containing: (1) The monograph recommended by the Panel, which establishes conditions under which OTC pediculicide drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drug's not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify these conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. The Panel's findings appear in this document to obtain public comment before the agency reaches any decision on the Panel's recommendations. This document represents the best scientific judgment of the Panel members, but does not necessarily reflect the agency's position on any particular matter contained in it. After reviewing all comments submitted in response to this document, FDA will issue in the **Federal Register** a tentative final monograph for OTC pediculicide drug products as a notice of proposed rulemaking. Under the OTC review procedures, the agency's position and proposal are first stated in the tentative final monograph, which has the status of a proposed rule. Final agency action occurs in the final monograph, which has the status of a final rule.

The agency's position on OTC pediculicide drug products will be stated initially when the tentative final monograph is published in the **Federal Register** as a notice of proposed rulemaking. In that notice of proposed rulemaking, the agency also will announce its initial determination whether the proposed rule is a major rule under Executive Order 12291 and will consider the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The present notice is referred to as an advance notice of proposed rulemaking to reflect its actual status and to clarify that the requirements of the Executive Order and the Regulatory Flexibility Act will be considered when the tentative final monograph is published. At that time FDA also will consider whether the monograph has a significant impact on the human environment under 21 CFR Part 25 (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742).

The agency invites public comment regarding any impact that this rulemaking would have on OTC pediculicide drug products. Types of impact may include, but are not limited to, the following: Increased costs due to relabeling, repackaging, or reformulating; removal of unsafe or ineffective products form the OTC market; and testing, if any. Comments regarding the impact of this rulemaking on OTC pediculicide drug products should be accompanied by appropriate documentation.

Historically, the agency has regarded aerosol products containing pyrethrins for use on humans to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), and these products can only be marketed after FDA has approved a new drug application for a specific product. Currently, there are no approved new drug applications for such products. Consequently, the Panel did not review the data (OTC Volume 160403) on an aerosol pediculicide product marketed in France. The marketer was referred to the appropriate offices within FDA for assistance. Anyone interested in marketing such an aerosol product should contact the Office of New Drug Evaluation, Division of Anti-Infective Drug Products (HFD-140) or the Division of Drug Labeling Compliance, OTC Compliance Branch (HFD-312).

The agency has permitted the OTC marketing of nonaerosol pediculicide drug products containing pyrethrins, pending a final monograph developed under the OTC drug review process, provided that the labeling includes certain warnings and cautions that the product (1) should not be used by persons sensitized to ragweed, (2) should not be inhaled, (3) should not be swallowed, (4) should not be used near the eyes, and (5) should not be allowed to come in contact with mucous membranes. The agency invites public comment on the appropriateness of including aerosol pediculicide drug products containing pyrethrins in this monograph and on the appropriate warnings that should be required for such products.

In accordance with § 330.10(a)(2), the Panel and FDA have held as confidential all information concerning OTC pediculicide drug products submitted for consideration by the Panel. All the submitted information will be put on public display in the Dockets Management Branch, Food and Drug Administration, after July 29, 1982, except to the extent that the person submitting it demonstrates that it falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address above).

FDA published in the **Federal Register** of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838

(D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III because that was the framework in which the Panel conducted its evaluation of the data.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 6 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions which would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce. Further, any OTC drug products subject to this monograph which are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to voluntarily comply with the monograph at the earliest possible date.

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OCT miscellaneous external drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31697). (In making their categorizations with respect to "active" and "inactive" ingredients, the advisory review panels relied on their expertise and understanding of these terms. FDA has defined "active ingredient" in its current good manufacturing practice regulations (§ 210.3(b)(7), (21 CFR 210.3(b)(7))), as "any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in the drug product in a modified form intended to furnish the specified activity or effect." An "active ingredient" is defined in § 210.3(b)(8) as "any component other than an 'active ingredient.' ") In the **Federal Register** of August 27, 1975 (40 FR 38179), a notice supplemented the original notice with a detailed, but not necessarily all-inclusive, list of ingredients in miscellaneous external drug products. This list, which included parasiticide (pediculicide) ingredients, was provided to give guidance on the kinds of active ingredients for which data should be submitted. The notices of November 16, 1973, and August 27, 1975, informed OTC drug product manufacturers of their opportunity to submit data to the review at that time and of the applicability of the monographs from the OTC drug review to all OTC drug products.

Under § 330.10(a) (1) and (5), the Commissioner of Food and Drugs appointed the following Panel to review the information submitted and to prepare a report on the safety, effectiveness, and labeling of the active ingredients in these OTC miscellaneous external drug products:

William E. Lotterhos, M.D., chairman
Rose Dagirmanjian, Ph. D.
Vincent J. Derbes, M.D. (resigned July 1976)
George C. Cypress, M.D. (resigned November 1978)
Yelva L. Lynfield, M.D. (appointed October 1977)
Harry E. Morton, Sc. D.
Marianne N. O'Donoghue, M.D.
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J. Robert Hewson, M.D. (appointed September 1978)

Representatives of consumer an industry interests served as nonvoting members of the Panel. Marvin M. Lipman, M.D., of Consumers Union served as the consumer liaison. Gavin Hildick-Smith, M.D., served as industry liaison from January until August 1975, followed by Bruce Semple, M.D., until February 1978. Both were nominated by the Proprietary Association. Saul A. Bell, Pharm. D., nominated by the Cosmetic, Toiletry, and Fragrance Association, also served as an industry liaison since June 1975.

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The following FDA employees assisted the Panel: John M. Davitt served as Executive Secretary until August 1977, followed by Arthur Auer until September 1978, followed by John T. McElroy, J.D. Thomas D. DeCillis, R.Ph., served as Panel Administrator until April 1976, followed by Michael D. Kennedy until January 1978, followed by John T. McElroy, J.D. Joseph Hussion, R.Ph., served as Drug Information Analyst until April 1976, followed by Victor H. Lindmark, Pharm. D., until March 1978, followed by Thomas J. McGinnis, R.Ph.

The Advisory Review Panel on OTC Miscellaneous External Drug Products was charged with the review of many categories of drugs. Due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for OTC pediculicide drug products in this document. The Panel's findings on other categories of miscellaneous extenal drug products are being published periodically in the **Federal Register.**

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings which dealt with the topic in this document were held on April 20 and 21, June 27 and 28, August 15 and 16, September 28 and 29, November 9 and 10, 1975; February 20 and 21, April 2 and 3, May 16 and 17, June 11 and 12, July 11 and 12, 1976; June 11 and 12, August 11 and 12, September 17 and 18, 1978; October 28 and 29, 1979; January 27 and 28, April 20 and 21, June 22, and 23, August 3 and 4, October 5 and 6, November 7 and 8, and December 14 and 15, 1980.

The minutes of the Panel meetings are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration (address above).

The following individuals were given an opportunity to appear before the Panel, either at their own request or at

the request of the Panel, to express their views on pediculicide drug products:

M. Kaminsky, Ph. D.
Renate Kimbrough, M.D.
Robert Menzer, Ph. D.
M. W. Rosenthal, Ph. D.
David Taplin, M.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent information submitted through December 15, 1980 in arriving at its conclusions and recommendations.

In accordance with the OTC drug review regulations set forth in § 330.10, the Panel reviewed OTC pediculicide drug products with respect to the following three categories:

Category I. Conditions under which OTC pediculicide drug products are generally recognized as safe and effective and are not misbranded.

Category II. Conditions under which OTC pediculicide drug products are not generally recognized as safe and effective or are misbranded.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel reviewed 17 ingredients in pediculicide drug products and classified 2 ingredients in Category I as a combination, 13 ingredients in Category II, and no ingredients in Category III. Two ingredients were classified as inactive.

I. Submission of Data and Information

In an attempt to make this review as extensive as possible and to aid manufacturers and other interested persons, the agency compiled a list of ingredients recognized, either through historical use or in marketed products, as parasiticide (pediculicide) active ingredients. The following inredients were identified: alkaloids of sabadilla, aqueous coconut oil soap, benzocaine, benzyl benzoate, dichlorodiphenyl trichloroethane, isobornyl thiocyanoacetate, petroleum distillate, picrotoxin, piperonyl butoxide, pyrethrins, sublimed sulfur, and thiocyanoacetate. Notices were published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on these ingredients or any other ingredients used in OTC parasiticide (pediculicide) drug products.

A. Submissions

Pursuant to the above notices, the following submissions were received:

Firms	Marketed products
Block Drug Co., Inc., Jersey City, NJ 07302.	Dolex.
Commerce Drug Co., Farmingdale, NY 11735.	Barc.
Laboratoires Applipharm, Marseille, France.	PARA-2.
Norcliff Thayer, Inc., Tuckahoe, NY 10707.	A-200 Pyrinate.
Pfizer Pharmaceuticals, New York, NY 10017.	Rid.
Related submissions were received from:	
Fairfield America Corporation, Middleport, NY 14105.	Pediculosis control.
FMC Corporation, Middleport, NY 14105.	Pediculosis control.

Data were also submitted by FDA's Division of Drug Experience reporting an adverse reaction associated with the use of lindane in treating pediculosis. Because no safety and effectiveness data were submitted for lindane, and because the Panel believes that lindane should be used only under the advice and supervision of a doctor, the Panel did not consider the use of lindane in this document.

B. Ingredients Reviewed by the Panel

1. *Labeled ingredients contained in marketed products submitted to the Panel.*

Benzyl alcohol
Deodorized kerosene
Dioctyl sodium sulfosuccinate
Isobornyl; thiocyanoacetate
Petroleum distillate
Piperonyl butoxide
Propylene glycol
Pyrethrins

2. *Other ingredients reviewed by the Panel.*

Alkaloids of sabadilla
Aqueous coconut oil soap
Benzocaine
Benzyl benzoate
Copper oleate
Dichlorodiphenyl trichloroethane (DDT)
Picrotoxin
Sublimed sulfur
Thiocyanoacetate

C. Classification of Ingredients

1. *Active ingredients.*

Piperonyl butoxide
Pyrethrins
Isobornyl thiocyanoacetate

2. *Inactive ingredients*

Deodorized kerosene
Petroleum distillate

3. *Other ingredients.* The Panel was neither able to locate nor is it aware of any data demonstrating the safety and effectiveness of the following ingredients when used as OTC pediculicide active ingredients. The Panel, therefore, classifies these ingredients as Category II for this use, and they will not be discussed further in this document.

Alkaloids of sabadilla
Aqueous coconut oil soap
Benzocaine
Benzyl alcohol
Benzyl benzoate
Copper oleate
Dichlorodiphenyl trichloroethane (DDT)
Dioctyl sodium sulfosuccinate
Picrotoxin
Propylene glycol
Sublimed sulfur
Thiocyanoacetate

D. Referenced OTC Volumes

The "OTC Volumes" cited throughout this document include submissions made by interested persons in response to the call-for-data notices published in the Federal Register of November 16, 1973 (38 FR 31697) and August 27, 1975 (40 FR 38179). All the information included in these volumes, except for those deletions which are made in accordance with confidentiality provisions set forth in § 330.10(a)(2), will be put on public display after July 29, 1982, in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

II. General Discussion

The Panel notes that the call-for-data notices published in the Federal Register requested data and information on "parasiticides." The Panel believes that the term "pediculicide" is a more accurate description of the pharmacologic category of these drugs. Therefore, throughout this document, the panel will refer to these products as pediculicides.

Pediculosis is a skin infestation caused by blood-sucking lice. Three varieties of lice attact man: *Pediculus humanus capitit* (head louse), *Pediculus humanus corporis* (body louse), and *Phthirus pubis* (pubic or crab louse).

There are no recent data on the incidence or prevalence or pediculosis in the United States, although outbreaks have been reported in elementary, middle, and high schools, "hippie communities," and institutions (Ref. 1). There has been a sharp increase in the frequency of head lice and pubic lice in the United States in all socioeconomic classes. The Center for Disease Control (CDC) has found that head louse infestations are as common in children with short hair as those with long hair; however, infestation is more common among females. Blacks are infested much less ferquently (Ref. 1).

Adult and nymphal lice (a stage of development just prior to adult) are

hematophagous (blood feeding). As they feed, saliva is introduced into the site of puncture, causing an erythematous papule (small, raised, reddended area) within hours. The papules itch, and as a consequence of scratching, secondary bacterial infection may occur.

On microscopic examination, swelling, infiltration with lymphocytes, and the extravasation (discharge) of erythrocytes are found. A residual pigmentation of the skin from bleeding and scratching is characteristic of lesions from long continued infestations, particularly with crab lice.

Both the head louse and the crab louse attach their shiny, operculate (having a lid) eggs (nits) to hairs. The head louse usually attaches to head hairs, and the crab louse usually attaches to pubic and perianal hairs, although they sometimes are found in other locations. The body louse, more often associated with people living under congested conditions, lays its eggs in the seams of clothing.

Head lice, which measure approximately 1 to 2 millimeters (mm) long, may be visible; but frequently only the nits are seen, most commonly on hair behind the ears or on the nape of the neck about one-fourth inch from the scalp (Ref. 1). One must be careful not to confuse hairspray globules or other extraneous debris with nits (Refs. 1 and 2). Intense itching of the scalp is common with head lice, and affected hairs may become lusterless and dry. Because of scratching, secondary complications of impetigo and furunculosis (a sequential occurrence of boils) are fairly common (Ref. 2). Pustular eczema may occur.

Head lice are readily spread from head to head when there is close contact, by means of hats and scarfs hung close together in schools and public places, through the fitting of headgear in stores, and the common use of hats, scarfs, combs, and brushes. When hair from a person with lice is shed, nits may be attached. Bed linen may also be a source of transmission.

Sources of head lice transmission such as scarfs, hats, coats, and bed linen should be disinfected by machine washing in hot water and drying, using the hot cycle of a dryer for at least 20 minutes. Personal articles of clothing that cannot be washed may be disinfected by dry-cleaning or by sealing them in a plastic bag for a period of about 2 weeks (Ref. 3). Personal combs and brushes may be disinfected by soaking in hot water (above 130° F) for 5 to 10 minutes. Thorough vacuuming of rooms inhabited by infected patients is recommended (Ref. 3).

Except in extreme infestations, long-haired persons with head lice need not be shorn, because modern pediculicidal preparations are efficient.

Pediculicides will not dissolve the cement that binds the nits to the hairs. Persistence of dead nits on hair shafts after treatment is common and should not be taken as evidence of infestation. Dead and empty nits will remain attached to the hairs and be unsightly as well as confusing to those who cannot distinguish between live and dead nits; therefore, it may be desirable to remove them by combing with a fine-toothed comb (Ref. 2).

The crab louse is morphologically (structurally) distinct from other species of lice and can survive away from the human host for only about 24 hours. The crab louse is about 1 mm long, is oval in shape, and has greatly enlarged second and third pairs of legs with large claws that give it a crab-like appearance (Ref. 3). Crab lice cause pale, bluish gray blotches at the site of the bites, resulting in slight discomfort to intolerable itching that may lead to scratching and secondary infections (Ref. 4). Crab lice may be spread through sexual contact, by bedding and toilet seats, and through the shared use of towels and articles of clothing. Any sexual partners of a patient with crab lice should be treated simultaneously (Refs. 4 and 5), and personal articles of clothing should be disinfected by the same procedure as outlined for head lice (Ref. 5). Unlike head lice, the occurrence of crab lice is equally common both in black and white individuals (Ref. 4).

Body lice live chiefly in the seams of clothing, particularly where there is close contact between garment and wearer, such as the waistline and armpits (Ref. 5). The lice move to the skin to feed and then return to the seams of the clothing. The bites cause general itching, reddish blotches, urticarial wheals (raised, itchy, reddened area), and excoriated papules (a solid circumscribed elevation of abraded, scratched skin) (Ref. 5). A pigmented thickening of the skin with parallel linear scratch marks from continued rubbing and scratching is often observed (Ref. 2).

Body lice can survive longer off the host (4 to 10 days) than head lice; the eggs also survive longer off the host (up to 30 days). The body louse has been found to transmit louse-borne typhus, relapsing fever, and trench fever (Ref. 3). Personal articles of clothing should be disinfected by the same procedure as outlined for head lice except that sealing clothing in a plastic bag is not recommended for body lice because the nits from these lice can remain dormant for a period of up to 30 days (Ref. 3).

References

(1) Slonka, G. F., et al., "Controlling Head Lice," U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Atlanta, GA, pp. 1–15, February 1975.

(2) Arndt, K. A., "Manual of Dermatologic Therapeutics with Essentials of Diagnosis," Little, Brown, and Co., Boston, pp. 127–135, 1978.

(3) Juranek, D. D., "Pediculicides and Scabicides," *in* "Handbook of Drug Therapy," edited by R. R. Miller and D. J. Greenblatt, Elsevier North Holland, Inc., New York, pp. 248–259, 1979.

(4) Felman, Y. M., and J. A. Nikitas, "Sexually Transmitted Diseases; Pediculosis Pubis," *CUTIS; Cutaneous Medicine for the Practitioner*, 25:482–489, 1980.

(5) Orkin, M., E. Epstein, and H. I. Maibach, "Treatment of Today's Scabies and Pediculosis," *Journal of the American Medical Association*, 236:1136–1139, 1976.

III. Categorization of Data

A. Category I Conditions

The following are Category I conditions under which drug products used as pediculicides are generally recognized as safe and effective and are not misbranded.

1. *Category I ingredients.* The following ingredients are discussed as a combination with respect to their action as a pediculicide and not as single ingredients:

Pyrethrins with piperonyl butoxide. The Panel concludes that the combination of pyrethrins with piperonyl butoxide is safe and effective for OTC use as a pediculicide drug product.

Pyrethrins when used as a pediculicide are generally formulated with an adjuvant. An adjuvant is an active ingredient that is used to increase the pharmacologic or toxic effect of another active ingredient. The action of an adjuvant is said to be additive when the adjuvant produces its effect by acting on the same site as the active ingredient. An adjuvant is said to be a synergist when it acts through a different biological mechanism than the active ingredient. An example of a synergistic adjuvant used in toxicologic formulations is the addition of piperonyl butoxide to pyrethrins. The piperonyl butoxide will enhance the insecticidal activity of the pyrethrins (Ref. 1) by inhibiting the oxidative breakdown of the pyrethrins by the insect's detoxification system. This increases the amount of time the pyrethrins can exert their toxic effect on the insect (Refs. 2, 3, and 4).

Piperonyl butoxide, first introduced in 1947 by Wachs (Ref. 3), is a pale yellow, oily liquid. It is odorless, stable, noncorrosive, and has a slightly bitter taste. Piperonyl butoxide is soluble in organic solvents, such as petroleum oil.

The pyrethrins are fast-acting insecticides obtained from the flowers of the commercially grown plant *Chrysanthemum cinerariaefolium* (Ref. 2). The pyrethrins are esters that are formed by the combination of two acids, chrysanthemic acid and pyrethric acid, and three alcohols, pyrethrolone, cinerolone, and jasmolone. Two fractions are formed during the combination. The pyrethrins I fraction, or the esters of chrysanthemic acid, are pyrethrin I, cinerin I, and jasmolin I. The esters of pyrethric acid, known as the pyrethrins II fraction, are pyrethrin II, cinerin II, and jasmolin II (Ref. 5). The pyrethrin content ranges from 0.7 percent (flowers from Dalmatia) to as high as 3 percent (flowers from Kenya). The active constituents reach their highest concentration in mature flower heads (Ref. 6).

Pyrethrins are brown, viscous, liquid oleoresins. They have a high boiling point and are insoluble in water. Pyrethrins are rapidly oxidized, inactivated in air, and lose some of their insecticidal activity when exposed to light (Ref. 6).

Much of the pyrethrum flowers are produced in Kenya and Tanzania. The pyrethrum flowers are dried, ground, and extracted with hexane or isohexane. The crude oleoresin (mixture of resins and essential oils) is obtained when the solvent is evaporated. Rather than shipping the flowers in bulk, extraction and refining are done prior to shipment (Ref. 7).

Two methods are used in obtaining the crude oleoresin. One method, the batch system, is percolation with petroleum ether. The second method, a series of liquid-liquid extractions with petroleum ether, is a continuous flow system. In both systems, the petroleum ether is vaporized, distilled, recovered, and used again. The oleoresin containing the pyrethrins is left behind. In some areas, the crude oleoresin is separated by centrifugal force to remove some of the heavier solids. In other areas, the oleoresin is standardized with a petroleum solvent, such as deodorized kerosene, to a 25-percent solution. The pyrethrum concentrations may vary from 25 percent to 35 percent (Ref. 7).

The reduction and refinement of the crude oleoresin containing the pyrethrins produces a light-colored, relatively nonstaining extract (Ref. 7). Several methods have been formulated and patented.

Moore (Ref. 7) states that a refining process, based on a solvent system, was developed. The crude, pyrethrin-containing extract is mixed with 95 percent aqueous methyl alcohol. The aqueous alcohol layer is drawn off, and the alcohol layer is then removed by distillation at a temperature below 75° C. The residue is then suspended in a low-boiling, saturated, aliphatic hydrocarbon. The mixture is filtered, and the hydrocarbon removed by distillation. The final pyrethrin residue is dissolved in an organic solvent, such as kerosene or refined kerosene.

Moore (Ref. 7) also states that a solvent extraction process for the refinement of the pyrethrum extract or oleoresin has been patented. The oleoresin is mixed with an equal weight of anhydrous methanol. The methanol extract is cooled to a temperature below 15° C. This will cause the waxy residue to precipitate. The waxy residue is treated with methanol to recover any pyrethrins that may have been abosorbed by the wax. The dewaxed methanol solutions are decolorized with carbon, and the methanol is distilled off the solutions. Inactive solids are removed when the residue is placed in a hydrocarbon solution. The hydrocarbon solution is concentrated to the standardized form or extract by distillation.

The above two processes have a high recovery of pyrethrins, about 95 percent. Due to the low temperature used in each method, the possibility that the molecular structure of the pyrethrins will change is decreased (Ref. 7).

Moore (Ref. 7) also cites the process patented by Ward for making a refined extract directly from the pyrethrum flowers. The undried flowers are extracted with aqueous methanol (5 percent to 40 percent water, by weight) followed by a liquid-liquid partition extraction with a hydrocarbon solvent. This process works equally well with dried flowers. A light-colored, refined extract is produced. A distillation step is used to concentrate the extract to a standardized form. Recovery of the pyrethrins is about 92 percent. Other methods also exist, i.e., Cooper, Goldberg, and Haney processes, but the percent of pyrethrins recovered is not as great (Ref. 7).

a. *Safety.* Side effects from pyrethrins are uncommon. Contact dermatitis is the most frequent. In allergic individuals, asthma and rhinitis may be produced. Poisoning from pyrethrins may have several signs and symptoms. Pyrethrin insecticides when injected or inhaled are capable of causing nausea, vomiting, muscular paralysis, and even death, but severe poisoning from pyrethrins is rare. More often, the reactions are due to other ingredients in pyrethrin preparations, such as the petroleum solvent (Ref. 8).

Pyrethrin compounds are poorly absorbed through the intact skin, but once absorbed are rapidly broken down in mammals. The fatal oral dose for man has been estimated to be 50 grams (g) per 70 kilograms (kg) (Ref. 1).

Piperonyl butoxide is also poorly absorbed through the skin (Ref. 3). The oral LD_{50} for piperonyl butoxide in rabbits is 2.5 g to 5 g/kg (Ref. 8).

A study (Ref. 9) was conducted to determine the 14-day LD_{50} value of two pyrethrin-piperonyl butoxide formulations (0.33 percent pyrethrins and 4 percent piperonyl butoxide in a gel vehicle, and 0.17 percent pyrethrins and 2 percent piperonyl butoxide in a liquid vehicle). Eighty rats were divided into two groups, and each group was further divided into four subgroups. The rats were fasted for 18 hours, but were allowed to drink water prior to dosing. One group received the liquid test material, while the other group used the pyrethrin-piperonyl butoxide gel. Each subgroup received a different dose of pyrethrins and piperonyl butoxide, amounting to 3.2, 4.0, 5.0, and 6.3 g/kg, respectively. The LD_{50} value for the liquid and the gel were similar. The LD_{50} for the 0.33 percent pyrethrin and 4 percent piperonyl butoxide formulation was reported to be from 3.90 to 5.07 g/kg, while the LD_{50} for the 0.17 percent pyrethrin and 2 percent piperonyl butoxide formulation was found to be 3.69 to 5.13 g/kg. Death of more than 50 percent of the rats was seen after dosage levels of 5 g/kg and above.

The potential of a commercial product containing 0.17 percent pyrethrin and 2 percent piperonyl butoxide to produce eye irritation was studied in monkeys (Ref. 9). Six monkeys were used in the study. The procedure called for instillation of 0.1 milliliter (mL) of the test material into the right eye of each monkey. The left eye was used as the control. The eyes were examined 1, 2, 3, 4, and 7 days after application of the test material. The results showed that the right eyes had signs of redness and a discharge, although there was no effect on the iris or cornea. It was concluded from these results that the test material was slightly irritating.

Twelve albino rabbits were used to test a marketed product (0.17 percent pyrethrins and 2 percent piperonyl butoxide) against a placebo for eye irritation (Ref. 10). Both eyes of each rabbit were examined before testing to assure that the eyes were free of defects or irritation. A measured amount (0.1

mL) of the test material was placed in the right eyes of six of the rabbits, and the same quantity of the placebo was placed in the right eyes of the other six rabbits. The left eye of each rabbit served as an untreated control. The eyes were examined after 2, 4, 48, and 72 hours for any changes. Both the pyrethrins and the placebo produced some irritation. The degree of irritation was similar; a discharge and redness occurred.

Zucker (Ref. 11) studied 106 patients who were allergic to ragweed or who had shown positive intradermal (within the skin) tests to unrefined pyrethrum extracts. Of 77 patients who showed a 2+ or stronger response to ragweed on a scale of 0 to 4+, 33 of the 77 patients (43 percent) also showed cross-sensitization to pyrethrum. Skin tests with refined pyrethrins showed 4 out of 106 patients (3.8 percent) had a definite positive reaction. Fourteen patients were given inhalation tests using the complete spray, and with direct exposure, seven showed no reaction. When further tested with pyrethrins, only two patients showed side effects, such as nose or throat discomfort (itching of dryness) and eye irritation. One of those patients failed to have a reaction when the exposure was again repeated. The allergic antigen (substance that stimulates production of specific antibody) was either absent or else was present in insignificant amounts in the refined pyrethrins used in this study.

A study (Ref. 12) was done to determine whether a product containing 0.3 percent pyrethrin and 3 percent piperonyl butoxide caused sensitivity in patients with known allergies to ragweed. Fifty patients were scratch tested for sensitivity to ragweed-protein fraction and patch tested for sensitivity to the ragweed-oleoresin fraction. A response of 2+ or more on a scale of 0 to 4+ or was the criterion used for sensitivity on both tests. Twelve patients were ragweed-sensitive on the patch test alone; 36 were senstive on the scratch test alone; and 2 were sensitive to both tests. Eight patients showed sensitivity to the unrefined pyrethrins and/or chrysanthemum flowers. These 50 patients were then scratch tested and patch tested with the undiluted product. No reactions were reported. Cross-sensitization to pyrethrins was absent in patients sensitive to the protein or oleoresin fractions of ragweed.

The irritation potential of a product containing 0.17 percent pyrethrin and 2 percent piperonyl butoxide was studied in rabbits (Ref. 9). Twelve rabbit were used. Six rabbits received two applications of a test material, while the other six rabbits had two applications of 0.33 percent pyrethrin and 4 percent piperonly butoxide. One application was done on intact skin, and the second application was done to an area in which the top layer had been rubbed off or abraded. A sample of 0.5 mL of test material was used with each application. Each area was covered by surgical gauze held in place by a plastic wrap, which prevented loss of the sample. The test material remained on the skin for 24 hours; then the plastic and gauze were removed and the area was cleaned.

Observations were made at 24 and 72 hours after the application of the test material. Slight redness and swelling were seen on both the intact and abraded skin areas 24 hours after the application of the pyrethrin. The skin sites appeared normal 48 hours later. The two pyrethrin and piperonyl butoxide formulations tested were not considered primary irritants.

A primary skin irritation study was performed on six closely clipped albino rabbits using a combination of 0.3 percent pyrethrin and 3.0 piperonyl butoxide (Ref. 13). There were two test sites for each rabbit, one on intact and one on abraded skin. The abrasions were minor cuts through the upper layer of skin, and 0.5 mL of test material was placed beneath a surgical gauze square. To keep the gauze in place, the animals were then wrapped with plastic sheeting secured with adhesive tape. The tape, plastic, and gauze were removed after 24 hours.

Signs of skin irritation were recorded at 24 and 72 hours after application. After 24 hours, results showed that on the abraded skin, four out of six rabbit had a slight redness and only two out of six showed signs of swelling. Observations of the intact skin revealed that two out of six rabbits exhibited a slight swelling and/or redness. No swelling or redness was present 72 hours after application of the pyrethrin to either intact or abraded skin.

Twenty children infested with head lice were selected for a study designed to determine the safety of a pyrethrin formulation (Ref. 14). The children ranged in age from 6 to 14 years. Children with ragweed allergies or skin problems were excluded. Each patient received three 10-minute applications of 0.3 percent pyrethrin formulated with 0.3 percent piperonyl butoxide. The time between each application was 1 week. Two ounces of the test material was left applied to each child's head. The test material was rubbed in so as to wet the hair and was washed with a mild shampoo and combed after each application.

Nine of 20 patients had side effects of swelling or redness of the skin. Four of nine had these signs prior to treatment, but the severity of the swelling and redness did not increase after application of the pyrethrin formulation. The swelling and redness disappeared after 3 days. In the other five children, the swelling and redness of the skin lasted only 30 to 75 minutes and were barely perceptible. All adult lice and nits were gone by the second application of the pyrethrin-piperonyl butoxide formulation. The side effects that were reported were mild and lasted a short time.

Two pyrethrin-piperonyl butoxide formulations, one a liquid containing 0.17 percent pyrethrin and 2 percent piperonyl butoxide and the other a gel containing 0.33 percent pyrethrin and 4 percent piperonyl butoxide, were studied in a group of 102 white females, with an age range of 20 to 50 years, to determine sensitization potential of the drug (Ref. 9). The back of each individual was thoroughly cleaned with 70 percent aqueous isopropyl alcohol. Next, a ½-inch square of white blotting paper completely soaked with the pyrethrin material was applied to the back and covered with an adhesive. The patch remained in contract with the skin for 48 hours. After the patch was removed, observations were made for any reactions. The procedure was repeated 10 times. Before each application, the skin was examined for any delayed responses.

Two weeks after the tenth application, a final patch was placed on the back of each individual. The patch remained in contact with the skin for 48 hours, at which time the skin was observed for irritation. A total of 1,116 patch applications of the liquid and 1,116 patch applications of the gel were made to the skin of 102 individuals (a total of 2,232 patches of both of the test materials) (Ref. 9). No immediate or delayed skin reactions were seen in any subject.

The Panel has reviewed conflicting reports on the allergenicity of ragweed-sensitive individuals to pyrethrin formulations. Because there is no standard extraction method of refining pyrethrins, the sensitive component may be present in one formulation and absent in another. Therefore, the Panel recommends the following warning for pediculicides containing pyrethrins: "Use with caution on persons allergic to ragweed."

b. *Effectiveness.* The insecticidal action of pyrethrins has not been

associated with the inhibition of any specific enzyme system or the disruption of a particular biochemical pathway. Neuropharmacological studies indicate that the primary mode of action probably involves the disruption of ion transport at nerve membranes (Ref. 2). Piperonyl butoxide enhances the effectiveness of pyrethrin by inhibiting enzymatic destruction in the insect.

Several in vitro studies were performed to determine the efficacy of two pyrethrin formulations with respect to time (Ref. 15). One study utilized a modified patch test in which square patches of dark corduroy were covered with 0.5 g of test material (either 0.17 percent pyrethrin and 2 percent piperonyl butoxide or 0.33 percent pyrethrin and 4 percent piperonyl butoxide). The lice were transferred to clean dark cotton corduroy patches, placed in clean 250 mL beakers, and incubated for 48 hours (at 82° F, relative humidity 80 percent). Death counts were taken, and lice were classified as dead, moribund (unable to crawl one body length), or alive. Moribund counts were added to dead counts.

When the study was conducted using 0.17 percent pyrethrin and 2 percent piperonyl butoxide, a 4-minute rinse (using water applied by a wash bottle) was done. Five trials and one control were done. The control patch was treated with 0.5 g of water and a 4-minute rinse. Death counts were taken at 24 and 48 hours.

For the 0.33 percent pyrethrin and 4 percent piperonyl butoxide formulation, six trials were run. In these trials, the lice were dipped in the test material and shaken every 10 seconds for a 2-minute period. Death counts were taken at 10 and 20 minutes, and 2, 24, and 48 hours after exposure. The lice in the other three trials were not rinsed before they were incubated. Death counts were taken at 10 and 30 minutes, and 2, 24, and 48 hours after exposure.

One test, a modified dip test, was done using the 0.17-percent pyrethrin and 2-percent piperonyl butoxide. Three different schedules were used. For each schedule, five male and five female lice was placed in a vial with a screen on the open end. The ends were placed into the pyrethrin liquid for a varied amount of time. For the first trial, the immersion time was 30 minutes with no rinse. The second trial had a 30-minute immersion time with a 2-minute rinse. During the third trial, the vials were submerged for 10 minutes with a 2-minute rinse. All the death counts were taken immediately and repeated after 30 minutes, and 2, 5, and 15 hours after exposure. The control lice were submerged in water for 10 minutes, rinsed for 2 minutes, and placed on corduroy patches.

The results illustrate in vitro efficacy of pyrethrins with piperonyl butoxide against lice. The 10-minute exposure followed by the 2-minute rinse killed 90 percent of the lice, while the 10-minute exposure followed by a 30-minute rinse killed all the lice.

The exposure of lice to 0.33 percent pyrethrin and 4 percent piperonyl butoxide for the 10-minute period effected a 97- to 100-percent mortality rate, and the 10-minute exposure with 2-minute rinse killed from 92 to 100 percent of the lice. The death rate of the control ranged from 5 to 10 percent.

Two formulations of a material, a liquid and a gel, were tested against human body lice (Ref. 9). The gel contained 0.33 percent pyrethrin and 4 percent piperonyl butoxide, while the liquid contained 0.17 percent pyrethrin and 2 percent piperonyl butoxide (Ref. 9). Ten dark cotton corduroy patches were used for the test. On five patches, 0.5-g of the gel was applied and on the other five patches, 0.5 g of the liquid material was applied. The patches were placed in clean 250 mL beakers. Ten male and 10 female lice were placed on top of each patch. The beakers were put into an incubator (at 80° F, relative humidity 80 percent) for 24 hours. Each beaker was then examined. The lice were classified as dead, moribund, or alive. The controls were corduroy patches treated with 0.5 g of water.

The results showed that both pyrethrin formulations were effective. All the adult lice were either dead or moribund after treatment with pyrethrin. No adult lice were found dead or moribund on the control patches.

Two similar studies were done to determine the safety and efficacy of a single application of 0.3 percent pyrethrin and 3.0 percent piperonyl butoxide (Refs. 16 and 17). Thirty adults infested with public lice were used for each study. None of the patients in either study were sensitive to ragweed or had any other skin problems. Prior to application of any test material, the number of adult or nymphal lice and nits were recorded. The degree of redness, swelling, and itching also was noted.

In both studies, 2 ounces (oz) of the test material was applied to dry pubic hair, rubbed in to thoroughly wet the hair and the skin, and left on for 10 minutes. The pubic area was then washed with a gentle soap.

Lindane was used as the positive control in both studies. One study used lindane lotion, which was rubbed in and left on for 12 hours. The second study used lindane shampoo. After application of the shampoo to dry pubic hair, the hair was wet with warm water and rubbed to produce a lather, which was left on for 4 minutes. In both studies, the pubic area was washed with a gentle soap.

In both studies, a fine-toothed comb was run through the patient's hair. The patient's hair and skin were inspected again for any lice or nits that remained. Any redness or swelling of the skin also was recorded. The patients returned 1 week later for a follow-up examination. At this time, the presence or absence of lice, nymphs, or nits, was recorded. The occurrence of any side effects was also recorded.

One study reported four patients (two pyrethrin-treated patients and two lindane shampoo-treated patients) with slight redness. The duration of redness was 5 to 15 minutes. No side effects were reported in the other study. The patients with swelling and/or redness prior to treatment did not report any increase in severity.

The results of each study were similar. One week after treatment, all lice seen prior to treatment were gone. In one study, three nits were found, but were not viable. In the other study, all nits were gone. All itching that had been reported earlier had stopped.

Twenty-six children, both male and female, were infested with head lice and were selected for a study designed to determine the safety and efficacy of a pyrethrin formulation (Ref. 18). None of the children were known to be sensitive to ragweed or have any other skin problems. Each child received treatment once a week for 3 weeks. The hair and scalp were inspected prior to treatment to count the number of adult lice, nymphs, and nits.

Thirteen children were treated with 2 oz of 0.3 percent pyrethrin and 3.0 percent piperonyl butoxide. The formulation was rubbed in to wet the hair and scalp and was left on for 10 minutes. Then the hair was washed with a mild shampoo. The other 13 children used 2 ounces of lindane shampoo. It was rubbed in to a rich lather, left on for 4 minutes, and then washed out. A fine-toothed comb was used on each patient's hair. The patient's hair and scalp were inspected again to see if any lice or nits still remained and if there were any side effects, such as redness or swelling.

The patients returned 1 week later for a second application of either pyrethrin or lindane. The patients then returned a week later for the third and final application.

One child in the pyrethrin group had a very slight swelling following treatment.

Four children in the lindane group also had a very slight swelling following treatment. In the lindane group, two had mildly abraded skin prior to treatment and two had no skin abrasions prior to treatment. The swelling experienced in both the pyrethrin and the lindane group was mild and transitory. There were three additional children in the pyrethrin group and five in the lindane group who showed swelling and/or redness following treatment. However, because the severity of swelling and/or redness after treatment was the same as that before treatment, these symptoms following treatment were not considered side effects.

Out of 26 children, 19 completed the study. After the first application of the pyrethrin compound, and before the second application, 4 out of 10 children were not infested with lice compared with 0 out of 9 children who were treated with lindane. After the second application and, before the third application, 8 out of 10 children treated with the pyrethrin compound were not infested with lice, whereas 3 out of 9 children using lindane did not have lice. Immediately following the third treatment, all children in the pyrethrin group were free of lice, and eight out of nine children using lindane were free from lice.

A study was conducted to determine the effectiveness of 0.3 percent pyrethrin and 3.0 percent piperonyl butoxide (Ref. 19). For this study, the public health nurse visited the homes of all children with reported cases of head lice infestation. The cases were verified, and the families were provided with the pyrethrin compound along with information on how to disinfect their belongings and decrease the transmission of lice. Each patient received a second visit from the nurse. A total of 248 children ranging in age from 6 months to 12 years participated in the study and were treated. The average time from diagnosis and return to school was 2.9 days. The symptoms associated with lice infections were redness and itching, which disappeared in a majority of the cases following the pyrethrin-piperonyl butoxide treatment. Only six children reported any side effects, which included itching and redness. All lice were killed.

However, the Panel could find no conclusive clinical evidence that the combination of pyrethrins and piperonyl butoxide is completely effective in exterminating all viable forms of lice (i.e., adult lice, nymphs, and nits) in one application. One in vitro study (Ref. 10) designed to show ovicidal (capable of killing eggs) effectiveness of different pyrethrin-piperonyl butoxide products reported a range between 19.6 to 33.6 percent nits killed (Refs. 10 and 20). The Panel, therefore, recommends that labeling state that a second treatment must be made in 7 to 10 days to kill any newly hatched lice.

c. *Dosage.* Based on the available data, the Panel concludes that a combination of pyrethrin (0.17 to 0.33 percent) with piperonyl butoxide (2 to 4 percent) is safe and effective for use as an OTC pediculicide.

d. *Labeling.* The Panel recommends Category I labeling for pediculicide active ingredients. (See part III. paragraph A.2. below—*Category I labeling.)*

References

(1) Casarett, L. J., and J. Doull, "Toxicology: The Basic Science of Poisons," Macmillan Publishing Co., Inc., New York, pp. 134, 436, and 437, 1975.

(2) Casida, J. E., editor, "Pyrethrum: The Natural Insecticide," Academic Press, New York, pp. 26, 102, 115, and 139, 1973.

(3) Wachs, H., "Synergistic Insecticides," *Science*, 105:530–531, 1947.

(4) Casida, J. E., "Mixed-Function Oxidase Involvement in the Biochemistry of Insecticide Synergists," *Journal of Agricultural and Food Chemistry*, 18:753–771, 1970.

(5) Claus, E. P., V. E. Tyler, and L. R. Brady, "Chemicals Used In Pest Control," *in* "Pharmacognosy," 6th Ed., Lea and Febiger, Philadelphia, pp. 483–485, 1970.

(6) Negherbon. W. O., "Handbook of Toxicology. Volume III: Insecticides. A Compendium," W. B. Saunders Co., Philadelphia, pp. 619–622 and 636–637, 1959.

(7) Moore, J. B., "Pyrethrum Extract. Part I, Manufacture of Pyrethrum Extract," *in* "Pyrethrum Flowers," 3d Ed., edited by R. H. Nelson, McLaughlin Gormley King Co., Minneapolis, pp. 61–82, 1975.

(8) Arena, J. M., "Poisoning: Toxicology, Symptoms, Treatment," 4th Ed., Charles C. Thomas, Springfield, IL, p. 157, 1979.

(9) OTC Volume 160046.

(10) OTC Volume 160400.

(11) Zucker, A., "Investigation of Purified Pyrethrum Extracts," *Annals of Allergy*, 23:335–339, 1965.

(12) Fisher, A., "A Study to Demonstrate a Lack of Cross Sensitivity to RID in Ragweed Sensitive Patients," draft of unpublished paper, included in OTC Volume 160227.

(13) OTC Volume 160137.

(14) Nitzberg, B., "RID in Head Lice Infestations," draft of unpublished study, included in OTC Volume 160138.

(15) OTC Volume 160092.

(16) Newson, J. H., J. L. Fiore, Jr., and E. Hackett, "Treatment of Infestation With Phthirus Pubis: Comparative Efficacies of Synergized Pyrethrins and γ-Benzene Hexachloride," *Sexually Transmitted Diseases*, 6:203–205, 1979.

(17) Smith, D., "RID vs. Kwell Shampoo in Public Lice Infestations," draft of unpublished study, included in OTC Volume 160279.

(18) Robinson, D. H., "RID vs, Kwell in Head Lice Infestations," draft of unpublished study, included in OTC Volume 160227.

(19) Billstein, S., and P. Laone, "Demographic Study of Head Lice Infestations in Sacramento County School Children," *International Journal of Dermatology*, 18:301–304, 1979.

(20) OTC Volume 16JPAI, section 1.7.

2. *Category I labeling.* The Panel recommends the following Category I labeling for OTC pediculicide drug products:

a. *Indications.* "For the treatment of head, pubic (crab), and body lice."

b. *Directions.* "Apply to affected area until hair is thoroughtly wet with product. Allow product to remain on area for 10 minutes but no longer. Wash area thoroughtly with warm water and soap or shampoo. A fine-toothed comb may be used to help remove dead lice or their eggs (nits from hair. A second treatment must be made in 7 to 10 days to kill any newly hatched lice."

c. *Other required statements*—(1) "*HEAD LICE:* Head lice live on the scalp and lay small white eggs (nits) on the hair shaft close to the scalp. The nits are most easily found on the nape of the neck or behind the ears. All personal headgear, scarfs, coats, and bed linen should be disinfected by machine washing in hot water and drying, using the hot cycle of a dryer for at least 20 minutes. Personal articles of clothing or bedding that cannot be washed may be dry-cleaned or sealed in a plastic bag for a period of about 2 weeks. Personal combs and brushes may be disinfected by soaking in hot water (above 130° F) for 5 to 10 minutes. Thorough vacuuming of rooms inhabited by infested patients is recommended."

(2) *"PUBIC (CRAB) LICE:* Pubic lice may be transmitted by sexual contact; therefore, sexual partners should be treated simultaneously to avoid reinfestation. The lice are very small and look almost like brown or grey dots on the skin. Pubic lice usually cause intense itching and lay small white eggs (nits) on the hair shaft generally close to the skin surface. In hairy individuals, pubic lice may be present on the short hairs of the thighs and trunks, underarms, and occasionally on the beard and mustache. Underwear should be disinfected by machine washing in hot water; than drying, using the hot cycle for at least 29 minutes."

(3) "BODY LICE: Body lice and their eggs are generally found in the seams of clothing, particularly in the waistline and armpit area. They move to the skin to feed, then return to the seams of the clothing where they lay their eggs. Clothing worn and not laundered before

treatment should be disinfected by the same procedure as outlined for head lice, except that sealing clothing in a plastic bag is not recommended for body lice because the nits (eggs) from these lice can remain dormant for a period of up to 30 days."

d. *Warnings.* (1) "Use with caution on persons allergic to ragweed."

(2) "Do not use near eyes or permit contact with mucous membranes. If product should get into the eyes, immediately flush with water."

(3) "If skin irritation or infection is present or develops, discontinue use and consult a doctor."

B. Category II Conditions

These are conditions under which active ingredients used as pediculicides are not generally recognized as safe and effective or are misbranded.

1. *Category II ingredient—Isobornyl thiocyanoacetate.* The Panel concludes that isobornyl thiocyanoacetate is not safe because there are no human data available to demonstrate safety when used as an OTC pediculicide. The Panel further concludes that there is insufficient evidence to prove it is effective as a pediculicide.

Isobornyl thiocyanoacetate is a yellow, oily liquid with a terpene-like odor and a molecular weight of 253.34 (Refs. 1 and 2). It is very soluble in alcohol, benzene, chloroform, and ether, but practically insoluble in water. It is used as the technical grade, which contains 82 percent or more of isobornyl thiocyanoacetate with other terpenes (Ref. 2). It is a primary irritant and should not be applied near the eyes or on mucous membranes (Refs. 1, 2, and 3).

Isobornyl thiocyanoacetate has been used as an OTC pediculicide to eradicate crab, head, and body lice. It is available as a 4.1-percent liquid and cream (Ref. 4). Treatment involves external application of approximately 30 to 60 mL or g worked into a lather and allowed to remain on for 10 minutes before a subsequent wash with soap and water.

a. *Safety.* A chronic animal toxicity study showed that white rats tolerated up to 0.6 mg/kg daily for 6 months (Ref. 2). Studies involving oral toxicity in rats (LD_{50}), rabbit eye irritation, rabbit skin irritation, and guinea pig sensitization potential were stated to be in progress in January 1974, but have not been submitted (Ref. 4). No human safety data were submitted.

b. *Effectiveness.* Liquid preparations of 4.1 percent isobornyl thiocyanoacetate have been compared with a combination product of 0.165 percent pyrethrins and 2.0 percent piperonyl butoxide in the knockdown (rendering the lice unable to crawl) of lice. The 4.1-percent isobornyl thiocyanoacetate was effective under the test conditions, although not as effective as the comparison preparation (Ref. 4). The tests against adult lice were conducted using a modified patch/beaker test (Ref. 4). This test method uses dark cotton corduroy cloth cut into 4-centimeter (cm) square pieces.

The compounds are then applied to each patch at the rate of 0.5 g per patch. The liquid is applied with a dropping pipette to ensure even distribution of the compound over the 16-cm square area. The patches are then placed individually into clean 250 mL beakers. Into each beaker, 20 adult lice are introduced on top of the patch. The beakers containing the lice are then transferred to an incubator set at 27° C. After 1 hour of exposure, the lice in each beaker are examined for mortality. At the end of 24 hours, the lice in each beaker are again examined for mortality. The lice are classified as dead, moribund, or alive. Moribund lice are added to the dead counts when calculating the percent mortality.

Each treatment consisted of 4 replicates. Each replicate contained 20 adult lice. In addition, two replicates were run as controls using patches treated with 0.5 g of water. Another two replicates were run with dry, untreated patches.

The isobornyl thiocyanoacetate liquid produced a 70.25-percent knockdown after 1 hour of exposure and complete mortality after 24 hours of exposure. The pyrethrins with piperonyl butoxide produced complete knockdown after 1 hour and complete mortality after 24 hours of exposure (Ref. 4).

c. *Evaluation.* The Panel concludes that isobornyl thiocyanoacetate cannot be generally recognized as safe and effective for OTC use as a pediculicide due to a lack of data and classifies this ingredient as Category II.

References

(1) Swinyard, E. A., "Parasiticides. Anthelmintics. Pediculicids. Scabicides," *in* "Remington's Pharmaceutical Sciences," 15th Ed., edited by A. Osol, et al., Mack Publishing Co., Easton, PA, pp. 1180–1181, 1975.

(2) Windholz, M., editor, "The Merck Index," 9th Ed., Merck and Co., Inc., Rahway, NJ, p. 673, 1976.

(3) Harvey, S. C., "Antiseptics and Disinfectants; Fungicides; Ectoparasiticides," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, Macmillan Publishing Co., Inc., New York, p. 1015, 1975.

(4) OTC Volume 160211.

2. *Category II labeling.* The Panel has examined the submitted labeling claims for OTC pediculicide drug products and has classified the following claims as Category II:

a. Unqualified claims that the product is "ovicidal." Available data report the ovicidal activity of pyrethrin formulations to range from 19.6 to 33.6 percent nits killed, which is insufficient to warrant use of an ovacidal claim (Refs. 1 and 2).

b. Claims stating that the product may be reapplied in less than 7 days. Data demonstrated that pyrethrin formulations kill lice upon application, but have low ovicidal activity (Ref. 1). The unaffected ova (nits) will hatch in 7 to 10 days at which time a second application of the product is warranted.

References

(1) OTC Volume 160400.

(2) OTC Volume 16MPAI, section 1.9.

C. Category III Conditions

None.

List of Subjects in 21 CFR Part 358

OTC drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p) 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982), the agency advises in this advance notice of proposed rulemaking that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations would be amended by adding in Part 358, new Subpart G, to read as follows:

PART 358—MISCELLANEOUS EXTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart G—Pediculicide Drug Products

Sec.

358.601 Scope.
358.603 Definitions.
358.610 Pediculicide active ingredients.
358.650 Labeling of pediculicide drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); (5 U.S.C. 553, 554, 702, 703, 704).

Subpart G—Pediculicide Drug Products

§ 358.6601 Scope.

(a) An over-the-counter pediculicide drug product in a form suitable for topical application is generally

recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 358.603 Definitions.

As used in this subpart:

Pediculicide drug product. A drug product for the treatment of head, pubic (crab), and/or body lice.

§ 358.610 Pediculicide active ingredients.

The active ingredients of the product consist of the combination of pyrethrins (0.17 to 0.33 percent) with piperonyl butoxide (2 to 4 percent) in a nonaerosol dosage formulation.

§ 358.650 Labeling of pediculicide drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "pediculicide."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indications" that is limited to the phrase "For the treatment of head, pubic (crab), and body lice."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Use with caution on persons allergic to ragweed."

(2) "Do not use near eyes or permit contact with mucous membrances. If product should get into the eyes, immediately flush with water."

(3) "If skin irritation or infection is present of develops, discontinue use and consult a doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

"Apply to affected area until hair is thorougly wet with product. Allow product to remain on area for 10 minutes but no longer. Wash area thoroughly with warm water and soap or shampoo. A fine-toothed comb may be used to help remove dead lice or their eggs (nits) from hair. A second treatment must be made in 7 to 10 days to kill any newly hatched lice."

(e) *Other required statements*—(1) *"HEAD LICE:* Head lice live on the scalp and lay small white eggs (nits) on the hair shaft close to the scalp. The nits are most easily found on the nape of the neck or behind the ears. All personal headgear, scarfs, coats, and bed linen should be disinfected by machine washing in hot water and drying, using the hot cycle of a dryer for at least 20 minutes. Personal articles of clothing or bedding that cannot be washed may be dry-cleaned or sealed in a plastic bag for a period of about 2 weeks. Personal combs and brushes may be disinfected by soaking in hot water (above 130° F) for 5 to 10 minutes. Thorough vacuuming of rooms inhabitated by infested patients is recommended.

(2) *"PUBIC (CRAB) LICE:* Pubic lice may be transmitted by sexual contact; therefore sexual partners should be treated simultaneously to avoid reinfestation. The lice are very small and look almost like brown or grey dots on the skin. Pubic lice usually cause intense itching and lay small white eggs (nits) on the hair shaft generally close to the skin surface. In hairy individuals, pubic lice may be present on the short hairs of the thighs and trunk, underarms, and occasionally on the beard and mustache. Underwear should be disinfected by machine washing in hot water; then drying, using the hot cycle for at least 20 minutes."

(3) *BODY LICE:* Body lice and their eggs are generally found in the seams of clothing, particularly in the wastline and armpit area. They move to the skin to feed, then return to the seams of the clothing where they lay their eggs. Clothing worn and not laundered before treatment should be disinfected by the same procedure as outlined for head lice, except that sealing clothing in a plastic bag is not recommended for body lice because the nits (eggs) from these lice can remain dormant for a period of up to 30 days.

(Interested persons may, on or before September 27, 1982, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this advance notice of proposed rulemaking. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments replying to comments may also be submitted on or before October 27, 1982. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: June 21, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-17480 Filed 6-28-82; 8:45 am]

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Tuesday
June 29, 1982

Part VI

Department of Commerce

Patent and Trademark Office

Trademark Applications and Examination Proceedings; Trademark Interference, Concurrent Use, Opposition and Cancellation Proceedings; Trademark Post-Registration Proceedings

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 2512-96]

Trademark Applications and Examination Proceedings; Trademark Interference, Concurrent Use, Opposition and Cancellation Proceedings; Trademark Post-Registration Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: Patent and Trademark Office proposes amendments of the rules of practice in trademark cases to clarify and to revise procedures for the examination of applications; appeals from final refusals of registration; the institution and conduct of trademark interference, concurrent use, opposition and cancellation proceedings; the examination of affidavits or declarations under § 8 of the Trademark Act; the examination of applications to renew registrations under 9 of the Trademark Act; amendments to registrations under 7(d) of the Trademark Act; and petitions to the Commissioner. The proposed procedures revise or codify existing practices, or simplify procedures, or establish periods of time, to assist the orderly and prompt resolution of issues.

DATE: Written comments by September 27, 1982. Hearing, beginning at 10:00 a.m. September 27, 1982

ADDRESSES: Address written comments to the Commissioner of Patents and Trademark, Washington, D.C. 20231. The hearing will be held in Room 11C24 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia. Written comments and transcript of hearing will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Miss Janet E. Rice by telephone at (703) 557–3551 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office is considering amendments to the rules of practice in trademark cases to revise, simplify, rearrange, or delete existing rules, or to codify in rules certain practices which are currently in effect. The rules involved include those which concern the examination and amendment of ex parte applications; appeals to the Trademark Trial and Appeal Board from the final refusal of registration in ex parte applications; the institution and conduct of interference, concurrent use, opposition and cancellation proceedings before the Trademark Trial and Appeal Board; the examination of affidavits or declarations under § 8 of the Trademark Act and subsequent proceedings if an affidavit or declaration is refused; the examination of applications for the renewal of registrations under § 9 of the Trademark Act and subsequent proceedings if an application for renewal is refused; amendments of registrations under § 7(d) of the Trademark Act; and petitions to the Commissioner.

The rules for which amendments are proposed are discussed below. (The designation "S" is used in the Code of Federal Regulations to denominate a rule; lettered ["(a)", "(b)", etc.] subdivisions are subsections of rules; numbered ["(1)", "(2)", etc.] subdivisions are paragraphs within sections or subsections.)

In this preamble to the proposed rulemaking, "Patent and Trademark Office" is abbreviated as "PTO" and "Trademark Trial and Appeal Board" is abbreviated as "TTAB."

Section 2.20. Subsection (b) is proposed to be added to codify the practice whereby a nonofficer of a corporation or association who is authorized to sign a notice of opposition or petition for cancellation may verify the pleading by a declaration in lieu of an oath or affirmation.

Section 2.27(e) is proposed to be added to permit the PTO to retain in confidence, not available for public inspection, any fruits in discovery filed under seal [see proposed amended § 2.120(f)] pursuant to a protective order or any testimony filed under seal [see proposed amended § 2.125(e)]. Conforming amendments are made in subsections (b) and (d).

Section 2.63 is proposed to be clarified and designated as subsection (a).

Section 2.63(b) is proposed to be added to codify the practice of allowing an applicant to petition to the Commissioner for relief from either an examiner's repeated but nonfinal formal requirement or a final requirement which is limited to subject matter which is appropriate for petitions to the Commissioner, as an alternative to appeal to the TTAB. The proposed rule also requires that a petition be timely and sets a time limit for action after denial of a petition. See proposed § 2.146(b) for a description of nonpetitionable subject matter and proposed § 2.146(d) for the time limit (thirty days) for a petition.

Section 2.64 is proposed to be designated as subsection (a) and revised to agree with the provision in § 2.63(b), permitting petitions to the Commissioner concerning some requirements which have been made final.

Section 2.64(b) is proposed to be added to clarify the existing practice of replying to requests for reconsideration after final action, and to permit entry of amendments accompanying such requests if they place the application in condition for publication or in better form for appeal.

Section 2.65 is proposed to be ameded by the addition of a sentence to provide that a timely and proper petition under § 2.63(b) avoids the abandonment of an application. An additional provision is proposed to permit the examiner to allow an applicant additional time to explain and supply an inadvertent omission which would otherwise have resulted in the application being held abandoned.

Section 2.72 is proposed to be revised to allow non-material changes in the drawing to be supported by specimens which were not necessarily in use at the time the original application was filed.

Section 2.81 is proposed to be revised to clarify the language of the rule.

Section 2.83 is proposed to be deleted because requests to consolidate applications are very rare and the procedure is unworkable. See Official Gazette notice of July 19, 1981, 1009 TMOG 17.

Section 2.94 is proposed to be deleted because interferences are declared only upon petition [see § 2.91], which assumes proper review before an interference is declared, and existing § 2.94 is unnecessary.

Section 2.95 is proposed to be deleted because the deletion of § 2.94 makes § 2.95 unnecessary.

Section 2.96 is proposed to be amended to codify existing practice on the issues determinable in an interference and the order of the parties and burden of proof. The last sentence in the amended rule states who is the junior party if two applications have the same filing date but different dates of execution of the applications.

Section 2.97 is proposed to be deleted because it is unnecessary in view of the codification in § 2.96.

Section 2.98 is proposed to be amended to make the rule consistent with existing § 2.91.

Section 2.99 is proposed to be amended in several respects. The rule has been reorganized to describe the procedure more clearly and logically.

Subsection (a) of the proposed amended rule permits the examiner to require an applicant to make a prima facie showing of entitlement to a concurrent use registration if the application and other papers in the file do not show that there are conditions or limitations on the mode or place of use of the marks or the goods in connection with which the marks are used so as to make confusion, mistake, or deception not likely or that the applicant is relying upon a determination by a court of competent jurisdiction [see Trademark Act, § 2(d) proviso].

Section 2.99 (b), (c), and (d)(1), as proposed, describe the procedure to be used to institute a concurrent use proceeding.

Section 2.99(d) (2) and (3), as proposed, codify existing practice on who must file an answer to a notice of institution of a concurrent use proceeding and the effect of not filing an answer.

Section 2.99(e), as proposed, codifies existing practice on the order of the parties and the burden of proof and states who is the junior party if two applications have the same filing date but different dates of execution of the applications. A person specified as an excepted user but who has not filed an application is stated to be a senior party to every party that has an application involved in the proceeding because a party without an application is seeking no relief and therefore has no burden of proving entitlement to relief.

Section 2.99(f), as proposed, provides for the issuance of a concurrent use registration upon the basis of a court's determination of the right of the parties to use their marks in commerce, without the institution of a proceeding by the TTAB, when all of the conditions specified in the rule are fulfilled.

Section 2.99(g), as proposed, codifies existing law that registrations and applications to register on the Supplemental Register and registrations under the Act of 1920 are not subject to concurrent use registration proceedings and implements § 26 of the Trademark Act, which provides, inter alia, that applications for and registrations on the Supplemental Register shall not be subject to § 17 of the Act, which is the statutory authority for a concurrent use registration proceeding [*cf.* existing § 2.91(b)].

Sections 2.101 and 2.102 are proposed to be interchanged so that those two rules begin with the provisions for obtaining extensions of time to file an opposition and then provide for filing an opposition, thereby describing the procedures in their chronological sequence.

Section 2.101 (a) and (b), as proposed, repeat, with revisions to clarify the provisions, existing § 2.102(a).

Section 2.101(c), as proposed, codifies the existing practice under existing § 2.102(b). In addition, proposed § 2.101(c) provides for a maximum extended period, not to exceed 120 days from the date of publication of an application, within which to file a notice of opposition, except when there is a written stipulation or a showing of extraordinary circumstances, so as to avoid inordinate delays caused by ex parte requests for extensions of time.

Section 2.101(d), as proposed, codifies an existing practice which expedites the notification of the TTAB's action on a request for an extension of time.

Section 2.102(a), as proposed, states when an opposition proceeding is commenced, which is important for the application of § 2.135.

Section 2.102(b), as proposed, indicates that a notice of opposition should be addressed to the TTAB, which helps to route mail within the PTO.

Section 2.102(c), as proposed, requires that a notice of opposition be filed within thirty days after publication of the application or prior to the expiration of a granted extension of time for filing a notice of opposition.

Section 2.102(d), as proposed, implements the requirement of 13 of the Trademark Act that a notice of opposition be verified, which requirement is contained in existing § 2.101(a).

Section 2.102(e), as proposed, requires the payment of the statutory fee for an opposition, provides for the allocation of the fees that are submitted if they are insufficient for the number of classes being opposed or for the number of persons joined as party opposer, and permits the payment of additional fees for additional persons joined as party opposer in the notice of opposition in the same manner as the payment of additional fees for opposing additional classes in the application.

Section 2.102(f), as proposed, provides for the late payment of the opposition fee or fees, subject to the payment of one service charge on behalf of each person joined as a party opposer, when a notice of opposition is not accompanied by at least one full fee to oppose one class by one person, thereby continuing the practice provided by existing § 2.101(c). Proposed § 2.102(f), further, codifies the practice that, when the notice of opposition is filed without any fee or with a fee insufficient for at least one person to oppose one class in the application, all of the required fees must be submitted within the time fixed by the notice of defect, which will be issued by the TTAB.

Section 2.103, as proposed, clarifies existing § 2.103.

Section 2.104, as proposed, clarifies existing § 2.104.

Section 2.105, as proposed, clarifies existing § 2.105 and codifies the practice thereunder.

Section 2.106(c), as proposed, codifies the practice under existing § 2.106(c) that, after an answer is filed, a notice of opposition may be withdrawn without prejudice only with the written consent of the applicant.

Section 2.107, as proposed, codifies the practice under existing § 2.107 whereby any pleading, including the answer, may be amended.

Section 2.111(a), as proposed, states when a cancellation proceeding is commenced, which is important for the application of § 2.134.

Section 2.111(b), as proposed, indicates that a petition for cancellation should be addressed to the TTAB, which helps to route mail within the PTO.

Section 2.111(c), as proposed, implements the requirement of 14 and 24 of the Trademark Act that a petition for cancellation be verified, which requirement is contained in existing § 2.112.

Section 2.111(d), as proposed, states the requirement for the payment of the fee(s) due upon filing a petition for cancellation, and, parallel to proposed amended § 2.102(e), provides for the allocation of fees and payment of additional fees when more than one class is sought to be cancelled or more than one person is joined as a party petitioner or when both situations exist.

Section 2.112, as proposed, removes the reference to verification of a petition for cancellation, which is placed in proposed § 2.111(c), to clarify the language of the rule, and to state in proposed § 2.112(b) the conditions for filing a consolidated petition for cancellation of different registrations owned by the same party.

Section 2.113 is proposed to be amended to describe the procedure for notifying a registrant of the filing of a petition for cancellation of his registration. The provision in existing § 2.113 for notifying a party of the need to correct a formally defective petition has been deleted. It is, and will continue to be, the practice of the TTAB to notify a party when he files a petition without the fee for cancelling at least one class in the registration sought to be cancelled or when a verification has been omitted or is defective. Problems arise when a defective petition for cancellation is filed near the end of the statute of

limitations provided by 14 (a) or (b) of the Trademark Act. If no fee, or a fee insufficient for a petition to cancel at least one class in respondent's registration, is received prior to the critical fifth anniversary, the TTAB is without jurisdiction to entertain the petition and the minimum jurisdictional fee cannot be paid after the five-year statuate of limitations is effective. Jurisdiction to accept provisionally a defectively excuted or verified petition and to prescribe a time to file a properly executed document resides exclusively with the Commissioner pursuant to 35 U.S.C. 26. A petition to the Commissioner is governed by existing § 2.146(a)(2) or proposed § 2.146(a)(2).

Section 2.115 is proposed, to be amended in the same manner as proposed amended § 2.107.

Section 2.116 (b) is proposed to be amended to clarify the language and intent of existing § 2.116(b).

Section 2.116(c) is proposed to be amended to clarify existing § 2.116(c). Any complaint filed by a party in an interference or concurrent use proceeding would be a petition for cancellation, and the position of the parties in the consolidated proceeding will be set by the TTAB as required.

Section 2.117 is proposed to be amended by the addition of subsections (b) and (c) to codify existing practice when a suspension of proceedings is considered.

Section 2.117(d) is proposed to be added to permit a party to move, or parties to stipulate, for suspension, which usually occurs when negotiations for settlement are undertaken and the parties want proceedings suspended for that purpose.

Section 2.120 is proposed to be amended in several respects commencing with a reorganization of the rule to state how discovery may be taken, then how discovery may be compelled, then how admissions may be requested and the sufficiency of admissions or objectives to requests therefor may be tested, and then how the results of discovery may be used in a proceeding.

Section 2.120(a), as proposed, clarifies the language of the introductory paragraph of existing § 2.120.

Section 2.120(b), as proposed, is made applicable to domestic parties, clarifies existing § 2.120(a) (1), and codifies the practice thereunder.

Section 2.120(c)(1), as proposed, restates in modified form the provisions of existing § 2.120(a)(2), and in addition, proposed § 2.120(c)(1) permits oral discovery depositions in foreign countries on motion for good cause or by stipulation of the parties.

Section 2.120(c)(2), as proposed, provides for oral discovery depositions within the United States of foreign parties or their officers, etc. if they will be in the United States during a discovery period.

Section 2.120(d), as proposed, makes specific provision for requests for production and codifies the practice for this kind of discovery.

Section 2.120(e)as proposed, clarifies existing § 2.120(c)(1) and codifies the practices on motions to compel discovery.

Section 2.120(f), as proposed, adds provisions pertaining to protective orders during discovery.

Section 2.1120(g), as proposed, clarifies existing § 2.120(c)(2) and codifies the practice on sanctions for failing to obey orders pertaining to discovery.

Section 2.120(h), as proposed, adds to the discovery rules provisions pertaining to requests for admissions and codifies the practice pertaining to requests for admissions.

Section 2.120(i), as proposed, codifies the practice on pre-trial conferences to resolve dispute over pre-trial questions or issues.

Section 2.120(j), as proposed, clarifies existing § 2.120(a)(3) and codifies the practice on the filing with the TTAB of matter obtained during discovery and the use thereof at trial.

Section 2.121, as proposed, clarifies existing § 2.121 and codifies the practice thereunder.

Section 2.122, as proposed, consolidates in one section the rules goverining the introduction and admission of evidence in inter partes proceedings before the TTAB.

Section 2.122(a), as proposed, identifies the sources of the law of evidence to be applied in inter partes proceedings.

Section 2.122(b)(1), as proposed, clarifies the language and codifies the practice under existing § 2.122(a).

Section 2.122(b) (2) and (3), as proposed, clarify existing § 2.126 and codify the practice under existing § 2.126.

Section 2.122(c)(1), as proposed, clarifies and adds to the provisions of existing § 2.122(c) relating to printed publications. Proposed § 2.122(c) would require that an official record or copy thereof offered under the rule be an authentic record or copy pursuant to the Federal Rules of Evidence and would also require that, when a copy of a relevant portion of a printed publication is offered, the copy include the title page and any other page needed to show the place and date of publication, the name and address of the publisher, and the name of the author or the editor, which information is intended to enable the party against whom the evidence is offered to identify what it is.

Section 2.122(c)(2), as proposed, would amend existing § 2.122(b) insofar as the existing rule governs the introduction of a copy of a registration owned by any party to a proceeding. An important change would be that a copy of a registration introduction by a party on his own behalf would have to be a certified copy (see 7(e) of the Trademark Act). A second important change would be the elimination of the practice, under existing § 2.122(b), of filing, as evidence in a proceeding, two copies showing status and title of a registration pleaded by an opposer or petitioner for cancellation, or filing an order for such copies, with the notice of opposition or petition for cancellation. The procedure whereby an opposer or cancellation petitioner could submit an order for copies of his registration for subsequent attaching to his pleading has not worked well in practice. As a result, a number of opposition and cancellation proceedings have gone to final hearing without a copy of the opposer's or cancellation petitioner's registration, which had to be obtained at that point, provided that the party relying thereon could show that a timely correct order has been sent to the PTO. Since, it is more likely than not that an order for two certified copies of a registration showing status and title would not be filled in time for filing with a notice of opposition or petition for cancellation, § 2.122 is proposed to be amended to provide for the filing thereof only with a notice of reliance during a testimony period. This would not preclude attaching a copy of a pleaded registration as an exhibit to a notice of opposition or petition for cancellation purely for informational purposes but not for evidentiary purposes.

Section 2.122 (d), as proposed, codifies the practice that copies of third-party registrations need not be certified to be offered in evidence.

Section 2.122 (e), as proposed, clarifies existing §2.122 (d) and codifies the practice under existing § 2.122 (d).

Section 2.123 (a) (1), as proposed, provides that testimony may be taken by depositions upon oral questions or upon written questions and further provides that a party against whom a testimonial deposition will be taken may move to have the deposition taken upon oral questons if the witness, even though he may be a foreign party or a person who usually resides in a foreign country, is, or at the time of the deposition will be, in the United States or any territory

under the control and jurisdiction of the United States.

Section 2.123 (a) (2), as proposed, provides that testimony in a foreign country is ordinarily to be taken by a deposition upon written questions but that the party against whom a testimonial deposition will be taken may move to have it taken by oral questions in a foreign country and further provides that the parties may stipulate to have testimony taken by an oral deposition in a foreign country.

Section 2.123 (e) (3), as proposed, codifies the practice that a party who did not receive a proper notice of the taking of a deposition with respect to any witness may cross-examine that witness under protest while preserving his right to move to strike the whole of the testimony of that witness.

Section 2.123 (k), as proposed, codifies the practice that objections to testimony on arounds of alleged lack of relevancy, materiality, or competency should be raised in a brief at final hearing but should not be raised by a motion to strike testimony regularly taken.

Section 2.124, as proposed, sets out the procedure to be followed in taking a discovery deposition or a testimonial deposition upon written questions.

Section 2.124 (a), as proposed, provides that a deposition upon written questions may be taken before any of the persons described in Rule 28 of the Federal Rules of Civil Procedure.

Section 2.124 (b) (1) as proposed, provides for the kind of notice which must be served by a party desiring to take a testimonial deposition upon written questions and further provides that a copy of the notice, without the questions, must be filed with the TTAB.

Section 2.124 (b) (2), as proposed, provides for the kind of notice which must be served by a party desiring to take a discovery deposition upon written questions and further provides that a copy of the notice, without the questions, must be filed with the TTAB. This paragraph also provides that, if the name of the person to be deposed is not known to the party who will take the deposition, a general description sufficient to identify the class or group to whom the prospective witness belongs shall be stated in the notice and the party to be deposed shall designate one or more discovery witnesses.

Section 2.124 (c), as proposed, requires that every notice of deposition upon written questions name or describe by title the officer before whom the deposition will be taken.

Section 2.124 (d) (1), as proposed, specifies the procedure and timetable for serving the questions, objections, and substitute questions for a deposition upon written questions.

Section 2.124 (d) (2), as proposed, provides that the TTAB may reset the times specified in proposed § 2.124 (d) (1) and, when a testimonial deposition is to be taken upon written questions, may suspend or reschedule other proceedings in the matter to allow for the completion of the deposition.

Section 2.124 (e), as proposed, provides the procedure for sending the notice and questions to the officer designated in the notice, the taking of the deposition, and the certification and mailing of the transcript to the party who took the deposition.

Section 2.124 (f), as proposed, provides for the service of copies of the transcript and exhibits, states that the party who took the deposition is responsible for the correctness of the transcript, permits the use of a discovery deposition as provided by proposed § 2.120 (j), and provides for the filing with the TTAB of a testimonial deposition, a copy thereof, and the exhibits.

Section 2.124 (g), as proposed, states that objections to questions and answers may be considered at final hearing.

Section 2.125 (a), as proposed, provides for the service of a transcript of an oral testimonial deposition and the exhibits, and, in respect of that requirement, continues the rule of existing § 2.125 (a).

Section 2.125 (b), as proposed, makes the party who took a deposition responsible for its correctness and for serving the adverse party with a corrected transcript or corrected pages.

Section 2.125 (c), as proposed, continues the requirement of existing § 2.125 (a) that a certified transcript, a copy of the transcript, and the exhibits be filed promptly with the TTAB and further provides that notice of filing be served on the adverse party and that a copy of the notice be filed with the TTAB.

Section 2.125 (d), as proposed, continues the requirements of existing § 2.125 (b).

Section 2.125 (e), as proposed, provides that the TTAB, on motion, may order that any part of a deposition transcript or exhibits that directly disclose a trade secret or other confidential research development, or commercial information may be filed under seal and kept confidential and provides for sanctions for failure to comply with the order.

Section 2.126 is proposed to be deleted because the substance of the existing section has been shifted to proposed § 2.122(b) (2) and (3).

Section 2.127 (a), (b), and (c), as proposed, clarify existing § 2.127 (a), (b), and (c) and codify the practice under existing § 2.127 (a), (b), and (c).

Section 2.127(d), as proposed, codifies the practice with respect to suspending all matters in a case not germane to a potentially dispositive motion until the determination thereof.

Section 2.128(a)(1), as proposed, clarifies existing § 2.128(a) except that the rule requiring copies of a brief is shifted to proposed § 2.128(b).

Section 2.128(a)(2), as proposed, codifies the practice of having the TTAB set the briefing schedule by order when proceedings are consolidated, or when there is a counterclaim, or when more than two parties are involved.

Section 2.128(a)(3), as proposed, contains a new provision enabling the TTAB to decide that a case has been conceded, resulting in an adverse judgment, when a party fails to file a brief at final hearing.

Section 2.128(b), as proposed, clarifies and codifies the practice under the last sentence of existing § 2.128(a) and existing § 2.128(b).

Section 2.129(a), as proposed, clarifies and codifies the practice under § 2.128(c) and existing § 2.129(a).

Section 2.129(b), as proposed, clarifies existing § 2.129(b).

Section 2.129(c), as proposed, clarifies existing § 2.129(c), from which the language referring to a decision on a motion which is finally dispositive of a case has been deleted because any requests for reconsideration or modification of a decision issued on a motion would be made under proposed § 2.127(b).

Section 2.131, as proposed, clarifies and codifies the practice under existing § 2.131. The effect is to eliminate the dichotomy between inter partes and ex parte issues and to provide for the determination by the TTAB of all issues that have been expressly pleaded by the parties or tried by their express or implied consent and to reserve for remand to the examiner for reexamination only issues neither pleaded nor tried but which appear to make the mark of an applicant unregistrable.

Section 2.132(a), as proposed, changes the practice under existing § 2.132(a) by eliminating the step of having the TTAB issue an order to the plaintiff to show cause why judgment should not be entered against him. Under the proposed § 2.132(a), the plaintiff will have fifteen days from the date of service of the defendant's motion for dismissal within which to show cause why judgment

should not be rendered against the plaintiff.

Section 2.132(b), as proposed, clarifies existing § 2.132(b).

Section 2.134(a), as proposed, codifies the practice under existing § 2.134 that the written consent of the adverse party is required to avoid judgment against a cancellation respondent who applies to cancel his registration under § 7(d) of the Trademark Act while the registration is involved in a proceeding.

Section 2.134(b), as proposed, provides that, after the commencement of a cancellation proceeding, if a respondent (registrant) permits his registration to be cancelled under § 8 of the Trademark Act or fails to renew his registration under § 9 of the Act, the resulting demise of the registration shall be deemed to be the equivalent of a cancellation of the registration by request of the respondent without the written consent of the adverse party and will result in judgment against the respondent. § 2.134(b) is proposed to avoid situations where a respondent in a cancellation proceeding may moot the case and avoid judgment because of the fortuitous circumstance that his registration happens to reach its sixth anniversary or twentieth anniversary while a proceeding is pending and the respondent exploits this situation by simply failing to file an affidavit under § 8 of the Act or a renewal application under § 9 of the Act.

Section 2.135, as proposed, codifies the practice under existing § 2.135, which is parallel to the parties under existing § 2.134 and proposed § 2.134(a), that the written consent of the adverse party is required to avoid judgment against an applicant who abandons his application or mark while the application is involved in an opposition.

Section 2.142(a), as proposed, clarifies existing § 2.142(a).

Section 2.142(b), as proposed, requires the examiner to file with the TTAB a statement answering every point in the appellant's brief and requires the examiner to file the statement within sixty days after appellant's brief is sent to the examiner by the TTAB.

Section 2.142(c), as proposed, codifies the practice that all requirements made by the examiner and not the subject of appeal shall be complied with prior to the filing of an appeal.

Section 2.142(d), as proposed, provides that the record in the application should be complete prior to the filing of an appeal, states that the TTAB will ordinarily not consider additional evidence filed with the TTAB by the appellant or by the examiner after an appeal is filed, and provides that either the appellant or the examiner may request the TTAB to suspend the appeal and remand the application for further examination if the appellant or the examiner desires to introduce additional evidence. The usual situations where additional evidence may be offered arise under 2(e) or 2(f) of the Trademark Act where the examiner desires to introduce more evidence to support a refusal of registration or the appellant desires to introduce more evidence in support of a claim of acquired distinctiveness (secondary meaning).

Section 2.142(e)(1), as proposed, amends existing § 2.142(c), and codifies the practice under the existing rule, by changing the due date for a request for an oral hearing on an appeal from the date when the appellant's brief is filed to a date ten days after the due date for a reply brief.

Section 2.142(e)(2), as proposed, requires the examiner to present an oral argment if an oral argument is requested by the appellant.

Section 2.142(e)(3), as proposed, allots twenty minutes to the appellant for oral argument and ten minutes to the examiner for oral argument.

Section 2.142(f), as proposed, provides for situations where, during an appeal, it appears to the TTAB that an issue not previously raised may render the mark of the appellant unregisterable, that is, when something on the face of the record on appeal indicates that a question concerning the registrability of the mark may exist but has not been considered. The proposed subsection provides the procedure to be followed by the TTAB, the examiner, and the appellant when the TTAB suspends an appeal and remands an application on the TTAB's own motion.

Section 2.146, as proposed, collects in one section the rules on petitions to the Commissioner in existing §§ 2.146, 2.147, and 2.148. For this reason it is proposed to delete §§ 2.147 and 2.148.

Section 2.142(a), as proposed, reflects the proposed change in § 2.63(b) permitting petitions concerning some requirements which have been made final.

Section 2.146(b), as proposed, delineates classes of questions which are not considered to be appropriate subject matter for petitions to the Commissioner. These questions are substantive issues of registrability of marks and are considered to be appropriate for appeal to the TTAB.

Section 2.146(c), as proposed, specifies the contents of a petition to the Commissioner, and in this respect clarifies existing § 2.146(b).

Section 2.146(d), as proposed, specifies the time limit for filing a petition on any matter except from a denial of a request for an extension of time to file an opposition, or from an interlocutory order of the TTAB, or from the refusal of an affidavit or declaration filed pursuant to § 8 of the Trademark Act, or from the refusal of an application for the renewal of a registration filed under § 9 of the Trademark Act.

Section 2.146(e), as proposed, provides time limits and specifies the procedure for a petition to the Commissioner from the denial of a request for an extension of time to file an opposition or from an interlocutory order of the TTAB. Proposed § 2.146(e)(1) contains a new requirement that a petition from the denial of a request for an extension of time to oppose must be served on the applicant or his attorney and provides for a response by the applicant to the petition.

Section 2.146(f), as proposed, clarifies existing § 2.146(c).

Section 2.146(g), as proposed, clarifies and codifies the practice under existing § 2.146(d) and, in addition, makes § 2.146 consistent with proposed §§ 2.63(b) and 2.65.

Section 2.146(h), as proposed, codifies the practice under existing § 2.146(e) whereby authority to act on classes of petitions, in addition to any particular petition, has been delegated.

Section 2.145, as proposed, specifies the procedure when an affidavit or declaration filed under § 8 of the Trademark Act is refused. The steps to be taken by the registrant to request reconsideration and to petition to the Commissioner and the time limits for such requests and petitions are stated.

Section 2.145(d), as proposed, states that a petition to the Commissioner for review of the action refusing the affidavit or declaration under the Trademark Act shall be a condition precedent to an appeal to or action for review by any court. This implements 21(a)(1) and (b)(1) of the Act, which provide, inter alia, that a registrant who has filed an affidavit under § 8 of the Act who is dissatisfied with the decision of the Commissioner may appeal to the Court of Customs and Patent Appeals or may have remedy by a civil action.

Section 2.173(b), as proposed, clarifies the circumstances in which an amendment of the identification of goods or services of a registration is permitted. The proposed rule states that an identification of goods or services can be restricted or can be otherwise changed in ways that would not require republication of the mark.

Section 2.184, as proposed, specifies procedures and time limits for relief when an application for renewal of a

registration under § 9 of the Trademark Act is refused, in parallel with proposed § 2.165.

Section 2.184(d), as proposed, is parallel to proposed § 2.165(d) and has the same statutory basis.

Section 2.186, as proposed, clarifies and codifies the practice under existing § 2.186 that action with respect to an assigned application or registration may be taken by the assignee provided that the assignment has been recorded.

Environmental, energy, and other considerations: The proposed rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The proposed rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96–354) for several reasons. The rule change includes no additional or increased fees. Substantive rights to use valuable trademarks are not adversely affected. In general, the rule change will expedite proceedings before the Patent and Trademark Office, changing existing procedures only where then can be made more equitable or simpler.

The proposed rule change does not impose a record keeping or reporting burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* No additional information is required from the public. No additional records are required to be maintained by the Patent and Trademark Office because there are no additional fees or proceedings to monitor.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant, adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subject Terms in 37 CFR Part 2:

Administrative practice and procedure, Courts, Lawyers, Trademarks.

Noticed is hereby given that pursuant to the authority contained in Section 41 of the Trademark Act of July 5, 1946, as amended, (60 Stat. 427, 88 Stat. 1949, 15 U.S.C. 1123, as amended), the Patent and Trademark Office proposes to amend Title 37 of the Code of Federal Regulations by amending §§ 2.20, 2.27, 2.63, 2.64, 2.65, 2.72, 2.81, 2.96, 2.98, 2.99, 2.101, 2.102, 2.103, 2.104, 2.105, 2.106, 2.107, 2.111, 2.112, 2.113, 2.115, 2.116, 2.117, 2.120, 2.121, 2.122, 2.123, 2.124, 2.125, 2.127, 2.128, 2.129, 2.131, 2.132, 2.134, 2.135, 2.142, 2.146, 2.165, 2.173, 2.184, and 2.186, and by removing §§ 2.88, 2.94, 2.95, 2.97, 2.126, 2.147, and 2.148, as set forth below. Additions are indicated by arrows and deletions by brackets.

* * * * *

PART 2—RULES OF PRACTICE IN TRADEMARK COVERS

1. Section 2.20 is proposed to be amended by designating the present section as subsection (a) and adding a new subsection (b) to read as follows:

§ 2.20 Declaration(s) in lieu of oath.

* * * * *

►(b) A notice of opposition or petition for cancellation signed on behalf of a corporation or an association by a person who is authorized to sign the document but who is not an officer may be accompanied by a declaration as provided in subsection (a).◄

2. Section 2.27 is proposed to be amended by revising subsections (b) and (d) and adding a subsection (e) to read as follows:

§ 2.27 Pending trademark application index; access to applications

* * * * *

(b) ►Except as provided in subsection (e),◄ access to the file of a particular pending application will be permitted prior to publication under rule 2.80 upon written request.

* * * * *

(d) ►Except as provided in subsection (e),◄ after a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

►(e) Any documents, tangible things, answer to interrogatories, or all or part of any discovery or testimonial deposition transcripts ordered to be filed under seal pursuant to a protective order issued or made by any court or by the Trademark Trial and Appeal Board in any proceeding involving an application or a registration shall be kept confidential and shall not be made available for public inspection or copying unless otherwise ordered by the court or the Board, or unless the party protected by the order voluntarily discloses the matter subject thereto.◄

3. Section 2.63 is proposed to be revised to read as follows:

§ 2.63 ►Reexamination.◄ [Re-examination.]

►(a)◄ After response by the applicant, the application will be ►reexamined◄ [re-examined] or reconsidered ►If◄ [, and if the] registration is again refused or ►any◄ formal requirements[s] ►is repeated,◄ [insisted upon,] but ►the examiner's action is◄ not stated to be final ►,◄ the applicant may respond again.

►(b) After reexamination the applicant may respond by filing a timely petition to the Commissioner for relief from a formal requirement if: (1) The formal requirement is repeated but the Examiner's action is not made final; or (2) the examiner's action is made final and the action is limited to subject matter appropriate for petitions to the Commissioner (see § 2.146(b)). If the petition is denied, the applicant shall have until six months from the date of the Office action which repeated the requirement or made it final or thirty days from the date of the decision on the petition, whichever date is later, to comply with the requirement. A formal requirement which is the subject of a petition decided by the Commissioner may not subsequently be the subject of an appeal to the Trademark Trial and Appeal Board.◄

4. Section 2.64 is proposed to be amended by amending the present section and designating it as subsection (a) and adding a new subsection (b) to read as follows:

§ 2.64 Final Action.

►(a)◄ On the first or any subsequent reexamination or reconsideration the refusal of the registration or the insistence upon a requirement may be stated to be final, whereupon applicant's response is limited to an appeal ►,◄ or to a compliance with any requirement ►, or to a petition to the Commissioner if permitted by § 2.63(b)◄.

►(b) During the period between a final action and expiration of the time for filing an appeal, the applicant may request the examiner to reconsider the final action. The filing of a request for reconsideration will not extend the time for filing an appeal or petitioning the Commissioner, but the examiner will reply to every request for reconsideration. Amendments accompanying requests for reconsideration after final action will be entered if they place the application in condition for publication or in better form for appeal.◄

5. Section 2.65 is proposed to be amended by revising the existing rule and identifying it as subsection (a) and

adding a subsection (b) to read as follows:

§ 2.65 Abandonment.

►(a)◄ If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed to have been abandoned. ►A timely petition to the Commissioner pursuant to § 2.63(b) is a response which avoids abandonment of an application.◄

►(b) When action by the applicant is a bona fide attempt to advance the examination of the application and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.◄

6. Section 2.72 is proposed to be revised to read as follows:

§ 2.72 Amendments to description or drawing of the mark.

Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimiles) as originally filed, or supported by additional specimens (or facsimiles) and a supplemental affidavit or declaration in accordance with rule 2.20 alleging that the mark shown in the amended drawing ►is in use◄ [was in actual use prior to the filing date of the application]. Amendments may not be made if the ►character◄ [nature] of the mark is ►materially altered◄ [changed thereby].

7. Section 2.81 is proposed to be revised to read as follows:

§ 2.81 Allowance of application.

If no opposition is filed with the time permitted [(§§ 2.101 and 2.102),] or ►any opposition is◄ [if filed and] dismissed, and if no interference is declared ►and no◄ [, or] concurrent use proceeding ►is◄ instituted, the application will be prepared for issuance of the certificate of registration as provided in § 2.151.

§ 2.88 [Removed]

8. It is proposed to remove § 2.88, Applications may be combined.

§ 2.94 [Removed]

9. It is proposed to remove § 2.94, Interference motions.

§ 2.95 [Removed]

10. It is proposed to remove § 2.95, Decision on motion to dissolve.

11. Section 2.96 is proposed to be revised to read as follows:

§ 2.96 Issue; burden of proof.

The issue in an interference between applications ►is normally priority of use, but the rights of the parties to registration may also be determined. The party whose application involved in the interference has the latest filing date is the junior party and has the burden of proof. When there are more than two parties in an interference, a party whose application involved in the interference has a filing date between the filing dates of the earliest involved application and the latest involved application is a junior party to every party whose involved application has an earlier filing date and has the burden of proof as against every party whose application has an earlier filing date. If any applications involved in an interference have the same filing date, the application with the latest date of execution will be deemed to have the latest filing date and that applicant will be the junior party. The issue in an interference between an application and a registration shall be the same, but in the event the final decision is adverse to the registrant, a registration to the applicant will not be authorized so long as the interfering registration remains on the register.◄ [shall be the respective rights of the parties to registration. The issue in an interference between between an application and a registration shall be the same, but in the event the final decision is adverse to the registrant, a registration to the applicant will not be authorized so long as the interfering registration remains on the register. The party whose applications or registration involved in the interference has the latest filing date (the junior party) will be regarded as having the burden of proof.]

§ 2.97 [Removed]

12. It is proposed to remove Section 2.97, Enlargement of issue.

13. Section 2.98 is proposed to be revised to read as follows:

§ 2.98 Adding party to interference.

►A party may be added to an interference only upon petition to the Commissioner by that party.◄ [If, during the pendency of an interference, another case appears involving substantially the same registrable subject matter, the Examiner of Trademarks may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course if no testimony has been taken. If any testimony has been taken or is about to be taken, the case will not be added except upon approval of a member of the Trademark Trial and Appeal Board.] If ►an application which is or might be the subject of a petition for addition to an interference◄ [the case] is not added, the ►examiner◄ [Examiner of Tradmarks] may suspend action on ►the application◄ [such case] pending termination of the interference proceeding.

14. Section 2.99 is proposed to be revised to read as follows:

§ 2.99 Application to register as concurrent user.

(a) An application for registration as a lawful concurrent user will be examined in the same manner as other applications for registration. ►The examiner may require an applicant for registration as a concurrent user to make a prima facie showing that the applicant is entitled to a concurrent use registration.◄ [When it is determined that the mark is ready for publication or allowance, except for questions relating to concurrent registration, the applicant may be required to furnish as many copies of his written application, specimens and drawing, as may be necessary. The Examiner of Trademarks shall prepare notices for the applicant and for each applicant, registrant, or user specified in the application for registration as a concurrent user. Such notices for the specified parties shall give the names and address of the applicant and of his attorney or other authorized representative, if any, together with the serial number and filing date of the application.]

(b) ►When it is determined that the mark is ready for publication, the applicant may be required to furnish as many copies of his application, specimens and drawing as may be necessary for the preparation of notices for each applicant, registrant or user specified as a concurrent user in the application for registration.◄ [The notices shall be sent to each of the parties, in care of their attorneys or other representatives, if they have attorneys or other representatives of record, and if one of the parties is a registrant, a notice shall also be sent to him or his assignee of record. A copy of the application shall be forwarded with the notices to the parties specified in the application. An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified in the application to register as concurrent user but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of other parties specified in the application to register as concurrent user, answer must be filed

within forty days after the mailing of the notice.]

(c) ►Upon receipt of the required by subsection (b), the examiner shall forward the application for concurrent use registration for publication in the Official Gazette as provided by § 2.80. If no opposition is filed, or if any opposition that is filed is dismissed or withdrawn, the Trademark Trial and Appeal Board shall prepare a notice for the applicant for concurrent use registration and for each applicant, registrant or user specified as a concurrent user in the application. The notices for the specified parties shall state the name and address of the applicant and of the applicant's attorney or other authorized representative, if any, together with the serial number and filing date of the application.◄ [The procedure shall follow the practice in interference proceedings insofar as it is applicable and the time limitations prescribed in such practice shall be applicable herein.]

(d) ►(1) The notices shall be sent to each applicant, in care of his attorney or other authorized representative, if any, to each user, and to each registrant. A copy of the application shall be forwarded with the notice to each party specified in the application.

(2) An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified as a concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application, an answer must be filed within forty days after the mailing of the notice.

(3) If an answer, when required, is not filed, judgment will be entered precluding the specified user from claiming any right more extensive than that acknowledged in the application(s) for concurrent use registration, but the applicant(s) will remain with the burden of proving entitlement to registration(s).◄ [When concurrent registration is sought on the basis of a court determination of the rights of the parties to use the marks in commerce, the application shall be examined by the Examiner of Trademarks. If the applicant is entitled to registration subject only to the concurrent lawful use of a party to the court proceeding, the Examiner of Trademark may publish or allow the application, provided the court decree specifies the rights of the parties.]

►(e) The applicant for a concurrent use registration has the burden of proving entitlement thereto. If there are two or more applications for concurrent use registration involved in a proceeding, the party whose application has the latest filing date is the junior party. A party whose application has a filing date between the filing dates of the earliest involved application and the latest involved application is a junior party to every party whose involved application has an earlier filing date. If any applications have the same filing date, the application with the latest date of execution will be deemed to have the latest filing date and that applicant will be the junior party. A person specified as an excepted user in a concurrent use application but who has not filed an application shall be considered a party senior to every party that has an application involved in the proceeding.◄

►(f) When a concurrent use registration is sought on the basis of a court's determination of the rights of the parties to use the marks in commerce, a concurrent use registration proceeding will not be instituted if all of the following conditions are fulfilled:

(1) The applicant is entitled to registration subject only to the concurrent lawful use of a party to the court proceeding; and

(2) The court decree specifies the rights of the parties; and

(3) A true copy of the court decree is submitted to the examiner; and

(4) The concurrent use application complies fully and exactly with the court decree; and

(5) The excepted use specified in the concurrent use application does not involve a registration.

If any of the conditions specified in this subsection is not satisfied, a concurrent use registration proceeding shall be prepared and instituted as provided in subsections (a) through (e).◄

►(g) Registrations and applications to register on the Supplemental Register and registrations under the Act of 1920 are not subject to concurrent use registration proceedings.◄

15. Section 2.101 is proposed to be revised to read as follows:

§ 2.101 ►Extension of time for filing◄ [Filing] an opposition.

(a) Any person who believes that he would be damaged by the registration of a mark ►on◄ [upon] the Principal Register may ►file a written request to extend the time for filing an opposition. The written request may be signed by the potential opposer or by an attorney at law or other person authorized to represent a party.◄ [oppose the same by filing an opposition in the Patent and Trademark Office within thirty days after publication of the mark sought to be registered (§ 2.80), or within an extension of the time for filing an opposition (§ 2.102). The opposition must be verified, or include a declaration in accordance with § 2.20, unless the opposition as filed by an attorney at law or other authorized representative in accordance with § 2.103.]

(b) ►The written request to extend the time for filing an opposition must identify the potential opposer with reasonable certainty. Any opposition filed during an extension of time should be in the name of the person to whom the extension was granted, but an opposition may be accepted if the person in whose name the extension was requested was misidentified through mistake or if the opposition is filed in the name of a person in privity with the person who requested and was granted the extension of time.◄ [An opposition must include the required fee for each class sought to be opposed in the application. If fees insufficient to cover all classes in the application are submitted, the particular class or classes in which opposition is sought should be specified. If persons are joined in an opposition, a fee for each class sought to be opposed in the application for each person so joined is required.]

(c) ►A written request to extend the time for filing an opposition must be filed in the Patent and Trademark Office before the expiration of thirty days from the date of publication or within any extension of time previously granted under this section, should specify the period of extension desired, and should be addressed to the Trademark Trial and Appeal Board. A first extension of time for not more than thirty days will be granted upon request. Further extensions of time may be granted by the Board for good cause. Extensions of time to file an opposition aggregating more than 120 days from the date of publication of the application will not be granted except upon written stipulation signed by the applicant and the potential opposer, or their authorized representatives, or upon a showing of extraordinary circumstances.◄ [If no fee, or a fee insufficient to cover at least one class, is filed within 30 days after publication of the mark to be opposed or within an extension of the time for filing an opposition, the opposition will not be refused if the required fee(s) and service charge (see § 2.6(g)) are filed in the Patent and Trademark Office within the time limit set forth in the notification of this defect by the Office. In situations covered by this paragraph, § 2.85(e) may not be utilized.]

►(d) Every request to extend the time for filing a notice of opposition should

be submitted in triplicate (original plus two copies).◄

16. Section 2.102 is proposed to be revised to read as follows:

§ 2.102 ►Filing an◄ [Extension of time for filing] opposition.

(a) ►An opposition proceeding is commenced by the filing of a notice of opposition in the Patent and Trademark Office.◄ [A request to extend the time for filing an opposition must be made by a person who believes that he would be damaged by the registration of the mark on the Principal Register, but an attorney at law or other person authorized to represent a party may file the request on behalf of a potential opposer. The potential opposer must be identified with reasonable certainty in the request. Any opposition filed during an extension of time should be in the name of the person to whom the extension was granted, but an opposition may be accepted if the person to whom the extension was granted was misidentified through mistake, or an opposition filed in a different name may be accepted if the person filing the opposition is in privity with the person to whom the extension was granted.]

(b) ►Any person who believes that he would be damaged by the registration of a mark on the Principal Register may oppose the same by filing a notice of opposition, which should be addressed to the Trademark Trial and Appeal Board.◄ [A written request to extend the time for filing an opposition must be received in the Patent and Trademark Office before the expiration of thirty days from the date of publication, and should specify the period of extension desired. A first extension of time will be granted upon request if the extension is for not more than thirty days. Other extensions of time may be granted by the Commissioner for good cause.]

►(c) The notice of opposition must be filed within thirty days after publication (§ 2.80) of the application being opposed or within an extension of time (§ 2.101) for filing an opposition.◄

►(d) The notice of opposition must be verified by oath or affirmation or by a declaration in accordance with § 2.20◄

►(e)(1) The notice of opposition must be accompanied by the required fee for each class in the application for which registration is opposed (see § 2.85(e)). If the fees submitted are insufficient for an opposition against all of the classes in the application, the particular class or classes against which the opposition is filed should be specified. If the class or classes are not specified, the opposition will be presumed to be against the class or classes in ascending order, beginning with the class having the lowest number, and including the number of classes in the application for which the fees submitted are sufficient to pay the fee due for each class.

(2) If persons are joined as party opposers, a fee is required for each person for each class for which registration is opposed. If the fees submitted are insufficient for each named party opposer, the first named party will be presumed to be the party opposer and additional parties will be deemed to be party opposers to the extent that the fees submitted are sufficient to pay the fee due for each party opposer. If persons are joined as parties opposer against the registration of a mark in more than one class and the fees submitted are insufficient, the fees submitted will be applied first on behalf of the first named opposer against as many of the classes in the application as the submitted fees are sufficient to pay, and any excess will be applied on behalf of the second named party to the opposition against the classes in the application in ascending order. The payment of fees for parties opposer in excess of one may be made as though they are the payment of fees for additional classes in accordance with § 2.85(e) subject to the exception that § 2.85(e) may not be utilized after a service charge is paid pursuant to § 2.6(g).◄

►(f) If no fee, or a fee insufficent to pay for one person to oppose the registration of a mark in at least one class, is submitted within thirty days after publication of the mark to be opposed or within an extension of time for filing an opposition, the opposition will not be refused if the required fee(s) and service charge (see § 2.6(g)) are submitted to the Patent and Trademark Office within the time limit set in the notification of this defect by the Office. In situations covered by this subsection, § 2.85(e) may not be utilized. Only one service charge need be paid by each party opposer regardless of the number of classes for which registration is opposed.◄

17. Section 2.103 is proposed to be revised to read as follows:

§ 2.103 Opposition filed by attorney at law or other authorized representative.

►A notice of◄ [An] opposition may be filed in the Patent and Trademark Office by an attorney at law or other person authorized to represent a party, either within thirty days after publication of the mark sought to be registered (§ 2.80) [,] or within an extension of the time for filing an opposition (§ ►2.101◄ [2.102]), but the opposition will be null and void unless ►verified◄ [confirmed] by the opposer by ►oath or affirmation◄ [verification,] or by ►a◄ declaration in accordance with § 2.20 [,] within thirty days after the filing of the ►notice of◄ opposition [,] or within such further time as may be fixed by the Commissioner upon request made before the expiration of the thirty days.

18. Section 2.104 is proposed to be revised to read as follows:

§ 2.104 Contents of ►notice of◄ opposition.

The ►notice of◄ opposition must set forth a short and plain statement showing how the opposer would be damaged by the registration of the opposed mark and state the grounds for opposition. A duplicate copy of the ►notice of◄ opposition, including exhibits ►,◄ shall be filed ►with the notice of opposition◄.

19. Section 2.105 is proposed to be revised to read as follows:

§ 2.105 Notification of opposition proceeding[s].

►When a notice of opposition in proper form has been filed and the correct fee(s) (and service charge(s), if any) have been submitted, a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the application involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the attorney or other authorized representative of the opposer, if any, or to the opposer. The duplicate copy of the notice of opposition and exhibits shall be forwarded with a copy of the notification to the attorney or other authorized representative of the applicant, if any, or to the applicant.◄ [A notification of an opposition which has been regularly filed shall be prepared, identifying the title and number of the proceeding and the application involved, and designating a time, not less than thirty days from the mailing date of such notification, within which answer must be filed. Copies of this notification shall be forwarded by the Trademark Trial and Appeal Board to the parties in care of their attorney or other representatives, if they have attorneys or other representatives of record. The duplicate copy of the opposition and exhibits shall be forwarded with the notification to the applicant.]

20. Section 2.106 is proposed to be amended by revising paragraph (c) to read as follows:

§ 2.106 Answer.

* * * * *

(c) The opposition may be withdrawn without prejudice before the answer is filed. After the answer is filed ►,◄ the opposition may not be withdrawn without prejudice except with the ►written◄ consent of the applicant.

21. Section 2.107 is proposed to be revised to read as follows:

§ 2.107 Amendment of ►pleadings in an◄ opposition ►proceeding◄.

►Pleadings in an◄ [An] opposition ►proceeding◄ may be amended in the same manner and to the same extent as [a complaint] in a civil action ►in◄ [before] a United States district court. [See Rule 15 of the Federal Rules of Civil Procedure.]

22. Section 2.111 is proposed to be revised to read as follows:

§ 2.111 ►Filing◄ [Time for filing] petition for cancellation.

►(a) A cancellation proceeding is commenced by the filing of a petition for cancellation, together with at least the fee for petitioning to cancel one class, in the Patent and Trademark Office.◄ [Any person who believes that he is or will be damaged by a registration may, upon payment of the required fee for each class sought to be cancelled in the registration, apply to the Commissioner to cancel said registration as to the specified class or classes. A petition to cancel which includes insufficient fees to cover all classes in the registration should specify the particular class or classes for which cancellation is sought. Such petition may be made at any time in the case of registrations on the Supplemental Register or under the Act of 1920, or registrations under the Act of 1881 or the Act of 1905 which have not been published under section 12(c) of the Act (§ 2.153), and in cases involving the grounds specified in section 14 (c), (d) and (e) of the Act. In all other cases such petition must be made within five years from the date of registration of the mark under the Act of 1946 or from the date of publication under section 12(c) of the Act.]

►(b) Any person who believes that he is or will be damaged by a registration may file a petition, which should be addressed to the Trademark Trial and Appeal Board, to cancel the registration in its entirety or for each class in the registration specified in the petition. The petition may be filed at any time in the case of registrations on the Supplemental Register or under the Act of 1920, or registrations under the Act of 1881 or the Act of 1905 which have not been published under § 12(c) of the Trademark Act of 1946, or on any ground specified in § 14 (c) or (e) of the Trademark Act of 1946. In all other cases the petition must be filed within five years from the date of registration of the mark under the Trademark Act of 1946 or from the date of publication under 12(c) of the Trademark Act of 1946.◄

►(c) The petition must be verified by oath or affirmation or by declaration in accordance with § 2.20.◄

►(d)(1) The petition must be accompanied by the required fee for each class in the registration for which cancellation is sought (see § 2.85(e)). If the fees submitted are insufficient for a cancellation against all of the classes in the registration, the particular class or classes against which the cancellation is filed should be specified. If the class or classes are not specified, the cancellation will be presumed to be against the class or classes in ascending order, beginning with the lowest numbered class, and including the number of classes in the registration for which the fees submitted are sufficient to pay the fee due for each class.

((2) If persons are joined as party petitioners, each must submit a fee for each class for which cancellation is sought. If the fees submitted are insufficient for each named party petitioner, the first named party will be presumed to be the party petitioner and additional parties will be deemed to be party petitioners to the extent that the fees submitted are sufficient to pay the fee due for each party petitioner. If persons are joined as party petitioners against a registration sought to be cancelled in more than one class and the fees submitted are insufficient, the fees submitted will be applied first on behalf of the first-named petitioner against as many of the classes in the registration as the submitted fees are sufficient to pay, and any excess will be applied on behalf of the second-named party to the petition against the classes in the registration in ascending order. The payment of fees for additional party petitioners may be made as though they are the payment of additional fees for additional classes in accordance with § 2.85(e).◄

23. Section 2.112 is proposed to be revised to read as follows:

§ 2.112 ►Contents of petition◄ [Petition] for cancellation.

►(a)◄ The petition to cancel [which must be verified, or include a declaration in accordance with § 2.20], must set forth a short and plain statement showing how the petitioner is or will be damaged by the registration, state the grounds for cancellation, and indicate the respondent party to whom notification shall be sent. A duplicate copy of the petition, including exhibits, shall be filed with the petition. [Applications to cancel different registrations owned by the same party may be joined in one petition when appropriate, but the required fee must be included for each class sought to be cancelled in each registration against which each application to cancel is filed. If persons are joined in a petition to cancel, a fee for each class sought to be cancelled for each person so joined is required.]

►(b) Petitions to cancel different registrations owned by the same party may be joined in a consolidated petition when appropriate, but the required fee must be included for each party joined as petitioner for each class sought to be cancelled in each registration against which the petition to cancel is filed.◄

24. Section 2.113 is proposed to be revised to read as follows:

§ 2.113 Notification of ►cancellation proceeding◄ [filing of petition].

[(a)] When a petition for cancellation ►has been filed in proper form and the correct fee(s) have been submitted, a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the registration or registrations involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the attorney or other authorized representative of the petitioner, if any, or to the petitioner. The duplicate copy of the petition for cancellation and exhibits shall be forwarded with a copy of the notification to the respondent.◄ [is filed, it shall be transmitted to the Trademark Trial and Appeal Board, which shall make examination thereof to determine if it is formally correct.] If the petition is found to be defective as to form, the party filing the ►petition◄ [same] shall be so advised and allowed a reasonable time for correcting the informality.

[(b) When the petition is correct as to form, a notification shall be prepared, identifying the title and number of the proceeding and the registration involved, and designating a time, not less than thirty days from the mailing date of such notification, within which answer must be filed. A copy of this notification shall be forwarded to the

petitioner in care of his attorney or other representative, if he has an attorney or other representative of record. The duplicate copy of the petition and exhibits shall be forwared with a copy of such notification to the respondent party.]

25. Section 2.115 is proposed to be revised to read as follows:

§ 2.115 Amendment of ►pleadings in a◄ [petition for] cancellation ►proceeding◄.

►Pleadings in a◄ [A petition for] cancellation ►proceeding◄ may be amended in the same manner and to the same extent as [a complaint] in a civil action ►in◄ [before] a United States district court. [See Rule 15 of the Federal Rules of Civil Procedure.]

26. Section 2.116 is proposed to be amended by revising paragraphs (b) and (c) to read as follows:

§ 2.116 [Federal] Rules of [Civil] Procedure.

* * * * *

(b) ►The opposer in an opposition proceeding or the petitioner in a cancellation proceeding shall be in the position of plaintiff, and the applicant in an opposition proceeding or the respondent in a cancellation proceeding shall be in the position of defendant. A party that is a junior party in an interference proceeding or in a concurrent use registration proceeding shall be in the position of plaintiff against every party that is senior, and the party that is a senior party in an interference proceeding or in a concurrent use registration proceeding shall be a defendant against every party that is junior.◄ [The party having the latest filing date in an interference, the opposer in an opposition proceeding, the petitioner in a cancellation proceeding, and the applicant to register as a concurrent lawful user (or such applicant having the latest filing date), shall be deemed to be in the position of plaintiff, and the other parties to such proceedings shall be deemed to be in the position of defendants.]

(c) The ►notice of◄ opposition ►or◄ [and] the petition ►for cancellation◄ [to cancel,] and the ►answer◄ [answer thereto] correspond to ►the◄ complaint and answer in ►a◄ court proceeding[s]. [Such pleadings as may be filed in interference and concurrent registration proceedings will be treated as complaints or affirmative defenses, depending upon the party filing, but the filing of a pleading in such proceedings shall not operate to change the position of the parties as set forth in the preceding paragraph.]

* * * * *

27. Section 2.117 is proposed to be amended by designating the present section as subsection (a) and adding new subsections (b), (c) and (d), to read as follows:

§ 2.117 Suspension of proceedings.

* * * * *

►(b) Issue must be joined in the civil action and in the proceeding pending before the Trademark Trial and Appeal Board before the question of suspension of proceedings will be considered.◄

►(c) Whenever there is pending, at the time when the question of the suspension of proceedings is raised, a motion which is potentially dispositive of the case, the motion will be decided before the question of suspension will be considered.◄

►(d) Proceedings may also be suspended, for good cause, upon motion or a stipulation of the parties approved by the Board.◄

28. Section 2.120 is proposed to be revised to read as follows:

§ 2.120 Discovery [procedure].

►(a) *In general.* ◄ The provisions of the Federal Rules of Civil Procedure relating to discovery shall apply in ►opposition, cancellation, interference and concurrent use registration proceedings◄ [in inter partes trademark cases] except as otherwise provided in this section. The Trademark Trial and Appeal Board will specify the closing date for the taking of discovery.

►(b) *Discovery deposition within the United States.*◄ [(a) *Depositions for discovery—(1) Procedure.*] The deposition of a ►natural◄ person shall be taken in the Federal judicial district where ►the person◄ [he] resides or is regularly employed ►or at any place on which the parties agree by stipulation◄. The responsibility ►rest wholly with the party taking discovery to secure◄ [for securing] the attendance of a proposed deponent [,] other than a party or anyone who ►,◄ at the time set for the taking of the deposition ►, is◄ [was] an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) of Rule 31(a) of the Federal Rules of Civil Procedure ►.◄ [to testify on behalf of a party, rests wholly with the interested party] See 35 U.S.C. 24.

►(c)◄ [2] *Discovery ►disposition◄ in foreign countries.* ►(1)◄ The discovery deposition of a ►natural person residing in a foreign country who is a◄ party or ►who, at the time set for the taking of the deposition is◄ an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or ►Rule◄ 31(a) of the Federal Rules of ►Civil ◄ Procedure ►, shall if taken in a foreign country.◄ [to testify on behalf of a party, domiciled in a foreign country may] be taken in the manner prescribed by § 2.124[.]

►unless the Trademark Trial and Appeal Board, upon motion for good cause, orders or the parties stipulate, that the deposition be taken by oral examination.

(2) Whenever a foreign party is or will be, during a time set for discovery, present within the United States or any territory which is under the control and jurisdiction of the United States, such party may be deposed by oral examination upon notice by the party seeking discovery. Whenever a foreign party has or will have, during a time set for discovery, an officer, director, managing agent, or other person who consents to testify on its behalf, present within the United States or any territory which is under the control and jurisdiction of the United States, such officer, director, managing agent, or other person who consents to testify in its behalf may be deposed by oral examination upon notice by the party seeking discovery. The party seeking discovery may have one or more officers, directors, managing agents, or other persons who consent to testify on behalf of the adverse party, designated under Rule 39(b)(6) of the Federal Rules of Civil Procedure. The deposition of a person under this paragraph shall be taken in the Federal judicial district where the witness resides or is regularly employed, or, if the witness neither resides nor is regularly employed in a Federal judicial district, where the witness is at the time of the deposition. This paragraph does not preclude the taking of a discovery deposition of a foreign party by any other procedure provided by paragraph (1).◄ [(3) *Use of discovery depositions.* A discovery deposition shall not be considered as part of the record in the case unless the party offering the deposition, or any part thereof, files the same before the close of his testimony period (testimony-in-chief or rebuttal as appropriate) and also files a notice of reliance thereon. A discovery deposition should not be filed in the Patent and Trademark Office in the absence of a notice of reliance. Objections, including any made during the examination, will be considered only if made or renewed at the hearing.]

►(d) *Request for production.* The production of documents and things under the provisions of Rule 34 of the Federal Rules of Civil Procedure will be made at the place where the documents and things are usually kept, or where the parties agree, or where and in the manner which the Trademark Trial and

Appeal Board, upon motion, orders.◄ [(b) *Use of admission or answer to interrogatory.* No admission or answer to an interrogatory shall be considered as part of the record in the case unless the party propounding the request for admission or interrogatory files, before the close of his testimony period (testimony-in-chief or rebuttal, as appropriate), a copy of the admission and the request therefor and/or a copy of the interrogatory and its answer and also files a notice of reliance thereon.]

►(e) *Motion for an order to compel discovery.* If a party fails to designate a person pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, or if a party, or such designated person, or an officer, director or managing agent of a party fails to attend a deposition or fails to answer any question propounded in a discovery deposition, or any interrogatory, or fails to produce and permit the inspection and copying of any document or thing, the party seeking discovery may file a motion before the Trademark Trail and Appeal Board for an order to compel a designation, or attendance at a deposition, or an answer, or production and an opportunity to inspect and copy. The motion shall include a copy of the request for designation or of the relevant portion of the discovery deposition; or a copy of the interrogatory with any answer or objection that was made; or a copy of the request for production, any proffer of production or objection to production in response to the request, and a list and brief description of the documents or things that were not produced for inspection and copying. The motion must be supported by a written statement from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.◄ [(c) *Failure to make discovery: Sanctions.* (1) If any party fails or refuses to answer any proper question in taking discovery depositions or fails or refuses to answer any proper question propounded by interrogatories or fails or refuses to comply with a request to produce and permit the inspection and copying of designated things, the party seeking discovery may file a motion with the Trademark Trial and Appeal Board for an order compelling discovery. Such a motion must be supported by a written statement by the attorney for the moving party that the moving party or its attorney has conferred with the opposing party or its attorney in an effort in good faith to resolve by agreement the issues raised by the motion and has been unable to reach agreement. If issues raised by the motion are subsequently resolved between the parties, the attorney for the moving party should advise the Trademark Trial and Appeal Board in writing of the matters in the motion which no longer require decision by the Board.

(2) If a party or an officer, director, or managing agent of a party, or a person designated under Rule 30(b)(6) or 31(a) of the Federal Rules of Civil Procedure to testify on behalf of a party, fails to obey an order to provide or permit discovery, the Trademark Trial and Appeal Board may strike out all or any part of any pleading of that party, dismiss the action or proceeding, or deny any part thereof, enter judgment as by default against that party or take any such other action as may be deemed appropriate.]

►(f) *Motion for a protective order.* Upon motion by a party from whom discovery is sought, and for good cause, the Trademark Trial and Appeal Board may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the types of orders provided by clauses (1) through (8), inclusive, of Rule 26(c) of the Federal Rules of Civil Procedure. If the motion for a protective order is denied in whole or in part, the Board may, on such conditions (other than an award of expenses to the party prevailing on the motion) as are just, order that any party provide or permit discovery.◄

►(g) *Failure to comply with order.* If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery, including a protective order, the Board may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure, except that the Board does not have authority to hold any person in contempt or to award any expenses to any party. The Board may impose against a party any of the sanctions provided by this subsection in the event that said party or any attorney, agent, or designated witness of that party fails to comply with a protective order made pursuant to Rule 26(c) of the Federal Rules of Civil Procedure.◄

►(h) *Request for admissions.* Requests for admissions shall be governed by Rule 36 of the Federal Rules of Civil Procedure except that the Trademark Trial and Appeal Board does not have authority to award any expenses to any party. A motion by a party to determine the sufficiency of an answer or objection to a request made by that party for an admission shall include a copy of the request for admission and any exhibits thereto and of the answer or objection. The motion must be supported by a written statement from the moving party that such party or the attorney therefor has made a good faith effort, by conference or correspondence, to resolve with the other party or the attorney therefor the issues presented in the motion and has been unable to reach agreement. If issues raised in the motion are subsequently resolved by agreement of the parties, the moving party should inform the Board in writing of the issues in the motion which no longer require adjudication.◄

►(i) *Pre-trial conference.* Whenever it appears to the Trademark Trial and Appeal Board that questions or issues arising during the interlocutory phase of an inter partes proceeding have become so complex that their resolution by correspondence or telephone conference is not practical and that resolution would be likely to be facilitated by a conference in person of the parties or their attorneys with a Member or Attorney-Examiner of the Board, the Board may at its discretion request that the parties or their attorneys, under circumstances which will not result in undue hardship for any party, meet with the Board at its offices for a pre-trial conference.◄

►(j) *Use of discovery deposition, admission, or answer to interrogatory.* (1) A party who took a discovery deposition, or who obtained an answer to an interrogatory, or who obtained an admission, may make the same of record in the case by filing the deposition or any part thereof with any exhibit identified in the part that is filed, or a copy of the interrogatory and the answer thereto with any exhibit made part of the answer, or a copy of the request for admission and any exhibit thereto and the admission (or a statement that the party from whom an admission was requested failed to respond thereto), together with a notice of reliance. The notice of reliance and the material submitted thereunder shall be filed during the testimony period of the party who files the notice of reliance. An objection made at a discovery deposition by a party

answering a question subject to the objection will be considered at final hearing.

(2) A discovery deposition or part thereof, or an answer to an interrogatory, or an admission, may be submitted and made part of the record by only the inquiring party except that, if only part of a discovery deposition, or fewer than all of the answers to interrogatories, or fewer than all of the admissions, are offered in evidence by the inquiring party, the responding party may introduce under a notice of reliance any other part of the discovery deposition, or any other answers to interrogatories, or any other admissions, which should in fairness be considered so as to make not misleading what was offered by the inquiring party.

(3) A deposition, taken during the discovery period, of a person who is not a party, or an officer, director or managing agent of a party, or a person designated by a party pursuant to Rule 30(b)(6) or Rule 31(a) of the Federal Rules of Civil Procedure, shall not be offered in evidence except when the person whose discovery deposition was taken is, during the testimony period of the party offering the deposition: dead; or out of the United States (unless it appears that the absense of the witness was procured by the party offering the deposition); or unable to testify because of age, illness, infirmity, or imprisonment; or cannot be served with a subpoena to compel attendance at a testimonial deposition; or there is a stipulation by the parties; or upon a showing of extraordinary circumstances and necessity in the interest of justice. The use of a discovery deposition under this paragraph will be allowed only by order of the Trademark Trial and Appear Board on motion, which shall be filed promptly after the circumstances claimed to justify use of the deposition become known, or by stipulation of the parties approved by the Board.

(4) Subsection (j) will not be interpreted to preclude the reading or the use of a discovery deposition, or answer to an interrogatory, or admission as part of the examination or cross-examination of any witness during the testimony period of any party.

(5) Interrogatories, requests for production, requests for admissions, and materials or depositions obtained during the discovery period should not be filed with the Board except when submitted with a motion to compel discovery, or in support of or response to a motion for summary judgment, or under a notice of reliance during a party's testimony period.◄

29. Section 2.121 is proposed to be revised to read as follows:

§ 2.121 Assignment of times for taking testimony.

(a) ►(1) The Trademark Trial and Appeal Board will issue a trial order assigning to each party the time for taking testimony. No◄ [Times will be assigned for the taking of testimony in behalf of each of the parties, and no] testimony shall be taken except during the time assigned ►, unless by stipulation of the parties approved by the Board or, upon motion, by order of the Board. Testimony periods may be rescheduled by stipulation of the parties approved by the Board or, upon motion, by order of the Board. The resetting of the closing date for discovery will result in the rescheduling of the testimony periods without anction by any party.

(2) The initial trial order will be mailed by the Board after issue is joined.◄ [If there be no more than two parties to an interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties, to rebut their evidence, and to meet the evidence of junior parties.]

(b) ►(1) The Trademark Trial and Appeal will schedule a testimony period for the plaintiff to present its case in chief, a testimony period for the defendant to present its case and to meet the case of the plaintiff, and a testimony period for the plaintiff, and testimony period for the plaintiff to present evidence in rebuttal.

(2) When there is a counterclaim, or when proceedings have been consolidated and one party is in the position of plaintiff in one of the involved proceedings and in the position of defendant in another of the involved proceedings, or when there is an interference or a concurrent use registration proceeding involving more than two parties, the Board will schedule testimony periods so that each party in the position of plaintiff will have a period for presenting its case in chief against each party in the position of defendant, each party in the position of defendant will have a period for presenting its case and meeting the case of each plaintiff, and each party in the postition of plaintiff will have a period for representing evidence in rebuttal.◄ [The times will ordinarily be assigned in the notices sent by the Patent and Trademark Office in interferences and in concurrent use proceedings, and in a notice sent after the answers have been filed in cases of opposition and cancellation.]

►(c) A testimony period which is solely for rebuttal will be set for thirty days. The periods may be extended by stipulation of the parties, approved by the Trademarak Trial and Appeal Board, or, upon motion, by order of the Board.◄

►(d) When parties stipulate to the rescheduling of testimony periods or to the rescheduling of the closing date for discovery and the rescheduling of testimony periods, a stipulation presented in the form used in a trial order, signed by the parties, or a motion in said form signed by one party and including a statement that every other party has agreed thereto, and submitted in one original plus as many photocopies as there are parties, will, if approved, be so stamped, signed, and dated, and the copies will be promptly returned to the parties.◄

30. Section 2.122 is proposed to be revised to read as follows:

§ 2.122 Matters in evidence.

(a) ►The rules of evidence for proceedings before the Trademark Trial and Appeal Board are the Federal Rules of Evidence, the relevant provisions of the Federal Rules of Civil Procedure, the relevant provisions of Title 28 of the United States Code, and the provisions of this Part of Title 37 of the Code of Federal Regulations.◄ [The files of the applications or registrations specified in the declaration of interference or in the notice in case of concurrent registration proceedings, of the application against which an opposition is filed, and of the registration against which a petition for cancellation or an affirmative defense requesting]

►(b)(1) The file of each application specified in a declaration of interference, of each application or registration specified in the notice of a concurrent use registration proceeding, of the application against which a notice of opposition is filed, or of each registration against which a petition or counterclaim for◄ cancellation is filed [,] ►forms◄ [form] part of the record of the proceeding without any action by the parties ►and reference may be made to the file◄ [, and may be referred to] for any relevant and competent purpose.

►(2) The allegation in an application for registration, or in a registration, of a date of use is not evidence on behalf of the applicant or registrant; a date of use of a mark must be established by evidence. Specimens in the file of an application for registration, or in the file of a registration, are not evidence on behalf of the applicant or registrant unless identified and introduced in evidence as are other exhibits during the period for the taking of testimony.

(3) An exhibit attached to a pleading is not evidence on behalf of the party to whose pleading the exhibit is attached

unless identified and introduced in evidence as are other exhibits during the period for the taking of testimony.◄ [(b) A registration of the opposer or petitioner pleaded in an opposition or petition to cancel will be received in evidence and made part of the record if two copies showing status and title of the printed registration or an order for such copies accompany the opposition or petition.]

(c) ►(1)◄ Printed publications, such as books and periodicals, available to the general public in libraries or of general circulation ►among members of the public or that segment of the public which is relevant under an issue in a proceeding◄, and official records, if ►the publication or official record is◄ competent evidence and ►relevant◄ [pertinent] to ►an◄ [the] issue, may be introduced in evidence by filing [in the Patent and Trademark Office] a notice ►of reliance on the material being offered, which notice shall specify the printed publication or the official record and the pages to be read, indicate generally the relevance of the material being offered, and be accompanied by the official record or a copy thereof whose authenticity is established under the Federal Rules of Evidence, or by the printed publication or a copy of the relevant portion thereof, including the title page and any other page needed to show the place and date of publication, the name and address of the publisher, and the name of the author or the editor. The notice of reliance shall be filed during the testimony period of the party that files the notice.

(2) A registration owned by any party to a proceeding may be made of record in the proceeding by that party by filing a notice of reliance, which shall be accompanied by a certified copy of the registration prepared and issued by the Patent and Trademark Office showing both the current status of and current title to the registration. For the cost of a certified copy of a registration showing status and title, see the second item under § 2.6(a). The notice of reliance shall be filed during the testimony period of the party that files the notice.◄ [to that effect during the period for the taking of the testimony of the party (during the period for taking of testimony-in-chief if such matters are not in rebuttal), specifying the record or the printed publication, the page or pages to be used, indicating generally, its relevance, and accompanied by the record or authenticated copy or the printed publication or a copy. When a copy of an official record of the Patent and Trademark Office is filed, it need not be a certified copy. The notice and copy of the record or publication must be served on each of the other parties].

(d) ►A copy of an official record of the Patent and Trademark Office other than a copy of a registration owned by a party to a proceeding need not be certified to be offered in evidence.◄ [Upon motion duly made and granted, testimony taken in another proceeding, or testimony taken in a suit between the same parties or those in interest, may be used in a proceeding, so far as relevant and material, subject, however, to the right of any contesting party to recall or demand the recall of witnesses whose testimony has been taken, and to take other testimony in rebuttal of the testimony.]

►(e) By order of the Trademark Trial and Appeal Board, on motion, testimony taken in another proceeding, or testimony taken in a suit or action in a court, between the same parties or those in privity may be used in a proceeding, so far as relevant and material, subject, however, to the right of any adverse party to recall or demand the recall for examination or cross-examination of any witness whose prior testimony has been offered and to rebut the testimony.◄

31. Section 2.123 is proposed to be amended by revising paragraphs (a), (e)(3), (j) and (k) to read as follows:

§ 2.123 Trial testimony in inter partes cases.

(a) (1) The testimony [*Manner of taking testimony.* Testimony] of witnesses in inter partes cases may be taken [:(1)] by depositions upon oral examination as provided by this section [,] or [(2)] by depositions upon written questions as provided by [in accordance with the requirements of this section and] § 2.124. If a party serves notice of the taking of a testimonial deposition upon written questions of a witness who is, or will be at the time of the deposition, present within the United States or any territory which is under the control and jurisdiction of the United States, any adverse party may, within fifteen days from the date of service of the notice, file a motion with the Trademark Trial and Appeal Board, for good cause, for an order that the deposition be taken by oral examination.

(2) A testimonial deposition taken in a foreign country shall be taken by deposition upon written questions as provided by § 2.124, unless the Board, upon motion for good cause, orders that the deposition be taken by oral examination, or the parties so stipulate.

* * * * *

(e) *Examination of witnesses* : [.]

* * * * *

(3) Every adverse [The opposing] party shall have full opportunity to cross-examine each witness. [the witnesses.] If the notice of examination of witnesses which is served pursuant to subsection (c) is improper or inadequate with respect to any witness, an adverse party may cross-examine that witness under protest while reserving the right to object to the receipt of the testimony in evidence. Promptly after the testimony is completed, the adverse party, if he wishes to preserve the objection, shall move to strike the testimony from the record, which motion will be decided on the basis of all of the relevant circumstances. A motion to strike the testimony of a witness for lack of proper or adequate notice of examination must request the exclusion of the entire testimony of that witness and not only a part of that testimony.◄ [opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice.]

* * * * *

(j) *Effect of errors and irregularities in depositions* ►:◄ [.] Notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof. Rule 32(d) (1), (2), and (3) ►(A) and (B)◄ [(a) and (b)] of the Federal Rules of Civil Procedure shall apply to errors and irregularities in depositions.

(k) *Objections to admissibility* ►:◄ [.] Subject to the provisions of ►subsection◄ [paragraph] (j) [of this section], objection may be made to receiving in evidence any deposition ►,◄ or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence ►from consideration. Objections based on grounds of alleged lack of relevancy, materiality, or competency should be raised in the brief filed under § 2.128, but not by a motion to strike testimony regularly taken pursuant to these rules. Objections will be considered at final hearing.◄ [according to the established rules of evidence, which will be applied strictly by the Office.]

* * * * *

32. Section 2.124 is proposed to be revised to read as follows:

§ 2.124 ►Depositions◄ [Testimony by depositions] upon written questions.

(a) ►A deposition upon written questions may be taken before any person before whom depositions may be taken as provided by Rule 28 of the Federal Rules of Civil Procedure.◄ [A party may take the testimony of a witness by written questions to be propounded by an officer before whom depositions may be taken. See Rule 28 of the Federal Rules of Civil Procedure. The questions shall be served upon the other party within 10 days after the opening date set for taking the testimony of the party submitting the questions, together with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter, a party so served may serve cross questions upon the party proposing to take the deposition. Within 5 days thereafter, the latter may serve redirect questions upon a party who has served cross questions. Within 3 days after being served with redirect questions a party may serve recross questions upon the party proposing to take the depositions. Written objections to questions may be served on the party propounding the questions, and in response thereto substitute questions may be served, within 3 days.]

(b) ►(1) A party desiring to take a testimonial deposition upon written questions shall serve notice thereof upon each adverse party within ten days from the opening date of the testimony period of the party who serves the notice. The notice shall state the name and address of the witness. A copy of the notice, but not copies of the questions, shall be filed with the Trademark Trial and Appeal Board.

(2) A party desiring to take a discovery deposition upon written questions shall serve notice thereof upon each adverse party and shall file a copy of the notice, but not copies of the questions, with the Board. The notice shall state the name and address, if known, of the person whose deposition is to be taken. If the name of the person is not known, a general description sufficient to identify him or the particular class or group to which he belongs shall be stated in the notice, and the party from whom the discovery deposition is to be taken shall designate one or more persons to be deposed in the same manner as is provided by Rule 30(b)(6) of the Federal Rules of Civil Procedure.◄ [A copy of the notice and copies of all questions served shall be delivered by the party taking the testimony to the officer designated in the notice, who shall proceed to take the testimony of the witness in response to the questions and to prepare each answer immediately preceded by its corresponding question, then certify, and file the deposition, attaching thereto the copy of the notice and the questions received by him. Such depositions are subject to the same rulings for filing and serving copies as other depositions.]

(c) ►Every notice given under the provisions of subsection (b) shall be accompanied by the name or descriptive title of the officer before whom the deposition is to be taken.◄ [On motion made within ten days after service of the notice and written questions, it may be ordered, for good cause shown, that the testimony be not taken in accordance with the section but by oral examination of the witness.]

(d) ►(1) Every notice served on any adverse party under the provisions of subsection (b) shall be accompanied by the written questions to be propounded on behalf of the party who proposes to take the deposition. Within twenty days from the date of service of the notice, any adverse party may serve cross questions upon the party who proposes to take the deposition; any party who serves cross questions shall also serve every other adverse party. Within ten days from the date of service of the cross questions, the party who proposes to take the deposition may serve redirect questions on every adverse party. Within ten days from the date of service of the redirect questions, any party who served cross questions may serve recross questions upon the party who proposes to take the depositon; any party who seves recross questions shall also serve every other adverse party. Written objections to questions may be served on a party propounding questions; any party who objects shall serve a copy of the objections on every other adverse party. In response to objections, substitute questions may be served on the objecting party within ten days of the date of service of the objections; substitute questions shall be served on every other adverse party.

(2) Upon motion for good cause by any party, or upon its own motion, the Trademark Trial and Appeal Board may extend any of the time periods provided by paragraph (1) of this subsection (d) and may, when one or more testimonial depositions are to be taken upon written questions, suspend or reschedule other proceedings in the matter to allow for the orderly completion of the depositions upon written questions.◄ [Testimony in foreign countries shall be taken only be depositions upon written questions unless the parties stipulate otherwise in writing. Rule 28(b) of the Federal Rules of Civil Procedure shall apply to the taking of testimony in foreign countries.]

►(e) Within ten days after the last date when questions, objections, or substitute questions may be served, the party who proposes to take the deposition shall mail a copy of the notice and copies of all the questions to the officer designated in the notice; a copy of the letter to the office shall be served on every adverse party. The officer designated in the notice shall take the testimony of the witness in response to the questions and shall record each answer immediately after the corresponding question. The officer shall then certify the transcript and mail the transcript and exhibits to the party who took the deposition.◄

►(f) the party who took the deposition shall promptly serve a copy of the transcript, copies of documentary exhibits, and duplicates or photographs of physical exhibits on every adverse party. It is the responsibility of the party who takes the deposition to assure that the transcript is correct. If the deposition is a discovery deposition, it may be made of record as provided by §2.120(j).

If the deposition is a testimonial depostion, the original and one copy, together with copies of documentary exhibits and duplicates or photographs of physical exhibits, shall be filed promptly with the Trademark Trial and Appeal Board.◄

►(g) Objections to questions and answers in depositions upon written questions may be considered at final hearing.◄

33. Section 2.125 is proposed to be revised to read as follows:

§2.125 δFILING AND SERVICE◄ [Copies] of testimony.

(a) One copy of the transcript of testimony [(] taken in accordance with § 2.123 [(e) through (h) or § 2.124)], together with copies of documentary exhibits ►and duplicates or photograpsh of physical exhibits◄, shall be served on each adverse party within ►thirty◄ [30] days after completion of the taking of ►that◄ [such] testimony. [The certified transcript and exhibits and one copy of the transcript shall be filed in the Patent and Trademark Office as promptly as possible.]

(b) ►The party who takes testimony is responsible for having all typographical errors in the transcript and all errors of arrangement, indexing and form of the transcript corrected, on notice to each adverse party, prior to the

filing of one certified transcript and one copy of the transcript with the Trademark Trial and Appeal Board. The party who takes testimony is responsible for serving on each adverse party one copy of the corrected transcript or, if reasonably feasible, corrected pages to be inserted into the transcript previously served.◄ [(b) Each transcript and the copies thereof shall comply with §2.123(g) as to arrangement, indexing and form.]

►(c) One certified transcript and exhibits and one copy of the transcript shall be filed promptly with the Trademark Trial and Appeal Board. Notice of such filing shall be served on each adverse party and a copy of each notice shall be filed with the Board.◄

►(d) Each transcript and the copies thereof shall comply with § 2.123(g) with respect to arrangement, indexing and form.◄

►(e) Upon motion by any party, for good cause, the Trademark Trial and Appeal Board may order that any part of a deposition transcript or any exhibits that directly disclose any trade secret or other confidential research, development, or commercial information may be filed under seal and kept confidential under the provisions of § 2.27(e). If any party or any attorney or agent of a party fails to comply with an order made under this paragraph, the Board may impose any of the sanctions authorized by § 2.120(g).◄

§ 2.126 [Removed].

34. It is proposed to remove § 2.126, Allegations in application not evidence on behalf of applicant.

35. Section 2.127 is proposed to be revised to read as follows:

§ 2.127 Motions.

([a) ►Every motion◄ [Motions] shall be made in writing ►,◄ [and] shall contain a full statement of the ►grounds, and shall embody or be accompanied by a brief.◄ [grounds therefor. Any brief or memorandum in support of a motion shall accompany or be embodied in the motion.] ►A brief in response◄ [Briefs in opposition] to a motion shall be filed within fifteen days from the date of service of the motion unless another time is specified by the Trademark Trial and Appeals Board or the time is extended ►by order of the Board on motion for good cause.◄ [on request] ►When◄ [Where] a party fails to file a brief in ►response◄ [opposition] to a motion, the [Trademark Trial and Appeal] Board may treat the motion as conceded. ►An oral hearing◄ [Oral hearings] will not be held on ►a motion◄ [motions] except on order ►by◄ [of] the [Trademark Trial and Appeal] Board.

(b) Any request for [rehearing or] reconsidertion [,] or modification of ►an order or◄ [a] decision ►issued◄ [,] on a motion [which is not finally dispositive of the case,] must be filed within thirty days from the date thereof. ►A brief in response must◄ [Any brief in opposition shall] be filed within fifteen days ►from the date of◄ [after] service of the request.

(c) Interlocutory motions, requests, and other matters not ►actually or potentially dispositive of a◄ [finally determinative in the] proceeding may be acted upon by a ►single Member◄ [member] of the Trademark Trial and Appeal Board ►or by an Attorney-Examiner of the Board to whom authority so to act has been delegated◄.

►(d) When any party files a motion to dismiss, or a motion for judgment on the pleadings, or a motion for summary judgment, or any other motion which is potentially dispositive of a proceeding, the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper which is not germane to the motion. If the case is not disposed of as a result of the motion, proceedings will be resumed pursuant to an order of the Board when the motion is decided. ◄

36. Section 2.128 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 2.128 ►Briefs at final hearing.◄ [Final hearings and briefs.]

(a) ►(1)◄ The brief of ►the◄ [a] party in the position of plaintiff shall be filed not later than sixty days after the [closing] date set for ►the close of◄ rebuttal testimony ►. The◄ [; the] brief of ►the◄ [a] party in the position of defendant ►shall be filed◄ not later than thirty days after the due date of the first brief ►. A◄[; a] reply brief by ►the◄ [a] party in the position of plaintiff ►may be◄ [, if] filed ►not later than◄ [, shall be due] fifteen days after the due date of the ►defendant's◄ brief [to which it is a reply]. [Three copies of all briefs should be filed.]

►(2) When there is a counterclaim, or when proceedings have been consolidated and one party is in the position of plaintiff in one of the involved proceedings and in the position of defendant in another of the involved proceedings, or when there is an interference or concurrent use registration proceeding involving more than the two parties, the Trademark Trial and Appeal Board will set the due dates for the filing of the main brief, and the answering brief, and the rebuttal brief by the parties.

(3) When a party in the position of plaintiff fails to file a main brief or a party in the position of defendant fails to file a brief, the Board may treat such failure as a concession of the case. ◄

(b) Briefs shall be submitted in typewritten or printed form, double spaced ►,◄ on letter or legal size paper. Without leave of the Trademark Trial and Appeal Board, no brief shall contain more than ►fifty◄ [50] pages of argument and, in the case of a reply brief, the entire brief shall not exceed ►twenty-five◄ [25] pages. Each brief shall not exceed ►twenty-five◄ [25] pages. Each brief shall contain an alphabetical index of cases ►cited◄ therein. ►One original and two legible copies, on good quality paper, of each brief shall be filed.◄

* * * * *

37. Section 2.129 is proposed to be revised to read as follows:

§ 2.129 Oral argument[s and] ►;◄ reconsideration.

(a) ►If a party desires to have an oral argument at final hearing, the party shall request such argument by a separate notice filed not later than ten days after the due date for the filing of the last reply brief in the proceeding.◄ Oral arguments will be heard by [at least] three Members of the Trademark Trial and Appeal Board at the time ►specified◄ [stated] in the notice ►of hearing◄. If any party appears at the specified time, ►that party◄ [he] will be heard. If the Board is prevented from hearing the case at the ►specified time,◄ [time specified,] a new ►hearing date will be set.◄ [assignment will be made, or the case will be continued from day to day until heard.] Unless otherwise permitted, oral arguments ►in an inter partes case◄ will be limited to ►thirty minutes◄ [one-half hour] for each party. ►A party in the position of plaintiff may reserve part of the time allowed for oral argument to present a rebuttal argument.◄

(b) ►The date of time of a hearing may be reset, so◄ [Hearings may be advanced or adjourned, as] far as is convenient and proper, to meet the wishes of the parties and their attorneys or other authorized representatives.

(c) Any request for rehearing or reconsideration [,] or modification of a decision ►issued after final hearing◄ [, including a decision on a motion which is finally dispositive of a case,] must be filed within thirty days from the date ►of the decision◄ [thereof]. ►A◄ [Any] brief in ►response must◄ [opposition shall] be filed within fifteen

days ►from the date of◄ [after] service of the request. The times specified [herein] may be extended by ►order of◄ the Trademark Trial and Appeal Board ►on motion for good cause◄ [upon a showing of sufficient cause].

38. Section 2.131 is proposed to be revised to read as follows:

§ 2.131 ►Remand after decision◄ [Ex parte matter] In [an] inter partes ►proceeding◄ [case].

►If, during an inter partes proceeding, facts are disclosed which appear to render the mark of an applicant unregistrable, but such matter has not been tried under the pleadings as filed by the parties or as they might be deemed to be amended under Rule 15(b) of the Federal Rules of Civil Procedure to conform to the evidence, the Tradmark Trial and Appeal Board, in lieu of determining the matter in the decision on the proceeding, may refer the application to the examiner for reexamination in the event the applicant ultimately prevails in the inter partes proceeding. Upon receiving the application, the examiner shall withhold registration pending reexamination of the application in the light of the reference by the Board.◄ [If, in considering an inter partes case involving an application, facts appear which, in the opinion of the Trademark Trial and Appeal Board, render the mark of the applicant unregistrable on one or more ex parte grounds, the Board shall in its decision on the inter partes issues in the case recommend that if the applicant finally prevails in the case, registration be withheld pending a reexamination by the Examiner to Trademarks of the application in the light of such facts.] If, upon [such] reexamination [following termination of the inter partes case], the ►examiner◄ [Examiner of Trademarks] finally refuses registration to the applicant, an appeal may be taken as provided by §§ 2.141 and 2.142.

39. Section 2.132 is proposed to be revised to read as follows:

§ 2.132 ►Involuntary dimissal for failure◄ [Failure] to take testimony.

(a) ►If the time for taking testimony by any party in the position of plaintiff has expired and that party has not taken testimony or offered any other evidence, any party in the position of defendant may, without waiving the right to offer evidence in the event the motion is denied, more for dismissal on the ground of the failure of the plaintiff to prosecute. The party in the position of plaintiff shall be allowed fifteen days from the date of service of the motion to show cause why judgment should not be rendered against him. In the absence of a showing of good and sufficient cause, judgment may be rendered against the party in the position of plaintiff. If the motion is denied, testimony periods will be reset for the party in the position of defendant and for rebuttal.◄ [Upon the filling of a statement by any party in the position of defendant, that the time for taking testimony on behalf of any party in the position of plaintiff has expired and that no testimony has been taken by him and no other evidence offered, an order may be entered that such party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause judgment may be rendered as by default.]

(b) If no evidence other than a copy of copies of Patent and Trademark Office records is offered by ►any◄ [the] party in the position of plaintiff, any party in the position of defendant ►may◄ , without waiving the right to offer evidence in the event the motion is denied, [may] move for dismissal on the ground that upon the law and the facts the party in the position of plaintiff has shown no right to relief. The party in the position of plaintiff shall be allowed fifteen days ►from the date of◄ [after] service of the motion to file ►a brief in response◄ [his argument in opposition] to the motion. ►The Trademark Trial and Appeal Board may render judgment◄ [Judgment may be rendered] against the party in the position of plaintiff, or the [Trademark Trial and Appeal] Board may decline to render judgment until all of the evidence is in ►the record◄.

►If judgment is not rendered,◄ [In the latter event,] testimony periods will be reset for the party in ►the◄ position of defendant and for rebuttal.

►(c) Any motion filed under subsection (a) or (b) must be filed before the opening of the testimony period of the moving party.◄

40. Section 2.134 is proposed to be revised to read as follows:

§ 2.134 Surrender or ►voluntary◄ cancellation of registration.

►(a) After the commencement of a cancellation proceeding, if the respondent◄ [If a registrant involved in a proceeding] applies ►for cancellation of the involved◄ [to cancel his] registration under ►§◄ [section] 7(d) of the ►Trademark◄ Act without [first obtaining] the written consent [thereto] of ►every◄ [the] adverse party, judgment shall be entered against ►the respondent◄ [him].

►(b) After the commencement of a cancellation proceeding, if the respondent permits his involved registration to be cancelled under § 8 of the Trademark Act or fails to renew his involved registration under § 9 of the Trademark Act, such cancellation or failure to renew shall be deemed to be the equivalent of a cancellation by request of respondent without the consent of the adverse party and shall result in judgment against respondent as provided be subsection (a).◄

41. Section 2.135 is proposed to be revised to read as follows:

§ 2.135 Abandonment of application or mark.

►After the commencement of an opposition proceeding, if the◄ [If, in a proceeding, an] applicant files a written abandonment of the application or of the mark without the ►written◄ consent [thereto] of ►every◄ [the] adverse party, judgment shall be entered against ►the◄ [such] applicant.

42. Section 2.142 is proposed to be revised to read as follows:

§ 2.142 Time and manner of ex parte appeals.

(a) ►Any◄ [such] appeal ►filed under the provisions of § 2.141◄ must be ►filed◄ [taken] within six months from the date of final refusal or [from] the date of the action from which ►the◄ appeal is taken. ►An appeal◄ [Appeal] is taken [simply] by filing a notice of appeal and ►paying◄ [payment of] the appeal fee.

(b) The [appellant's] brief ►of appellant◄ shall be filed within sixty days ►from◄ [after] the date of appeal. If the brief is not filed within the time allowed, the appeal may be dismissed. The examiner ►shall◄ [may], within ►sixty days after the brief of appellant is sent to the examiner◄ [such time as may be directed by the Commissioner], ►filed with the Trademark Trial and Appeal Board◄ [furnish] a written statement ►answering every point in the brief of appellant and shall mail◄ [in answer to appellant's brief, supplying] a copy ►of the statement◄ to the appellant. The appellant may file a reply brief within twenty days from the date of ►mailing of the statement of the examiner◄ [such answer].

(c) ►All requirements made by the examiner and not the subject of appeal shall be complied with prior to the filing of an appeal.◄ [If the appellant desires an oral hearing, he should so state by separate notice filed not later than his brief; and due notice of the time for such hearing will be given. Oral argument will be limited to one-half hour unless otherwise permitted. If no request for

oral hearing is made, the appeal will be considered on brief.]

(d) ►The record in the application should be complete prior to the filing of an appeal. The Trademark Trial and Appeal Board will ordinarily not consider additional evidence filed with the Board by the appellant or by the examiner after the appeal is filed. After an appeal is filed, if the appellant or the examiner desires to introduce additional evidence, the appellant or the examiner may request the Board to suspend the appeal and to remand the application for further examination.◄ [Applications which have been considered and decided on appeal will not be reopened except by order of the Commissioner, and then only for consideration of matters not already adjudicated, sufficient cause being shown.]

►(e)(1) If the appellant desires an oral hearing, a request therefor should be made by a separate notice filed not later than ten days after the due date for a reply brief. Oral argument will be heard by three Members of the Trademark Trial and Appeal Board at the time specified in the notice of hearing, which may be reset if the Board is prevented from hearing the argument at the specified time, or so far as is convenient and proper, to meet the wish of the appellant or his attorney or other authorized representative.

(2) If the appellant requests an oral argument, the examiner who issued the refusal of registration or the requirement from which the appeal is taken, or in lieu thereof another examiner from the same examining division as designated by the supervisory attorney thereof, shall present an oral argument.

If no request for an oral hearing is made by the appellant, the appeal will be decided on the record, briefs and statement.

(3) Oral argument will be limited to twenty minutes by the appellant and ten minutes by the examiner. The appellant may reserve part of the time allowed for oral argument to present a rebuttal argument.◄

►(f)(1) If, during an appeal from a refusal of registration, it appears to the Trademark Trail and Appeal Board that an issue not previously raised may render the mark of the appellant unregistrable, the Board may suspend the appeal and remand the application to the examiner for further examination within thirty days.

(2) If the further examination does not result in an additional ground for refusal of registration, the examiner shall promptly return the application to the Board, for resumption of the appeal, with a written statement that further examination did not result in an additional ground for refusal of registration.

(3) If the further examination does result in an additional ground for refusal of registration, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, 2.63, and 2.64. If the ground for refusal of registration is made final, the examiner shall return the application to the Board, which shall thereupon issue an order allowing the appellant sixty days from the date of the order to file a supplemental brief limited to the additional ground for the refusal of registration. If the supplemental brief is not filed by the appellant within the time allowed, the appeal may be dismissed.

(4) If the supplemental brief of the appellant is filed, the examiner shall, within sixty days after the supplemental brief of the appellant is sent to the examiner, file with the Board a written statement answering every point in the supplemental brief of appellant and shall mail a copy of the statement to the appellant. The appellant may file a reply brief within twenty days from the date of mailing of the statement of the examiner.

(5) If an oral hearing on the appeal had been requested prior to the remand of the application but not yet held, an oral hearing will be set and heard as provided in subsection (e). If an oral hearing had been held prior to the remand or had not been previously requested by the appellant, an oral hearing may be requested by the appellant by a separate notice filed not later than ten days after the due date for a reply brief on the additional ground for refusal of registration. If the appellant files a request for an oral hearing, one will be set and heard as provided in subsection (e).◄

►(g) An application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under § 6 of the Trademark Act or upon order of the Commissioner, but a petition to the Commissioner to reopen an application will be considered only upon a showing of sufficient cause for consideration of any matter not already adjudicated.◄

43. Section 2.146 is proposed to be revised to read as follows:

§ 2.146 ►Petitions◄ [Petition] to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any repeated ►or final formal◄ [action or]requirement of the ►examiner◄ [Examiner of Trademarks, not subject to appeal under § 2.141,] in the ex parte prosecution of an application ►if permitted by § 2.63(b)◄;

(2) IN ►any case for◄ [cases in] which the ►Trademark Act, or title 35 of the United States Code, or this Part of Title 37 of the Code of Federal Regulations specifies◄ [statute or the rules specify] that the matter is to be determined directly [by] or reviewed by the Commissioner; [and]

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances ►:◄ [.]

►(4) In any case not specifically defined and provided for by this Part of Title 37 of the Code of Federal Regulations;

(5) In an extraordinary situation, when justice requires and no other party is injured thereby, to request a suspension or waiver of any requirement of the rules not being a requirement of the Trademark Act.◄

(b) ►Questions arising under §§ 2, 3, 4, 5, 6 and 23 of the Trademark Act during the ex parte prosecution of applications are not considered to be appropriate subject matter for petitions to the Commissioner.◄ [Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Any brief in support thereof should accompany or be embodied in the petition; in contested cases any brief in opposition shall be filed within fifteen days after service of the petition. Where facts are to be proved in ex parte cases (as in a petition to revive an abandoned application), the proof in the form of affidavits or declarations in accordance with § 2.20 (and exhibits, if any) must accompany the petition.]

(c) ►Every petition to the Commissioner shall include a statement of the facts relevant to the petition, the points to be reviewed, and the action or relief that is requested. Any brief in support of the petition shall be embodied in or accompany the petition. When facts are to be proved in ex parte cases (as in a petition to revive an abandoned application), the proof in the form of affidavits or declarations in accordance with § 2.20, and any exhibits, shall accompany the petition.◄ [An oral hearing will not be held except when considered necessary by the Commissioner.]

(d) ►A petition on any matter not specifically provided for by subsection (e) or by § 2.165(b) or § 2.184(b) shall be filed within sixty days from the date of mailing of the action from which relief is requested.◄ [The mere filing of a petition will not stay the period for replying to an examiner's action, nor stay other proceedings.]

(e) ►(1) A petition from the denial of a request for an extension of time to file

a notice of opposition shall be filed within fifteen days from the date of mailing of the denial of the request and shall be served on the attorney or other authorized representative of the applicant, if any, or on the applicant. Proof of service of the petition shall be made as provided by § 2.119(a). The applicant may file a response within fifteen days from the date of service of the petition and shall serve a copy of the response on the petitioner, with proof of service as provided by § 2.119(a). No further paper relating to the petition shall be filed.

(2) A petition from an interlocutory order of the Trademark Trial and Appeal Board shall be filed within thirty days after the date of mailing of the order from which relief is requested. Any brief in response to the petition shall be filed, with any supporting exhibits, within fifteen days from the date of service of the petition. Petitions and responses to petitions, and any papers accompanying a petition or response, under this subsection shall be served on every adverse party pursuant to § 2.119(a).◄ [Authority to act on a petition may, when appropriate, be delegated by the Commissioner.]

(f) ►An oral hearing will not be held on a petition except when considered necessary by the Commissioner.◄ [No fee is required for a petition to the Commissioner.]

►(g) The mere filing of a petition to the Commissioner will not act as a stay in any appeal or inter partes proceeding that is pending before the Trademark Trial and Appeal Board nor stay the period for replying to an Office action in an application except when a stay is specifically requested and is granted or when §§ 2.63(b) and 2.65 are applicable to an ex parte application.◄

►(h) Authority to act on petitions, or on any petition, may be delegated by the Commissioner.◄

§ 2.147 [Removed]

44. It is proposed to remove § 2.147 Cases not specifically defined.

§ 2.148 [Removed]

45. It is proposed to remove § 2.148 Commissioner may suspend certain rules.

46. Section 2.165 is proposed to be revised to read as follows:

§ 2.165 Reconsideration of affidavit or declaration.

(a) ►(1)◄ If the affidavit or declaration ►filed pursuant to § 2.612◄ is insufficient ►or defective, the affidavit or declaration will be refused and◄ [,] the registrant will be notified of the ►reason.◄ [reasons by the examiner.] Reconsideration of ►the◄ [such] refusal may be requested within six months from the date of the mailing of the ►action◄ [notice]. The request for reconsideration must state the grounds ►for the request. A◄ [therefore; a] supplemental or substitute affidavit or declaration required by ►§◄ [section] 8 of the ►Trademark◄ Act cannot be considered unless it is ►filed◄ [received] before the expiration of six years from the date of the registration [,] or from the date of publication under ►§◄ [section] 12(c) ►of the Act◄. ►The certificate of mailing procedure provided by § 1.8 does not apply to affidavits or declarations or to supplemental or substitute affidavits or declarations filed under § 8 (a) or (b) of the Act.

(2) A request for reconsideration shall be a condition precedent to a petition to the Commissioner to review the refusal of the affidavit or declaration unless the first action refusing the affidavit or declaration directs the registrant to petition the Commissioner for relief, in which event the petition must be filed within six months from the date of mailing of the action.◄

(b) ►If the refusal of the affidavit or declaration is adhered to, the registrant may petition the Commissioner to review the action under § 2.146(a)(2). The petition to the Commissioner requesting review of the action adhering to the refusal of the affidavit or declaration must be filed within six months from the date of mailing of the action which denied reconsideration.◄ [If the registrant is dissatisfied with the action of the examiner holding the affidavit or declaration insufficient, he may request the Commissioner to review the action under § 2.146. The decision of the Commissioner on such a request constitutes the final action of the Patent Trademark Office. If there is no review by the Commissioner, the Commissioner will notify the registrant of the insufficiency of the affidavit or declaration after the expiration of the sixth year, which notice will constitute such final action. See § 2.145 for appeal to or review by court.]

►(c) The decision of the Commissioner on the petition will constitute the final action of the Patent and Trademark Office. If there is no petition to the Commissioner, the Commissioner will notify the registrant of the refusal of the affidavit or declaration after the expiration of six years from the date of registration or from the date of publication under § 12(c) of the Trademark Act, and such notice will constitute the final action of the Office.◄

►(d) A petition to the Commissioner for review of the action shall be a condition precedent to an appeal to or action for review by any court.◄

47. Section 2.173 is proposed to be amended by revising paragraph (b) to read as follows:

§ 2.173 Amendment ►;◄ [and] disclaimer in part.

* * * * *

(b) ►No amendment in the identification of goods or services in a registration will be permitted except to restrict the identification or otherwise to change it in ways that would not require republication of the mark.◄ [Changes in the identification of goods other than in the nature of deletions will not be permitted except under the provisions of § 2.175.] No amendment seeking the elimination of a disclaimer will be permitted.

* * * * *

48. Section 2.184 is proposed to be revised to read as follows:

§ 2.184 Refusal of renewal.

(a) If the application for renewal is incomplete or defective, the renewal will be refused [by the Examiner of Trademarks]. The application may be completed or amended in response to a refusal, subject to the provisions of ►§◄ [§§ 2.62 and] 2.183. ►If a response to a refusal or renewal is not filed within six months from the date of mailing of the action, the application for renewal will be considered abandoned. A response to a refusal of renewal shall be a condition precedent to a petition to the Commissioner to review the refusal of renewal.◄

(b) ►If the refusal of renewal is adhered to, the registrant may petition the Commissioner to review the action under § 2.146(a)(2). The petition to the Commissioner requesting review of the action adhering to the refusal of the renewal must be filed within six months from the date of mailing of the action which adhered to the refusal. If a timely petition to the Commissioner is not filed, the application for renewal will be considered abandoned.◄ [If the registrant is dissatisfied with the action of the examiner considering the application for renewal incomplete or defective, he may request the Commissioner to review the action under § 2.146. If response to an adverse action of the examiner is not made within six months, the application for renewal will be considered abandoned.]

►(c) The decision of the Commissioner on the petition will constitute the final action of the Patent and Trademark Office.◄

►(d) A petition to the Commissioner for review of the action shall be a condition precedent to an appeal to or action for review by any court.◄

49. Section 2.186 is proposed to be revised to read as follows:

§ 2.186 Action may be taken by assignee of record.

Any action ►with respect to an assigned application or registration◄ which may or must be taken by a registrant or applicant may be taken by the assignee [,] provided ►that◄ the assignment has been recorded.

Dated: May 10, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-17525 Filed 6-28-82; 8:45 am]

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Tuesday
June 29, 1982

Part VII

Department of Energy

Conservation and Renewable Energy Office

Industrial Energy Conservation Program

DEPARTMENT OF ENERGY

Conservation and Renewable Energy Office

Industrial Energy Conservation Program; Notice of Identification of Corporations for Purposes of Industrial Energy Efficiency Improvement and Recovered Materials Utilization Reporting

AGENCY: Conservation and Renewable Energy Office, DOE.

ACTION: Notice of corporate identification.

SUMMARY: The Department of Energy (DOE) is identifying corporations which consumed at least one trillion British thermal units (Btu's) of energy in calendar year 1981 in any of the major energy-consuming industries, as required by DOE's regulations at 10 CFR 445.15(b) which implements section 373(b) of the Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act.

Section 445.12 of these regulations require certain corporations which consumed at least one trillion Btu's of energy in either calendar years 1980 or 1981 in any of the 20 major energy-consuming industries identified by DOE to file a certified statement with DOE. The deadline to file this report with DOE was February 28, 1982. Based on the reports filed in response to this requirement and reports filed previously, DOE identifies the corporations listed in the appendix to this notice.

A corporation may file a request with DOE to modify its identification on the grounds of technical or clerical error as provided in 10 CFR 445.16.

Identified corporations are required to report on energy efficiency improvements and, if appropriate, recovered materials utilization in calendar year 1981 either directly to DOE or to DOE-approved sponsors of reporting programs, pursuant Subpart C of 10 CFR part 445 which implements the requirements of sections 374A, 375 and 376 of EPCA.

FOR FURTHER INFORMATION CONTACT: Tyler E. Williams, Jr., Office of Industrial Programs, CE–122.1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585 (202) 252–2371; or Office of General Counsel, GC–33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C., June 21, 1982.

Howard S. Coleman,

Acting Assistant Secretary, Conservation and Renewable Energy.

List of Corporations Identified for Calendar Year 1981

SIC 20—Food and Kindred Products

A. E. Staley Manufacturing Company
Adolph Coors Company
Amalgamated Sugar Company
American Brands Inc.
American Crystal Sugar Company
American Home Products Corporation
American Maize-Products Company
AMFAC Inc.
AMPCO Foods Inc.
AMSTAR Corporation
Anderson Clayton & Company
Anheuser-Busch Inc.
Archer Daniels Midland Company
Beatrice Foods Company
Borden Inc.
Bunge Corporation
California & Hawaiian Sugar Company
California Canners and Growers Company
Campbell Soup Company
Campbell Taggert Inc.
Cargill Inc.
Carnation Company
Castle & Cooke Inc.
Central Soya Company Inc.
Coca Cola Company
Colonial Sugars Inc.
Conagra Inc.
Consolidated Foods Corporation
Continental Grain Company
CPC International Inc.
Curtice-Burns Inc.
Dubuque Packing Company
Eli Lilly and Company
Farmland Industries Inc.
Federal Company
Flowers Industries Inc.
Foremost-McKesson Inc.
G. Heileman Brewing Company Inc.
General Foods Corporation
General Host Corporation
General Mills Inc.
George A. Hormel & Company
Gerber Products Company
Gold Kist Inc.
Grain Processing Corporation
Grain Terminal Association
Great A & P Tea Company Inc.
Greyhound Corporation
H. J. Heinz Company
Hanson Industries Inc.
Hershey Foods Corporation
Heublein Inc.
Holly Sugar Corporation
Hunt International Resources Corporation
IC Industries Inc.
Imperial Sugar Company
International Telephone & Telegraph Corporation
Interstate Brands Corporation
Iowa Beef Processors Inc.
J. R. Simplot Company
Jos. Schlitz Brewing Company
Joseph E. Seagram & Sons Inc.
Keebler Company
Kellogg Company
Kraft Inc.
Kroger Company
Ladish Malting Company
Land O' Lakes Inc.
Lykes Brothers Inc.
Mars Incorporated
MBPXL Corporation
Michigan Sugar Company
Mid-America Dairyman Inc.
Midwest Solvents Company Inc.
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Moorman Manufacturing Company
Nabisco Inc.
National Distillers & Chemical Corporation
National Starch & Chemical Corporation
National Sugar Refining Company
Nestle Enterprises Inc.
Norton Simon Inc.
Olympia Brewing Company
Oscar Mayer & Company
Pabst Brewing Company
Pepsico Inc.
Perdue Inc.
Philip Morris Inc.
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
R. J. Reynolds Industries Inc.
Ralston Purina Co.
Rapid American Corporation
Rath Packing Company
Refined Syrups & Sugars Inc.
Revere Sugar Corporation
Riceland Foods Inc.
Safeway Stores Inc.
Savannah Foods & Industries Inc.
SCM Corporation
Southern Minnesota Sugar Cooperative
Standard Brands Inc.
Stokely-Van Camp Inc.
Stroh Companies Inc.
Sunkist Growers Inc.
Swift & Company
Thomas J. Lipton Inc.
Tri/Valley Growers Inc.
Twin City Foods Inc.
United Brands Company
Univar Corporation
Universal Foods Corporation
Wilson Foods Corporation

SIC 21—Tobacco Products

American Brands Inc.
Brown & Williamson Tobacco Corporation
Philip Morris Inc.
R. J. Reynolds Industries Inc.

SIC 22—Textile Mill Products

American Thread Company
Armstrong World Industries Inc.
Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Cannon Mills Company
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Consolidated foods Corporation
Cranston Print Works Company
Crompton Company Inc.
Daisy Hosiery Mills Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
Gulf & Western Industries Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
Kiddie Tot Hosiery Mills Inc.
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Mohasco Corporation
Northwest Industries Inc.
RCA Corporation
Reeves Brothers Inc.
Riegel Textile Corporation
Shaw Industries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company
Spring Mills Inc.
Standard Oil Company (Indiana)
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.
WWG Industries Inc.

SIC 23—Apparel and Other Textile Products

None

SIC 24—Lumber and Wood Products

Abitibi-Price Corporation
Bendix Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Jim Walter Corporation
Koppers Company Inc.
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 25—Furniture and Fixtures

None

SIC 26—Paper and Allied Products

Abitibi-Price Southern Corporation
Alaska Lumber & Pulp Company Inc.
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Armstrong World Industries Inc.
Austell Box Board Corporation
Bell Fibre Products Corporation
Bird & Son Inc.
Blandin Paper Company
Boise Cascade Corporation
Bowater Inc.
Certainteed Corporation
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Papers Inc.
Consolidated Packaging Corporation
Continental Group Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers Inc.
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Flintkote Company
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
General Refractories Company
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hollingsworth & Vose Company
Howard Paper Mills Inc.
International Paper Company
International Telephone & Telegraph Corporation
Interstate Paper Corporation
James River Corporation of Virginia
Jim Walter Corporation
Johns-Manville Sales Corporation
Johnson & Johnson
Kimberly-Clark Corporation
Litton Industries inc.
Longview Fibre Company
Louisiana-Pacific Corporation
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Minnesota Mining & Manufacturing Company
Mobil Oil Corporation
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc.
P. H. Glatfelter Company
Pacific Paperboard Products Inc.
Penntech Papers Inc.
Pentair Industries Inc.
Philip Morris Inc.
Pope and Talbot Inc.
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
SCM Corporation
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Sorg Paper Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
United States Gypsum Company
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 27—Printing and Publishing

Arcata Corporation
City Investing Company
Moore Business Forms Inc.
R. R. Donnelley & Sons Company
W. F. Hall Printing Company

SIC 28—Chemicals and Allied Products

Abbott Laboratories
Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Chemical Corporation
Aluminum Company of America
AMAX Inc.
Amerada Hess Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Home Products Corporation
American Petrofina Inc.
American Synthetic Rubber Corporation
Arizona Chemical Company
Asarco Incorporated
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
B. F. Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Baxter-Travenol Laboratories Inc.
Beker Industries Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Bristol-Myers Company

Buffalo Color Corporation
C. F. Industries Inc.
Cabot Corporation
Cargill Inc.
Carus Chemical Company Inc.
Celanese Corporation
CIBA-GEIGY Corporation
Cities Service Company
Coastal Corporation
Colgate-Palmolive Company
Cominco American Inc.
Commonwealth Oil Refining Company
Conoco Inc.
Copolymer Rubber & Chemical Corp.
CPC International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E. I. DuPont De Nemours & Company
Eagle Picher Industries Inc.
Eastman Kodak Company
El Paso Products Company
Eli Lilly and Company
Estech General Chemicals Corporation
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc.
Felmont Oil Corporation
Ferro Corporation
Firestone Tire & Rubber Company
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Gardinier Big River Inc.
General Electric Company
General Host Corporation
General Tire & Rubber Company
Georgia-Pacific Corporation
Getty Oil Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Green Valley Chemical Corporation
Greyhound Corporation
Gulf & Western Industries Inc.
Gulf Oil Corporation
Gulf Resources & Chemical Corporation
Hardy Salt Company
Henkel Corporation
Hercules Incorporated
Hoffmann-La Roche Inc.
ICI Americas Inc.
International Minerals & Chemicals Corporation
Inter North Inc.
J. M. Huber Corporation
J. R. Simplot Company
Johnson & Johnson
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc.
Lever Brothers Company
Linden Chemicals & Plastics Inc.
Lubrizol Corporation
Mallinckrodt Inc.
Merck & Company, Inc.
Merichem Company
Miles Laboratories Inc.
Minnesota Mining & Manufacturing Company
Mississippi Chemical Corporation
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton-Norwich Products Inc.
N-Ren Corporation
Nalco Chemical Company
National Distillers & Chemical Corporation
Newmont Mining Corporation
NIPRO Inc.
NL Industries Inc.
North American Rayon Corporation
Northwest Industries Inc.
Occidental Petroleum Corporation
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Publicker Industries Inc.
Purex Industries Inc.
Quaker Oats Company
Reichhold Chemicals Inc.
Reilly Tar & Chemical Corporation
Reynolds Metals Company
Richardson-Vicks Inc.
Rohm and Haas Company
SCM Corporation
Shell Oil Company
Sherex Chemical Company Inc.
Sherwin-Williams Company
Signal Companies Inc.
SimCal Chemical Company
Soltex Polymer Corporation
Squibb Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
Sterling Drug Inc.
SunOlin Chemical Company
Tenneco Inc.
Terra Chemicals International Inc.
Texaco Inc.
Texasgulf Inc.
Thiokol Corporation
Tyler Corporation
Union Camp Corporation
Union Carbide Corporation
Union Oil Company of California
Uniroyl Inc.
United States Borax & Chemical Corporation
United States Steel Corporation
United Technologies Corporation
Upjohn Company
Vertac Inc.
Virginia Chemicals Inc.
Vulcan Materials Company
W. R. Grace & Company
Warner-Lambert Company
Westvaco Corporation
Weyerhaeuser Company
Williams Companies
Witco Chemical Corporation

SIC 29—Petroleum and Coal Products

Agway Inc.
Amerada Hess Corporation
American Petrofina Inc.
Asamera Oil (U.S.) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Bird & Son Inc.
Certainteed Corporation
Champlin Petroleum Company
Charter International Oil Company
Cities Service Company
Clark Oil & Refining Corporation
Coastal Corporation
Commonwealth Oil Refining Company
CONOCO Inc.
Crown Central Petroleum Corporation
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Dow Chemical Company
Earth Resources Company
Edgington Oil Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
GAF Corporation
Getty Oil Company
Great Lakes Carbon Corporation
Gulf Oil Corporation
Holly Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Jim Walter Corporation
Johns-Manville Sales Corporation
Kern County Refinery Inc.
Kerr-McGee Corporation
Koch Industries Inc.
Koppers Company Inc.
Little America Refining Company
Louisiana Land & Exploration Company
Marathon Oil Corporation
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Oklahoma Refining Company
Owens-Corning Fiberglass Corporation
Pennzoil Company
Petrolite Corporation
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Pride Refining Inc.
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company

Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
United Refining Company
USA Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

SIC 30—Rubber and Miscellaneous Plastics Products

Amerace Corporation
American Cyanamid Company
Armstrong Rubber Company
B. F. Goodrich Company
Baxter-Travenol Laboratories Inc.
Budd Company
Carlisle Corporation
Continental Group Inc.
Cooper Tire & Rubber Company
Dart Industries Inc.
Dayco Corporation
Dunlop Tire & Rubber Corporation
Eagle Picher Industries Inc.
Ethyl Corporation
Exxon Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Electric Company
General Motors Corporation
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Michelin Tire Corporation
Minnesota Mining & Manufacturing Company
Owens-Illinois Inc.
Union Carbide Corporation
Uniroyal Inc.
W. R. Grace & Company
Westinghouse Electric Corporation

SIC 31—Leather and Leather Products

None

SIC 32—Stone, Clay and Glass Products

AFG Industries Inc.
Alamo Cement Company
Allied Chemical Corporation
Allied Products Company
Alpha Portland Cement Company
American Standard Inc.
Amsted Industries Inc.
Anchor Hocking Corporation
Arkansas Louisiana Gas Company
Armco Inc.
Armstrong World Industries Inc.
Ash Grove Cement Company
Austin White Lime Company
Ball Corporation
Belden Brick Company
Bethlehem Steel Corporation
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Brockway Glass Company Inc.
California Portland Cement Company
Can-Am Corporation
Capitol Aggregates Inc.
Centex Corporation
Certainteed Corporation
Citadel Cement Corporation
CLM Corporation
Coors Container Company
Coplay Cement Manufacturing Company
Corning Glass Works
Crane Company
Cyprus Hawaiian Cement Company
Delta Macon Brick & Tile Company
Dickey Company
Domtar Industries Inc.
Dorsey Corporation
Dravo Corporation
Dresser Industries Inc.
Dundee Cement Company
Eagle Picher Industries Inc.
Edw. C. Levy Company
Engelhard Corporation
Ferro Corporation
Filtrol Corporation
Flintkote Company
Florida Mining & Materials Corporation
Ford Motor Company
GAF Corporation
Gallo Glass Company
General Telephone & Electronic Corporation
General Dynamics Corporation
General Electric Company
General Portland Inc.
General Refractories Company
General Shale Products Corporation
Georgia-Pacific Corporation
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Glen-Gery Corporation
Glenshaw Glass Company Inc.
Guardian Industries Corporation
Gulf & Western Industries Inc.
Harsco Corporation
Ideal Basic Industries Inc.
Independent Cement Corporation
Indian Head Inc.
Interface Corporation
J. E. Baker Company
Jim Walter Corporation
Johns-Manville Sales Corporation
Justin Industries Inc.
Kaiser Aluminum & Chemical Corporation
Kaiser Cement & Gypsum Corporation
Kennecott Corporation
Kerr Glass Manufacturing Corporation
Keystone Portland Cement Company
Kohler Company
Lancaster Colony Corporation
Latchford Glass Company
Lehigh Portland Cement Company
Libbey-Owens-Ford Company
Liberty Glass Company
Lone Star Industries Inc.
Louisville Cement Company
Martin-Marietta Corporation
McDermott Inc.
McDonough Company
Midland Glass Company Inc.
Minnesota Mining & Manufacturing Company
Mississippi Lime Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Bottle Manufacturing Company
National Can Corporation
National Cement Company
National Gypsum Company
Newmont Mining Corporation
Northwestern State Portland Cement Company
Norton Company
Norton Simon Inc.
Oregon Portland Cement Company
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc.
Pacific Coast Building Products Company
Pacific Holding Corporation
Penn-Dixie Industries Inc.
Pfizer Inc.
Philip Morris Inc.
Pomona Corporation
PPG Industries Inc.
Puerto Rican Cement Company Inc.
Rangaire Corporation
Raybestos Manhattan Inc.
Reichhold Chemicals Inc.
Republic Steel Corporation
Rinker Portland Cement Corporation
River Cement Company
Rockwool Industries Inc.
Round Rock Lime Company
Solite Corporation
South Dakota Cement Company
Southdown Inc.
St. Clair Lime Company
Texas Industries Inc.
Thatcher Glass Corporation
United States Gypsum Company
United States Steel Corporation
Vulcan Materials Company
Warner Company
Weyerhaeuser Company
Wheaton Industries
Whitehall Cement Manufacturing Company
Woodville Lime & Chemical Company

SIC 33—Primary Metal Industries

A. Finkl & Sons Company
Alcan Aluminum Corporation
Allegheny Ludlum Industries Inc.
Allied Chemical Corporation
Alumax Inc.
Aluminum Company of America
Amax Inc.
American Can Company
American Cast Iron Pipe Company

American Telephone & Telegraph Company
Amsted Industries Inc.
Armco Inc.
Asarco Inc.
Athlone Industries Inc.
Atlantic Richfield Company
Atlantic Steel Company
Bethlehem Steel Corporation
Budd Company
Cabot Corporation
Cargill Inc.
Carpenter Technology Corporation
Caterpillar Tractor Company
Ceco Corporation
Century Brass Products Inc.
Chromium Mining & Smelting Corporation
Clow Corporation
Colt Industries Inc.
Connors Steel Company
Consolidated Aluminum Corporation
Copperweld Corporation
Crane Company
Cyclops Corporation
Dana Corporation
Dayton Malleable Inc.
Dow Chemical Company
Eastmet Corporation
Elkem Metals Company
Ethyl Corporation
Evans Products Company
Florida Steel Corporation
Ford Motor Company
General Electric Company
General Motors Corporation
Great Lakes Carbon Corporation
Grede Foundries Inc.
Gulf & Western Industries Inc.
Gulf Resources & Chemical Corporation
Guterl Special Steel Corporation
Hanna Mining Company—Silicon Division
Hanna Nickel Smelting Company
Hayes-Albion Corporation
Huntington Alloys Inc.
IC Industries Inc.
Inland Steel Company
Inspiration Consol Copper Company
Interlake Inc.
International Minerals & Chemical Corporation
Jim Walter Corporation
Jones & Laughlin Steel Corporation
Kaiser Aluminum & Chemical Corporation
Kaiser Steel Corporation
Kennecott Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
Louisiana Land & Exploration Company
Lukens Steel Company
Macalloy Corporation
Martin Industries Inc.
Martin Marietta Corporation
McDermott Inc.
McLouth Steel Corporation
Mead Corporation
Midland-Ross Corporation
National Distillers & Chemical Corporation
National Steel Corporation
National-Standard Company
Newmont Mining Corporation
NL Industries Inc.
Noranda Aluminum Inc.
Northwest Industries Inc.
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Ogden Corporation
Ohio Ferro-Alloys Corporation
Olin Corporation
Outboard Marine Corporation
Pechiney Ugine Kuhlman Corporation
Penn-Dixie Steel Corporation
Phelps Dodge Corporation
Phoenix Steel Corporation
Quanex Corporation
Republic Steel Corporation
Revere Copper and Brass Inc.
Reynolds Metals Company
Roane Electric Furnace Company Inc.
RSR Corporation
Satralloy Inc.
Sharon Steel Corporation
Shenango Inc.
SKW Alloys Inc.
Southwire Company
St. Joe Minerals Corporation
Structural Metals Inc.
Teledyne Inc.
Tenneco Inc.
Textron Inc.
Timken Company
Tyler Corporation
Union Carbide Corporation
United States Steel Corporation
United Technologies Corporation
Vulcan Materials Company
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation
White Consolidated Industries Inc.

SIC 34—Fabricated Metal Products

Allegheny Ludlum Industries Inc.
Aluminum Company of America
American Can Company
American Standard Inc.
Ampco-Pittsburgh Corporation
Amsted Industries Inc.
Bethlehem Steel Corporation
Budd Company
Cameron Iron Works Inc.
Canton Drop Forging & Manufacturing Company
Combustion Engineering Inc.
Continental Group Inc.
Crown Cork & Seal Company Inc.
Cyclops Corporation
General Motors Corporation
Gulf & Western Industries Inc.
Harsco Corporation
Inland Steel Company
International Telephone & Telegraph Corporation
Jos. Schlitz Brewing Company
Kaiser Aluminum & Chemical Corporation
Kohler Company
Ladish Company
Martin Marietta Corporation
McDermott Inc.
National Can Corporation
National Steel Corporation
Remington Arms Company Inc.
Reynolds Metals Company
Rockwell International Corporation
Signal Companies Inc.
SKF Industries Inc.
Stanley Works Inc.
Textron Inc.
TRW Inc.
United States Steel Corporation
Wallace Murray Corporation
Wyman-Gordon Company

SIC 35—Machinery, Except Electrical

Allis-Chalmers Corporation
Arkansas Louisiana Gas Company
Borg-Warner Corporation
Briggs & Stratton Corporation
Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Colt Industries Inc.
Control Data Corporation
Cooper Industries Inc.
Cummins Engine Company Inc.
Dana Corporation
Datapoint Corporation
Deere & Company
Digital Equipment Corporation
Dresser Industries Inc.
Eaton Corporation
Emerson Electric Company
Federal-Mogul Corporation
FMC Corporation
Ford Motor Company
General Electric Company
General Motors Corporation
Harnischfeger Corporation
Hughes Tool Company
IC Industries Inc.
Ingersoll-Rand Company
International Harvester Company
International Business Machines Corporation
Outboard Marine Corporation
Rexnord, Inc.
Rockwell International Corporation
SKF Industries Inc.
Sperry Rand Corporation
Tenneco Inc.
Timken Company
Trane Company
TRW Inc.
United Technologies Corporation
Xerox Corporation
Westinghouse Electric Corporation
White Consolidated Industries Inc.

SIC 36—Electric, Electronic Equipment

A. O. Smith Corporation
Airco Inc.
Allied Chemical Corporation

American Telephone & Telegraph Company
Emerson Electric Company
GK Technologies Inc.
General Electric Company
General Motors Corporation
General Telephone & Electronic Corporation
Great Lakes Carbon Corporation
Harvey Hubbell Inc.
Hughes Aircraft Company
Johnson Controls Inc.
Maytag Company
McGraw-Edison Company
Minnesota Mining & Manufacturing Company
Raytheon Company
RCA Corporation
Reliance Electric Company
Rockwell International Corporation
Square D Company
Stackpole Carbon Company
Sunbeam Corporation
Texas Instruments Inc.
Union Carbide Corporation
Westinghouse Electric Corporation
Whirlpool Corporation
White Consolidated Industries Inc.

SIC 37—Transportation Equipment

A. O. Smith Corporation
American Motors Corporation
Avco Corporation
Bendix Corporation
Bethlehem Steel Corporation
Boeing Company
Borg-Warner Corporation
Budd Company
Chrysler Corporation
Dana Corporation
Dayton-Walther Corporation
Eaton Corporation
Ford Motor Company
Fruehauf Corporation
General Dynamics Corporation
General Electric Company
General Motors Corporation
Goodyear Tire & Rubber Company
Grumman Corporation
Hercules Inc.
Hughes Aircraft Company
Lockheed Corporation
Martin-Marietta Corporation
McDonnel Douglas Corporation
Northrop Corporation
Pullman Inc.
Rockwell International Corporation
Signal Companies Inc.
Tenneco Inc.
Textron Inc.
Thiokol Corporation
TRW Inc.
United Technologies Corporation
Vought Corporation

SIC 38—Instruments and Related Products

Eastman Kodak Company
GAF Corporation
Johnson & Johnson
Minnesota Mining & Manufacturing Company
Polaroid Corporation
Warner-Lambert Company

SIC 39—Miscellaneious Manufacturing Industries

Armstrong World Industries Inc.
Congoleum Corporation

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Industrial Energy Conservation Program; Notice of Proposed Exempt Corporations and Adequate Reporting Programs

AGENCY: Conservation and Renewable Energy Office, DOE.

ACTION: Notice of proposed exempt corporations and adequate reporting programs.

SUMMARY: As an annual part of the Departmental of Energy's (DOE) Industrial Energy Conservation Program, as set forth at 10 CFR Part 445, DOE is proposing to exempt certain corporations from the requirement of filing corporate reporting forms directly with DOE and to determine as adequate certain industrial reporting programs for sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act and DOE's regulations set forth at 10 CFR Part 445, Subpart D. The proposed exempt corporations and the respective sponsors of proposed adequate reporting programs are listed alphabetically in industry in the appendix to this notice.

DOE will receive written comments with respect to this proposed list and will issue a final list of exempt corporations and adequate reporting programs.

Identified corporations are required to report on energy efficiency improvements and, if appropriate, recovered materials utilization in calendar year 1981 either directly to DOE or to DOE-approved sponsors of reporting programs, pursuant Subpart C of 10 CFR Part 445 which implements the requirements of sections 374A, 375 and 376 of EPCA.

DATE: Written comments must be received by July 29, 1982.

ADDRESS: Comments should be addressed to: Office of Hearings & Dockets, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station 6B–025, Room 5F078, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Issued in Washington, D.C., June 21, 1982.

Howard S. Coleman,

Acting Assistant Secretary, Conservation and Renewable Energy.

Final Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—Food and Kindred Products

American Bakers Association
Campbell Soup Company (partial)
Campbell Taggart, Inc.
Consolidated Foods Corporation (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
ITT Continental Baking Company Inn. (partial)
Interstate Brands Corporation
American Feed Manufacturers Association
Archer Daniels Midland Company (partial)
Cargill Inc.
Central Soya Company Inc. (partial)
Farmers Union Grain Terminal Association (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Ralston Purina Company (partial)
American Frozen Food Institute
Campbell Soup Company (partial)
Con Agra Inc. (partial)
J. R. Simplot Company
Pillsbury Company (partial)
Twin City Foods Corporation
American Meat Institute
Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
Geo. A. Hormel & Company
General Host Corporation (partial)
Greyhound Corporation
ITT Continental Baking Company Inc. (partial)
Oscar Mayer & Company
Rath Packing Company
Swift & Company
United Brands Company
Wilson Foods Corporation
Biscuit & Cracker Manufacturers Association
American Brands Inc. (partial)
Keebler Company
Nabisco Inc. (partial)
Chemical Manufacturers Association
National Distilers Products Company
Corn Refiners Association
A. E. Staley Manufacturing Company (partial)
American Maize-Products Company
Anheuser-Busch Inc. (partial)
CPC International Inc.
Grain Processing Corporation

H. J. Heinz Company (partial)
National Starch & Chemcial Corporation
Grocery manufactuers of America, Inc.
A. E. Staley Manufacturing Company (partial)
American Home Products Corporation
Ampco Foods Inc.
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Beatrice Foods Company (partial)
Borden Inc.
Carnation Company
Central Soya Company, Inc. (partial)
Coca-Cola Company
Consolidated Foods Corporation (partial)
General Foods Corporation
General Mills Inc.
Great A & P Tea Company Inc.
H. J. Heniz Company (partial)
Hershey Foods Corporation
Heublein Inc.
I. C. Industries Inc. (partial)
ITT Continental Baking Company Inc. (partial)
Kellogg Company
Kraft Inc.
Kroger Company
Mars Inc.
Nabisco Inc. (partial)
Pepsico Inc.
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
Savannah Foods & Industries Inc. (partial)
Standard Brands Incorporated
Thomas J. Lipton Inc.
Universal Foods Corporation
National Food Processors Association
California Canners and Growers Company
Campbell Soup Company (partial)
Castle & Cooke Inc.
Curtice-Burns Inc.
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc.
R. J. Reynolds Industries, Inc.
Stokely-Van Camp Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.
National Frozen Food Association
ITT Continental Baking Company Inc. (partial)
National Meat Association
Dubuque Packing Company
Iowa Beef Processors Inc.
MBPXL Corporation
Pharmaceutical Manufacturers Association
Eli Lilly and Company
U.S. Beet Suger Association
Amalgamatd Suger Company
American Crystal Sugar Company
Consoldiated Foods Corporation (partial)
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
U.S. Brewers Association
Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Grain Terminal Association (partial)
G. Heileman Brewing Company, Inc. (partial)
Jos. Schlitz Brewing Company
Ladish Malting Company
Olympia Brewing Company
Pabst Brewing Company
Philip Morris, Inc. (partial)
The Stroh Companies Inc.
U.S. Cane Sugar Refiners Association
Archer Daniels Midland Company (partial)
California & Hawaiian Sugar Company
Colonial Sugars Inc.
Imperial Sugar Company
National Sugar Refining Company
Refined Syrups & Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)

SIC 22—Textile Mill Products

American Textile Manufacturers Institute
American Thread Company
Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Cannon Mills Company
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Mills Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.
Carpet & Rug Institute
Mohasco Corporation
Shaw Industries Inc.
Sperry and Hutchinson Company (partial)
Standard Oil Company (Indiana)
WWG Industries Inc.

SIC 24—Lumber and Weed Products

National Forest Products Association
Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Company Inc.
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 26—Paper and Allied Products

American Paper Institute
Abitibi-Price Southern Corporation
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Group Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hollingsworth & Vose Company
International Paper Company
International Telephone & Telegraph Corporation

James River Corporation of Virginia
Johnson & Johnson
Kimberly-Clark Corporation
Litton Industries Inc.
Longview Fibre Company
Macmillan Blodedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobile Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Pacific Paperboard Products Inc.
Penntech Papers Inc.
Pentair Industries Inc.
Pope and Talbot Inc.
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Sorg Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaueser Company
Willamettea Industries Inc.

Chemical Manufacturers Association
Minnesota Mining & Manufacturing Company
Moblie Oil Corporation (partial)

Glass—Pressed & Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

SIC 28—Chemicals and Allied Products

Aluminum Association
Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association
Cargill Inc.

Chemical Manufacturers Association
Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Chemical Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc.
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtec Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc. (partial)
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
CARUS Chemical Company Inc.
Celanese Corporation
CIBA-GEIGY Corporation
Cities Service Company
Commonwealth Oil Refining Company
CONOCO Inc.
CPC International Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E I Du Pont De Nemours & Company
Eastman Kodak Company
El Paso Products Company
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc. (partial)
Firestone Tire & Rubber Company
FMC Corporation
Freeport Minerals Company
GAF Corporation
General Tier & Rubber Company
Georgia-Pacific Corporation
Getty Oil Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Henkel Corporation
Hercules Incorporated
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
Kaiser Aluminum & Chemical Corporation
Kerr-McGee Corporation
Koppers Company Inc.
Lever Brothers Company
Linden Chemicals & Plastics Inc.
Lubrizol Corporation
Mallinckrodt Inc.
Merichem Company
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Company
Monsanto Company
Morton Norwich Products Inc.
Nalco Chemical Company
National Distillers & Chemical Corporation
NIPRO Inc.
NL Industries Inc.
Occidental Petroleum Corporation (partial)
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Reichhold Chemicals Inc. (partial)
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Sherex Chemical Company Inc.
Soltex Polymer Corporation
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Stauffer Chemical Company
SunOlin Chemical Company
Tenneco Inc.
Texaco Inc.
Texasgulf Inc.
Thiokol Corporation
Union Carbide Corporation
Uniroyal Inc.
United States Borax & Chemical Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
Velsicol Chemical Corporation
Vertac Inc. (partial)
Virginia Chemicals Inc.
Vulcan Materials Company
W. R. Grace & Company
Westvaco Corporation
Weyerhaeuser Company
Witco Chemical Corporation

Fertilizer Institute
Beker Industries Corporation
Borden Inc. (partial)
C F Industries Inc.
Coastal Corporation (Wycon Chemical Company)
Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Big River Inc.
Getty Oil Company
Green Valley Chemical Company
International Minerals & Chemical Corporation (partial)
J. R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc. (partial)
Terra Chemicals International Inc.
Tyler Corporation (Atlas Powder Company)
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc. (partial)
The Williams Companies

Pharmaceutical Manufacturers Association
Abbott Laboratories

American Home Products Corporation (partial)
Baxter-Travenol Laboratories
Eli Lilly & Company
Hoffmann-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Richardson Vicks Inc.
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute
Agway Inc.
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Service Company
Clark Oil & Refining Corporation
Coastal Corporation
Commonwealth Oil Refining Company
CONCOCO Inc.
Crown Central Petroleum Corporation
Crystal Oil Company
Diamond Shamrock Corporation
Dorchester Gas Corporation
Dow Chemical Company
Earth Resources Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
Getty Oil Company
Gulf Oil Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petrolum Inc.
Union Oil Company of California
USA Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation
Chemical Manufacturers Association
GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.
GLASS—Pressed and Blown (Battelle Institute)
Owens-Corning Fiberglas Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association
American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company
Pharmaceutical Manufacturers Association
Baxter-Travenol Laboratories
Rubber Manufacturers Association
Armstrong Rubber Company
B. F. Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Uniroyal Inc.

SIC 32—Stone, Clay and Glass Products

Brick Institute of America
Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.
Chemical Manufacturers Association
Engelhard Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Reichhold Chemicals Inc.
Vulcan Materials Company
Expanded Shale Clay and Slate Institute
Lehigh Portland Cement Company (partial)
Solite Corporation
Glass—Flat (Eugend L. Stewart)
AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.
Glass Packaging Institute
Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc. (partial)
Coors Container Company
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc.
Indian Head Inc.
Kerr Glass Manufacturing Corporation
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc.
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc.
Owens-Illinois Inc. (partial)
Philip Morris Inc.
Thatcher Glass Corporation
Wheaton Industries
Glass—Pressed & Blown (Battelle Institute)
Anchor Hocking Corporation (partial)
Brockway Glass Company Inc. (partial)
Certainteed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)
Gypsum Association
Domtar Industries Inc. (partial)
Flintkote Company (partial)
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)
National Lime Association
Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Can-Am Corporation
Cutler-Magner Company
Domtar Industries Inc. (partial
Dravo Corporation
Edw. C. Levy Company
Flintkote Company (partial)
General Dynamics Corporation (partial)
J. E. Baker Company (partial)
Martin Marietta Corporation (partial)
National Gypsum Company (partial)
Pfizer Inc. (partial)
Round Rock Lime Company
St. Clair Lime Company
United States Gypsum Company (partial)
Vulcan Materials Company (partial)

Warner Company
Portland Cement Association
Alamo Cement Company
Alpha Portland Cement Company
Arkansas Louisiana Gas Company
Ash Grove Cement Company (partial)
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Citadel Cement Corporatioin
Coplay Cement Manufacturing Company
Crane Company
Cyprus Hawaiian Cement Company
Dundee Cement Company
Filtrol Corporation
Flintkote Company (partial)
Florida Mining & Materials Corporation
General Portland Cement Company
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Gulf & Western Industries Inc. (partial)
Ideal Basic Industries Inc.
Independent Cement Corporation
Kaiser Cement & Gypsum Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Martin Marietta Corporation (partial)
McDonough Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Cement Company
National Gypsum Company (partial)
Newmont Mining Corporation
Northwestern St. Portland Cement Company
Oregon Portland Cement Company
Penn-Dixie Industries Inc.
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southdown Inc.
Texas Industries Inc. (partial)
Whitehall Cement Manufacturing Company
Refractories Institute
Allied Chemical Corporation
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Ferro Corporation (partial)
General Refractories Company (partial)
Interpace Corporation (partial)
J. E. Baker Company (partial)
Kaiser Aluminum & Chemical Corporation
Kennecott Corporation
Martin Marietta Corporation (partial)
McDermott Inc.
Norton Company (partial)
Pfizer Inc. (partial)
United States Gypsum Company (partial)
Tile Council of America
National Gypsum Company (partial)

SIC 33—Primary Metal Industries

Aluminum Association
Alcan Aluminum Corporation
Alumax Inc.
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company
American Die Casting Institute
Hayes-Albion Corporation (partial)
American Foundrymen's Society
American Cast Iron Pipe Company
Clow Corporation
Dayton Malleable Inc.
Grede Foundries Inc.
Jim Walter Corporation (partial)
Mead Corporation
Teledyne Inc. (partial)
American Iron & Steel Institute
A. Finkl & Sons Company
Allegheny Ludlum Industries Inc.
Armco Inc.
Athlone Industries Inc.
Atlantic Steel Company
Bethelem Steel Corporation
Cargill Inc.
Carpenter Technology Corporation
Ceco Corporation
Colt Industries Inc.
Crane Company
Cyclops Corporation
Eastmet Corporation
Florida Steel Corporation
Ford Motor Company
Guterl Special Steel Corporation
Inland Steel Company
Interlake Inc. (partial)
Kaiser Steel Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
LTV Corporation
Lukens Steel Corporation
McDermott Inc.
McLouth Steel Corporation
National Steel Corporation (partial)
Northwest Industries Inc. (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Phoenix Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc.
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation
American Mining Congress
Amax Inc.
Asarco Inc.
Inspiration Consol Copper Company
Kennecott Corporation (partial)
Louisana Land & Exploration Company (partial)
Newmount Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation
Chemical Manufacturers Association
Allied Chemical Corporation
Great Lakes Carbon Corporation
Construction Industry Manufacturers Association
Caterpillar Tractor Company
Tenneco Inc.
Cooper & Brass Fabricators Council
Atlantic Richfield Company (partial)
Century Brass Products Inc.
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)
Ferroalloys Association
Chromium Mining & Smelting Corporation
Dow Chemical Corporation
Elkem Metals Company
Hanna Mining Company—Silicon Division*
Hanna Nickel Smelting Company
Interlake Inc. (partial)
International Minerals & Chemical Corporation
MacAlloy Corporation
Newmont Mining Corporation (partial)
Ohio Ferroalloys
Roane Electric Furnace Company
Satralloy Inc.
SKW Alloys
Union Carbide Corporation

SIC 34—Fabricated Metal Products

Aluminum Association
Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company
American Boiler Manufacturers Association
Combustion Engineering Inc.
McDermott Inc.
Can Manufacturers Institute
American Can Company

Continental Group Inc.
Crown Cork & Seal Company Inc.
Jos Schlitz Brewing Company
National Can Corporation
Chemical Manufacturers Association
Olin Corporation
Remington Arms Company Inc.

SIC 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute
Emerson Electric Company
IC Industries
Trane Company
Computer & Business Equipment Manufacturers Association
Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry Rand Corporation
TRW Inc.
Xerox Corporation
Construction Industry Manufacturers Association
Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
Tenneco Inc.

SIC 36—Electric, Electronic Equipment

Chemical Manufacturers Association
Great Lakes Carbon Corporation
Minnesota Mining & Manufacturing Company
National Electrical Manufacturers Association
Airco Inc.
Allied Chemical Corporation
Emerson Electric Company
Harvey Hubbel Inc.
Johnson Controls Inc.
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corportion

SIC 37—Transportation Equipment

Aerospace Industries Association of America
Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Huges Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Northrop Corporation
Textron Inc. (partial)
Thiokol Corporation
TRW Inc.
Vought Corporation
Chemical Manufacturers Association
Hercules Incorporated
Tenneco Inc.
Motor Vehicle Manufacturers Association
American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—Instruments and Related Products

Chemical Manufacturers Association
Eastman Kodak Company
GAF Corporation
Minnesota Mining & Manufacturing Company
Pharmaceutical Manufacturers Association
Johnson & Johnson
Warner-Lambert Compay

[FR Doc. 82-17536 Filed 6-28-82; 8:45 am]
BILLING CODE 6450-01

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federal register

Tuesday
June 29, 1982

Part VIII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Support Facilities, Other Transportation Facilities, Utility Installations, and Coal Processing Plants

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 816

Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Support Facilities, Other Transportation Facilities, Utility Installations, and Coal Processing Plants

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Correction to a proposed rule.

SUMMARY: On June 25, 1982, the Office of Surface Mining (OSM) published as a proposed rule in the **Federal Register** (47 FR 27688): Support Facilities, other Transportation Facilities, Utility Installations and Coal Processing Plants. OSM inadvertently omitted portions of 30 CFR 816.180—Support Facilities and 30 CFR 816.181 on page 27693 of that publication. To correct that omission OSM is now publishing sections 30 CFR 816.180 and 30 CFR 816.181 in their entirety.

FOR FURTHER INFORMATION CONTACT:
Public hearings and information: Arthur Anderson, Division of Technical Assistance, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; 202–343–5954.
Public meetings: Jose del Rio, 202–343–4022.

List of Subjects in 30 CFR Part 816

Coal mining, Environmental protection, Reporting requirements, Surface mining.

Accordingly, for the reasons set forth above, Part 816 is proposed to be amended as follows.

Dated: June 25, 1982.

Dean Hunt,

Assistant Director, Office of Surface Mining.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

1. Section 816.180 is revised to read as follows:

§ 816.180 Support facilities.

Support facilities shall be located, maintained, and used—

(a) In a manner which prevents or controls erosion and siltation, water pollution, and damage to public or private property;

(b) To the extent possible using the best technology currently available, in a manner that—

(1) Minimizes damage to fish, wildlife, and related environmental values; and

(2) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law; and

(c) In a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the regulatory authority.

2. Section 816.181 is removed.

§ 816.181 [Removed]

[FR Doc. 82-17699 Filed 6-28-82; 9:40 am]
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2368
2391
2409
2425
2453
2468
2500
2511
2531
2550
2572
2593
2611
2636
2661
2680
2705
2724
2753
2784
2806

Reader Aids

Federal Register

Vol. 47, No. 125

Tuesday, June 29, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24
27537-27842.....25
27843-28066.....28
28067-28360.....29

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:

January 29, 1859 (Revoked by PLO 6260).....26131
January 29, 1867 (Revoked in part by PLO 6287).....27292
July 2, 1875 (Revoked by PLO 6270).....27285
July 27, 1875 (Revoked by PLO 6271).....27285
May 8, 1889 (Revoked by PLO 6257).....26130
May 28, 1889 (Revoked in part by PLO 6255).....26129
April 1, 1895 (See PLO 6260).....26131
April 30, 1896 (See PLO 6260).....26131
August 16, 1911 (Revoked in part by PLO 6280).....27287
February 5, 1912 (Revoked by PLO 6283).....27290
July 3, 1913 (Revoked in part by PLO 6280).....27287
December 11, 1914 (Revoked in part by PLO 6280).....27287
November 10, 1917 (Revoked in part by PLO 6259).....26130
February 25, 1919 (Revoked in part by PLO 6282).....27289
November 26, 1921 (Revoked in part by PLO 6274).....27286
November 21, 1923 (Revoked in part by PLO 6266).....26133
June 8, 1926 (Revoked in part by PLO 6252).....26133
April 17, 1926 (See PLO 6284).....27290
December 22, 1927 (Revoked by PLO 6263).....26132
April 23, 1929 (Revoked by PLO 6263).....26132
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4364 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
12133 Revoked by EO 12368).....27843
12367.....26119
12368.....27843

Proclamations:

1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805
4949.....27537

5 CFR

307.....27539
316.....27539
1260.....26369
1261.....26369

Proposed Rules:

340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101, 27539
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
226.....27540
272.....27544
273.....27544
277.....25496
284.....28067
301.....23682, 23683, 26121
317.....28214
318.....28214
319.....28214
371.....25001, 27234
411.....27058
439.....27059
724.....27546
725.....27547
726.....27548
760.....24689
905.....25935
908.....24137, 25113, 26122,

27234
910.....24251, 25319, 26370, 27548
916.....23913
917.....23913
923.....23684
979.....24109
981.....25001
1032.....25113
1040.....26370
1106.....25505
1446.....28069
1701.....24251, 28080
1900.....24539
1924.....28082
1944.....28082
2900.....25319

Proposed Rules:

28.....26637
52.....25366
54.....23725
210.....28106
235.....25368
272.....24968, 25639, 26840, 27036
273.....24968, 25639, 26840, 27036
276.....25639, 27036
932.....26394
1001.....27080
1006.....27342
1011.....26656
1012.....27342
1013.....27342
1033.....27342
1036.....27342
1040.....27342
1046.....26656
1065.....26840
1071.....26665
1073.....26665
1098.....26656
1104.....26665
1106.....26665
1124.....27342
1125.....27342
1126.....26665
1132.....26665
1133.....27342
1134.....27299, 27342
1135.....27342
1136.....27299, 27342
1137.....27299, 27342
1139.....27342
1200.....23733, 24338
1701.....25371, 26841, 27565
1807.....27366
1872.....27366
1901.....27366
1910.....27366
1940.....27366
1941.....27366
1943.....27366
1944.....27366
1945.....27366
1962.....27366
1990.....27366

8 CFR

100.....25002, 27549

Proposed Rules:

214.....24596, 27565
248.....24596, 27565

9 CFR

92.....24540
317.....26371
318.....26371
319.....26371

Proposed Rules:

166.....26841
318.....23941
381.....23941

10 CFR

30.....27060
35.....28087
40.....27060
70.....27060
456.....27752
508.....25729, 26615

Proposed Rules:

50.....27371
430.....26143
456.....26148, 27803
477.....28107
485.....25535
501.....25153

12 CFR

9.....27833
217.....24252, 27244
265.....27845
303.....25733
329.....28087
546.....26807
563.....26807
563b.....24252
611.....27060, 28088
614.....27060, 28088
701.....23685, 25808
707.....25808
708.....25808
745.....25808

Proposed Rules:

Ch. VII.....23747, 26842
9.....27833
29.....23944, 26157
202.....23738, 23741, 25019
303.....28108
308.....28108
350.....23743
545.....28110
614.....25535
701.....23750
721.....23751

13 CFR

122.....24110

14 CFR

39.....25114, 25115, 27244–27248, 27845–27848
71.....25506, 25507, 26615, 27249, 27252, 27849, 27850
73.....26123
75.....26615, 27252, 27253
91.....25116, 25506
95.....27253
97.....25510, 27851
298.....25935
323.....26809
382.....25936
385.....28088

Proposed Rules:

21.....24596
29.....27866
39.....23691–23698, 24138, 24541
71.....23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373 27374
75.....24597
91.....26112, 26158, 27866
97.....23703
183.....27472
202.....25019
203.....25019
204.....25019
208.....25019
211.....25019
212.....25019
213.....25019
215.....25019
231.....23949
250.....24689
294.....25019
298.....23949, 25019
323.....27081, 28111
399.....24598

15 CFR

376.....25118, 27250
379.....25118, 27250
385.....25118, 27250
806.....23705
930.....27062
970.....24948

16 CFR

13.....24113, 25118
1201.....27853

Proposed Rules:

Ch. II.....24034
13.....25157
436.....25372
455.....24542
1025.....25512
1145.....27867
1632.....25159

17 CFR

3.....27550
140.....24113, 26810, 28089
145.....27550
200.....26818, 26820
201.....26818
202.....26820
203.....26820
210.....25120
211.....23915, 23916
229.....25126
230.....26818
231.....25120
239.....25126, 26818
240.....23919, 26161
249.....25120, 26818
259.....26818
260.....26818
269.....26818
274.....26818
279.....26818

Proposed Rules:

21.....23951
201.....25372
230.....25372
240.....24338, 25372, 26161
250.....25372
260.....25372
270.....25372
275.....25372

18 CFR

1.....24691
3.....24691
157.....24254
271.....25132, 25133
282.....24117, 27857
284.....24254
375.....24524, 24691

Proposed Rules:

1.....24691, 27375
3.....27375
271.....23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083
274.....24726
284.....24726
375.....24726, 27375
381.....24726, 27375

19 CFR

10.....27260
18.....27260
114.....27260
143.....27260
148.....24117
210.....25134

Proposed Rules:

134.....24344
177.....25975

20 CFR

416.....24274

Proposed Rules:

404.....23954, 25376
651.....23754
654.....23754

21 CFR

5.....23705, 25733, 26822
12.....25733, 26375
13.....26375
14.....26375
15.....26375
16.....26375
20.....24277
74.....24278, 27551
80.....24691
81.....24278, 24285, 27551
82.....24278, 27551
137.....24692
146.....24286
172.....26823, 27808
173.....28089
177.....24288
178.....26824
182.....27806–27815
184.....27806–27815
193.....25950, 25951, 27062
436.....23707
440.....23711
442.....23707
444.....23707, 25320
448.....23707
449.....23707
450.....23707
510.....26375, 26376
520.....25320, 25734, 26376, 26377
524.....26377
544.....24290
548.....24693
556.....25320
558.....23712, 24694, 24695, 26378, 26379, 26825
561.....25952–25954, 27063, 27064
573.....24292

610 ..... 24696, 27552
630 ..... 24696, 27552
801 26982
1306 26616
Proposed Rules:
101 ..... 25379, 26580
105 26580
155 26843
172 26843
182 27818
184 ..... 27817, 27818
186 27817
201 24735
310 28306
358 28312
680 27566

22 CFR

41 24293
514 24119

23 CFR

625 25268
Proposed Rules:
655 25541

24 CFR

3280 28091
3282 28091
3283 28091
Proposed Rules:
201 27867
203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
882 27869
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:
250 23755

26 CFR

1 25139
6a 24701, 28094
26a 24127
Proposed Rules:
1 ..... 24112, 24737, 25026, 26666, 26854

27 CFR

9 ..... 24293, 24295, 25517
18 ..... 23920, 25003
240 ..... 23920, 25003
Proposed Rules:
9 24344
240 26399

28 CFR

2 ..... 25735, 25736
549 27218
552 27219
Proposed Rules:
2 27567

29 CFR

5 ..... 24296, 24297
6 24702
40 24702
570 28094
580 24702
697 26825
1601 ..... 24542, 24703
1910 ..... 25323, 26557
1952 ..... 25323, 25327
Proposed Rules:
1904 24346
1910 ..... 24751, 26560

30 CFR

11 28095
33 28095
46 28095
48 28095
49 28095
57 28095
70 28095
71 28095
74 28095
75 28095
77 28095
250 ..... 24751, 25330
251 25330
730 26356
731 26356
732 26356
733 26356
736 26356
906 25332
913 ..... 23858, 23886
920 25955
943 24130
944 26827
Proposed Rules:
Ch. VII 26405
211 26856
221 26856
226 25252
231 ..... 24128, 26856
250 26856
270 ..... 24129, 26856
700 ..... 25092, 27688
701 ..... 24954, 25092, 25486, 26592, 26754, 27688–27734
731 27744
732 27744
736 25278
740 25092
741 25092
742 25092
743 25092
744 25092
745 25092
746 25092
760 25278
761 25278
762 25278
764 25278
765 25278
769 25278
770 27694
771 27694
773 27694
775 27694
778 27694
779 27712
780 ..... 27712, 27734
782 27694
783 27712
784 ..... 27712, 27734
785 ..... 25486, 27688
786 27694
787 27694
788 27694
795 27744
816 ..... 24954, 26592, 26754, 26760, 27688, 27712, 27734, 28359
817 ..... 24954, 26592, 26754, 26760, 27688, 27712, 2727734
822 25486
826 26760
827 27688
906 25979
910 25981
913 25164
914 ..... 26406, 26857
916 ..... 23766, 26165
922 26779
925 ..... 23767, 26164
931 23898
934 26769
935 26406
936 27383
937 26786
938 25383
942 25165
947 26794
951 25029

31 CFR

209 24131
408 27552
535 25003
Proposed Rules:
51 25029
53 25543
55 25543
81 25543
90 25543
92 25543
93 25543
120 25543
121 25543
122 25543
127 25543

32 CFR

242b 24297
505 27262
536 26616
706 ..... 24131, 24132
763 27753
806b 26617
1665 24542
2001 27838
Proposed Rules:
293 26857
1656 24599
1660 24599

33 CFR

1 25519
3 27263
100 ..... 25139–25142, 27264
117 ..... 24543, 24544, 26125–26127, 27265
127 ..... 25519, 27858
137 27478
150 27478
157 24547
162 27265
175 24548
Proposed Rules:
110 26165
126 26166
154 26166
156 26166
161 26166
167 ..... 26167, 27870

34 CFR

642 24938
643 24938
644 24938
645 24938
646 24938

36 CFR

7 2429
50 ..... 24299, 24302
600 24306
811 25520
Proposed Rules:
1 24143
2 24143
3 24143
4 24143
5 24143
6 24143
7 24143
9 23768
12 24143
219 24348

37 CFR

201 25004
Proposed Rules:
1 26042
2 ..... 18063, 28324
3 28042
4 28063

38 CFR

3 ..... 24549, 28096
17 27858
Proposed Rules:
1 23954
21 24803

39 CFR

111 ..... 25957, 27266
233 26831
3001 23712
3002 25523
Proposed Rules:
10 28111

40 CFR

1 25006
51 27554
52 ..... 23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26388, 26618–26623, 26832, 26833, 27065–27073, 27267, 27554 28096, 28097
60 25524
61 24703
62 ..... 25335, 28099
81 ..... 25016, 27267, 28100
122 ..... 24918, 27520
123 27273
125 ..... 24918, 25963, 27075
162 23928
180 ..... 23931–23935, 25017, 25741, 25957–25963
256 26835
264 27520
265 27520
401 24534
415 28260

420 24554
710 27075
712 26992
723 24308
762 ..... 23713, 23717
763 25145

Proposed Rules:
Ch. I 25743, 26859
4 24755
30 26564
50 26407
52 ..... 23773, 23778, 24755 25745, 27870–27874 25112
60 26750
62 26169
81 24755
122 ..... 24144, 25546, 27516
123 ..... 23955, 25546, 26170
124 ..... 24921, 25546
125 ..... 24921, 25981
141 24756
158 26171
162 25030
180 ..... 23955, 23957, 24604, 25031, 25092, 25746–25750, 25981
264 27516
425 23958
440 25682
704 27206
712 26992
761 ..... 24976, 25555
790 24348

41 CFR
Ch. 1 ..... 25018, 27859, 27860
Ch. 9 26390
Ch. 18 ..... 27274, 27283
7–1 25964
7–6 25964
7–7 25964
7–30 25964
8–2 26127
8–4 25525
8–75 25525

Proposed Rules:
9 23780
101–8 25337
101–41 24357

42 CFR
51a 27824
51d 27824
51f 27824
53 27860
435 27076
436 27076

Proposed Rules:
405 27084

43 CFR
2 26390
4 26390
2650 26390
3300 25967

Public Land Orders:
548 (Revoked in part by PLO 6252) 24133
619 (Revoked by PLO 6256) 26129
648 (Revoked in part by PLO 6272) 27285
651 (Revoked in part by PLO 6275) 27286
1409 (Revoked by PLO 6254) 23935
1461 (Revoked by PLO 6261) 26131
4395 (See PLO 6287) 27292
4913 (Revoked by PLO 6276) 27287
5345 (Amended PLO 6253) 24133
5791 (Corrected by PLO 6264) 26132
5976 (Corrected by PLO 6281) 27288
6200 (Corrected by PLO 6265) 26133
6252 24133
6253 24133
6254 23935
6255 26129
6256 26129
6257 26130
6258 26130
6259 26130
6260 26131
6261 26131
6262 26132
6263 26132
6264 26132
6265 26133
6266 26133
6267 27283
6268 27283
6269 27284
6270 27285
6271 27285
6272 27285
6273 27285
6274 27286
6275 27286
6276 ..... 27078, 27287
6277 27079
6279 27079
6280 27287
6281 27288
6282 27289
6283 27290
6284 27290
6285 27290
6286 27291
6287 27292

Proposed Rules:
Subtitle A 25384
Subtitle B 25384
4 27086
3140 25720
3830 24144

44 CFR
64 ..... 25018, 25145, 25146, 26133
65 ..... 23718, 23719
67 ..... 23720, 24321

Proposed Rules:
67 ..... 23780–23785, 24357

45 CFR
302 24716
303 24716
304 24716
305 24716
306 24716
1611 25148

Proposed Rules:
2 26860
97 26104

46 CFR
Ch. II 25530
42 25148
50 24554
66 27490
67 27490
68 27490
69 27490
71 24554
91 24554
107 24554
153 27293
189 24554
510 ..... 24555, 25530
530 27861
536 25532
548 27861

Proposed Rules:
Ch. I 26667
7 24604
25 25166
26 25166
35 25166
58 25166
78 25166
97 25166
111 25166
112 25166
162 25166
196 25166
502 24377
507 27875

47 CFR
0 ..... 28102, 26103
1 26393
2 ..... 24557, 25342
13 25972
22 24557
64 27293
67 24720
73 ..... 24572–24580, 25342–25346, 26624, 26836, 26838, 27861
74 ..... 24580, 24723
81 23722
87 23722
90 ..... 23722, 24581, 26631
97 28103

Proposed Rules:
1 27384
2 27875
Ch. I 24612, 25033, 26668, 27087
2 ..... 25033, 25982
21 25033
73 ..... 24144, 24613, 26408, 26861–26868, 27385, 27572
74 25033
87 28113
90 26677
94 25033

48 CFR

Proposed Rules:
19 25034
53 26679

49 CFR
1 24581
171 24582
172 24582
173 ..... 24582, 26633
175 24582
215 27293
385 26135
512 24587
571 ..... 25149, 26138
575 ..... 24593, 25930, 26139
1033 ..... 23723, 24332, 25347, 27561
1039 26634
1090 26634
1110 24594
1125 25973
1136 26142
1201 26634
1300 26634

Proposed Rules:
Ch. X 28115
172 24157
173 ..... 24157, 25167, 26172, 27876
177 27876
178 ..... 25167, 26172, 27876
192 25555
396 26172
571 ..... 25169, 26174
1032 26409
1039 27573
1102 25035
1248 26870

50 CFR
17 27295
26 25150
91 26635
285 ..... 25350, 26393
371 24723
611 ..... 23936, 25018, 27862
661 ..... 24134, 24136, 28105
672 ..... 23936, 27862, 28105
674 24724

Proposed Rules:
17 26878
20 25922
602 27228

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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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6-30-82
Vol. 47 No. 126
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federal register

Wednesday
June 30, 1982

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Feeds
Environmental Protection Agency

Coal Mining
Surface Mining Reclamation and Enforcement Office

Commodities Exchanges
Commodity Futures Trading Commission

Food Additives
Environmental Protection Agency

Fisheries
National Oceanic and Atmospheric Administration

Freight
Interstate Commerce Commission

Imports
Fish and Wildlife Service

Life Insurance
Veterans Administration

Marketing Agreements
Agricultural Marketing Service

Motor Carriers
Interstate Commerce Commission

Natural Gas
Federal Energy Regulatory Commission

Nuclear Power Plants and Reactors
Nuclear Regulatory Commission

CONTINUED INSIDE

Selected Subjects

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Oil and Gas Reserves
Land Management Bureau

Organization and Functions (Government Agencies)
Geological Survey
Minerals Management Service

Pesticides and Pests
Environmental Protection Agency

Radio
Federal Communications Commission

Railroads
Interstate Commerce Commission

Television
Federal Communications Commission

Contents

Federal Register
Vol. 47, No. 126
Wednesday, June 30, 1982

The President
ADMINISTRATIVE ORDERS
28361 Sugar exports (Memorandum of June 28, 1982)

Executive Agencies

Agency for International Development
NOTICES
Authority delegations:
28478 Africa Bureau Field Posts; project extensions approval

Agricultural Marketing Service
PROPOSED RULES
28400 Potatoes (Irish) grown in Colo.

Agriculture Department
See also Agricultural Marketing Service; Commodity Credit Corporation; Forest Service.
NOTICES
Import quotas and fees:
28442 Sugar; quarterly determination
28442 Meat import limitations; quarterly estimates

Antitrust Division
NOTICES
28493 Merger guidelines

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
28443 New Mexico

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Commodity Credit Corporation
NOTICES
Price support rates:
28441 Tobacco; 1982 determination

Commodity Futures Trading Commission
PROPOSED RULES
28401 Domestic exchange-traded commodity option; pilot program; options on physicals, etc.
NOTICES
28525 Meetings; Sunshine Act

Copyright Royalty Tribunal
NOTICES
28446 Noncommercial broadcasting, use of certain copyrighted works; royalty rates determination proceedings

Defense Department
See also Navy Department.
NOTICES
28446 Agency forms submitted to OMB for review
Meetings:
28446 Electron Devices Advisory Group
28446 Travel per diem rates; civilian personnel; changes

Economic Regulatory Administration
NOTICES
Natural gas; fuel oil displacement certification applications:
28447 Public Service Electric & Gas Co. (2 documents)

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation:
28373 Technical amendments
Air quality implementation plans; approval and promulgation; various States, etc.:
28374 Arizona, California, and Nevada
28372 Massachusetts
28375 Ohio
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
28380 2-Chloro-*N*-isopropylacetanilide
28381 Glyphosate
28380 Thiabendazole
Pesticide programs:
28377 Antimicrobial pesticide ingredients; designation as inert rather than active
Pesticides; tolerances in animal feeds:
28368 2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
Pesticides; tolerances in food:
28366 O,O-dimethyl O-(4-nitro-m-tolyl)phosphorothioate
Toxic substances:
28382 Chemical manufacturers; preliminary assessment information reporting requirements; correction
PROPOSED RULES
Hazardous waste management system, etc.:
28428 Uniform hazardous waste manifest; extension of time
Pesticide programs:
28428 Rebuttable presumption against registration (RPAR) process, initiation criteria; notification to Agriculture Secretary
NOTICES
Air pollution control; steel industry compliance extension applications, etc.:
28455 Shenango, Inc.; withdrawn
Pesticide, food, and feed additive petitions:
28453 BFC Chemicals, Inc., et al.
28451 FMC Corp. et al.
28453 Mobay Chemical Corp. et al.
28452 Shell Oil Co. et al.
Pesticide registration, cancellation, etc.:
28455 Dropp Cotton Defoliant (Nor-Am Products Inc.)
Pesticides; temporary tolerances:
28454 Ethephon
28454 Fenarimol

Federal Communications Commission
RULES
Radio and television broadcasting:
28385 Oversight; update clarification, editorial corrections, etc.
PROPOSED RULES
Radio services, special:
28429 Vehicle detector, self powered; frequency channels allocation and assignment
NOTICES
Meetings:
28455, ITU 1985 Space World Administrative Radio
28456 Conference Advisory Committee (2 documents)
28456 Radio Broadcasting Advisory Committee

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
28364 Alabama
28365 New Mexico
28366 Texas
Practice and procedure:
28364 Commission proceedings; conduct; rehearing
PROPOSED RULES
Natural gas companies (Natural Gas Act):
28425 Fees for services and benefits provided producers; correction
Natural Gas Policy Act:
28425 Fees for services and benefits provided; correction
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
28425 New York

Federal Home Loan Bank Board
NOTICES
28525 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
Casualty and nonperformance, certificates:
28456 Scandinavian World Cruises

Federal Register Office
NOTICES
28503 Incorporations by reference, approval; publication

Federal Reserve System
NOTICES
Applications, etc.:
28458 East Central Holding Co.
Bank holding companies; proposed de novo nonbank activities:
28456 Citicorp

Fish and Wildlife Service
PROPOSED RULES
Importation, exportation, and transportation of wildlife:
28431 Wild animals and birds, humane and healthful transport into U.S.; notice of intent

Forest Service
NOTICES
Meetings:
28442 Coconino National Forest Grazing Advisory Board

General Services Administration
See Federal Register Office.

Geological Survey
RULES
28368 Reorganization; transfer of functions to Minerals Management Service

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
28449 Cases filed
28448, Decisions and orders (4 documents)
28450,
28451

Interior Department
See Fish and Wildlife Service; Geological Survey; Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
28427 Industrial development bonds for residential rental housing; hearing

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Antidumping:
28443 Animal glue and inedible gelatin from Yugoslavia
28444 Clear sheet glass from Italy
Meetings:
28444 President's Export Council

International Trade Commission
NOTICES
Foreign export credit subsidies; economic impact studies:
28480 Civil transport aircraft, heavy electrical equipment, and self-propelled railcars industries
28480 Commuter aircraft industry.
Import investigations:
28479 Coin-operated audiovisual games and components (Pac-Man and Rally-X)
28479 Cube puzzles
28479 Drill point screws for drywall construction
28481 Hot-rolled stainless steel bar, cold-formed stainless steel bar, and stainless steel wire rod from Brazil
28485 Skateboards and platforms
28486 Stainless steel sheet and strip from France
28481 Steel products from Korea
28488 Welded carbon steel pipes and tubes from Brazil, France, Italy, Korea, and West Germany
28525 Meetings; Sunshine Act

Interstate Commerce Commission
RULES
Motor carriers:
28396 Lease and interchange of vehicles

Railroad car service orders; various companies:
28393 Chicago, Rock Island & Pacific Railroad Co.; track use by various railroads

PROPOSED RULES

Tariffs and schedules:
28430 Freight rates for named shipper, receiver, or location; publication prohibition eliminated

NOTICES

Motor carriers:
28461 Finance applications
28466, 28474 Permanent authority applications (2 documents)
28477 Permanent authority applications; restriction removals
28463 Temporary authority applications
Railroad services abandonment:
28478 Consolidated Rail Corp. (5 documents)

Justice Department

See Antitrust Division; Juvenile Justice and Delinquency Prevention Office; Parole Commission.

Juvenile Justice and Delinquency Prevention Office

RULES

28546 Formula grants for juvenile justice; valid court order; confirmation and partial stay of effective date, and request for comments

Land Management Bureau

RULES

Public land orders:
28382 California
28382 Utah

PROPOSED RULES

28550 Minerals management, and oil and gas leasing on Federal lands; Alaska exploration and development, regulatory burden reduction, etc.

NOTICES

Closure of public lands:
28460 California
Coal leases, exploration licenses, etc.:
28461 Wyoming; correction
Conveyance of public lands:
28459 Arizona
Environmental concern; designation of critical areas:
28459 Red Wall, Casper District, et al., Wyo.
Survey plat filings:
28459 Michigan

Minerals Management Service

RULES

28368 Reorganization; transfer of functions from Conservation Division, Geological Survey

NOTICES

Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
28461 Pennzoil Co.

National Aeronautics and Space Administration

NOTICES

Meetings:
28502 Advisory Council (2 documents)

National Bureau of Standards

NOTICES

Information processing standards, Federal:
28445 Public key cryptographic algorithms; solicitation request

National Oceanic and Atmospheric Administration

RULES

Fishery conservation and management:
28398 Atlantic sea scallop; interim; effectiveness extended

PROPOSED RULES

Fishery conservation and management:
28433 Spiny lobster; Western Pacific region

National Park Service

NOTICES

Historic Places National Register; pending nominations:
28461 Washington

Navy Department

RULES

Personnel, procurement, property, etc.:
28370 Nomenclature changes and technical corrections

Nuclear Regulatory Commission

RULES

Production and utilization facilities, domestic licensing:
28363 Environmental qualifications of electric equipment for nuclear power plants

NOTICES

Applications, etc.:
28503 Alabama Power Co.

Occupational Safety and Health Review Commission

NOTICES

28525 Meetings; Sunshine Act (3 documents)

Parole Commission

NOTICES

28525, 28526 Meetings; Sunshine Act (2 documents)

Peace Corps

NOTICES

28504 Agency forms submitted to OMB for review

Postal Service

NOTICES

Rates and fees:
28504 Preferred postage, step increase

Securities and Exchange Commission

NOTICES

Hearings, etc.:
28505 Central & South West Corp.
28506 Central Vermont Public Service Co., Inc.
28507 Cortez Capital Corp.
28509 Current Interest, Inc.
28511 General Housewares Corp.
28512 Investment Pool for U.S. Government Guaranteed Securities
Self-regulatory organizations; proposed rule changes:
28512 Midwest Clearing Corp.
28517, 28518 Municipal Securities Rulemaking Board (4 documents)

Self-regulatory organizations; unlisted trading privileges:
28504 Boston Stock Exchange, Inc.

Small Business Administration
NOTICES
Applications, etc.:
28518 All State Venture Capital Corp.
28519 Allied Business Investors, Inc.
28518 City Ventures, Inc.
28519 Enterprise Venture Capital Corp.
28520 FMA Capital Corp.
28520 Walnut Street Capital Co.
28521 Washington Finance & Investment Corp.
28520 Interest rates; quarterly determinations
Meetings; regional advisory councils:
28519 Virginia

State Department
NOTICES
Meetings:
28521 Law of the Sea Advisory Committee

Surface Mining Reclamation and Enforcement Office
RULES
28574 Abandoned mine land reclamation program
PROPOSED RULES
28427 Federal lands program; surface coal mining and reclamation operations; hearing cancellation

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
28445 Macau

Treasury Department
See Internal Revenue Service.

Veterans Administration
RULES
28371 Life insurance, U.S. Government and National Service; payment to decedent's estate
NOTICES
Meetings:
28521 Health-Related Effects of Herbicides Advisory Committee
28521 Rehabilitative Engineering Research and Development Scientific Review and Evaluation Board
28522, 28523 Privacy Act; systems of records (2 documents)

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Administrative Orders:
Memorandums:
June 28, 1982 28361

Executive Orders:
October 12, 1910
[Revoked by PLO 6288] 28382
April 16, 1914
See PLO 6288] 28382
February 11, 1918
[See PLO 6288] 28382

7 CFR

Proposed Rules:
948 28400

10 CFR
50 28363

17 CFR

Proposed Rules:
1 28401
3 28401
4 28401
15 28401
16 28401
18 28401
21 28401
32 28401
33 28401
145 28401
147 28401
155 28401
170 28401
180 28401

18 CFR
1 28364
1b 28364
2 28364
3 28364
3a 28364
3c 28364
4 28364
12 28364
16 28364
25 28364
32 28364
33 28364
34 28364
35 28364
41 28364
45 28364
131 28364
152 28364
153 28364
154 28364
156 28364
157 28364
158 28364
250 28364
270 28364
271 (4 documents) 28364, 28366
275 28364
281 28364
282 28364
284 28364
286 28364
292 28364
375 28364
385 28364
388 28364

Proposed Rules:
1 28425
154 28425
157 28425
271 28425
274 28425
284 28425
375 (2 documents) 28425
381 (2 documents) 28425

21 CFR
193 28366
561 28368

26 CFR

Proposed Rules:
1 28427

28 CFR
31 28546

30 CFR
Ch. II 28368
Ch. IV 28368
870 28574
872 28574
874 28574
875 28574
877 28574
879 28574
882 28574
884 28574
886 28574
888 28574

Proposed Rules:
700 28427
701 28427
740 28427
741 28427
742 28427
743 28427
744 28427
745 28427

32 CFR
700 28370
726 28370
728 28370
734 28370
736 28370
737 28370

39 CFR
6 28371
8 28371

40 CFR
52 (4 documents) 28372–28375
162 28377
180 (3 documents) 28380, 28381
712 28382

Proposed Rules:
162 28428
262 28428

43 CFR

Public Land Orders:
6288 28382
6289 28382

Proposed Rules:
3000 28550
3040 28550
3100 28550
3110 28550
3120 28550
3140 28550
3150 28550

47 CFR
73 28385
74 28385

Proposed Rules:
90 28429

49 CFR
1033 28393
1057 28396

Proposed Rules:
1310 28430

50 CFR
650 28398

Proposed Rules:
14 28431
681 28433

V
4
7
/
1
2
6
J
E
3
0
8
2
UMI

Federal Register
Vol. 47, No. 126
Wednesday, June 30, 1982

Presidential Documents

Title 3—

The President

Memorandum of June 28, 1982

Determination Under Section 301 of the Trade Act of 1974

Memorandum for the Office of the United States Trade Representative

Pursuant to Section 301(a)(2) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)), I have determined that the actions described below are appropriate and feasible responses to subsidies practices of the European Economic Community (EEC) with respect to sugar exports, which are inconsistent with the Agreement on the Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (Subsidies Code) and which have depressed U.S. sugar prices. With a view towards eliminating or reducing the harmful effects of the EEC subsidies on sugar exports, I am directing the Office of the United States Trade Representative (USTR) to continue its bilateral deliberations with the EEC and to support vigorously international efforts in the General Agreement on Tariffs and Trade (GATT) and the International Sugar Organization (ISO). The USTR may also resort to the dispute settlement provisions of the Subsidies Code, if the foregoing efforts do not produce satisfactory results in the near future. I further direct the USTR to report to me no later than October 31, 1982 on the status of the bilateral discussions, on the GATT proceedings initiated by the major sugar exporting countries, on the discussions in the ISO, and on what steps, if any, the EEC has taken to reduce or eliminate the adverse effects of its subsidies on sugar exports.

Statement of Reasons

The Office of the United States Trade Representative initiated an investigation under section 301 of the Trade Act of 1974 on October 5, 1981 (46 FR 49697) on the basis of a petition filed by the Great Western Sugar Company. The petitioner alleged that the EEC's subsidies on sugar exports have caused serious prejudice to U.S. interests and have resulted in the EEC having more than an equitable share of world trade and materially undercutting the world market price for sugar in violation of Articles 8 and 10 of the Subsidies Code. The petitioner also alleges that EEC exports of subsidized sugar have depressed world sugar prices and are an unreasonable burden on U.S. commerce.

Since the filing of the 301 petition, the world market price of sugar has fallen from almost 16 cents per pound in July, 1981, to less than eight cents per pound in the beginning of June, 1982. Before 1975 the EEC was a net importer of sugar but since then EEC exports of sugar have risen to a record 5 million metric tons in calendar year 1981 and its share of world sugar exports rose to 18.1 percent in 1981. EEC direct export subsidies on sugar, since last summer, have been consistently above 50 percent of the world market price of sugar and in recent weeks have been over 14 cents per pound while the world market price was only 8 cents per pound (i.e. 175 percent of the world market price). In addition, U.S. exports of refined sugar, which were expanding in 1980 and 1981, have fallen sharply.

U.S. trade officials have worked diligently to reach a satisfactory solution to the problems caused by EEC sugar exports both on a bilateral and multilateral basis. After acceptance of the 301 petition on October 5, 1981, consultations were requested with the EEC pursuant to Article 12 of the Subsidies Code. A public hearing was held on November 4 to solicit additional views on the

petition. After repeated requests by the United States, consultations with the EEC were finally held on February 16, 1982 and were followed by conciliation sessions in the context of Article 17 of the Subsidies Code. Neither the consultations nor the conciliation process resulted in a mutually satisfactory solution. Therefore, the United States may, if it so decides, resort to the dispute settlement provisions of Article 18 of the Subsidies Code.

The United States is not the only country that has been adversely affected by the EEC subsidy practices in question. Major exporters of sugar who have seen their exports displaced by growing EEC sugar exports have sought to require that the EEC limit its export subsidies on sugar in light of a GATT dispute settlement panel finding that EEC exports were causing serious prejudice to their interests. Minor modifications in the EEC sugar program, introduced July 1, 1981, did not result in a limitation on EEC export subsidies on sugar. Therefore, the major sugar exporters have recently initiated a new GATT proceeding which the United States fully supports and expects to be successful. The United States will monitor the proceeding closely. The United States is also participating actively in the current discussions between signatories to the International Sugar Agreement (ISA) and the EEC, which are aimed at persuading the EEC to join the ISA to limit its exports and undertake stocking at times of low world prices.

In view of the foregoing considerations, I have determined that the appropriate action to take at this time in response to EEC subsidies on sugar exports is to direct the USTR both to continue its deliberations with the EEC and to support and work with other countries in the GATT and ISO with the aim of bringing about an end to such practices. I am hopeful that these efforts will be successful, but if they are not, the USTR may resort to the dispute settlement procedures of the Subsidies Code. I am also directing the USTR to report to me not later than October 31, 1982, on the status of the bilateral discussion with the EEC, the GATT proceedings and the ISO discussions and on the steps the EEC has taken to eliminate or reduce the harmful effects of its subsidies on sugar exports.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, June 28, 1982.

[FR Doc. 82-17917
Filed 6-28-82; 3:54 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 126
Wednesday, June 30, 1982

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Environmental Qualification of Electric Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: In a Memorandum and Order issued on May 23, 1980, the Nuclear Regulatory Commission (NRC) directed that all operating plants complete the environmental qualification of safety related electric equipment no later than June 30, 1982. Also, as specified in the Memorandum and Order, the NRC proposed rules to codify the Commission standards in this area. The proposed rules contained a new implementation schedule which would supersede the June 30 deadline in the technical specifications when the proposed rules are adopted as final. The Commission had expected to publish final rules by June 30, however this has not proved possible. Therefore, the Commission finds it necessary to suspend the June 30 deadline now contained in the technical specifications or license conditions pending publication of final rules.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Satish K. Aggarwal, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301–443–5946.

SUPPLEMENTARY INFORMATION: On May 23, 1980, the Commission issued a Memorandum and Order in the Matter of the Petition for Emergency and Remedial Action, CLI–80–21, 11 NRC 707. In that Order, the Commission directed that all operating plants complete the qualification of safety-related electric equipment pursuant to the Division of Operating Reactors (DOR) Guidelines and NUREG–0588 no later than June 30, 1982, and stated that this requirement would be incorporated into the technical specifications for each operating plant. This was accomplished by a series of plant-specific orders issued by the Director of Nuclear Reactor Regulation. For plants receiving operating licenses after these orders had been issued, the deadline was placed in a license condition.

In the May 23 Memorandum and Order, the Commission also requested that the staff engage in rulemaking to codify the Commission's standards in this area. A notice of proposed rulemaking was published in the Federal Register on January 20, 1982 (47 FR 2876). The proposed rule contained a new implementation schedule which would supersede the June 30 deadline in the technical specifications or license conditions of operating plants. In addition, the proposed rule included a requirement that licensees of operating plants submit justification for continued operation while qualification efforts are still underway, but it was noted that, if these plant-specific justifications were voluntarily submitted and evaluated by the staff prior to publication of a final rule, this requirement would be deleted. The Commission expected to be able to publish the final rule prior to the June 30 deadline. This has not proved possible. Although Commission action on the final rule is nearly complete, publication will be delayed somewhat beyond June 30. It is therefore necessary to suspend the deadline now contained in technical specifications or license conditions pending publication of the final rule.

The Commission is today promulgating an interim 10 CFR 50.49 which will be superseded by the final rule bearing the same section number. The interim rule suspends the deadline now contained in technical specifications or license conditions pending publication of the final rule, the implementation schedule of which will be immediately effective. Although licensees will be operating under no deadline for a short period of time, the Commission expects that licensee efforts to meet the requirements of CLI–80–21 will continue without interruption.

The Commission has received, and the staff has evaluated, each operating plant licensee's justification for continued operation. On the bases of these analyses, the Commission has determined that continued operation of these plants pending completion of the equipment qualification program, will not present undue risk to the public health and safety. The state of environmental qualification at operating plants is much improved since imposition of the June 30 deadline, though much work remains, and the Commission finds that no public purpose would be served by placing licensees in jeopardy of enforcement actions for the brief interim period between June 30 and publication of the final rule which will establish a new schedule.

This rule may be made immediately effective upon publication in the Federal Register, pursuant to section 553(d)(1) of the Administrative Procedure Act, because it "relieves a restriction" previously imposed upon licensees of operating nuclear power plants. Furthermore, the Commission is dispensing with public notice and comment in promulgating this rule in final form. The Commission had intended to promulgate a final rule by June 30, 1982. However, because the Commission will be unable to promulgate a final rule by that date, and because licensees should not be placed in jeopardy of enforcement action pending promulgation of a revised schedule for implementation of equipment qualification requirements, the Commission finds good cause to dispense with notice and comment. In addition, the Commission has already solicited comments on the proposed rule's schedule delaying implementation beyond June 30 and the final rule will contain a schedule of this type.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The rule affects only operating nuclear power plant licensees, which do not fall within the definition of a small business as defined in the Small Business Act, 15 U.S.C. 632, or as defined in the Small Business Size Standards, 13 CFR Part 21.

Paperwork Reduction Act Statement

Pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Commission has determined that this rule does not impose new recordkeeping, information collection, or reporting requirements.

List of Subjects in 10 CFR Part 50

Nuclear power plants and reactors.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50, is published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. A new § 50.49 is added to read as follows:

§ 50.49 Environmental qualification schedules.

The June 30, 1982, deadline for completion of environmental qualification of safety-related electric equipment, now contained in the technical specifications or license conditions for all operating nuclear power plants, is hereby suspended pending publication of the final rule on qualification of such equipment.

2. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.78 also issued under Sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under Sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under Sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under Sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under Sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Dated this 25th day of June, 1982, at Washington, D.C.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR. Doc. 82–17722 Filed 6–29–82; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 1b, 2, 3, 3a, 3c, 4, 12, 16, 25, 32, 33, 34, 35, 41, 45, 131, 152, 153, 154, 156, 157, 158, 250, 270, 271, 275, 281, 282, 284, 286, 292, 375, 385, and 388

[Docket Nos. RM78–22–000, RM78–22–010, RM78–22–011, RM78–22–012]

Revision of Rules of Practice and Procedure to Expedite Trial-Type Hearings

Issued June 25, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing solely for purpose of further consideration.

SUMMARY: The Federal Energy Regulatory Commission is issuing an order granting limited rehearing on three applications filed with respect to the Commission's final rule revising its Rules of Practice and Procedure. Rehearing is granted solely to allow the Commission sufficient time for further consideration of the applications. The order does not constitute a grant or denial of any application on its merits, either in whole or in part.

FOR FURTHER INFORMATION CONTACT: Fredric D. Chanania, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Order Granting Rehearing for Purpose of Further Consideration

Issued June 25, 1982.

On April 28, 1982, the Federal Energy Regulatory Commission (Commission) issued a final rule amending its Rules of Practice and Procedure to expedite trial-type hearings (Docket No. RM78–22–000, Order No. 225, 47 FR 19014 (May 3, 1982)). The final rule reorganized and revised the Rules of Practice and Procedure, effective on August 26, 1982, and represented a major step in the Commission's overall effort to update and clarify its procedural rules.

The Commission has received timely applications for rehearing of this final rule from the Association of Oil Pipelines (Docket No. RM78–22–010), Phillips Petroleum Company, Inc. (Docket No. RM78–22–011), and Southern Union Gathering Company (Docket No. RM 78–22–012). To have sufficient time to consider the issues raised in these applications, the Commission will grant rehearing of the final rule solely for the purpose of such further consideration.

The Commission Orders: Rehearing of Order No. 225 is granted solely for the limited purpose of further consideration of the issues raised in the three applications for rehearing. This action does not constitute a grant or denial of any application on its merits, either in whole or part. As provided in § 1.34(d) of the Commission's present Rules of Practice, 18 CFR 1.34(d), no answers to these applications will be entertained by the Commission because this order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–17581 Filed 6–29–82; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79–76–096 (Alabama-2); Order No. 238]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued June 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State Oil and Gas Board of Alabama that the Hartselle Sandstone Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 23, 1982.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357–8511 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued June 23, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Hartselle Sandstone Formation in Walker and Winston Counties, Alabama, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulations (OPPR), issued March 4, 1982 (47 FR 10237, March 10, 1982) [1] based on a recommendation by the State Oil and Gas Board of Alabama (Alabama) in accordance with § 271.703(c) that the Hartselle Sandstone Formation be designated as a tight formation.

Evidence submitted by Alabama supports the assertion that the Hartselle Sandstone Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Alabama recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

Lists of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective June 23, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding a new paragraph (d)(90) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(90) *Hartselle Sandstone Formation in Alabama.* RM79–76–096 (Alabama-2).

(i) *Delineation of formation.* The Hartselle Sandstone Formation in Alabama is found in Township 11 South, Ranges 7 to 9 West and Township 12 South, Ranges 6 to 10 West, in Winston County, and in Townships 12 to 17 South, Ranges 4 to 10 West, in Walker County. The Jasper Field located in Township 13 South, Range 7 West, Sections 21 through 28, and 33 through 36, in Walker County, is excluded from the designation.

(ii) *Depth.* The depth of the formation varies from approximately 400 feet in the northern part of the formation, to 3,000 feet in the southern part. It varies in thickness from zero feet at the downdip pinchout in southern Walker County and along the western border of Walker County, to over 150 feet in northern Walker County and southern Winston County.

[FR Doc. 82–17579 Filed 6–29–82; 8:45 am]

BILLING CODE 6717–01–M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and no hearing was held.

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18 CFR Part 271

[Docket No. RM79–76–108 (New Mexico—11); Order No. 237]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued June 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Energy and Minerals Department, Oil Conservation Division that the Pictured Cliffs Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 23, 1982.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued June 23, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Pictured Cliffs Formation in Rio Arriba County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued March 30, 1982 (47 FR 14491, April 5, 1982)[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703(c) that the Pictured Cliffs Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Pictured Cliffs Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301—3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective June 23, 1982.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by adding a new paragraph (d)(89) to read as follows:

[1] Comments were invited on the proposed rule and one favorable comment was received. No party requested a public hearing and no hearing was held.

§ 271.703 Tight Formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(89) *Pictured Cliffs Formation in New Mexico.* RM79–76–108 (New Mexico—11).

(i) *Delineation of formation.* The Pictured Cliffs Formation is found in the southeastern portion of the San Juan Basin in Rio Arriba County, New Mexico. The area is divided into two non-contiguous tracts described as Area A and Area B. Area A encompasses Township 25 North, Range 6 West, Sections 21, 22, 23, 26, 27, 28 NE/4, 34, 35, and 36 W/2. Area B encompasses Township 25 North, Range 7 West, Sections 4, 5 E/2, 8 NE/4, 9 N/2, and 10 N/2; Township 26 North, Range 6 West, Section 31; Township 26 North, Range 7 West, Sections 17 S/2, 18, 19 N/2, and SE/4, 20, 21, S/2, 22 S/2, 25 SW/4, 26 S/2, 27, 28, and 33 through 36.

(ii) *Depth.* The Pictured Cliffs Formation's vertical limits are defined by the Fruitland Formation above and the Lewis Shale Formation below. The average thickness through the formation is 70 feet, and the average depth to the top of the Pictured Cliffs Formation is 2,387 feet.

[FR Doc. 82-17870 Filed 6-29-82; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-100 (Texas—3 Addition II); Order No. 239]

[High-Cost Gas Produced From Tight Formations; Final Rule

Issued June 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determnines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Cisco Sandstone Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective June 23, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Issued June 23, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include an additional area of the Cisco Sandstone Formation in the Credo, East (Cisco, Upper) Field in Sterling County, Texas, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued March 23, 1982 (47 FR 13001, March 26, 1982) [1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703(c) that an additional area of the Cisco Sandstone Formation found in the Credo, East (Cisco, Upper) Field be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the recommended formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing; Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective June 23, 1982.

[1] Comments were invited on the proposed rule and one favorable comment was received. No party requested a public hearing and no hearing was held.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—CEILING PRICES

Section 271.703 is amended by revising paragraph (d)(12)(ii) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(12) *Cisco Sandstone Formation in Texas.* RM79–76 (Texas—3).

* * *

(ii) *Credo, East (Cisco, Upper) Field.*

(A) *Delineation of formation.* The Upper Cisco Formation is located in the northwestern corner of Sterling County, in west Texas, and includes 24 sections in Block 29, W & NW Survey, 13 sections in Block 31, T–4–S, T & P RR Survey, 15 sections in Block 17, SP RR Survey, 5 sections in Block 14, SP RR Survey, 36 sections in Block 23, H & TC RR Survey, and 3 sections in J. G. Soulard Survey.

(B) *Depth.* The top and base of the Cisco Formation located in the Credo, East (Cisco, Upper) Field are found at an approximate depth of 7,125 feet and 7,550 feet, respectively, as measured in the log of the HNG Oil Co. No. 21–1 McEntire well.

[FR Doc. 82-17580 Filed 6-29-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5285/T79; PH-FRL No. 2157-6]

Tolerances for Pesticides in Food; O,O-Dimethyl O-(4-Nitro-m-Tolyl) Phosphorothioate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This food additive regulation permits residues of the insecticide *O,O*-Dimethyl *O*-(4-Nitro-*m*-Tolyl) Phosphorothioate in or on food resulting from its use in a proposed experimental program involving application of solutions containing a maximum of 1.0 percent active ingredient in food handling establishments. This regulation to establish a maximum permissible level for residues of the insecticide was requested by Stauffer Chemical Company.

EFFECTIVE DATE: Effective on: June 30, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, (A–110), Environmental Protection Agency, Rm. M–3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2600).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 3, 1981 (46 FR 14954) that Stauffer Chemical Company, 1200 South 47th Street, Richmond, CA 94804, had submitted a food additive petition (1H5285) to the EPA. The petition proposed that 21 CFR Part 193.156 be amended by establishing a regulation permitting the combined residues of the insecticide, *O,O*-Dimethyl *O*-(4-Nitro-*m*-Tolyl) phosphorothioate and its cholinesterase inhibiting metabolite, *O,O*-Dimethyl *O*-(4-Nitro-*m*-Tolyl) phosphate at 0.5 part per million (ppm) in or on food resulting from its use in a proposed experimental program involving application of solutions containing a maximum of 1.0 percent active ingredient in food handling establishments.

No comments were received in response to this notice of filing.

The scientific data reported and other relevant material were evaluated and it was determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which has been issued under the Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended.

The toxicological data considered in support of the regulation included two-year rat and dog feeding studies with ChE no-observable-effect levels (NOEL's) of 10 ppm and 30 ppm respectively; a three-generation rat reproduction study with a NOEL of 30 ppm; rat and mouse teratology studies with NOEL's of 200 mg/kg (highest dose); a mouse oncogenicity study with a NOEL of 200 ppm (highest dose); and an acute delayed neurotoxicity study with a NOEL of 500 mg/kg. Based on the two-year rat feeding study with a 10 ppm NOEL (0.5 mg/kg/day) and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.05 milligram (mg)/kilogram (kg) of body weight (bw)/day, and the maximum permissible intake (MPI) is 3.0 mg/day for a 60-kg human.

The theoretical maximum residue contribution (TMRC) in the human diet from this regulation is .7500 mg/day. This value represents 25.0 percent of the ADI. The TMRC in the human diet from a permanent food additive regulation establishing a permissible level of 30.0 ppm for residues of the subject insecticide in wheat gluten (21 CFR 193.156) utilizes 3.96 percent of the ADI. A temporary tolerance previously established in the **Federal Register** of November 30, 1978 (43 FR 56101) for residues of the insecticide in milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm utilized 0.20 percent of the ADI. This temporary tolerance expired June 5, 1980. The total TMRC in the human diet from the established tolerances and this regulation utilizes a total of 29.16 percent of the ADI.

Desirable data lacking from the petition are a mutagenicity study. The study will be requested when suitable test protocols have been finalized. There are no regulatory actions pending against registration of the insecticide, and no other considerations are involved in establishing this food additive regulation.

The metabolism of the insecticide is adequately understood and an adequate analytical method (gas chromotography using either a flame photometric detector or an alkali flame detector specific for phosphorus) is available for enforcement purposes. The insecticide is considered useful for the purpose for which the regulation is sought.

It is concluded that the insecticide may be safely used in the prescribed manner when such use is in accordance with the prescribed label and labeling registered pursuant to FIFRA as amended. Therefore, 21 CFR 193.156 is amended as set forth below.

Any person adversely affected by this regulation may, on or before July 30, 1982, file written objections with the Hearing Clerk, Environmental Protection Agency at the address above. Such objections must be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945). Effective on: June 30, 1982.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: June 17, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Program.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 193.156 is amended by designating the existing paragraph as paragraph (a) and adding the new paragraphs (b) through (d) to read as follows:

§ 193.156 O,O-Dimethyl O-(4-nitro-m-tolyl) phosphorothioate.

(a) * * *

(b) A food additive regulation is established for the combined residues of the insecticide *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate and its metabolite, *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphate in food items at 0.5 part per million resulting from the application of solutions containing a maximum concentration of 1.0 percent of the insecticide in food handling establishments. Application shall be limited solely to spot or crack and crevice treatments. For crack and crevice treatments, equipment capable of delivering a pin-stream of insecticide shall be used. For spot treatments, a coarse, low pressure spray shall be used to avoid atomization or splashing of the spray. Contamination of food or food-contact surfaces shall be avoided. Such residues may be present therein only as a result of application with the provisions of an experimental use permit. This regulation expires June 17, 1983.

(c) Residues in food items not in excess of 0.5 part per million resulting from the use as described in paragraph (b) of this section remaining after expiration of the experimental use program will not be considered actionable if the insecticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and food additive regulation.

(d) Stauffer Chemical Company will immediately notify the EPA of any

findings from the experimental use that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

[FR Doc. 82-17597 Filed 6-29-82; 8:45 am]
BILLING CODE 6560-50-M

21 CFR Part 561

[FAP 0H5269/R105; PH-FRL No. 2157-7]

Tolerances for Pesticides in Animal Feeds; 2-Chloro-1-(2,4,5-Trichlorophenyl) Vinyl Dimethyl Phosphate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting residues of the insecticide 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate as a feed additive for horses and swine. This regulation to establish the maximum permissible level for the insecticide in or on the commodities was requested by Diamond Shamrock.

EFFECTIVE DATE: Effective on June 30, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of September 2, 1980 (45 FR 58193) which announced that Diamond Shamrock, 1100 Superior Ave., Cleveland, OH 44144, had filed a feed additive petition (FAP 0H5269) with the EPA. The petition proposed that 21 CFR 561.91 be amended to permit the use of the insecticide 2-chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate as a feed additive for horses at 0.00015 pound (0.07 gram) and swine at 0.00011 pound (0.05 gram), respectively, per 100 pounds of body weight per day.

No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. Residues resulting in the meat, fat, and meat byproducts of horses and swine from this use are not likely to exceed the established tolerances in 40 CFR 180.252 for residues of this pesticide. Although 40 CFR 180.252 lists only horse and swine fat, at the time the tolerance was issued meat and meat byproducts are considered to be covered by the fat tolerance.

The nature of the residues is adequately understood and an adequate analytical method is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et. seq.*). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 30, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

Effective on: June 30, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

Lists of Subjects in 21 CFR Part 561

Animal feeds, Pesticides and pests.

Dated: June 17, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR 561.91 (a) and (b) are revised to read as follows:

§ 561.91 2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate.

* * * * *

(a) It is used as a feed additive in the feed of beef, dairy cattle, and horses at a rate of 0.00015 pound (0.07 gram) and swine at the rate of 0.00011 pound (0.05 gram) per 100 pounds of body weight per day.

(b) It is used for control of fecal flies in manure of treated cattle, horses, and swine.

[FR. Doc. 82-17598 Filed 6-29-82; 8:45 am]
BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Minerals Management Service

30 CFR Chs. II and IV

Minerals Management Service and Geological Survey; Reorganization

AGENCY: Minerals Management Service, Geological Survey.

ACTION: Final rule.

SUMMARY: The Secretary of the Interior has reorganized the Department to form the Minerals Management Service (MMS). Among its other duties, the MMS will perform the functions previously conducted in the Conservation Division of the Geological Survey. The regulations previously administered by the Conservation Division are amended to reflect this reorganization.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Cecil R. Feeney (703) 860-6259, (FTS) 928-6259.

SUPPLEMENTARY INFORMATION: The regulations identified in this final rule will be amended by:

1. Revising references to the Geological Survey, where appropriate, to read "Minerals Management Service";

2. Removing references to the Conservation Division;

3. Revising references to the Chief of the Conservation Division to read "Director, Minerals Management Service";

4. Revising references to the Regional Conservation Manager to read "Minerals Manager";

5. Revising references to a Deputy Conservation Manager to read "Deputy Minerals Manager";

6. Removing Part 229 and placing it in 30 CFR Chapter IV;

7. Revising the definition of *Director* to read "*Director* means the Director of the Minerals Manager Service or the Director's designee";

8. Removing a reference to "the Deputy Director for Minerals Management"; and

9. Removing a reference to "the Chief, Onshore Minerals Management Division.

The Department has determined that it is unnecessary, under 5 U.S.C. 553(b)(B), to require public comments on these changes through prior publication as a proposed rulemaking. This requirement and substantive provisions of the regulations are unaffected by this removal of an organization title and revision of position titles. Therefore, as an administrative change, proposed rulemaking is unnecessary.

The customary 30-day period between the publication date and effective date of a final rulemaking is hereby waived because this rule does not initiate change, but is an administrative action reflecting changes.

The principal authors of this final rulemaking are Platte Clark, Cecil Feeney, and Stephen Spector, all of the Minerals Management Service, assisted by the Office of the Solicitor.

Executive Order 12291

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291 because it has no economic impact.

Regulatory Flexibility Act of 1969

The Department has also determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act because it has no economic impact on small entities.

National Environmental Policy Act

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) is required.

Paperwork Reduction Act of 1980

There are no changes to the information collection requirements of the parts of Title 30 amended. All reporting locations, forms, and content are unchanged.

Under the authority of the Act of February 25, 1920 (30 U.S.C. 189); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 359); the Outer Continental Shelf Lands Act (43 U.S.C. 1334); the Geothermal Steam Act (30 U.S.C. 1023); Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262); and Secretarial Order No. 3071 of January 19, 1982, as amended, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: June 26, 1982.

Donald Paul Hodel,

Under Secretary.

1. Title 30 is amended by revising the title of Chapter II to read as follows:

CHAPTER II—MINERALS MANAGEMENT SERVICE, DEPARTMENT OF THE INTERIOR

* * * * *

2. Title 30 is amended by adding a new Chapter IV to read as follows:

* * * * *

CHAPTER IV—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

* * * * *

3. 30 CFR Part 211 is amended by removing the words "Geological Survey" or "GS" and inserting in their place the words "Minerals Management Service" or "MMS" in the following places:

(a) 30 CFR 211.2 *Conservation Manager, Division Chief, Logical Mining Unit, Mining Supervisor* and note;

(b) 30 CFR 211.5(c)(2);

(c) 30 CFR 211.10(c)(6)(xii) and (d)(2)(i); and

(d) 30 CFR 211.11.

4. 30 CFR Part 221 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 221.1;

(b) 30 CFR 221.2(c) and note; and

(c) 30 CFR 221.3.

5. 30 CFR Part 223 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 223.2 and note; and

(b) 30 CFR 223.4(a).

6. 30 CFR 225.2(c) is amended by removing the consecutive words "the Chief, Conservation Division, Geological Survey".

7. 30 CFR Part 225 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 225.2(c) and note;

(b) 30 CFR 225.6; and

(c) 30 CFR 225.7.

8. 30 CFR Part 225a is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 225a.2(d) and note; and

(b) 30 CFR 225a.8.

9. 30 CFR Part 226 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 226.2(m) and note;

(b) 30 CFR 226.2a;

(c) 30 CFR 226.12;

(d) 30 CFR 226.16; and

(e) 30 CFR 226.17.

10. Part 229 of 30 CFR Chapter II is transferred to 30 CFR Chapter IV and redesignated as Part 400.

11. 30 CFR Part 231 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 231.3(a), (b)(3), and (b)(4).

12. 30 CFR Part 250 is amended by removing the words "Geological Survey" or "U.S. Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 250.1;

(b) 30 CFR 250.2 (n) and (nn);

(c) 30 CFR 250.34–2(q);

(d) 30 CFR 250.49;

(e) 30 CFR 250.70;

(f) 30 CFR 250.71(a);

(g) 30 CFR 250.80–1(a)(1);

(h) 30 CFR 250.80–1(n)(1); and

(i) 30 CFR 250.80–1(o)(2).

13. 30 CFR Part 251 is amended by removing the words "Geological Survey" or "U.S. Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 251.2(k);

(b) 30 CFR 251.5–3(a), (b), (c), and (d); and

(c) 30 CFR 251.11(b)(2).

14. 30 CFR Part 252 is amended by removing the words "Geological Survey" or "U.S. Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:

(a) 30 CFR 252.1;

(b) 30 CFR 252.2 (h);
(c) 30 CFR 252.3(d);
(d) 30 CFR 252.4(a); and
(e) 30 CFR 252.5(b).

15. 30 CFR Part 270 is amended by removing the words "Geological Survey" or "United States Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:
(a) 30 CFR 270.2(c) and note, and (l); and
(b) 30 CFR 270.50(a).

16. 30 CFR Part 271 is amended by removing the words "Geological Survey," "United States Geological Survey," or "U.S. Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:
(a) 30 CFR 271.2, (m) and note;
(b) 30 CFR 271.8(c);
(c) 30 CFR 271.12;
(d) 30 CFR 271.16; and
(e) 30 CFR 271.17.

17. 30 CFR Part 290 is amended by removing the words "Geological Survey" and inserting in their place the words "Minerals Management Service" in the following places:
(a) 30 CFR Part 290.1;
(b) 30 CFR Part 290.2;
(c) 30 CFR Part 290.3;
(d) 30 CFR Part 290.4;
(e) 30 CFR Part 290.5;
(f) 30 CFR Part 290.6; and
(g) 30 CFR Part 290.7.

18. 30 CFR Chapter II is amended by removing the words "Conservation Manager" and inserting in their place the words "Minerals Manager" in the following places:
(a) 30 CFR 211.2 *Conservation Manager;*
(b) 30 CFR 211.3(a)(1);
(c) 30 CFR 225a.2(d);
(d) 30 CFR 228.2(l); and
(e) 30 CFR 228.2a.

19. 30 CFR Chapter II is amended by removing the words "Conservation Division" from the following places:
(a) 30 CFR 211.2 *Conservation Manager,* and *Mining Supervisor* and Note;
(b) 30 CFR 221.2(c) Note;
(c) 30 CFR 221.3;
(d) 30 CFR 223.2 Note;
(e) 30 CFR 225.2(c) Note;
(f) 30 CFR 225a.2(d) and Note;
(g) 30 CFR 228.2(m) and Note;
(h) 30 CFR 228.2a;
(i) 30 CFR 231.2(j);
(j) 30 CFR 231.3(b)(3) and (b)(4);
(k) 30 CFR 250.80–1(a)(1);
(l) 30 CFR 270.2(c) and Note, and (l);
(m) 30 CFR 271.2(m) and Note;
(n) 30 CFR 271.12: 2.1(h);
(o) 30 CFR 290.1; and
(p) 30 CFR 290.2.

20. 30 CFR Part 211.2, *General Coal Mining Order,* is amended by removing the words "Division Chief" and inserting in their place the word "Director."

21. 30 CFR 211.2 is amended by removing the *Division Chief* definition.

22. 30 CFR 211.3(a)(1) is amended by removing the words "Division Chief" from the first sentence.

23. 30 CFR Chapter II is amended by removing the words "Deputy Conservation Manager" and inserting in their place the words "Deputy Minerals Manager" in the following places:
(a) 30 CFR 211.2 *Mining Supervisor* Note;
(b) 30 CFR 221.2(c) Note;
(c) 30 CFR 221.20(a);
(d) 30 CFR 223.2 Note;
(e) 30 CFR 225.2(c) Note;
(f) 30 CFR 225a.2(d) Note;
(g) 30 CFR 228.2(m) Note;
(h) 30 CFR 270.2(c) Note; and
(i) 30 CFR 271.2(m) Note.

24. 30 CFR Chapter II is amended by removing the words "the Chief" in the following places:
(a) 30 CFR 221.2(c);
(b) 30 CFR 225a.2(d);
(c) 30 CFR 228.2(m);
(d) 30 CFR 270.2(c);
(e) 30 CFR 271.2(m); and
(f) 30 CFR 271.12: 2.1(h).

25. 30 CFR Chapter II is amended by removing the word "Chief" and inserting in its place the word "Director" in the following places:
(a) 30 CFR 221.3;
(b) 30 CFR 228.2a;
(c) 30 CFR 231.2(j);
(d) 30 CFR 231.3 (b)(3) and (b)(4); and
(e) 30 CFR 270.2(l).

26. 30 CFR Chapter II is amended by removing the words "through the Chief, Conservation Division" in the following places:
(a) 30 CFR 231.3(a); and
(b) 30 CFR 270.1.

27. 30 CFR Chapter II is amended by removing the words "Regional Conservation Manager" and inserting in their place the words "Minerals Manager" in the following places:
(a) 30 CFR 221.2(c);
(b) 30 CFR 221.3;
(c) 30 CFR 225.2(c);
(d) 30 CFR 231.3 (b)(3) and (b)(4);
(e) 30 CFR 270.2(c);
(f) 30 CFR 271.2(m); and
(g) 30 CFR 271.12: 2.1(h).

28. 30 CFR Chapter II is amended by revising the definition of *Director* to read "*Director* means Director of the Minerals Management Service or the Director's designee" in the following places:
(a) 30 CFR 221.2;
(b) 30 CFR 221.2(b);
(c) 30 CFR 225a.2(c);
(d) 30 CFR 228.2(l);
(e) 30 CFR 231.2(b);
(f) 30 CFR 270.2(b); and
(g) 30 CFR 271.2(l).

29. 30 CFR 231.2(c) is amended by removing the consecutive words "the Deputy Director for Minerals Management; the Chief, Onshore Minerals Management Division".

[FR Doc. 82-17726 Filed 6-29-82; 8:45 am]
BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Parts 700, 726, 728, 734, 736, and 737

Nomenclature Changes and Miscellaneous Corrections

AGENCY: Department of the Navy, DoD.

ACTION: Final rule; corrections.

SUMMARY: This rule corrects miscellaneous technical errors appearing in 32 CFR Parts 700, 726, 728, 734, 736, and 737.

DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Lt. Lori B. Cohen, JAGC, U.S. Naval Reserve, Office of the Judge Advocate General, 200 Stovall Street, Alexandria, VA 22332, (202) 325–9860.

SUPPLEMENTARY INFORMATION:

PART 700—UNITED STATES NAVAL REGULATIONS

§ 700.733 Responsibility of a master of an in-service ship of the Military Sealift Command [Amended].

In the last sentence remove the reference to "Civil Service Commission" and replace with "Office of Personnel Management".

PART 726—PAYMENT OF AMOUNTS DUE MENTALLY INCOMPETENT MEMBERS OF THE NAVAL SERVICE

§ 726.4 Procedure for medical examinations [Amended].

(1) In paragraph (a)(2) remove "Department of Health, Education and Welfare" and replace with "Department of Health and Human Services".

(2) Amend paragraph (c)(3)(vi) to read:

* * * * *

(c) * * *
(3) * * *

(vi) *Public Health Service.* To the Chief, Office of Personnel, Public Health Service, Department of Health and Human Services, 5600 Fisher Lane, Rockville, MD 20857.

* * * * *

PART 728—MEDICAL CARE FOR ELIGIBLE PERSONS AT NAVAL MEDICAL FACILITIES

§ 728.53 Members of Canadian armed forces other than NATO and their dependents [Amended].

(1) Amend the address in paragraph (d) to read:

(d) * * * Canadian Defense Liaison Staff, 2450 Massachusetts Avenue, N.W., Washington, D.C. 20008. * * *

* * * * *

PART 734—GARNISHMENT OF PAY OF NAVAL MILITARY AND CIVILIAN PERSONNEL FOR COLLECTION OF CHILD SUPPORT AND ALIMONY

§ 734.2 Scope [Amended].

In the last sentence remove the reference to "Civil Service Commission" and replace with "Office of Personnel Management".

PART 736—DISPOSITION OF PROPERTY

§ 736.5 Disposition of real and personal property under special statutory authority [Amended].

(1) Remove the two references to the "Department of Health, Education, and Welfare" in paragraph (f)(1)(ii) and replace with "Department of Health and Human Services".

(2) Remove the reference to the "Department of Health, Education, and Welfare" in paragraph f(2) and replace with "Department of Health and Human Services".

PART 737—NAVY PROCUREMENT DIRECTIVES, 1974 EDITION

§ 737.1-109-52 Deviations involving patents, copyrights, and technical data [Amended].

Remove the reference to the "Atomic Energy Commission" in the penultimate sentence and replace with "Department of Energy".

Dated: June 25, 1982.

H. D. Campbell,

Captain, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-17698 Filed 6-29-82; 8:45 am]

BILLING CODE 3810-AE-M

VETERANS ADMINISTRATION

38 CFR Parts 6 and 8

United States Government Life Insurance and National Service Life Insurance; Payment to Decedent's Estate

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending regulations relating to payment of Government life insurance proceeds directly to the person or persons entitled to the decedent's personal property under the laws of the State of his or her domicile, where no legal represenative has been or will be appointed. The purpose of the amendments is to bring the regulations in line with State probate laws which have generally raised the amount which can be distributed to heirs without the expense for formal administration of decedents' estates. While the amendments involve no changes in basic entitlement to benefits, they will, in many cases, allow beneficaries to obtain the proceeds of Government life insurance faster and with less expense. These amendments will also reduce the manhours required to process these cases and result in savings of tax dollars.

EFFECTIVE DATE: June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert W. Carey, Assistant Director for Insurance, Veterans Administration Regional Office and Insurance Center, P.O. Box 8079, Philadelphia, Pennsylvania 19101 (215–951–5360).

SUPPLEMENTARY INFORMATION: On pages 56213 and 56214 of the **Federal Register** of November 16, 1981, there was published a notice of proposed regulatory development to amend regulations concerning payment to decedents' estates. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulation amendments. No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

The agency has determined that these final regulations are nonmajor in accordance with the requirements of Executive Order 12291 because they will not have any significant effect on the economy, will not cause an increase in costs or prices, and will not otherwise have any significant adverse economic effects.

The Administrator hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is exmpt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this rule will affect only individual heirs to a decedent's estate. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements or effects on competition.

List of Subjects in 38 CFR Parts 6 and 8

Life insurance, Military personnel, Veterans, Veterans Administration.

(Catalog of Federal Domestic Assistance Program number 64.103)

Approved: June 14, 1982.

Robert P. Nimmo,

Administrator.

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

Therefore, the Veterans Administration is amending 38 CFR Parts 6 and 8 as set forth below:

1. Section 6.128 is revised as follows:

§ 6.128 Payment to decedent's estate.

If no legal representative has been or will be appointed, United States Government Life Insurance benefits, including dividends and premium refunds which are payable to the estate of a deceased insured or beneficiary, may be paid direct to the person or persons (distributee or distributees) entitled to the decedent's personal property under the laws of the State of his or her domicile. (38 U.S.C. 750)

PART 8—NATIONAL SERVICE LIFE INSURANCE

2. Section 8.54 is revised as follows:

§ 8.54 Payment to decedent's estate.

If no legal representative has been or will be appointed, National Service Life Insurance benefits, including dividends and premium refunds which are payable to the estate of a deceased insured or beneficiary, may be paid direct to the person or persons (distributee or distributees) entitled to the decedent's personal property under the laws of the State of his or her domicile. (38 U.S.C. 717(d))

§ 8.59 [Amended]

3. Section 8.59 is amended by removing the words "widow, widower" and inserting in their place "surviving spouse" in paragraph (a) and the first sentence of paragraph (d).

[FR Doc. 17699 Filed 6-29-82; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-2133-3]

Approval and Promulgation of Implementation Plans; Massachusetts; Springfield and Boston Transportation Control Plans; Removal of Federally-Promulgated Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The purpose of this document is to remove from the Massachusetts State Implementation Plan (SIP) and the Code of Federal Regulations certain transportation and stationary source air pollution control regulations promulgated by EPA in November, 1973 and June, 1975. The State has requested that these regulations be removed because they have been or are being adopted by the State, have been fulfilled or have been found to be infeasible. EPA agrees with these reasons and is therefore granting the State's request. It is expected that removal of the federally-promulgated regulations will allow the State more freedom in pursuing its own air quality initiatives, will allow for the removal of unnecessary or duplicative regulations and will not adversely affect air quality.

EFFECTIVE DATE: This action will be effective August 30, 1982, unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Betsy Horne, Air Programs Section, Room 1903, JFK Federal Building, Boston, Massachusetts, 02203. Copies of the Massachusetts submittal and EPA's Technical Support Document are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, MA. 02203 and the Division of Air Quality Control, Department of Environmental Quality Engineering, One Winter St., Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223–5630.

SUPPLEMENTARY INFORMATION: On November 7, 1973 (38 FR 30829) and June 12, 1975 (40 FR 25152) EPA promulgated, as part of the Massachusetts State Implementation Plan (SIP), a number of Federal regulations for the control of air pollution from transportation and stationary sources in Springfield and Boston. These regulations are referred to as the Springfield and Boston Transportation Control Plans (TCPs). They include such regulations as incentives for reducing single passenger commuting (car and vanpool matching, preferential treatment for buses and carpools, and limiting on and off street parking); improving traffic flow; inspection and maintenance of automobiles; controls on industrial sources of hydrocarbons; and administrative requirements to implement these measures. At the time of promulgation of these regulations, EPA hoped that they would eventually be replaced by State programs.

Subsequently, on December 31, 1978; May 16, September 19, November 13 and December 7, 1979; and March 20 and April 7, 1980, in response to the requirements of Part D of the Clean Air Act, Massachusetts submitted revisions to its SIP for the entire State. These revisions contained a number of stationary and mobile source control strategies for attainment of the ozone and carbon monoxide National Ambient Air Quality Standards. EPA conditionally approved these revisions on September 16, 1980 (45 FR 61293).

In the September 19, 1979 submittal, the State requested that EPA rescind the federally-promulgated TCP regulations. Supplemental communications from the State, dated July 11, and November 13, 1980, and February 4 and December 21, 1981 amplify or amend the original requests.

Since EPA has conditionally approved the State's strategy for the attainment of the ozone and carbon monoxide standards and since the federally-promulgated TCP regulations have been or are being adopted by the State, have been fulfilled, or have been found to be infeasible most of the regulations are no longer necessary and can be removed from the Code of Federal Regulations. The Agency's analysis of these regulations is discussed in detail in a "Technical Support Document" available at the locations listed in the **"ADDRESSES"** section of this Notice.

A further compelling reason for rescinding certain of the federally-promulgated regulations is that industrial sources subject to them are faced with having to comply with two sets of control regulations, one federally promulgated and one adopted by the State. In some cases, compliance with the State adopted regulations will result in non-compliance with the federally-promulgated regulations. The removal from the Code of Federal Regulations of certain of the federally-promulgated rules will solve this problem. However, the regulation on organic solvent use, § 52.1145, which is causing this problem, is being only partially removed from the Code of Federal Regulations. It is no longer applicable to those industrial source categories for which the State has adopted reasonably available control technology (RACT) regulations and which have been approved in the federally adopted State Implementation Plan. The regulation remains in effect for categories where the State has not adopted (and EPA has not approved) regulations equivalent to RACT. Section 52.1147, federal compliance schedules, remains in the Code of Federal Regulations in so far as it pertains to the retained portions of § 52.1145.

Additionally, in the September 16, 1980 Final Rulemaking Notice EPA approved an extension until 1987 for the State to attain the ozone and carbon monoxide standards but neglected to remove another subsection which had established an earlier attainment date. In today's rulemaking EPA is removing that earlier subsection.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective August 30, 1982, unless, within 30 days from the date of this **Federal Register**, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 30, 1982.

Action: EPA is approving the removal from the Code of Federal Regulations of: 1. Sections 52.1148 through 52.1155, for Springfield (38 FR 30829), 2. Sections 52.1129, 1130, 1132, 1133, 1138–1140, 1144, 1145 (partial), 1146, 1147 (partial), 1156, 1157, 1160, 1161 (except subsections (a) and (b)(1)), and 1162–1164, for Boston (40 FR 25152) and 3. Section 52.1122 (b).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1982. This action may not be challenged later in the proceedings to enforce its requirements. (See 307(b)(2)).

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant

economic impact on a substantial number of small entities (46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Section 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: June 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

§§ 52.1129, 52.1130, 52.1132, 52.1133, 52.1138—52.1140, 52.1144, 52.1146, 52.1148—52.1157, and 52.1160 [Removed]

1. The following sections are removed and reserved: Sections 52.1129, 52.1130, 52.1132, 52.1133, 52.1138 through 52.1140, 52.1144, 52.1146, 52.1148 through 52.1157, 52.1160.

2. Section 52.1161 is amended by removing and reserving paragraphs (b)(2)–(b)(8), (c) through (k). The introductory text of paragraph (b), (b)(1) and paragraph (a) are retained.

§ 52.1122 [Amended]

3. Section 52.1122 is amended by removing and reserving paragraph (b).

4. Section 52.1145 is amended by adding paragraph (j)(8) as follows:

§ 52.1145 [Amended]

(j) * * *

(8) Sources subject to the provisions of Massachusetts Regulation 310 CMR 7.18 which has been federally approved.

[FR Doc. 82-17641 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[ANR-FRL-2159-2]

Approval and Promulgation of Implementation Plans; Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: This notice corrects portions of 40 CFR Part 52. Most of the changes correct the designation of certain amendments, correct typographical errors, or withdraw amendments erroneously published twice.

EFFECTIVE DATE: June 24, 1982.

FOR FURTHER INFORMATION CONTACT: Cristina N. Griffin, Office of Air, Noise and Radiation, EPA. (202) 755-0570.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

EPA is withdrawing the following amendments to the CFR:

§ 52.1027 [Amended]

In § 52.1027(a)(2), published December 9, 1980 at 45 FR 81042, the amendment is being withdrawn because subparagraph (a)(2) was already removed in an earlier notice (45 FR 59314, published September 9, 1980).

§ 52.2451 [Amended]

Section 52.2451(c), published June 3, 1981 at 46 FR 29708, and § 52.2451(c), published June 15, 1981 at 46 FR 31262, are removed because the subparagraphs are superseded by § 52.2451(c), published on June 30, 1981 at 46 FR 33525.

EPA is correcting the designation of the following amendments to the CFR:

§ 52.131 [Amended]

Section 52.131, footnote (e), published September 14, 1981 at 46 FR 45607, is correctly designated as footnote (f).

§ 52.170 [Amended]

Section 52.170(c)(9), published August 6, 1981 at 46 FR 40006, is correctly designated as (c)(20).

§ 52.370 [Amended]

Section 52.370(c)(20), published February 17, 1982 at 47 FR 6828, is correctly designated as (c)(25).

§ 52.420 [Amended]

Section 52.420(c)(16), published September 30, 1981 at 46 FR 47779, is correctly designated as § 52.470(c)(18).

§ 52.470 [Amended]

Section 52.470(c)(9), published December 16, 1981 at 46 FR 61282, is correctly designated as (c)(10).

§ 52.1370 [Amended]

Section 52.1370(c)(8), published September 23, 1980 at 45 FR 62984, is correctly designated as (c)(10).

§ 52.1620 [Amended]

Section 52.1620 (c)(16), (c)(17), and (c)(18), published March 26, 1981 at 46 FR 18694, are correctly designated as (c)(17), (c)(18), and (c)(19), respectively. Section 52.1620(c)(16), published August 6, 1981 at 46 FR 40006, is correctly designated as (c)(20). Section 52.1620(c)(18), published August 19, 1981 at 46 FR 42065, is correctly designated as (c)(21). Section 52.1620(c)(20), published August 27, 1981 at 46 FR 43153, is correctly designated as (c)(22). Section 52.1620(c)(22), (c)(23), and (c)(24), published March 30, 1982 at 47 FR 13338, are correctly designated as (c)(23), (c)(24), and (c)(25), respectively. Section 52.1620(c)(25), published May 3, 1982 at 47 FR 18858, is correctly designated as (c)(26). Section 52.1620(c)(26), published May 5, 1982 at 47 FR 19334, is correctly designated as (c)(27). Section 52.1620(c)(27), published May 5, 1982 at 47 FR 19333, is correctly designated as (c)(28). Section 52.1620(c)(28), published April 16, 1982 at 47 FR 16331, is correctly designated as (c)(29).

§ 52.1881 [Amended]

Section 52.1881(b)(38)(ix), published March 19, 1981 at 46 FR 17555, is correctly designated as (b)(38)(x).

§ 52.1885 [Amended]

Section 52.1885 (b)(3) and (b)(4), published October 31, 1980 at 45 FR 72147, are correctly designated as (b)(5) and (b)(6), respectively.

§ 52.1920 [Amended]

Section 52.1920(c)(14), published May 26, 1981 at 46 FR 28159, is correctly designated as (c)(21). Section 52.1920(c)(15), published August 6, 1981 at 46 FR 40006, is correctly designated as (c)(22).

§ 52.2020 [Amended]

Section 52.2020(c)(17), published July 17, 1979 at 44 FR 42431, is correctly designated as (c)(19). Section 52.2020(c)(43), published June 9, 1982 at 47 FR 25009, is correctly designated as (c)(45).

§ 52.1320 [Amended]

Section 52.1320, published April 12, 1982 at 47 FR 15581, was incorrectly designated as upper case (C). It should have read lower case (c)(33).

EPA is futher correcting 40 CFR Part 52 as follows:

§ 52.1972 [Amended]

In § 52.1972, remove the first sentence in the paragraph, which reads as follows: "With the exceptions set forth in this subpart, the Administrator approves Oregon's plan for attainment and maintenance of the national standards." This sentence is being removed because the sentence is repeated.

§ 52.2370 [Amended]

In § 52.2370, published March 18, 1981 at 46 FR 17193, the authority citation which now reads 42 U.S.C. 7610 is corrected to read 42 U.S.C. 7601.

§ 52.2791 [Amended]

Section 52.2791, published August 6, 1980 at 45 FR 52148, is corrected to read § 52.2291

Dated: June 24, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-17677 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL 2090-4]

Approval and Promulgation of Implementation Plans; Arizona, California, and Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On May 28, 1980, February 12, 1981 and September 29, 1981, EPA proposed actions on revisions to the State Implementation Plans (SIPs) for Arizona, California, and Nevada. These revisions were submitted by the respective states in order to attain and maintain the National Ambient Air Quality Standard (NAAQS) for Lead. Today's notice takes final action under the Clean Air Act to approve these revisions.

EFFECTIVE DATE: This action is effective July 30, 1982.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Acting Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 974-8222.

ADDRESS: A copy of today's revision to the Arizona, California, and Nevada State Implementation Plans (SIPs) is located at:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

SUPPLEMENTARY INFORMATION:

Background

On April 1 and September 26, 1980, November 19, 1979, and June 24, 1980, the States of Arizona, California, and Nevada, respectively, submitted revisions to their SIPs for Lead. These revisions provide statewide plans for attainment/maintenance of the Lead NAAQS, except the Nevada submittal, which covers only Clark County.

On September 29, 1981, May 28, 1980, and February 12, 1981 (46 FR 47624, 45 FR 35839, and 46 FR 12020) EPA proposed the following actions on these revisions:

A. EPA proposed approval of the plans except for the following portions:

(1) Arizona New Source Review (NSR).

(2) California NSR.

(3) California control strategies for Los Angeles and Fresno.

B. EPA proposed to grant a two-year extension to the attainment date for the Fresno and Los Angeles areas in California.

Following proposed revisions to Arizona's rules, EPA proposed to approve the NSR portion of Arizona's Lead SIP on November 12, 1981 (46 FR 47624). Final action on NSR rules for Arizona will be taken in a separate notice.

Public Comments

Comments were received from the State of California regarding EPA's proposed disapproval of the State's NSR program for Lead and the Fresno and Los Angeles control strategies. The State commented that they would be working with the local districts in California to revise their NSR rules to meet the requirements for Lead.

The State submitted with their comments a preliminary modeling analysis showing that the Fresno area would attain the Standard by 1984. Further, the State commented that the State and the local agencies would perform further analysis of the Lead problem and submit a revised strategy which would provide for attainment of the Standard by October 31, 1984.

In response, EPA is approving the California Lead SIP, while deferring action on the NSR and control strategy portions which will be revised and submitted to EPA for approval.

EPA Actions

EPA is taking final action under section 110 of the Clean Air Act to approve the Arizona Lead SIP as proposed. No comments were received. Final action on NSR for Arizona will be taken in a separate notice.

EPA is also approving a portion of the California plan as proposed, including the two-year attainment date extension for the Fresno and Los Angeles areas. Final action on NSR and the control strategies for Fresno and Los Angeles will be taken following submittal by the State of California of the needed material.

Finally, EPA is approving the Lead SIP for Clark County, Nevada as proposed. No comments were received.

Regulatory Process

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget for review.

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 30, 1982. This action may not be challenged later in proceedings to enforce its requirements.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: June 23, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subparts D, F, and DD of Part 52 Chapter I, Title 40 of the Code of Federal Regulations are amended as follows:

Subpart D—Arizona

1. Section 52.120 is amended by adding paragraph (c) (43)(ii) and (48) as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(43) * * *

(ii) Arizona Lead SIP Revision.

* * * * *

(48) Arizona Lead SIP Revision submitted by the State on September 26, 1980.

* * * * *

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(78)(ii) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(78) * * *

(ii) California Lead SIP.

* * * * *

3. Section 52.238 is amended by adding footnote j as follows:

§ 52.238 Attainment dates for national standards.

* * * * *

i. * * *

j. Extension granted for Fresno and Los Angeles areas until October 31, 1984 for attainment of the Lead NAAQS.

* * * * *

Subpart DD—Nevada

4. Section 52.1470 is amended by adding paragraph (c)(19)(iii) as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(19) * * *

(iii) Clark County, Nevada Lead SIP.

* * * * *

[FR Doc. 82-17640 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-2128-4]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is today approving the Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) for Lucas County except for the emission limitations for the Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company.

The Ohio Environmental Protection Agency (Ohio EPA) has committed itself to adopt the existing federal emission limitations for the four sources mentioned above. EPA will, therefore, take final action on those limits when all State procedural requirements are satisfied and the regulatory and nonregulatory portions of that SIP revision are formally submitted to the Agency. EPA is today approving all other portions of the Ohio SO_2 plan for Lucas County.

EFFECTIVE DATE: This final rulemaking becomes effective on July 30, 1982.

ADDRESSES: Copies of this revision to the Ohio SIP are available for inspection at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216

Copies of the Docket #5A-80-3 are on file for copying and inspection during normal business hours at EPA, Region V and at EPA, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW, Washington, D.C. 20460. (It is recommended that you telephone the contact person below before visiting the Region V office).

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6088.

SUPPLEMENTARY INFORMATION: On January 13, 1982 (47 FR 1398), EPA proposed to approve the Ohio SO_2 plan for Lucas County. This proposal included the approval of Ohio's commitment to adopt the existing federal SO_2 emission limitations for the Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company, and Sun Oil Company. Since Ohio has not yet completed all State procedural requirements for revising these limits, EPA is withholding final approval for these four sources until all State procedural requirements are satisfied and the regulatory and nonregulatory portions of this SIP revision are formally submitted to the Agency. EPA, is however, approving all other portions of the Ohio SO_2 plan for Lucas County.

Public Comments

During the public comment period EPA received comments from the State of New York and a public interest group. The Agency's evaluation of them is summarized below.

Comment: EPA should have conducted an analysis of the effect of the meteorological condition known as lake shore fumigation on SO_2 concentrations in Lucas County.

Response: Currently available models of shoreline fumigation do not provide estimates of sufficient certainty to use in setting emission limitations. In addition, these models are not capable of determining the frequency distribution of ground-level concentrations, which is necessary to evaluate the short-term standards. Both of these factors prevent EPA from basing regulatory decisions on existing shoreline models.

Comment: EPA should have clearly set forth in the **Federal Register** notice and in the technical support document the reasons for the differences in the predictions generated by the two modeling studies done for Lucas County.

Response: Both the notice of proposed rulemaking and the technical support document explained the reasons for the differences between the two modeling studies. Specifically, the differences resulted from corrections to the emission inventory (e.g., stack locations, emission rates, stack exit velocity, and stack exit temperature).

Comment: EPA should review this revision for compliance with the interstate impact requirements of section 110(a)(2)(E) of the Clean Air Act.

Response: EPA has reviewed this action for potential interstate impacts pursuant to section 110(a)(2)(E). The discussion of this review, which was contained in the notice of proposed rulemaking, is reiterated below.

Present limitations on EPA's reference dispersion models restrict their application to points within 50 kilometers (km) of Lucas County, Ohio. Michigan is the only state within 50 km. There is a single prevention of significant deterioration (PSD) area in Michigan within modeling range. However, no PSD increment consumption can occur in that area as a result of this SIP revision since there will be no increase in baseline emissions. There are no nonattainment areas in Michigan within 50 km.

The largest source in Lucas County is Toledo Edison's Bayshore power plant located 4.5 km south of the Michigan state border. Modeling performed for a recent revision of the federal emission limits for this source showed that the plant's maximum impact (238 micrograms per cubic meter ($\mu g/m^3$)) closest to Michigan occurred at a receptor located 1 km to the north and approximately 3.5 km from the Michigan border. The Bayshore dominated receptor located closest to Michigan is 1.5 km from the border, and it showed a maximum air quality impact of 166 $\mu g/m^3$ in a 24-hour period. Because the pollutant concentrations decrease markedly close to the border and are well below the constraining 24-hour standard for SO_2 (365 $\mu g/m^3$) no violations are expected to occur in Michigan due to the Bayshore plant.

As for other sources in Lucas County, the effect of a corrected county emission inventory must be considered. The source closest to the state line is a Chevrolet plant in western Lucas County. The revised total concentrations near this source show a high second-

high concentration of 149 $\mu g/m^3$ at a receptor 1 km south of Michigan. The next group of receptors, located about 2 km south of Michigan and between the Chevrolet plant and all other Lucas County sources, show a high second-high concentration of 247 $\mu g/m^3$. Again, the maximum concentration closest to the state border is well below the SO_2 standard, and is significantly less than concentrations near the Lucas County sources. Consequently, Ohio's plan for Lucas County is expected to protect the National Ambient Air Quality Standards in Michigan.

Comment: EPA should use the most appropriate modeling tools available to assess long-range interstate impacts.

Response: EPA's interstate impact review was restricted to areas within 50 km of Lucas County. No reference techniques have been established to evaluate impacts beyond 50 km from a source. The "state-of-the-art" of long-range transport models is not sufficiently advanced to be used for regulatory purposes. Consequently, contrary to the commentor's claim, there are no EPA-approved regulatory tools currently available to assess long-range impacts.

Comment: EPA should review the cumulative impact of the Ohio SIP as a whole for compliance with the interstate impact requirements of section 110(a)(2)(E).

Response: On June 18 and 19, 1981, as a result of petitions filed by the States of New York and Pennsylvania under section 126 of the CAA, EPA held a hearing in Washington, D.C. to consider the possible interstate impact of a number of proposed and final SO_2 revisions for sources located in Indiana, Tennessee, Ohio, and West Virginia. (Docket No. A–81–9). To the extent that these comments on the Lucas County proposal relate to the same aggregate air quality impact issues as in the section 126 action, they will be addressed in the Agency's section 126 determination. EPA does not believe that it would be appropriate to withhold the Lucas County rulemaking until it acts on the section 126 petitions. EPA will, if necessary, reevaluate the adequacy of this SIP revision when the findings on section 126 petitions become available.

Comment: EPA should prepare an adequate record to make the determination under section 110(a)(2)(E).

Response: EPA had developed an adequate record on interstate impacts. Docket No. A–81–9 is available for public review at EPA, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. It is also available for review at the following regional offices: Regions I, II, III, IV, and V, and also at EPA's Research Triangle Park office in North Carolina.

Comment: EPA should determine whether Ohio SO_2 emissions adversely affect particulate and sulfate levels and/or cause significant deterioration of air quality in other states.

Response: With respect to the commentors' claim that EPA should have modeled the SO_2 emissions for their effect on the particulate matter levels in other states, EPA's current models are not capable of such an analysis. EPA models estimate ground-level SO_2 concentrations caused by a plant's SO_2 emissions. Similarly, EPA models estimate ground-level particulate concentrations caused by a source's particulate matter emissions. Although models capable of estimating the impact of SO_2 emissions on ground-level particulate matter concentrations have been developed by researchers, EPA is still evaluating their predictive accuracy as part of an overall revision to its Modeling Guidelines. Application of these models at this time, therefore, is premature. For the purposes of section 110(a)(2)(E), EPA notes that the commentor has not submitted any information which demonstrates that the SO_2 emissions from the Lucas County sources contribute or impact particulate pollution in other states.

Regarding the commentors' recommendation that EPA analyze the effect of the Ohio SO_2 plan on sulfate levels, EPA has not established a National Ambient Air Quality Standard for sulfates. The sulfate issue, however, is being evaluated as part of EPA's current review, under section 109(d)(1) of the CAA, 42 U.S.C. 7409(d)(1), of the criteria and national standards for sulfur oxides and particulate matter (see "Second External Review Draft Air Quality Criteria for Particulate Matter and Sulfur Oxides," and notice announcing comment period on draft, 46 FR 15569 (March 6, 1981)). At present, in the absence of a national standard for sulfates, EPA cannot consider the impact of the Ohio SO_2 plan on sulfate levels.

Comment: EPA should determine if the stack height credit granted to each plant is consistent with section 123 of the Clean Air Act.

Response: The modeling stack height credit was based on EPA's GEP stack height rules (proposed January 12, 1979, 44 FR 2610 and October 7, 1981, 46 FR 9414; finalized February 8, 1982, 47 FR 5864). Section 123 required EPA to promulgate regulations which define GEP stack height and which restrict the use of other dispersion techniques. Since the modeling stack height credit for this revision was based on these regulations, the action is consistent with section 123 of the Clean Air Act.

Final Determination

Based on EPA's review of the technical support data and the public comments received, EPA has determined that approval of the State of Ohio's emission limitations for Lucas County will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide nor violate section 110(a)(2)(E) of the Act. Therefore, EPA today takes final action to approve the emission limitations for Lucas County (except for the Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company).

No matter what rules the State now enforces, the existing federally-approved SIP regulations for any source will apply, and be fully enforceable, until the source complies with the new regulations which EPA is approving today. Further, the existing SIP will continue in force if there is any delay or lapse in the applicability of the new regulations. If, however, the existing and new regulations conflict, so that a source cannot comply with the existing SIP while moving toward compliance with the new regulations, the State may exempt the source from the existing SIP. EPA will review and act on any such exemption.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: June 23, 1982.
Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is Amended As follows:

Subpart KK—OHIO

Section 52.1881(a) (4) and (8) is revised as follows:

§ 52.1881 Control Strategy: Sulfur Dioxide.

(a) * * *

(4) Approval—USEPA approves the sulfur dioxide emission limits for the following counties: * * * Lucas County (except Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company) * * *

* * * * *

(8) No action—USEPA is neither approving nor disapproving the emission limitations for the following counties or sources pending further review: * * * Lucas County (Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company) * * *

[FR Doc. 82-17042 Filed 6-29-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 162

[PH-FRL 2113-5; OPP 30055]

Designation of Certain Antimicrobial Pesticide Ingredients as Inert Rather Than Active

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule.

SUMMARY: The EPA Office of Pesticide Programs is amending 40 CFR Part 162 to set forth a policy regarding the classification of ingredients used in antimicrobial pesticides as inert rather than as active ingredients. The registrant of an affected product will not be required to adhere to this policy until the product is required to be reregistered. Until that time, no action on the part of any registrant to revise a label ingredient statement will be required. Voluntary label changes in accordance with the notice are accepted. Applicants for new registrations will be required to label their products in accordance with this notice.

EFFECTIVE DATE: This rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. EPA will publish a notice of the effective date of this rule in a future **Federal Register** document. See Unit V for further information on effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Reto Engler, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-3661).

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Pesticide formulations generally are composed of one or more pesticidally active ingredients and other substances such as diluents, emulsifiers, fillers, solvents and buffers. The latter substances are considered inert. Statutory definitions of "active ingredient" and "inert ingredient" are provided in sections 2(a) and 2(m) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 (a) and (m). Guidance for determining whether an ingredient should be considered pesticidally active is found in 40 CFR 162.6(b)(2)(i)(C). This section provides that the Agency will determine active ingredient status on the basis of factors such as: The ingredient's capability in and of itself to kill, destroy, repel, or mitigate pests; the presence of the ingredient in amounts sufficient to add materially to its effectiveness; and the ingredient's influence on the activity of the principal active ingredient.

In the past, particular ingredients have been classified as active in some products and as inert in other products. Often an ingredient was designated as active based upon the assertions of the applicant for registration, often with little or no data to support its "active" status. In addition, the term "active ingredient" has been interpreted and applied differently over the years by different EPA reviewers. As a result, there is a significant amount of inconsistency on labels of antimicrobial products with respect to classification of ingredients.

The classification of ingredients as "active" or "inert" has substantial importance to applicants for registration of pesticides. The EPA regulations and quidelines which specify the data required to support applications for registration normally require more testing of substances which are classified as pesticidally active. Pesticidally inert ingredients generally are not required to be tested unless there is particular concern about their properties. Ingredients which are pesticidally active, however, are meant to adversely affect some life forms, and so are subject to more extensive test requirements. Moreover, EPA's regulations which implement FIFRA section 3(c)(1)(D) (concerning data compensation and related matters) impose requirements with regard to data on "active" ingredients that do not apply to data on inert ingredients. Furthermore, these substances are not biologically active at the recommended use dilution.

Several pesticide companies and trade associations have petitioned EPA to treat certain chemical compounds as inert rather than as active ingredients for these very reasons. Because of this interest by pesticide producers and because these particular chemicals, when used in antimicrobial pesticides, generally do not have any pesticidal activity and in fact are inert, EPA has determined that certain chemical compounds should be regarded as inert rather than as active ingredients.

Accordingly, the Agency is announcing that it will be its policy to treat all the ingredients listed in this rule as "inert" when they appear in antimicrobial pesticide products, including sterilizer, disinfectant, sanitizer, and bacteriostatic formulation, unless the applicant or registrant presents evidence that such an ingredient is "active" under the criteria of 40 CFR 162.6(b)(2)(i)(C). If the Agency determines, based on substantial overall scientific evidence, that any listed chemical is active, it will further determine whether designation of the ingredient as active should be applicable to all products containing this chemical or to particular formulations. The listing may also be amended by adding percentages above which an ingredient will be deemed to be active.

The inclusion of a chemical on the "inert" list should not be interpreted to mean that the Agency has determined that the substance is toxicologically insignificant. In fact, certain listed ingredients (Methanol, Petroleum distillates) must still be identified on the label because these ingredients, when used in certain formulations, may be more hazardous then the active ingredient contained in the product. The toxicological properties of any substance in a pesticide formulation are evaluated individually when they either contribute significantly to the toxicity of the formulated product or are expected to produce particular adverse effects of their own. The identification of an ingredient as "active" in the ingredients statement pertains only to its pesticidal activity. The Agency may, on a case-by-

case basis, require additional data on the hazards of that ingredient if its chemical properties, expected exposure level, and other pertinent information indicate the need for such data.

The efficacy of a public health-related antimicrobial pesticide formulation normally is evaluated without specifically determining the interactions of active and inert ingredients. However, if such an interaction is of singular importance, the Agency may require an ingredient to be designated as an active ingredient in a particular product or group of products of similar composition.

II. Affected Products

A. Currently Registered Antimicrobial Pesticide Products

FIFRA and the implementing regulations require that in order for a product not to be considered "misbranded", active and inert ingredients must be separately listed on the product label, although inert ingredients need not be specifically identified. See FIFRA sections 2(n), 2(q), (2)(a), and 12(a)(1)(E); 40 CFR 162.10 (g)(1). Since the labels of a number of already registered antimicrobial products list as "active" some ingredients that are presumed "inert" under the rule promulgated today, a transition mechanism is in order.

Registrants whose labels currently indicate a listed substance as an active rather than inert ingredient will not be required to revise their labels in accordance with the rule until they are required to apply for reregistration of their products. However, if registrants wish at this time to amend their labels in accordance with this policy, they should follow the procedures discussed under Unit III of this rule.

B. New Antimicrobial Pesticides

Applicants for new registrations will be required to label their products in accordance with this rule under the following procedure:

1. The confidential statement of formula (EPA Form 8570–4) must correctly identify all ingredients and their purpose in the formulation. Unless data have been presented to demonstrate otherwise, the listed ingredients must be identified as inert ingredients.

2. Ingredients listed in this Rule are to be included under the heading "Inert Ingredients" and their quantity in the total percentage of inerts. Specific inerts may be named in the label ingredients statements as long as they appear under the "Inert Ingredients" heading.

C. Pending Applications for Registration

Applications for new registration now pending will be reviewed and applicants will be notified routinely what they must do to comply with this policy.

III. Applications for Amended Registrations

Although current registrants will not be required to amend their labels in accordance with this policy until reregistration, those registrants who wish to amend their labels before reregistration are asked to submit the following information:

1. An application for amended registration (EPA Form 8570–11).

2. A revised confidential statement of formula (EPA Form 8570–4).

3. Two copies of draft labeling revising the ingredient statement as required. Final printed labeling may be submitted directly, but the registrant must assume responsibility for corrections if found deficient.

Applications should be submitted to the appropriate product manager in the Registration Division at the following address:

Product Manager (PM) ——— (team number), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, D.C. 20460.

Applications to amend registrations by redesignating ingredients as inert under this rule will be treated by EPA as exempt from the data compensation requirements of FIFRA section 3(c)(1)(D), in accordance with 40 CFR 162.9–1(b), since no consideration of data will be necessary.

IV. Procedural Matters and Required Regulatory Reviews

A. Exemption From Notice-and-Comment Procedures

The Administrative Procedure Act, 5 U.S.C. 553, provides that notice-and-comment procedures need not be employed in issuing rules which merely state agency policy, and do not purport to bind courts or administrative tribunals. The rule announced today is a statement of Agency registration and enforcement policy. Applicants and registrants will be free to contest the validity of this policy as it applies to particular products in denial or cancellation proceedings under FIFRA section 6 or in enforcement proceedings under FIFRA section 14. Accordingly, the notice-and-comment rulemaking procedure is not required, and EPA has chosen not to employ it because of the delay that it would cause in promulgating the rule.

B. Review Under Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it will not likely result in:

(1) An annual effect on the ecomomy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291

C. Review Under FIFRA Section 25

In accordance with FIFRA sec. 25, a draft of this rule was submitted to the FIFRA Scientific Advisory Panel (SAP), and subsequently to the U.S. Department of Agriculture. Copies were also supplied to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The Scientific Advisory Panel waived its review on the grounds that the rule was administrative-legal in nature and devoid of substantive scientific issues. The Department of Agriculture and the respective Congressional Committees have concurred with this rule without further comment.

V. Further Information on Effective Date of This Rule

On December 17, 1980, the Federal Insecticide, Fungicide, and Rodenticide Act Extension Bill (Pub. L. 96–539) became law. This bill amended several sections of FIFRA, including sec. 25 on rulemaking. Section 4 of the Extension Act adds a new paragraph, sec. 25(e), to FIFRA which requires EPA to submit final regulations to Congress for review before the regulation becomes effective. Copies of this rule have been transmitted to appropriate offices in both House of Congress.

Under sec. 4 of the 1980 FIFRA Extension Act, this rule will not take effect before the end of 60 calendar days of continuous session of Congress after the date of publication of this rule. Since the actual length of this waiting period may be affected by Congressional action, it is not possible, at this time, to

specify a date on which this regulation will become effective. Therefore, at the appropriate time EPA will publish a notice announcing the end of the legislative review period and notify the public of the effective date of this regulation (sec. 3, as amended, Pub. L. 96-539 (7 U.S.C. 136)).

VI. List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: June 14, 1982.

Anne M. Gorsuch,

Administrator.

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Therefore, 40 CFR Part 162, Subchapter E, is amended by adding the following new § 162.60:

§ 162.60 Designation of certain ingredients of antimicrobial products as active or inert.

(a) The Agency has concluded that the ingredients listed in this section normally have no independent pesticidal activity when included in antimicrobial products, and thus normally are properly classified as inert ingredients of such products for purposes of sections 2(n), 2(q)(2)(A), and 12(a)(1)(E) of the Act and § 162.10(g)(1).

(b) Depending upon the formulation, the Agency may determine that an ingredient on the list is active in a particular product.

(c) If an applicant or registrant submits data to the Agency which demonstrates to the Agency's satisfaction that any such ingredient is pesticidally active under the criteria of § 162.6(b)(2)(i)(C), the ingredient may be listed as active on the product's label and statement of formula.

(d) Unless designated as an active ingredient in accordance with paragraph (b) or (c) of this section, the following ingredients, when used in antimicrobial products, are considered inert within the meaning of FIFRA section 2(m). The percentage of such ingredients shall be included on the label in the total percentage of inert ingredients. The confidential statement of formula must identify the inert ingredient and state its percentage.

Substance	Uses
Acetone	Solvent.
Alkyl* amino betaine (45 percent C_{16}, 24 percent C_{14}, 10 percent C_{18}, 6 percent C_{12}, 7 percent C_{10}, 5 percent C_{8})	Corrosion Inhibitor/Surfactant.
Alkyl monoethanolamide	Emulsifier.
Aluminum chloride	Detergent.
Aluminum hydroxybenzenesulfnate sulfonate	Emulsifier.
Aluminum powder	Filler.
Ammonium carbonate	Detergent.
Ammonium citrate	Sequesterant.
Ammonium lauryl sulfonate	Emulsifier.
Ammonium oleate	Detergent/Emulsifier.
Ammonium oxalate	Detergent.
Amyl acetate	Diluent.
Borax	Detergent.
Butyl alcohol, tertiary	Solvent/Odorant.
Carbon	Carrier/Absorbent.
Castor oil	Emulsifier.
Citric acid	Sequesterant.
Diethanolamine dodecylbenzene sulfonate	Detergent.
Dimethyl phthalate	Perfume.
Disodium monoethanolamine phosphate	Emulsifier
Dodecyl benzene sulfonic acid	Detergent.
Essential oils	Perfume.
Ethanol (ethyl alcohol)	Solvent, except in tinctures or where sole or major active ingredient.
Ethanolamine	Emulsifier.
Ethanolamine dodecylbenzene sulfonate	Detergent.
Ethoxylated lanolin	Ointment base.
Ethylenediamine	Emulsifier.
Ethylenediaminetetraacetic acid (including all salts and derivatives)	Sequestrant.
Fumaric acid	Sequestrant.
Gluconic acid	Buffer.
Isooctyl phenoxy polyethoxy ethanol	Surfactant.
Isopropanol (isopropyl alcohol)	Solvent, except in tinctures or where sole or major active ingredient.
Isopropyl myristate	Solvent.
Juniper tar	Odorant.
Lauryl alcohol	Detergent/Odorant.
Lauryl methacrylate	Emulsifier.
Limonene	Odorant/Perfume.
Magnesium chloride	Builder.
Magnesium lauryl sulfate	Detergent.
Magnesium silicate	Odor absorbent.
Menthol	Perfume.
Methanol (methyl alcohol)	Solvent, except in tinctures or where sole or major active ingredient.
Methyl ethyl ketone	Solvent.
Methyl salicylate	Perfume/Odorant.
Mineral oil, mineral seal oil, or white mineral oil	Lubricant.
Monoethanolamides of the fatty acids of coconut oil	Emulsifier.
Monosodium phosphate	Emulsifier/Buffer.
Morpholine	Corrosion inhibitor.
Nonylphenoxypolyethoxyethanol	Surfactant.
Octylphenol	Nonionic surfactant.
Oil of citronella	Perfume/Odorant.
Oil of eucalyptus	Perfume.
Oil of lemongrass	Perfume.
Oleic acid	Solvent.
Petroleum distillate, oils, hydrocarbons, also paraffinic hydrocarbons, aliphatic hydrocarbons, paraffinic oil	Lubricant/Solvent.
Polyoxyethylene sorbitol, mixed ether ester of	Emulsifier.
Polyvinylpyrrolidone	Emulsifier.
Potassium bisulfate	Builder.
Polyvinylpyrrolidone	Emulsifier.
Potassium bisulfate	Builder.
Potassium carbonate	Detergent.
Potassium dodecylbenzenesulfonate	Anionic detergent.
Potassium laurate	Emulsifier.
Potassium myristate	Emulsifier.
Potassium N-(p-(nitroethyl) benzyl) ethylenediamine	Emulsifier.
Potassium phosphate, tribasic	Sequestrant.
Potassium ricinoleate	Emulsifier.
Potassium toluene sulfonate	Detergent.
Potassium xylene sulfonate	Detergent.
Propanol (propyl alcohol)	Solvent, except in tinctures or where sole or major active ingredient.
Soap	Detergent.
Sodium acetate	Buffer.
Sodium alkyl (100 percent C_{8})	Detergent.
Sodium bicarbonate	Detergent.
Sodium carbonate	Detergent.
Sodium chloride	Builder.
Sodium decylbenzene sulfonate	Detergent.
Sodium diacetate	Sequestrant.
Sodium dihydroxyethylglycine	Chelate/Buffer.
Sodium diisopropylnaphthalene sulfonate	Detergent.
Sodium di (monoethanolamine) phosphate	Emulsifier.
Sodium dodecylbenzene sulfonate (May be active as a sanitizer in dishwashing formulations)	Detergent.
Sodium dodecyl diphenyl oxide sulfonate	Perfume.
Sodium glycolate	Sequesterant.
Sodium laurate	Detergent.
Sodium *N*-lauroylsarcosinate	Detergent.
Sodium lauryl sulfate	Detergent.
Sodium metasilicate	Detergent.
Sodium *N*-methyl-*N* oleoyl-taurate	Emulsifier.
Sodium mono and dimethyl naphthalene sulfonate	Detergent.
Sodium oleate	Emulsifier.
Sodium phosphate	Emulsifier/Buffers.
Sodium salt of Turkey Red Oil	Emulsifier.
Sodium sesquicarbonate	Detergent.
Sodium silicate	Detergent.
Sodium sulfate	Detergent.
Sodium sulfonated oleic acid	Emulsifier.
Sodium thiosulfate	Builder.
Sodium toluene sulfonate	Detergent.
Sodium tripolyphosphate	Sequesterant.
Sodium xylene sulfonate	Detergent.
Tetrapotassium pyrophosphate	Sequestrant.
Tetrasodium pyrophosphate	Sequesterant.
Toluene sulfonic acid	Emulsifier.
1,1,1,-Trichloroethene	Diluent.
Triethanolamine	Emulsifier.
Triethanolamine dodecylbenzene sulfonate	Detergent.
Triethanolamine laurate	Emulsifier.
Triethanolamine lauryl sulfate	Emulsifier.
Triethanolamine myristate	Emulsifier.
Triisopropanolamine	Emulsifier.
Triisopropylamine	Emulsifier.
Trisodium phosphate	Detergent.
Turkey red oil	Emulsifier.
Undecylenic acid	Perfume.
Xylene	Solvent.
Zirconium oxide	Dye.

(e) This section shall apply to:

(1) Each application for registration of a new product which is approved on or after this section's effective date; and

(2) Each product already registered on the effective date of this section, except that no such product will be regarded by EPA as in violation of this section until reregistration.

(f) This section is a statement of Agency policy. It does not bind decision-makers in a formal adjudicatory proceeding under FIFRA section 3, 6, or

14. If this section becomes an issued in any such proceeding, the decision-makers in that proceeding will make an independent judgment whether to adhere to it or not.

[FR Doc. 82-17355 Filed 6-29-82; 8:45 am]
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40 CFR Part 180

[PP 2E2594/R454; PH-FRL-2157-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the fungicide thiabendazole in or on avocados and mangos. This regulation to establish the maximum permissible level for residues of thiabendazole in or on these raw agricultural commodities was requested by Merck and Company, Inc.

EFFECTIVE DATE: Effective on June 30, 1982.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM)21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 13, 1982 (47 FR 1408) which announced that Merck and Company, Inc., PO Box 2000, Rahway, NJ 07065, had filed a pesticide petition (PP 2E2594) with EPA. This petition proposed that 40 CFR 180.242 be amended by establishing tolerances for residues of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] in or on the raw agricultural commodities avocados and mangos at 10.0 parts per million (ppm). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerances included: An acute oral lethal dose (LD_{50}) rat study; an acute oral lethal dose (LD_{50}) mouse study; a 2-year rat feeding study with a no-observed-effect level (NOEL) of 10 mg/kg/day and with an negative oncogenic potential; a 2-year dog feeding study with a NOEL of 50 mg/kg/day; a mouse oncogenicity feeding study with a negative oncogenic potential; a rat teratology study that was negative at 80 mg/kg; a rabbit teratology study that was negative at 800 mg/kg; a mouse reproduction study with a NOEL of 150 mg/kg/day and a rat reproduction study with a NOEL of 20 mg/kg/day. Based on the 2-year rat feeding study, the (NOEL) is 10 mg/kg/day. Using a 100-fold safety factor, the allowable daily intake (ADI) is 0.10 mg/kg/day and the maximum permissible intake (MPI) is 6.0 mg/day for a 60-kg person. Presently established tolerances and these tolerances result in a maximum theoretical exposure of 1.658 mg/day for a 60-kg person and 27.63 percent of the ADI. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities (40 CFR 180.242). There are no regulatory actions pending against continued registration of the pesticide, and there are no other considerations involved in establishing the tolerances. The metabolism of thiabendazole is adequately understood, and an adequate analytical method, spectrotometrical analysis, is available for enforcement purposes.

Based on the information cited above, the Agency has determined that the establishment of tolerances of the fungicide thiabendazole in or on the raw agricultural commodities avocados and mangos will protect the public health. Therefore, the regulation is established by amending 40 CFR 180.242, as set forth below.

Any person adversely affected by this regulation may, on or before July 30, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the gounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: June 30, 1982.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 17, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.242(a) is amended by adding and alphabetically inserting the raw agricultural commodities avocados and mangos to read as follows:

§ 180.242 Thiabendazole; tolerances for residues.

(a) * * *

Commodities	Parts per million
Avocados	10
Mangos	10

[FR Doc. 82-17511 Filed 6-29-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[PP OF2357/R451; PH-FRL 2159-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 2-Chloro-N-Isopropylacetanilide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites in or on the raw agricultural commodities sorghum fodder and forage. This regulation to establish the maximum permissible level for residues of the herbicide in or on the

commodities was requested by the Monsanto Company.

EFFECTIVE DATE: June 30, 1982.

ADDRESS: Written objection may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs. Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of August 19, 1981 (45 FR 55268) which announced that the Monsanto Company, 1101 17th Street, NW., Washington, DC 20036, had filed a pesticide petition (OF2357) with EPA. This petition proposed increasing the tolerance for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolites (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the raw agricultural commodity sorghum forage from 3.0 parts per million (ppm) to 4.5 ppm.

The petition was subsequently amended by further increasing the tolerance level for sorghum forage to 5.0 ppm and adding the commodity sorghum fodder at 5.0 ppm.

No comments were received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included an acute oral LD_{50} study (rat) with an LD_{50} of 1.8 grams/kilograms (g/kg); a 90-day feeding study (rat) with a no-observed-effect level (NOEL) of 13.3 mg/kg; and a 90-day feeding study (dog) with a NOEL of 13.3 mg/kg.

Studies considered desirable but currently lacking include oncogenicity studies on two species, teratology studies on two species, a 3-generation reproduction study, a metabolism study, mutagenicity studies, and a subchronic (6 month or longer) non-rodent feeding study.

Tolerances have previously been established on a variety of commodities at levels ranging from 0.02 ppm for eggs, milk and meat to 3.0 ppm for sorghum forage. The increased tolerance on sorghum forage (5.0 ppm) and the tolerance on sorghum fodder (5.0 ppm) will not increase the current theoretical maximal residue contribution (TMRC) of 0.0196 mg/day (1.5 kg) or 4.92 percent of the allowable daily intake (ADI) The ADI is based on a NOEL of 13.3 mg/kg/day (90-day dog feeding study) and a 2000 fold safety factor.

There are no regulatory actions pending against the herbicide and no Rebuttable Presumption Against Registration (RPAR) criteria have been exceeded. The nature of the residues in plants and animals is adequately understood. An adequate analytical method, gas chromatography using an FID or nitrogen specific detector, is available for enforcement purposes. The existing tolerances will accommodate any residues in eggs, milk, meat, fat and meat byproducts of cattle, horses, hogs, sheep, goats, and poultry resulting from feeding of treated sorghum grain.

The herbicide is considered useful for the purpose for which the tolerances are sought and it is concluded that establishment of the tolerances will protect the public health. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before July 30, 1982, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: June 30, 1982.

(Sec. 408(d)(2), 68 Stat 512, (21 U.S.C. 346a(d)(2))).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 22, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.211 is amended by increasing the tolerance level on sorghum forage and by adding and alphabetically inserting the commodity sorghum fodder to read as follows:

§ 180.211 2-Chloro-N-isopropylacetanilide; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Sorghum, fodder	5.0
Sorghum, forage	5.0
* * * * *	

[FR Doc. 82–17758 Filed 6–29–82; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–260044; PH–FRL No. 2156–3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Glyphosate; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: This notice amends EPA regulations on the herbicide glyphosate by restoring the tolerance for residues of the herbicide in or on the raw agricultural commodity stone fruit at 0.2 part per million, which was inadvertently omitted when § 180.364(a) was revised on October 1, 1981.

EFFECTIVE DATE: Effective on October 1, 1981.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Chief, Federal Register Staff (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202–382–3637).

SUPPLEMENTARY INFORMATION: EPA issued a final rule in the **Federal Register** of October 1, 1980 (45 FR 64911) which announced that tolerances had been established for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolites. The revised regulation established tolerances under

§ 180.364(a) for glyphosate and the metabolite aminomethylphosphonic acid resulting from the application of isopropylamine salt of glyphosate and under § 180.364(b) the metabolite aminomethylphosphonic acid resulting from application of glyphosate isopropylamine salt for herbicidal purposes and or the sodium sesqui salt for plant regulator purposes.

In the revision process, the commodity "stone fruit at 0.2 ppm" was inadvertently deleted from § 180.364(a). The tolerance for stone fruit is therefore restored by this amendment.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 16, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.364(a) is amended by adding and alphabetically inserting the raw agricultural commodity stone fruit to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

(a) * * *

Commodities	Parts per million
* * * * *	
Stone fruit	0.2
* * * * *	

[FR Doc. 82-17666 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 712

[OPTS-82004H; TSH-FRL 2160-8]

Chemical Information Rules; Manufacturers Reporting—Preliminary Assessment Information; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA issued a final Preliminary Assessment Information rule requiring chemical manufacturers (including certain producers and importers) to submit information on approximately 250 chemicals. In FR Doc. 82-15956, published in the Federal Register of June 22, 1982 (47 FR 26992), two numbers were incorrect.

1. The telephone number for Outside the USA given under "For Further Information Contact" appearing in the first column on page 26992 is corrected to read "(Operator-202-554-1404)."

2. In § 712.25 (c)(2) appearing at page 27000 the reference to "45,000 kilograms" is corrected to read "45,400 kilograms."

FOR FURTHER INFORMATION CONTACT: Douglas G. Bannerman, Acting Director, Industry Assistance Office, Office of Pesticides and Toxic Substances, Toll-free. (800) 424-9065, In Washington, D.C. (554-1404), Outside the U.S.A. (Operator-202-554-1404).

Dated: June 28, 1982.

John A. Todhunter,

Assistant Administrator, for Pesticides and Toxic Substances.

[FR Doc. 82-17937 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

43 CFR Public Land Order 6288

[CA-7824]

California; Revocation of Coal Land Withdrawal California No. 1

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order which withdrew lands for coal classification. This action will restore 6,526.80 acres of land to full operation of the mining laws.

EFFECTIVE DATE: July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hoefler, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of October 12, 1910, as modified by Executive Orders dated April 16, 1914 and February 11, 1918, which withdrew lands for Coal Land Withdrawal—California No. 1 is hereby revoked in its entirety:

2. At 10 a.m. on July 28, 1982, subject to valid existing rights, the provisions of withdrawals, and the requirements of applicable law, the following lands will be open to nonmetalliferous mineral location under the United States mining laws:

Mount Diablo Meridian

T. 17 S., R. 10 E.,
Sec. 15, N½NE¼, SW¼NE¼, NW¼, E½SW¼;
Sec. 17, NW¼SW¼;
Sec. 18, N½ lot 5 and N½ lot 6, NE¼SE¼;
Sec. 22, N½NE¼, SE¼NE¼, NE¼NW¼, NW¼SW¼, NE¼SE¼.
T. 20 S., R. 12 E.,
Sec. 13, SW¼SW¼;
Sec. 14, SW¼NE¼, SE¼;
Sec. 23, NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 24, SE¼NE¼, W½NE¼, W½, NE¼SE¼, W½SE¼;
Sec. 25, W½E½, W½;
Sec. 26, NE¼, N½NW¼, SE¼NW¼.
T. 21 S., R. 13 E.,
Sec. 7, lot 4, S½NE¼, SE¼;
Sec. 8, S½NW¼, N½SW¼, SW¼SE¼;
Sec. 17, NE¼, W½NW¼, E½SE¼;
Sec. 18, lots 2, 3 and 4, E½NE¼, SW¼NE¼, S½SE¼;
Sec. 19, N½NE¼;
Sec. 20, N½N½;
Sec. 21, SW¼NE¼, NW¼, SE¼;
Sec. 22, SW¼;
Sec. 23, SE¼NW¼;
Sec. 25, NW¼SW¼, S½SW¼;
Sec. 26, NE¼, S½NW¼, S½;
Sec. 27, N½, N½SE¼, SE¼SE¼;
Sec. 28, NE¼NE¼;
Sec. 30, lot 3;
Sec. 35, E½, N½NW¼, SE¼NW¼, E½SW¼.
T. 22 S., R. 13 E.,
Sec. 1, lots 1, 2 and 3.

The areas described aggregate 6,526.80 acres in Fresno and Monterey Counties.

3. The lands described in paragraph two have been open to applications and offers under the mineral leasing laws and to metalliferous location under the United States mining laws. The public lands have been and will remain open to operation of the public land laws generally.

4. There are a number of tracts of land within the classified area which were patented without a reservation of locatable minerals to the United States. These lands are not described in paragraph 2 and are not subject to the effects of this restoration order.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

June 22, 1982.

[FR Doc. 82-17692 Filed 6-29-82; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6289

[U-14677]

Utah; Revocation of Reclamation Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes three Secretarial Orders as to 136,371.21 acres of lands withdrawn for the Dewey Unit, Colorado River Storage Project. This action will restore 55,086.60 acres of land to operation of the public land laws generally. The entire Dewey Unit area has been and will remain open to mining and mineral leasing.

EFFECTIVE DATE: July 28, 1982.

FOR FURTHER INFORMATION CONTACT: Deen Bowden, Utah State Office, 801–524–4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Orders of November 21, 1918, May 6, 1942, and July 13, 1943, which created the Reclamation Withdrawal for the Dewey Unit, Colorado River Storage Project, are hereby revoked as to the following described lands:

Salt Lake Meridian, Utah

T. 21 S., R. 22 E.,
Secs. 34 to 36 incl.
T. 22 S., R. 22 E.,
Sec. 1, lots 1 to 4, incl. S½N½, and S½;
Sec. 3, lots 1 to 4, incl., S½N½, and S½;
Secs. 11, to 14 incl., and 23 to 25 incl.
T. 21 S., R. 23 E.,
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Secs. 9 to 11 incl.;
Sec. 12, W½, and SE¼;
Sec. 13, S½NE¼ and NW¼;
Sec. 14, N½NE¼, NW¼, N½SW¼, NW¼SE¼, and E½SE¼;
Sec. 15 and 21;
Sec. 22, N½NE¼, and W½;
Sec. 23, W½NE¼, and NW¼;
Sec. 25;
Sec. 27, NW¼;
Sec. 28, NE¼, W½NW¼, and N½SE¼;
Sec. 29, N½, and SE¼;
Sec. 30, lots 1 to 4, incl., E½, and E½W½;
Sec. 31, lots 1 and 2, and E½NW¼;
Sec. 33, NE¼NE¼, NW¼NW¼, S½NW¼, and N½S½;
Sec. 34, NW¼NW¼;
Sec. 36, NW¼NE¼, S½NE¼, NW¼, N½SE¼, and SW¼SE¼.
T. 22 S., R. 23 E.,
Sec. 1, lots 1 and 4, incl., S½N½, and S½;
Sec. 3, lots 1 to 4, incl., S½N½, and S½;
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Sec. 5, lots 1 to 4, incl., S½N½, and S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, and SE¼;
Sec. 7, lots 1 to 4, incl., E½;
Secs. 8 to 17, incl.;
Sec. 18, lots 1 to 4, incl., and E½;
Sec. 19, lots 2, 3, 4, E½NE¼, SW¼NE¼, and SE¼;
Secs. 20 to 29 incl.;
Sec. 30, lots 1 to 4, incl., and E½;
Secs. 34 and 35;
Sec. 36, NE¼.
T. 23 S., R. 23 E.,
Sec. 1, lots 1 to 4, incl., S½N½, and S½;
Secs. 11 and 12;
Sec. 13, lots 1 to 8, incl., NE¼, E½NW¼, NW¼NW¼, NE¼SW¼, and N½SE¼;
Sec. 14, lots 1 to 7, incl., N½NE¼, W½, and SE¼SE¼;
Sec. 23, lots 1 to 6, incl., SW¼NE¼, W½, and W½SE¼;
Sec. 24, lots 1 to 9, incl., S½N½, E½SW¼, and SE¼.
T. 20 S., R. 24 E.,
Sec. 24, lots 1 to 4, incl., W½E½, and W½.
Sec. 25, lots 1 to 4, incl., W½E½, and W½;
Sec. 26 and 29;
Sec. 31, lots 1 to 4, incl., E½, and E½W½;
Sec. 34;
Sec. 35, N½, and N½S½.
T. 21 S., R. 24 E.,
Sec. 3, lot 4;
Sec. 4, lots 1, 2, and 5 to 14, incl., S½NE¼, and E½SE¼;
Sec. 5, lots 3 to 13, incl., and SW¼NW¼;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, incl., NE¼, E½SW¼, SE¼SW¼, S½SE¼, and NE¼SE¼;
Sec. 8, E½, SW¼NW¼, and SW¼;
Sec. 9;
Sec. 10, N½NW¼, SW¼NW¼, SW¼, and SW¼SE¼;
Sec. 11, E½SW¼, and SE¼;
Sec. 12, NW¼NE¼, and S½;
Sec. 13;
Sec. 14, E½NE¼, NW¼NE¼, W½NW¼, and NE¼SE¼;
Sec. 15, lot 3, N½, W½SW¼, and NE¼SW¼;
Secs. 16 and 17;
Sec. 18, lots 1 to 3, incl., E½NE¼, NW¼NE¼, and E½NW¼;
Sec. 20, NE¼;
Sec. 21;
Sec. 22, NW¼NW¼, and SW¼SW¼;
Sec. 23, lots 1, and 8 to 12, incl., SW¼NE¼, NW¼, E½SW¼, and SE¼;
Sec. 24, lots 10 to 21, incl., NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 25, lot 2, S½NE¼, NW¼NE¼, W½, and SE¼;
Sec. 26, lots 10 to 15, NE¼, and E½SE¼;
Sec. 27, lot 6, W½NW¼, SE¼NW¼, SW¼, and W½SE¼;
Sec. 28;
Sec. 29, SE¼;
Sec. 30, lots 3, 4, and E½SW¼;
Sec. 31, lots 1 to 4, incl., E½, and E½W½;
Secs. 32, 33, and 34;
Sec. 35, lots 9 to 14, S½SW¼, NW¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 36, N½, and SW¼.
T. 22 S., R. 24 E.,
Sec. 1, lots 1 to 4, incl., S½N½, and S½;
Sec. 2, lots 1 to 6, incl., S½NE¼; SE¼NW¼, and S½;
Sec. 3, lot 11;
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Sec. 5, lots 1 to 4, incl., and S½N½, and S½
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, incl., E½, and E½W½;
Secs. 8 and 9;
Sec. 10, lots 2, and 5, W½NW¼, SE¼NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 12, N½NE¼, W½, and S½SE¼;
Sec. 13;
Sec. 14, lot 1, NE¼, E½NW¼, SW¼NW¼, and S½;
Sec. 15, lots 1 to 11, incl., N½NW¼, SE¼SW¼, and SE¼;
Sec. 16 lot 1, SW¼, N½SE¼, and SW¼SE¼;
Sec. 17;
Sec. 18, lots 1 to 4, incl., E½, and E½W½;
Sec. 19, lots 1 to 7, incl., NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 20, lots 1 to 4, incl., N½, and N½S½;
Sec. 21, lots 1 to 9, incl., NW¼NW¼, NW¼, and N½SW¼;
Sec. 22, lots 1, and 2, E½, E½NW¼, and SW¼;
Secs. 23, and 26;
Sec. 27, lots 1 to 4, incl., E½, and E½W½;
Sec. 28, lots 1, and 4 to 7, incl., SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 29, lots 3, and 5, N½N½, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 30, lots 1 to 4, incl., E½, and E½W½;
Sec. 31, lots 1 to 4, incl., E½, and E½W½;
Sec. 32, W½;
Sec. 33, E½, E½W½, and SW¼SW¼;
Secs. 34 and 35.
T. 23 S., R. 24 E.,
Sec. 1, lots 1 to 4, incl., S½N½, and S½;
Sec. 2, lots 5, 6, N½SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 3, lots 1 to 4, incl., S½N½, and S½;
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Sec. 5, lots 1 to 11, incl., SE¼NE¼, SW¼NW¼, SW¼, and NE¼SE¼;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 3, incl., NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 8, lots 1, 2, and 4, 5, and 10, NW¼, and N½SW¼;
Sec. 9, lots 1 to 12, incl., NE¼, and NE¼NW¼;
Sec. 10, lots 1 to 11, incl., N½NE¼, SW¼NE¼ NW¼, NE¼SW¼, and SE¼SE¼;
Sec. 11, lots 1 to 8, incl., S½NE¼, SE¼NW¼, and S½;
Sec. 12, lots 1 to 13, incl., N½NE¼, SW¼NW¼, and SW¼;
Sec. 13, lots 1 to 5, incl., W½E½, and W½;
Sec. 14;
Sec. 15, lots 1, 2, NE¼, E½NW¼, and S½;
Sec. 16, lots 1, 3, 5, 6, and 10 to 12, incl., NW¼SW¼, and S½SE¼;
Sec. 17, lots 1 to 4, incl., S½N½, and S½;
Sec. 18, lots 1 to 10, incl., S½NE¼, S½NW¼, E½SW¼, and SE¼;
Sec. 19, lots 1 to 4, incl., E½, and E½W½;
Secs. 20, to 26, incl.
T. 19 S., R. 25 E.,
Sec. 24;
Sec. 25, NE¼NE¼, and W½W½;
Secs. 33 to 35, incl.
T. 20 S., R. 25 E.,
Sec. 3, lots 1 to 4 incl., S½N½, and S½;
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Sec. 5, lots 1 to 4, incl., S½N½, and S½;
Sec. 9;
Sec. 10, NW¼NE¼, NW¼ S½S½, and NE¼SE¼;
Sec. 11, NW¼NE¼, and N½NW¼;
Sec. 12, lots 12 to 15, incl.;
Sec. 13, lots 1, 2, and 5, E½NW¼, and NE¼SW¼;
Sec. 19, lots 1 to 4, incl., E½W½, and E½;
Sec. 22, lots 1, 2, and 4 to 8, incl., NW¼NE¼, and W½;
Sec. 23, lots 3 to 8, incl., E½NE¼, SW¼NE¼, S½NW¼, and S½S½;
Sec. 24, lots 1 to 4, incl., NE¼, S½NW¼, and S½S½;

Sec. 26, lots 1 to 5, incl., NW¼NW¼, and E½W½;
Sec. 27, lots 1 to 5, incl., SW¼NE¼, W½, and W½SE¼;
Sec. 30, lots 1 to 4, incl., E½, and E½W½;
Sec. 31, lots 1, 2, 3, and 5, 6, E½, E½NW¼, and NE¼SW¼;
Sec. 33, lots 3, 4, and W½SE¼;
Sec. 34, lots 1 to 8, incl., NW¼NE¼, N½NW¼, SW¼NW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 35, lots 1, 2, E½NW¼, and SW¼NW¼.

T. 21 S., R. 25 E.,
Sec. 3, lots 1 to 4, incl., W½SW¼, and all unsurveyed lands east of the Colorado River;
Sec. 4, lots 1 to 5, incl., SW¼NE¼, S½NW¼, and S½;
Sec. 5, lots 1 to 4, incl., S½N½, and S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 4, incl., E½, and E½W½;
Sec. 8;
Sec. 9, lots 1 to 15, incl., SE¼SW¼, and S½SE¼;
Sec. 10, lots 1 to 8, incl., E½NE¼, SW¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 16, lots 1 to 4, incl.;
Sec. 17, lots 1 to 12, incl., and SE¼;
Sec. 18, lots 1 to 4, incl., E½, and E½W½;
Sec. 19, lots 1 to 13, incl., NE¼SE¼, and S½SE¼;
Sec. 20, lots 1 to 3, incl., E½, E½W½, and W½SW¼;
Sec. 30, lots 1, 2, and E½NW¼;
Sec. 31, lots 1 to 4, incl., E½, and E½W½.

T. 22 S., R. 25 E.,
Sec. 5, lots 1 to 8, incl., S½N½, and S½;
Sec. 6, lots 1 to 10, incl., S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 7, lots 1 to 8, incl., E½, and E½W½;
Secs. 8 and 17;
Sec. 18, lots 1 to 3, incl., E½, and E½W½.

T. 23 S., R. 25 E.,
Sec. 7, lots 1 to 4, incl., E½, and E½W½;
Sec. 9;
Sec. 16, SW¼;
Sec. 17, lots 1 to 5, incl., and 9, and N½;
Sec. 18, lots 1 to 9, incl., NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 19, lots 1, and 6 to 9, incl., SW¼NE¼, E½SW¼, and SE¼;
Sec. 20, lots 1, 2, and 6, S½NE¼, SE¼NW¼, and S½;
Sec. 21, lots 1 to 11, incl., E½NE¼, and SW¼;
Sec. 22, lots 1 to 7, incl., N½, and E½SE¼;
Sec. 25, lots 5 to 8, incl.;
Sec. 26, S½;
Sec. 27, lots 1 to 8, incl., E½NE¼, SW¼NE¼, W½W½, and SE¼;
Secs. 28 and 33;
Sec. 34, lots 1 to 8, incl., E½, SE¼NW¼, and E½SW¼;
Sec. 35;
Sec. 36, lots 1 to 3, incl.

T. 24 S., R. 25 E.,
Sec. 1, lots 1 to 8, incl., SW¼NE¼, S½NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 3, lots 1 to 5, incl., SW¼NE¼, S½NW¼, and S½;
Sec. 10;
Sec. 11, lot 1, S½NE¼, NW¼NE¼, W½, and SE¼;
Sec. 12, lots 1 to 15, incl., NE¼NW¼, S½SW¼, SW¼SE¼.

T. 19 S., R. 26 E.,
Secs. 19, 20, and 28;
Sec. 29, lots 5 to 9, incl., N½, and N½SE¼;
Sec. 30, N½, and SW¼;
Sec. 31, SE¼NE¼, S½SE¼, and NE¼SE¼;
Sec. 33, lots 1 to 4, incl.

T. 20 S., R. 26 E.,
Sec. 6, lots 1, 2, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 7, E½, E½NW¼, and SW¼;
Sec. 18.

T. 23 S., R. 26 E.,
Sec. 31;
Sec. 33, lots 1 to 4, incl., and W½W½.

T. 24 S., R. 26 E.,
Sec. 4, lots 1 to 5, incl., SW¼NW¼, and W½SW¼;
Sec. 5, lots 1 to 4, incl., S½N½, and S½;
Sec. 6, lots 1 to 4, incl., S½N½, and S½;
Sec. 7.

The area described aggregates 136,371.21 acres in Grand County.

2. At 10 a.m. on July 28, 1982, the public lands described in this paragraph shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. July 28, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Salt Lake Meridian, Utah

T. 21 S., R. 22 E.,
Secs. 34 to 36, incl.

T. 22 S., R. 22 E.,
Sec. 3, lots 1 to 4 incl., S½N½ and S½;
Sec. 11, N½, SW¼, and S½SE¼;
Sec. 13, S½NE¼, NW¼, N½S½, and SW¼SW¼;
Secs. 14 and 23;
Sec. 24, SW¼NE¼, W½, and N½SE¼;
Sec. 25, S½NE¼, W½, and SE¼.

T. 21 S., R. 23 E.,
Sec. 4, lots 1 to 4, incl., S½N½, and S½;
Sec. 9, N½, W½SW¼, and NE¼SE¼;
Sec. 10, N½, N½S½, and S½SE¼;
Sec. 11;
Sec. 12, W½, and W½SE¼;
Sec. 13, SW¼NE¼, E½NW¼, and NW¼NW¼;
Sec. 14, NW¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 15, S½SW¼;
Sec. 21;
Sec. 22, N½NW¼, and SW¼SW¼;
Sec. 23, NW¼NE¼, and NE¼NW¼;
Sec. 27, NW¼;
Sec. 28, NE¼, and W½NW¼;
Sec. 29, N½, and SE¼;
Sec. 30, lots 1 to 4, incl., E½W½, and E½;
Sec. 31, lots 1, 2, and E½NW¼;
Sec. 33, NE¼NE¼, NW¼NW¼, and SE¼NW¼;
Sec. 34, NW¼NW¼.

T. 22 S., R. 23 E.,
Sec. 5, lot 3, and SE¼NW¼;
Sec. 18, lot 3, and N½SE¼;
Sec. 26, SW¼;
Sec. 27, S½N½, NW¼NW¼, and S½;
Sec. 28, E½, E½W½, and W½SW¼;
Sec. 29, S½;
Sec. 30, lots 2 to 4, incl., W½E½, and SE¼SE¼;
Sec. 34, W½NE¼, W½, and SE¼;
Sec. 35, SW¼, and S½SE¼.

T. 23 S., R. 23 E.,
Sec. 1, lots 1 to 4, incl., S½N½, and S½;
Sec. 11;
Sec. 12, N½NE¼, N½SW¼, and SW¼SW¼;
Sec. 13, SW¼NE¼, and NE¼NW¼;
Sec. 14, NE¼NW¼, and W½W½;
Sec. 23, W½W½, E½SW¼, and SW¼SE¼;
Sec. 24, SE¼.

T. 20 S., R. 24 E.,
Sec. 24, lots 1 to 3 incl., W½E½, and W½;
Sec. 25, lots 3 and 4, W½E½, and W½;
Secs. 28 and 29;
Sec. 31, lots 1 to 4, incl., E½W½, and E½;
Sec. 34, N½NE¼, NW¼, and NW¼SW¼;
Sec. 35, NW¼NE¼, and N½NW¼.

T. 21 S., R. 24 E.,
Sec. 4, lots 2, and 5 to 12, incl., and SW¼NE¼;
Sec. 5, lots 5, 9, 10, and 13;
Sec. 6, lots 3 to 7, incl., SE¼NW¼, E½SW¼, and SW¼SE¼;
Sec. 7, lot 1, NW¼NE¼, and NE¼NW¼;
Sec. 11, NE¼SE¼;
Sec. 12, NW¼SW¼;
Sec. 13, S½SE¼;
Sec. 24, NE¼, and NE¼SE¼ (outside ¼ mile from river);
Sec. 25, W½NE¼, SE¼NE¼, E½NW¼, N½SE¼, and SE¼SE¼ (outside ¼ mile from river).

T. 22 S., R. 24 E.,
Sec. 8, NE¼NE¼;
Sec. 9, W½NE¼, NW¼, N½SW¼, and SE¼;
Sec. 13, S½;
Sec. 14, E½SE¼;
Sec. 22, SE¼NE¼, and E½SE¼;
Sec. 23, E½, E½NW¼, SW¼NW¼, and SW¼;
Sec. 26, E½, NW¼, and E½SW¼;
Sec. 27, E½NE¼;
Sec. 35, NE¼, E½W½, SW¼SW¼, N½SE¼, and SE¼SE¼.

T. 23 S., R. 24 E.,
Sec. 1, lots 1 to 4, incl., S½N½, and N½S½;
Sec. 3, lots 1 to 4, incl., SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 4, SE¼NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 6, lots 2 to 7, incl., SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, and SE¼SE¼;
Sec. 7, lot 1, NW¼NE¼, and NE¼NW¼;
Sec. 9, N½NE¼;
Sec. 13, S½NW¼, and SW¼;
Sec. 14, S½;
Sec. 15, E½SE¼, and SW¼SE¼;
Sec. 17, S½SW¼;
Sec. 19, E½SW¼, and SE¼;
Sec. 20, SW¼NE¼, W½, and SE¼;
Sec. 21, NE¼NE¼, S½NE¼, SE¼NW¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 22, E½NE¼, W½SW¼, SE¼SW¼, and SE¼;
Sec. 23, N½NE¼, SW¼NE¼, and W½;
Sec. 24, NW¼NW¼, SE¼SW¼, NW¼SE¼, and S½SE¼;
Sec. 25;
Sec. 26, S½NE¼, W½, and SE¼.

T. 19 S., R. 25 E.,

Sec. 24, NE¼, W½, and E½SE¼;
Sec. 25, NE¼NE¼, and W½W½;
Sec. 33, N½, N½SW¼, and NW¼SE¼;
Sec. 34, E½, NW¼, and E½SW¼;
Sec. 35.

T. 20 S., R. 25 E.,
Sec. 3, lots 1 and 2, S½NE¼, SE¼SW¼, and NE¼SE¼;
Sec. 4, S½N½, and S½;
Sec. 5, lots 1 and 4, incl., S½N½, and S½;
Sec. 9;
Sec. 10, NW¼NW¼, and NE¼SE¼;
Sec. 11 NE¼NW¼;
Sec. 12, lot 15;
Sec. 19, lots 1 to 4, incl., E½, and E½W½;
Sec. 22, NW¼, and W½SW¼;
Sec. 23, lots 3 to 6, incl., S½NE¼, and S½S½;
Sec. 24, lots 1 to 4, incl., N½NE¼, S½N½, and S½S½;
Sec. 26, E½NW¼, NE¼SW¼;
Sec. 27, W½NW¼, SE¼NW¼, and SW¼;
Sec. 30, E½, and NE¼NW¼;
Sec. 31, lot 6, and E½;
Sec. 33, NW¼SE¼;
Sec. 34, N½NW¼, E½SE¼, and SW¼SE¼;
Sec. 35, E½NW¼, and SW¼NW¼.

T. 21 S., R. 25 E.,
Sec. 3, E½, (that part outside ¼ mile from river) unsurveyed;
Sec. 4, lots 2 to 4, incl., SW¼NE¼, S½NW¼, and S½;
Sec. 5, lots 1 to 4, incl., S½N½, and S½;
Sec. 6, lots 1 to 3, incl., SE¼NE¼, E½SE¼, and SW¼SE¼;
Sec. 7, lot 4, E½, SE¼NW¼, and E½SW¼;
Sec. 8, N½NE¼, SW¼NE¼, NW¼, NW¼SW¼, and NW¼SE¼;
Sec. 9, lots 1 to 4, incl.;
Sec. 10, E½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, and SE¼;
Sec. 17, SE¼;
Sec. 18, lots 1 to 4, incl., NE¼, E½W½, and W½SE¼;
Sec. 19, lots 3 to 5, incl., and SE¼SE¼;
Sec. 20, E½, SE¼NW¼, and SW¼;
Sec. 30, lot 2, and E½NW¼;
Sec. 31, E½NE¼, NW¼NE¼, NE¼NW¼, and NE¼SE¼.

T. 22 S., R. 25 E.,
Sec. 5, lots 1 to 8, incl., S½N½, and S½;
Sec. 6, N½SE¼, and SE¼SE¼;
Sec. 7, NE¼NE¼, and SE¼SE¼;
Sec. 8, N½, E½SW¼, SW¼SW¼, and SE¼;
Sec. 17;
Sec. 18, lots 1 to 8, incl., E½, and E½W½.

T. 23 S., R. 25 E.,
Sec. 7, lots 1 and 2, NE¼, E½NW¼, N½SE¼, and SE¼SE¼;
Sec. 9;
Sec. 17, lots 1 to 5, incl., and lot 9, and N½;
Sec. 18, lots 1, 2, and NE¼NE¼;
Sec. 19, lots 1, and 6 to 9, incl., SW¼NE¼, E½SW¼, and N½SE¼;
Sec. 20, lots 1 and 2, S½NE¼, SE¼NW¼, and S½;
Sec. 25, lots 5 to 8, incl.;
Sec. 26, S½;
Sec. 28, NW¼NW¼, S½NW¼, SW¼, and W½SE¼;
Sec. 33, W½;
Sec. 34, E½SE¼;
Sec. 35.

T. 24 S., R. 25 E.,
Sec. 1, lots 1 to 3, incl., and 5, and SW¼NE¼;
Sec. 3, SW¼NW¼, and SW¼;
Sec. 10, N½NW¼, and SW¼NW¼;
Sec. 11, S½NW¼, N½SW¼, SE¼SW¼, and SW¼SE¼.

T. 19 S., R. 26 E.,
Secs. 19 and 20;
Sec. 29, NE¼, and N½NW¼;
Sec. 30, NW¼NE¼, NW¼, and NW¼SW¼.

T. 20 S., R. 26 E.,
Sec. 6, E½SE¼;
Sec. 7, E½, and SW¼;
Sec. 18, E½, E½W½, and W½SW¼.

T. 23 S., R. 26 E.,
Sec. 31, N½, and SW¼;
Sec. 33, lots 1 and 2, and W½NW¼.

T. 24 S., R. 26 E.,
Sec. 5, NW¼SW¼, and S½SW¼;
Sec. 6, lot 4, and SE¼SE¼;
Sec. 7, E½NE¼, and S½.

The area described aggregates 55,066.60 acres.

3. Because of underlying withdrawals the remaining lands will not be opened.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
June 22, 1982.

[FR Doc. 82-17603 Filed 6-29-82; 8:45 am]
BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in Parts 73 and 74 of the rules of the FCC. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule texts, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

DATE: Effective: July 7, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Steve Crane, (202) 632-5414, and John Reiser, (202) 632-9660, Broadcast Bureau.

SUPPLEMENTARY INFORMATION

List of Subjects

47 CFR Part 73

Radio broadcast, Television.

47 CFR Part 74

Television.

In the matter of oversight of the radio and TV broadcast rules.

Order

Adopted: June 16, 1982.
Released: June 23, 1982.

1. In this *Order,* the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) Section 73.45, Antenna systems, is revised to clarify the requirement that licensees making changes in their AM antenna systems must not only file technical data with the FCC, but obtain prior authority to resume power determination by the direct method in conformance with § 73.54, Antenna resistance and reactance measurements. (Appendix para. 1)

(b) The text in § 73.51, Determining operating power, can be interpreted to imply, in paragraph (d), that AM station licensees, experiencing antenna damage or defects or making antenna changes *may,* on an optional basis, use the indirect method of power determination. Actually licensees *must* use the indirect method in such circumstances, and the rule is clarified to so state. (Appendix para. 2)

(c) The licenses issued to AM stations using directional antenna systems specify certain locations known as field monitoring points at which measurements are made to determine if the antenna is in correct adjustment. These points are usually located between 1 and 4 miles from the antenna site, in open areas free of overhead wiring and nearby structures that can distort the accuracy of the measurements. The station license describes these monitoring points by giving the route to the point, starting at the transmitter site, and by using distinctive, clearly identifiable landmarks. Frequently, however, both the roads used to locate the point and the descriptive landmarks change due to terrain modifications such as highway construction, subdivision and commercial developments, and deterioriation. Points used may no longer be satisfactory due to the new construction or inaccessibility. The present rules contain no guidance for

licensees on procedures to obtain a modification of the station license when the routing directions and landmarks must be modified or when replacement monitoring points must be selected. Since satisfactory monitoring points are necessary to insure against mutual interference between stations, a new § 73.158 titled "Monitoring point locations" is being added to Subpart A of the rules. This new rule imposes no additional requirements on licensees but will clarify the FCC's requirements and, by entering into the rules, will eliminate unnecessary correpondence and phone calls between the FCC and licensees. (Appendix para. 3)

(d) The headnote for § 73.181 reads "Introduction." This section introduces the rules' sections pertaining to AM broadcast technical standards in Subpart A of Part 73. For purposes of clarity, the section title is expanded to read "Introduction to AM technical standards." (Appendix para 4)

(e) The extent to which an FM station may duplicate the programming of an AM station, owned by the same licensee in the same local area, is governed by § 73.242, Duplication of AM and FM programming. Prior to adoption of the new "short form" renewal application the renewal applicant was required to make a showing, on former radio renewal Form 308–R, to verify compliance with the rule. This verification is not required by the new renewal Form 303–S. The rule is modified accordingly. (Appendix para. 5)

(f) The Commission, ever inclined to embrace rule modifications that reduce its administrative work load and that of broadcasters, herein relaxes its procedural requirements pertaining to program test authority (PTA).

On January 16, 1980, the Commission amended the procedures by which holders or broadcast construction permits could commence program service with new or modified facilities. *Order* 76 FCC 2d 40. Prior to the January 1980 rule amendments, the permittees were required to file a completed license application, request authority to commence program tests, and then wait for FCC authorization to begin program service. Under the amended procedures, permittees of stations with non-directional antennas could commence program service immediately upon completion of construction by simply notifying the FCC and filing the application for the station license within ten days of the beginning of the program tests. Permittees of stations with *directional antennas* are still required to file the license application with full engineering data on the antenna and wait for FCC authorization to commence program service. In reviewing our procedures for authorizing directional antennas, we find that the use of such antennas by *TV stations* is so minimally problematical, compared to radio directional antennas, that further relaxation to the rules can be made whereby TV permittees can also commence program tests without prior FCC approval. Directional TV antennas are not used to prevent mutual interference between stations, but are used to improve the efficiency of signal coverage. All technical data on a TV directional antenna required for FCC review is available on the Construction Permit application. Therefore, § 73.1620 is being amended so that all TV permittees may begin program service upon completion of construction. (Appendix para. 6)

On this same subject, in § 73.512, Special procedures applicable to Class D noncommercial educational stations, the sentence in paragraph (d) states that secondary Class D stations must cease operation when program tests for the TV or commercial FM are "authorized." Pursuant the change in the rule allowing program service to begin without the delaying request for "authority," the rule is changed to require cessation by the Class D where "program tests * * * are commenced." (Appendix para. 7)

(g) The Note following the last paragraph in § 73.1665, Main transmitters, states that after January 1, 1969, no new licenses will be issued nor will existing licenses be renewed for alternate main transmitters operating into a main antenna system. The Note also eliminates the practice of identifying, or station licenses, specific transmitters as type accepted for broadcast use. The Note can now be deleted because all 3 year licenses have expired since the effective date of the Note, January 1, 1979. (Appendix para. 8)

(h) In the Memorandum Opinion and Order in BC Docket 80–253, adopted September 30, 1981, the Commission amended § 73.3500 of the broadcast rules (Application and Report Forms) by adding new renewal application forms for commercial and noncommercial AM/FM/TV stations. Form 303–S was incorrectly titled "Standard Application for Renewal of License for Commercial Broadcast Stations." The form is used for renewal applications of noncommercial educational stations also, and correction is made herein to reflect that. Also the form title is corrected to drop the term "Standard renewal * * *" to read exactly as the title printed on the 303–S, "Application for Renewal of License for Commercial and Noncommercial Broadcast Stations." (Appendix para. 9)

(i) During the authorized construction of a new broadcast station or modification of an existing station, the permittee may find that it is either impossible or undesirable to conform to the terms of the authorization. An example would be where the original antenna site is no longer available. In such cases the permittee must file an application for modification of the construction permit. However, such modification application does not automatically extend the expiration date of the existing construction permit. The rule on applications for construction permits or for modification of an outstanding permit (Section 73.3533) is herein amended by adding a new paragraph advising permittees seeking modification that it is necessaray to request an extension of time if needed, in which to construct the station or make the authorized changes by filing FCC Form 701 (Application for Extension * * * Permit * * *). (Appendix para. 10)

(j) Section 73.3539, Application for renewal of license, is herein revised to conform to the changes in broadcast station renewal procedures and forms adopted in BC Docket No. 80–253. *Report and Order*, 46 FR 26236, May 11, 1981. The numbers and titles of forms eliminated in the rulemaking will be deleted and new forms data will be cross-referenced to § 73.3500, Application and Report Forms. The requirement to include a date and file number reference on the application, confirming filing of financial and contract reports, no longer pertains and is deleted. Also paragraph (d) of this section is inaccurately worded and is corrected herein. (Appendix para. 11)

(k) In March, 1977, the Commission reviewed its rules and policies concerning network programming on affiliated AM and FM stations and the agreements regarding these audio services. On March 23, 1977, the Commission released its Report, Statement of Policy, and Order in this matter, closing Docket 20721. The citations to it are herein added to the listing of FCC policies as § 73.4154, Network/AM, FM Station Affiliation Agreements. (Appendix para. 12)

(l) The regulations pertaining to sponsor identification and related requirements are found in § 73.1212. Commission interpretations and policy utterances in connection with these provisions are contained in the Public Notice dated September 3, 1975, and entitled "Applicability of Sponsorship Identification Rules." The citations to it

are herein added to the listing of FCC Policies as § 73.4242. (Appendix para. 13)

(m) Commission rules set forth the procedures for coordinating an application for a new broadcast station with the Field Operations Bureau when proposed construction is in the vicinity of an FCC monitoring station. For broadcast stations (AM, FM, TV and International), the technical requirements and pre-construction consultation directives are in § 73.1030. The same provisions also apply to stations authorized under Part 74 of the rules (in § 74.12). Unfortunately, this rule section, after establishing the requirements in the opening paragraph, via a cross reference to § 73.1030, includes this § 73.1030 rule text in paragraph (d) of § 74.12 as one of a list of *exceptions* to the rule. The considerable confusion caused by this apparent contradiction is removed by eliminating paragraph (d) in § 74.12 in its entirety and retaining the reference to § 73.1030. (Appendix para. 14)

(n) In the operation of broadcast remote pickup stations, news reporters may wish to use a small hand held or pack carried transmitter to obtain a better viewing position, to conduct interviews or achieve a greater degree of mobility than is possible with a transmitter installed in a vehicle. However these small transmitters may not have the necessary power for the transmissions to reach the broadcast station's base station receiver. These are, on occasion, located at a considerable distance from the site of the remote broadcast. The remote pickup station rules provide for the operation of a higher powered transmitter located in a vehicle positioned at the broadcast site as a relay between the hand held unit and the base station receiver. The operating requirements for mobile remote pickup stations, used for this relay function, can be confused with the separate operating requirements for mobile repeater stations, which are base stations at a fixed location used for extending the communication range of mobile units over a large area. Therefore, we are adding a new definition of *"Remote pickup mobile relay unit"* to the rules and clarifying the difference between such units and fixed repeater stations. The mobile relay units may be operated unattended and also be used to transmit talk-back information from the station's studio to the reporter with the hand-carried unit. When a mobile (vehicular) transmitter is operated on a second or additional frequency for this "talk-back" function, the talk-back transmissions are restricted to 2.5 watts because of the limited range that is necessary. The present wording of the rule covering these requirements has been misinterpreted by some licensees to mean that they must restrict the operating power of the mobile repeater station, on the frequency used to communicate with the studio, to 2.5 watts. Rule §§ 74.401 and 74.431 are clarified to remove the misunderstanding. (Appendix paragraphs 15 and 16)

(o) In § 74.602, Frequency assignment, the Commission established that certain frequency bands are shared between TV auxiliary stations and community antenna relay stations. Paragraph (a) of this Section is quite clear regarding shared use regulations. However, paragraph (f) does not reflect the conditions for shared use or the protection for stations authorized prior to the effective date of the rule. Therefore, paragraph (f) is corrected accordingly. (Appendix para. 17)

(p) An updated Alphabetical Index, with appropriate additions, is included herein as Appendix B.

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. The amendments are implemented by authority designated by the Commission to the Chief, Broadcast Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, that pursuant to sections 4(i), 3030(r) and 5(d)(1) of the Communications Act of 1934, as amended, and §§ 0.71 and 0.281 of the Commission's Rules, Parts 73 and 74 of Volume III of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective

6. For further information on this Order, contact Steve Crane, (202) 632–5414, or John Reiser, (202) 632–9660, Broadcast Bureau.

Federal Communications Commission.

Laurence E. Harris,

Chief, Broadcast Bureau.

Appendix A

PART 73—RADIO BROADCAST SERVICES

1. Section 73.45 is amended by revising paragraph (c) to read as follows:

§ 73.45 Antenna systems.

* * * * *

(c) Should any changes be made or otherwise occur which would possibly alter the resistance of the antenna system, the licensee must commence the determination of the operating power by the indirect method. (If the changes are due to the construction of FM or TV transmitting facilities, see § 73.316 or § 73.658.) Upon completion of any necessary repairs or adjustments, or upon completion of authorized construction or modifications, the licensee must make a new determination of the antenna resistance using the procedures described in § 73.54, and an application must be filed requesting authority to resume power determination by the direct method. Use of the direct method of power determination may not be resumed until authorization is received from the FCC. Application to determine power by the direct method is filed with the FCC in Washington, D.C., as follows:

* * * * *

2. Section 73.51 is amended by revising paragraph (d) to read as follows:

§ 73.51 Determining operating power.

* * * * *

(d) When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power (see paragraphs (e) and (f) of this section) may be used on a temporary basis. Specific authority from the FCC is not required, however a notation must be made in the operating log for each day of using the indirect method of power determination. The indirect method must be used in the following situations:

* * * * *

3. New § 73.158 is added to Subpart A to read as follows:

§ 73.158 Directional antenna monitoring points.

(a) When a licensee of a station using a directional antenna system finds that a field monitoring point, as specified on the station authorization, is no longer

accessible for use or is unsuitable because of nearby construction or other disturbances to the measured field, an informal application to change the monitoring point location is to be promptly submitted to the FCC in Washington, D.C. The application must include the following information:

(1) A partial proof of performance conducted on the radial containing the monitoring point to be changed.

(2) A written description of the routing to the new selected monitoring point.

(3) A map showing the location and routing to the new selected monitoring point.

(4) A photograph showing the new monitoring point in relation to nearby permanent landmarks that can be used in locating the point accurately at all times throughout the year. Do not use seasonal or temporary features in either the written descriptions or photographs as landmarks for locating field points.

(b) When the descriptive routing to reach any of the monitoring points as shown on the station license is no longer correct due to road or building construction or other changes, the licensee must prepare and file with the FCC, in Washington, D.C., a request for a corrected station license showing the new routing description. A copy of the description is to be posted with the existing station license. The notification is to include the information specified in (2) and (3) of paragraph (a) above.

4. The section title of § 73.181 is amended to read as follows:

§ 73.181 Introduction to AM technical standards.

* * * * *

§ 73.242 [Amended]

5. In § 73.242 Duplication of AM and FM programming, paragraph (d), the final paragraph in the rule, is eliminated entirely.

6. In § 73.1620, paragraphs (a)(1) and (a)(2) are amended to read as follows:

§ 73.1620 Program tests.

(a) * * *

* * * * *

(1) The permittee of a nondirectional AM or FM station, or a nondirectional or directional TV station, may begin program tests upon notification to the FCC in Washington, D.C. and the Engineer in Charge of the station's radio district, provided that within 10 days thereafter, an application for a license is filed with the FCC in Washington, D.C.

(2) The permittee of an AM or FM station with a directional antenna system must file an application for license requesting program test authority with the FCC in Washington, D.C., at least 10 days prior to the date on which it desires to begin program tests. Also, an antenna proof of performance must be filed with the request by an AM station with a directional antenna.

* * * * *

7. Section 73.512, paragraph (d) is amended to read as follows:

§ 73.512 Special procedures applicable to Class D noncommercial educational stations.

* * * * *

(d) Class D noncommercial educational (secondary) stations (see § 73.506(a)(2)) will be permitted to continue to operate only so long as no interference (as defined in § 73.509) is caused to any TV or commercial FM broadcast stations. In the event that the Class D (secondary) station would cause interference to a TV or commercial FM broadcast station after that Class D (secondary) station is authorized, the Class D (secondary) station must cease operation when program tests for the TV or commercial FM broadcast station commence. The Class D (secondary) station may apply for a construction permit (see § 73.3533) to change to another frequency or antenna site where it would not cause interference (as defined in § 73.509). If the Class D (secondary) station must cease operation before the construction permit is granted, an application for temporary authorization (pursuant to § 73.3542) to operate with the proposed facilities may be submitted; where appropriate, such temporary authorization can be granted.

§ 73.1665 [Amended]

8. Section 73.1665, main transmitters, is amended by removing the note which follows paragraph (c) of this section.

§ 73.3500 [Amended]

9. Section 73.3500 is amended by correcting the Title of Form No. 303–S to read: Application for Renewal of License for Commercial and Noncommercial Educational AM, FM and TV Broadcast Stations.

10. In § 73.3533, the section heading and paragraph (a) are amended, and new paragraph (b) is added to read as follows:

§ 73.3533 Application for construction permit or modification of construction permit.

(a) Application for construction permit, or modification of a construction permit, for a new facility or change in an existing facility is to be made on the following forms:

* * * * *

(b) The filing of an application for modification of construction permit does not extend the expiration date of the construction permit. Extension of the expiration date must be applied for on FCC Form 701 in accordance with the provisions of § 73.3534.

11. Section 73.3539 is amended by revising paragraph (b) and introductory paragraph (d) to read as follows:

§ 73.3539 Application for renewal of license.

* * * * *

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the FCC the information currently required by §§ 73.3612–73.3615, inclusive, for the particular class of station.

* * * * *

(d) Renewal application forms titles and numbers are listed in § 73.3500, Application and Report Forms.

12. New § 73.4154 is added to Part 73, Volume III to read as follows:

§ 73.4154 Network/AM, FM station affiliation agreements.

See Report, Statement of Policy, and Order, Docket 20721, FCC 77–206, adopted March 10, 1977. 63 FCC 2d 674.

13. New § 73.4242 is added to Part 73, Volume III to read as follows:

§ 73.4242 Sponsorship identification Rules, Applicability of.

See Public Notice dated September 3, 1975, 40 FR 41936, September 9, 1975.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

§ 74.12 [Amended]

14. Section 74.12 is amended by removing paragraph (d), the final paragraph in the rule, in its entirety.

15. In § 74.401, a new definition "Remote pickup mobile relay unit" is added in alphabetical sequence to read as follows:

§ 74.401 [Amended]

* * * * *

Remote pickup mobile relay unit. A vehicular receiver-transmitter repeater used to provide extended communications range for a low-power hand-carried or pack-carried transmitter.

* * * * *

16. In § 74.431, paragraph (c) and paragraph (c)(2) are amended, paragraph (c)(3) is redesignated as paragraph (c)(4), and new paragraph (c)(3) is added to read as follows:

§ 73.431 Special rules applicable to remote pickup stations.

* * * * *

(c) When a remote pickup mobile station is used as a vehicular repeater at the scene of an event to be broadcast and the operator-reporter wishes to leave the position of the mobile station in order to conduct interviews, obtain a better vantage point to view the scene or otherwise more effectively cover the event, the mobile station may be operated as an unattended remote pickup mobile relay unit, subject to the following conditions:

* * * * *

(2) The unattended vehicular repeater transmitter must be so equipped that it will only be activated by the carrier of the hand-carried or pack-carried transmitter.

(3) The unattended vehicular repeater may also be used to relay transmissions to the operator of the hand-carried or pack-carried unit. However, a transmitter operating on an additional frequency of this talk-back function may not exceed 2.5 watts.

* * * * *

17. In § 74.602, paragraph (f) is amended to read as follows:

§ 74.602 Frequency assignment.

* * * * *

(f) Community antenna relay stations may be assigned channels in Band D between 12,700 and 13,200 MHz subject to the condition that no harmful interference is caused to TV broadcast STL and TV intercity relay stations authorized at the time of such grants. Similarly, new TV broadcast STL and TV intercity relay stations shall not cause harmful interference to community antenna relay stations authorized at the time of such grants.

(1) The use of channels between 12,700 and 13,200 MHz by TV pickup stations is subject to the condition that no harmful interference is caused to community antenna relay, TV broadcast STL and TV intercity relay stations.

(2) The band 13,150 and 13,200 MHz is reserved exclusively for the assignment of TV broadcast pickup and CARS pickup stations on a co-equal basis within a 50 km (approximately 31.1 miles) radius of each of the 100 television markets set forth in § 76.51 of the FCC rules. Fixed TV auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation on channels in the 13,150 to 13,200 MHz band subject to periodic license renewals.

* * * * *

Appendix B

The alphabetical index appearing at the beginning of Part 73 is revised and updated to read as follows:

Alphabetical Index—Part 73

Rules apply to all services, AM, FM, and TV, unless indicated as pertaining to a specific service.

Policies of FCC are indicated (*).

A

Access, Prime time (TV) ..... 73.658.
  Action on applications ..... 73.3561–73.3605.
Adjacent channel and co-channel stations, Minimum mileage, separation between:
  FM ..... 73.207.
  NCE–FM ..... 73.507.
Administrative changes in authorizations:
  FM ..... 73.212.
  TV ..... 73.615.
Advertising:
  Alcoholic beverage (*) ..... 73.4015.
  Billing, fraudulent ..... 73.1205.
  Combination rates; Joint sales practices (*). ..... 73.4015.
  Refusal to sell (*) ..... 73.4015.
  Sponsorship identification ..... 73.1212.
  Time, commercial, amount of ..... 0.281 and 73.4010 (*).
See also "Commercial" listings.
Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements (TV). ..... 73.658.
Affiliation agreements, Networks/stations:
  AM ..... 73.132, 73.3613, and 73.4154 (*).
  FM ..... 73.232, 73.3613, and 73.4154 (*).
  TV ..... 73.658, and 73.3613.
Agreement, United States-Mexico FM broadcast, Channel assignments under (NCE–FM). ..... 73.504.
  Agreements, International broadcasting. ..... 73.1650.
Alarm and monitoring points, Automatic transmission system:
  AM ..... 73.146.
  FM ..... 73.346.
  NCE–FM ..... 73.546.
Allocation, Engineering standards of (AM). ..... 73.182.
Allocation, Field strength measurements in; establishment of effective field at one mile (AM). ..... 73.186.
AM and FM programming, Duplication of. ..... 73.242.
AM antenna systems ..... 73.45.
AM broadcast channels, Classes of ..... 73.21, 73.23, 73.25, 73.26, 73.27 and 73.29.
AM definitions ..... 73.14.
AM directional antenna field measurements. ..... 73.61.
AM: Scope of subpart ..... 73.1.
AM stereophonic broadcasting ..... 73.128.
AM technical standards), Introduction. ..... 73.181.
AM transmission system emission limitations. 73.44
AM transmission system installation and safety requirements. ..... 73.49.
AM transmission system, performance requirements. ..... 73.40.
Amendments:
  Major/minor: Renewal, assignment, transfer. ..... 73.3578.
  Matter of right ..... 73.3522.
Procedures ..... 73.3513.
Ammeters, antenna and common point, Remote reading (AM). ..... 73.57.
Announcements required:
  Designation of application for hearing. ..... 73.3594.
  Donor ..... 73.503, 73.621, and 73.1212.
  Filing of broadcast applications ..... 73.3580.
  Sponsorship ..... 73.1212.
  Station I.D. ..... 73.1201.
Antenna, directional, Field measurements (AM). ..... 73.61.
Antenna, directional, Field strength measurements to establish performance of (AM). ..... 73.151.
Antenna height and Power requirements:
  FM ..... 73.211.
  NCE–FM ..... 73.511.
  TV ..... 73.614.
Antenna heights, Minimum, or field strength requirements (AM). ..... 73.189.
Antenna monitors (AM) ..... 73.68.
Antenna monitors, Requirements for type approval of (AM). ..... 73.53.
Antenna monitors, Sampling system for (AM). ..... 73.68.
Antenna resistance and reactance; measurements (AM). ..... 73.54.
Antenna site, Use of common:
  FM ..... 73.239.
  TV ..... 73.635.
Antenna structure, marking and lighting. ..... 73.1213.
Antenna system tolerances, Directional (AM). ..... 73.62.
Antenna system; Transmitter location (TV). ..... 73.685.
Antenna systems:
  AM ..... 73.45.
  FM ..... 73.316.
  NCE–FM ..... 73.510.
  TV ..... 73.685.
Antenna systems, Directional (AM) ..... 73.150.
Antennas, Auxiliary ..... 73.1675.
Antennas, Emergency ..... 73.1680.
Application and report forms ..... 73.3500.
Application processing ..... 73.3561–73.3587.
Applications, Action on ..... 73.3561–73.3605.
Applications, Types and Filing of ..... 73.3511–73.3550.
Applications for broadcast facilities, showing required (AM). ..... 73.37.
Ascertainment (commercial) (*) ..... 73.4020.
Ascertainment (noncommercial educational) (*). ..... 73.4025.
Ascertainment evaluations by FCC (*). ..... 73.4021.
Assignment of stations to channels (AM). ..... 73.28.
Assignments, Table of:
  FM ..... 73.202.
  NCE–FM ..... 73.501.
  TV ..... 73.606.
Assignments, Channel, under the United States-Mexico FM Broadcast Agreement (NCE–FM). ..... 73.504.
Astrology material broadcasts (*) ..... 73.4030.
Attacks, Personal ..... 73.1920.
Audience ratings: hyping and survey misuse (*). ..... 73.4035.
Audience ratings: license distortion (*). ..... 73.4040.
Aural and visual TV transmitters, Operation of. ..... 73.653.
Aural modulation monitors, Requirements for type approval of (TV). ..... 73.694.
Authority, Presunrise service ..... 73.1735.
Authorizations, Administrative changes in:.
  FM ..... 73.212.
  TV ..... 73.615.
Authorizations, Experimental ..... 73.1510.
Authorizations, Remote Control:
  AM ..... 73.88.
  FM ..... 73.274.
  NCE–FM ..... 73.574.
  TV ..... 73.677.
Authorizations, Special Field test ..... 73.1515.
Authorizations, Special temporary (STA). ..... 73.1635.
Authorizations, Subsidiary Communications (SCA):
  FM ..... 73.293.
  NCE–FM ..... 73.593.
Authorizations, Subsidiary Communications, Operation under:
  FM ..... 73.295.
  NCE–FM ..... 73.595.
Automatic transmission system facilities:
  AM ..... 73.142.
  FM ..... 73.342.
  NCE–FM ..... 73.542.
Automatic transmission system monitoring and alarm points:
  AM ..... 73.146.

FM ..... 73.346.
NCE-FM ..... 73.546.
Automatic transmission system, Fail-safe transmitter control for:
AM ..... 73.144.
FM ..... 73.344.
NCE-FM ..... 73.544.
Automatic transmission systems (ATS), Use of:
AM ..... 73.140.
FM ..... 73.340.
NCE-FM ..... 73.540.
Auxiliary antennas ..... 73.1670.
Auxiliary transmitters ..... 73.1670.
Availability of channels:
FM ..... 73.203.
TV ..... 73.607.
Availability to FCC of station logs and records. 73.1226.

B

Barter agreements (*) ..... 73.4045.
Billing practices, Fraudulent ..... 73.1205.
Blanketing interference (AM) ..... 73.88.
Broadcast channels and stations, Classes of (AM). 73.21, 73.22, 73.25, 73.26, 73.27, and 73.29.
Broadcast day (definition) ..... 73.1700.
Broadcast facilities authorizations; showing required (AM). 73.24.
Broadcast facilities, showing required for applications (AM). 73.37.
Broadcast of FAA communications (*). 73.4102.
Broadcast of lottery information ..... 73.1211.
Broadcast of taped, filmed or recorded material. 73.1208.
Broadcast of telephone conversation .. 73.1206.
Broadcast transmitters, Type acceptance of. 73.1660.
Broadcasting agreements, International. 73.1650.
Broadcasting emergency information ... 73.1250.
Broadcasting, Stereophonic:
FM ..... 73.297.
NCE-FM 73.596
Broadcasts by candidates for public office. 73.1940.

C

Call letters—requests and assignments. 73.3550.
Candidates for public office, Broadcast by. 73.1940.
Carrier frequency departure tolerances. 73.1545.
Carrier frequency measurements ..... 73.1540.
Changes in authorizations, Administrative:
FM ..... 73.212.
TV ..... 73.615.
Changes, Transmission standards and (TV). 73.682.
Channel assignments under the United States-Mexico Broadcast Agreement (NCE-FM). 73.504.
Channels and stations, Classes of AM broadcast. 73.21, 73.22, 73.25, 73.26, 73.27, and 73.29.
Channels, Assignment of stations to (AM). 73.28.
Channels available for assignment (NCE-FM). 73.501.
Channels Availability of:
FM ..... 73.203.
TV ..... 73.607.
Channels, Classes of commercial, and stations operating thereon (FM). 73.206.
Channels, Classes of Educational, and stations operating thereon. 73.506.
Channels, FM broadcast, Numerical designation of. 73.201.
Channels, Restrictions on use of (FM). 73.220.
Channels, TV, Numerical designation of. 73.603.
Channels, unreserved, Noncommercial and educational broadcast stations, operating on (NCE-FM). 73.513.
Charts, Engineering:
AM ..... 73.190.
FM ..... 73.333.
TV ..... 73.699.
Charts, Groundwave field strength (AM). 73.184.
Chief operators ..... 73.1870.
Children's TV programs (*) ..... 73.4050.
Cigarette advertising (*) ..... 73.4055.
Citizen agreements (*) ..... 73.4060.
Classes of AM broadcast channels and stations. 73.21, 73.22, 73.25, 73.26, 73.27, and 73.29.
Classes of commercial channels, and stations operating thereon (FM). 73.206
Classes of educational channels, and stations operating thereon (NCE-FM). 73.506.
Classified ads ..... 73.1212.
Co-channel and adjacent channel stations, Minimum segration:
FM ..... 73.207.
NCE-FM ..... 73.507.
Combination advertising rates; joint sales practices (*). 73.4065
Commercials:
False, misleading and deceptive (*). 73.4070.
Loud (*) ..... 73.4075.
Program length (*) ..... 73.4080.
See also "Advertising" listings.
Common antenna site, use of:
FM ..... 73.239.
TV 73.635
Common point, and antenna ammeters, Remote reading (AM). 73.57.
Computation of interference and overlap (AM). 73.185.
Computations, Reference points and distance (FM). 73.208.
Conflict of interest (*) ..... 73.4065.
Construction period ..... 73.3598.
Construction permit, forfeited ..... 73.3599.
Contests, Licensee-Conducted ..... 73.1216.
Contours, Field strength:
FM ..... 73.311.
TV ..... 73.683.
Contract, Filing of ..... 73.3613.
Control, transmitter, Fail-safe, for automatic transmission systems:
AM ..... 73.144.
FM ..... 73.344.
NCE-FM ..... 73.544.
Coverage maps, use by licensees (*) .. 73.4090.
Coverage, Prediction of:
FM ..... 73.313.
TV ..... 73.684.
Cross reference to rules in other Parts. 73.1010.
Cross references—Part 73 ..... Page: Cross-Ref. 1.

D

Day, Broadcast (definition) ..... 73.1700.
Daylight Savings time ..... 73.1209.
Daytime (definition) ..... 73.1720.
Daytime radiation, Limitation on (AM) .. 73.187.
Definitions, Subscription TV ..... 73.641.
Definitions, Technical:
AM ..... 73.14.
FM ..... 73.310.
TV ..... 73.681.
Deny, Petitions to ..... 73.3584.
Determining operating power:
AM ..... 73.51.
FM ..... 73.267.
NCE-FM ..... 73.567.
TV ..... 73.683.
Directional antenna field measurements (AM). 73.61.
Directional antenna system tolerances (AM). 73.62.
Directional antennas, Field strength measurements to establish performance of (AM). 73.151.
Directional antenna data, Modification of (AM). 73.152.
Directional antenna systems (AM) ..... 73.150.
Discontinuance of operation ..... 73.1750.
Distance and Reference points, computations of (FM). 73.208.
Distance separations, Minimum, between stations:
FM ..... 73.207.
NCE-FM ..... 73.507.
TV ..... 73.610.
Doctrine, Fairness ..... 73.1910.
Dolbey encoder (*) ..... 73.4094.
Donor announcersents (NCE-FM) ..... 73.503.
Double billing ..... 73.1205.
Drug lyrics (*) ..... 73.4095.
Dual-language broadcasting in Puerto Rico, TV/FM. 73.1210.
Duplication of AM and FM programming. 73.242.

E

EBS (Emergency Broadcast System) ... 73.901-73.962.
Editorials, Political ..... 73.1925.
Educational, Noncommercial FM stations on unreserved channels (NCE-FM). 73.513.
Educational stations, Noncommercial (TV). 73.621.
Effective field at one mile, Establishment of (AM). 73.188.
Emergency antennas ..... 73.1680.
Emergency Broadcast System (EBS) ... 73.901-73.962.
Emergency Information, Broadcasting. 73.1250.
Emission limitations, AM transmission system. 73.44.
Employment opportunities, Equal ..... 73.2080.
Employment report ..... 73.3612.
Engineering charts:
AM ..... 73.190.
FM ..... 73.333.
TV ..... 73.699.
Engineering standards of allocation (AM). 73.182.
Engineering, Standards of good practice: NCE-FM. 73.508.
Engineering standards, Subsidiary communications multiplex operations (FM). 73.319.
Equal employment opportunities ..... 73.2080.
Equipment performance measurements. 73.1590.
Equipment tests ..... 73.1610.
Establishment of effective field at one mile. 73.186.
Exclusivity, Territorial (Network):
AM ..... 73.132.
FM ..... 73.232.
TV ..... 73.658.
Experimental authorizations ..... 73.1510.
Experimental period, Operating during the (AM). 73.72.
Extension meters ..... 73.1550.

F

FAA communications, Broadcast of (*). 73.4102.
Facilities, Automatic transmission system:
AM ..... 73.142.
FM ..... 73.342.
NCE-FM ..... 73.542.
Facilities authorizations; Broadcast; showing required (AM). 73.24.
Fail-safe transmitter control for automatic transmission systems:
AM ..... 73.144.
FM ..... 73.344.
NCE-FM ..... 73.544.
Fairness Doctrine ..... 73.1910.
FCC Policies (*) ..... 73.4000.
FCC, Station inspections by ..... 73.1225.
Field measurements, AM directional antenna. 73.61.
Field strength charts, Groundwave (AM). 73.184.
Field strength contours: .....
FM ..... 73.311.
TV ..... 73.683.
Field strength measurements; establishment of effective field. 73.186.
Field strength measurements:
FM ..... 73.314.
TV 73.686
Field strength measurements in support of applications or evidence at hearing (AM). 73.153.
Field strength measurements: partial and skeleton proofs of performance (AM). 73.154.
Field strength measurements to establish performance of directional antennas (AM). 73.151.
Field strength requirements or, Minimum antenna heights (AM). 73.189.
Field test authorization, Special ..... 73.1515.
File, Political ..... 73.1940.
File, Public ..... 73.3526-73.3527.
Filing of applications ..... 73.3511-73.3550.
Filing of contracts ..... 73.3613.
Filmed, taped, or recorded material; Broadcast of. 73.1208.
Financial qualifications:
AM and FM (*) ..... 73.4100.

TV (*) ..... 73.4101.
Foreign broadcast stations—Permits to furnish programs. 73.3543.
Foreign language programs (*) ..... 73.4105.
Forfeitures ..... 1.80.
Format changes of stations (*) ..... 73.4110.
Forms, Application and report ..... 73.3500.
FM and AM programming, Duplication of. 73.242.
FM broadcast channels, Numerical designation of. 73.201.
FM/TV dual-language broadcasting in Puerto Rico. 73.1210.
Fraudulent billing practices (Policy) (*). 73.4115.
Fraudulent billing practices (Rule) ..... 73.1205.
Frequency measurement, Carrier ..... 73.1540.
Frequency departure tolerances, Carrier. 73.1545.

G

General operating requirements (Subscription TV). 73.643.
General requirements for type approval of modulation monitors (TV). 73.682.
General requirements relating to logs .. 73.1800.
Grants:
Conditional ..... 73.3592.
Without hearing ..... 73.3591.
Groundwave field strength charts (AM). 73.184.
Groundwave signals (AM) ..... 73.183.

H

Harassing, threatening phone calls (*). 73.4120.
Hearings, Designation of applications for. 73.3593.
Horse racing information broadcasts (*). 73.4125.
Horse racing; off-track and parimutuel betting advertising (*). 73.4130.
Hours, Specified ..... 73.1730.

I

Identification, Sponsorship; list retention, related requirements. 73.1212.
Identification, Station ..... 73.1801.
Indicating instruments (requirements for):
AM ..... 73.89.
FM ..... 73.268.
NCE–FM ..... 73.558.
TV ..... 73.686.
Indicating instruments—specifications (meters). 73.1215.
Information, Broadcasting emergency .. 73.1250.
Input power, Antenna; how determined (AM). 73.51.
Inspection of program logs, Public ..... 73.1850.
Inspections, Station, by FCC ..... 73.1225.
Inspections, Transmission system ..... 73.1580.
Installation and safety requirements, AM transmission systems. 73.49.
Instruments, Indicating (requirements for):
AM ..... 73.58.
FM ..... 73.268.
NCE–FM ..... 73.558.
TV ..... 73.688.
Instruments, indicating—specifications (meters). 73.1215.
Interference, Blanketing (AM) ..... 73.88.
Interference, Protection from:
FM ..... 73.209.
NCE–FM ..... 73.509.
Interference to Astronomy, Research and Receiving Installations, Notifications concerning. 73.1030.
Interference to TV reception by FM stations (*). 73.4135.
Interference and overlap, Computations of (AM). 73.185.
International Broadcast stations ..... 73.701–73.799.
International broadcasting agreements. 73.1650.
Introduction (AM technical standards). 73.181.

L

Law violations by station applicants (*). 73.4280.
Letters received from the public, Retention of. 73.1202.
License period, Station ..... 73.1020.
Licensee-conducted contests ..... 73.1216.
Licenses, station and operator, Posting of. 73.1250.
Licensing, Acceptability of broadcast transmitters for (TV). 73.640.
Licensing policies (Subscription TV) ..... 73.642.
Licensing requirements and service (NCE–FM). 73.503.
Lighting and marking, Antenna structure. 73.1213.
Limitation on daytime radiation (AM) .... 73.187.
Limited time ..... 73.1725.
Lists retention; Sponsorship identification; related requirements. 73.1212.
Location, Main studio ..... 73.1125.
Location of transmitter:
AM ..... 73.188.
FM ..... 73.315.
TV ..... 73.685.
Location, Station ..... 73.1120.
Location, Transmitter and antenna system (TV). 73.685.
Logs:
General requirements relating to ... 73.1800.
Maintenance ..... 73.1630.
Operating ..... 73.1820.
Program ..... 73.1810.
Program, Public inspection of ..... 73.1850.
Retention of ..... 73.1840.
Logs and records, Availability to FCC .. 73.1226.
Lottery information, Broadcast of ..... 73.1211.

M

Main studio location ..... 73.1125.
Main transmitters ..... 73.1665.
Maintenance and tests, Operation for. 73.1520.
Maintenance logs ..... 73.1830.
Marking and Lighting, Antenna structure. 73.1213.
Measurements, Antenna resistance and reactance (AM). 73.54.
Measurements, Carrier frequency ..... 73.1540.
Measurements, Equipment performance. 73.1590.
Measurements, Field strength, for establishment of effective field at one mile. (AM). 73.186.
Measurements, Field strength in support of applications or evidence at hearings (AM). 73.183.
Measurements: Field strength, station and partial proofs of performance (AM). 73.154.
Measurements, Field strength:
FM ..... 73.314.
TV ..... 73.686.
Measurements, Field strength, to establish performance of directional antennas (AM). 73.151.
Measurements, Equipment performance. 73.1590.
Meters, Extension ..... 73.1550.
Meters—specifications ..... 73.1215.
Mexican/U.S. Agreement ..... 73.3570.
Mexico—U.S. FM Broadcast Agreement, Channel Assignment under (NCE–FM). 73.504.
Minimum antenna heights or field strength requirements (AM). 73.189.
Minimum operating schedule ..... 73.1740.
Minimum separations between stations:
FM ..... 73.207.
NCE–FM ..... 73.507.
TV ..... 73.610.
Minimum separation, Stations at spacings below (FM). 73.213.
Minority ownership; tax certificates and distress sales (*). 73.4140.
Misrepresentation in advertising billings. 73.1205.
Modification of directional antenna data (AM). 73.152.
Modification of transmission systems ... 73.1690.
Modulation levels, AM, FM, and TV aural. 73.1570.
Modulation monitors (requirements for):
AM ..... 73.58.
FM ..... 73.253.
NCE–FM ..... 73.553.
TV ..... 73.691.
Modulation monitors, Requirements for type approval of:
AM ..... 73.50 and 73.1668.
FM ..... 73.332 and 73.1668.
TV (aural) ..... 73.694 and 73.1668.
Monitoring and alarm points, Automatic transmission system:
AM ..... 73.148.
FM ..... 73.346.
NCE–FM ..... 73.546.
Monitoring point locations ..... 73.158.
Monitors, Antenna (AM) ..... 73.69.
Monitors, antenna, Requirements for type approval of (AM). 73.53.
Monitors, antenna, Sampling system for (AM). 73.68.
Monitors, Modulation (requirements for):
AM ..... 73.56.
FM ..... 73.253.
NCE–FM ..... 73.553.
TV ..... 73.691.
Monitors, modulation, Requirements for type approval of:
AM ..... 73.50 and 73.1668.
FM ..... 73.332 and 73.1668.
TV (aural) ..... 73.694 and 73.1668.
Multiplex ownership:
AM ..... 73.35.
FM ..... 73.240.
TV ..... 73.636.
Multiplex operations, Subsidiary communications, engineering standards (FM). 73.319.
Multiple subcarriers, Use of:
FM ..... 73.295.
NCE–FM ..... 73.595.
Musical format service companies' agreements with broadcasters (*). 73.4145.
Musical recordings; repetitious broadcasts (*). 73.4150.

N

NARBA (North American Regional Broadcasting Agreement). 73.3570.
Network, Affiliation agreements and program practices; territorial exclusivity in non-network program arrangements (TV). 73.658.
Network/AM and FM station affiliation agreements (*). 73.4154.
Network clipping (*) ..... 73.4155.
Network/station affiliation agreements:
AM ..... 73.132, 73.3613, and 73.4154 (*).
FM ..... 73.232, 73.3613, and 73.4154(*).
TV ..... 73.658 and 73.3613.
(Network), Territorial exclusivity:
AM ..... 73.132.
FM 73.232
TV ..... 73.658.
Nighttime service areas, Class II and III AM Stations; computation (*). 73.4160.
Noncommercial educational channel assignments under the United States-Mexico FM Broadcast Agreement. 73.504.
Noncommercial educational FM stations operating on unreserved channels. 73.513.
Noncommercial educational stations (TV). 73.621.
Notifications concerning interference to Radio Astronomy, Research and Receiving Installations. 73.1030.
Numerical designation of FM broadcast channels. 73.201.
Numerical designation of TV channels. 73.603.

O

Objections (informal) to applications ... 73.2587.
Obscene language (*) ..... 73.4165.
Obscene lyrics (*) ..... 73.4170.
Off-network programs and feature films, Presentation restrictions (*). 73.4175.
Operating during the experimental period (AM). 73.72.
Operating logs ..... 73.1820.
Operating on unreserved channels, Noncommercial educational broadcast stations (NCE–FM). 73.513.
Operating power, Determining:
AM ..... 73.51.
FM ..... 73.267.
NCE–FM ..... 73.567.
TV ..... 73.683.
Operating power tolerance ..... 73.1560.
Operating requirements, General (Subscription TV operations). 73.643.

Operating schedule, Minimum ..... 73.1740.
Operating schedule; time sharing (NCE–FM). 73.561.
Operation, Discontinuance of ..... 73.1750.
Operation for tests and maintenance .. 73.1520.
Operation of TV aural and visual transmitters. 74.653.
Operation, Remote Control:
AM ..... 73.67.
FM ..... 73.275.
NCE–FM ..... 73.575.
TV ..... 73.676.
Operation, Time of ..... 73.1705.
Operation, Unauthorized ..... 73.1745.
Operation Under Subsidiary Communications Authority (SCA):
FM ..... 73.295.
NCE–FM ..... 73.595.
Operator and station licenses, Posting of. 73.1230.
Operator requirements:
AM ..... 73.93.
FM ..... 73.265.
NCE–FM ..... 73.565.
TV ..... 73.661.
Operators, Chief ..... 73.1870.
Operators, Transmitter duty ..... 73.1860.
Origination, Program ..... 73.1130.
Ownership, Multiple:
AM ..... 73.35.
FM ..... 73.240.
TV ..... 73.636.
Ownership report ..... 73.3615.

P

Partial and skeleton proofs of performance, Field strength measurements (AM). 73.154.
Payment disclosure: Payola, plugola, kickbacks (*). 73.4180.
Performance measurements, Equipment. 73.1590.
Performance of directional antennas, Field strength measurements to establish (AM). 73.151.
Performance requirements, AM transmission systems. 73.40
Permissible transmissions (FM) ..... 73.277.
Personal attacks ..... 73.1920.
Petitions to deny ..... 73.3584.
Plans, State-wide (NCE–FM) ..... 73.502.
Points, Reference, and distance computations (TV). 73.611.
Point-to-point emergency messages .... 73.1250.
Policies, Licensing (TV) ..... 73.642.
Policies of FCC (*) ..... 73.4000.
Political advertising by UHF translators (*). 73.4195.
Political advertising—sponsorship identification. 73.1212.
Political broadcasting and telecasting, The law of (*). 73.4185
Political candidate authorization notice and sponsorship identification (*). 73.4190.
Political editorials ..... 73.1930.
Political file ..... 73.1940.
Polls, Call-in, on radio and TV stations (*). 73.4200.
Portable test stations 73.1530
Posting of stations and operator licenses. 73.1230.
Power and antenna height requirements:
FM ..... 73.211.
NCE–FM ..... 73.511.
TV ..... 73.614.
Power, operating, determining:
AM ..... 73.51.
FM ..... 73.267.
NCE–FM ..... 73.567.
TV ..... 73.669.
Power, Operating, tolerance ..... 73.1560.
Prediction of coverage:
FM ..... 73.313.
TV 73.684
Presunrise service authority ..... 73.1735.
Prime time access (TV) ..... 73.658.
Private interest broadcasts by licensees to annoy and harass others (*). 73.4205.
Procedure Manual: "The Public and Broadcasting" (*). 73.4210.
Processing of applications 73.3561–73.3567
Program logs ..... 73.1810.
Program logs, Public inspection of ..... 73.1850.
Program matter: Supplier identification (*). 73.4215.
Program practices, network, and Affiliation agreements; territorial exclusivity in non-network program arrangements (TV). 73.658.
Program tests ..... 73.1620.
Programming, duplication of AM and FM. 73.242.
Programming report (TV) ..... 73.3610.
Promise v. Performance: Commercial announcements (*). 73.4225.
Promotion of non-broadcast business of station (*). 73.4225.
Proofs of performance, partial and skeleton, Field strength measurements (AM). 73.154.
Protection from interference:
FM ..... 73.209.
NCE–FM 73.509
TV ..... 73.612.
Public inspection file ..... 73.3526–73.3527.
Public inspection of program logs ..... 73.1850.
Public office, Broadcasts by candidates for. 73.1940.
Puerto Rico TV/FM, dual-language broadcasting in. 73.1210.

R

Radiation characteristics, Vertical plane. 73.160.
Radiation, daytime, Limitation on (AM). 73.187.
Rebroadcasts ..... 73.1207.
Recorded, taped or filmed material; Broadcast of. 73.1206.
Recording telephone conversations ..... 73.1206.
Records and logs, Availability to FCC. 73.1226.
Reference, Cross, to rules in other Parts. 73.1010.
Reference points and distance computations:
FM ..... 73.208.
TV ..... 73.611.
Reference to time ..... 73.1209.
Remote control authorizations:
AM ..... 73.66.
FM ..... 73.274.
NCE–FM ..... 73.574.
TV ..... 73.677.
Remote control operation:
AM ..... 73.67.
FM ..... 73.275.
NCE–FM ..... 73.575.
TV ..... 73.676.
Remote reading antenna and common point ammeters (AM). 73.57.
Renewal period ..... 73.1020.
Report and application forms ..... 73.3500.
Requirements, Equipment and technical system performance (TV). 73.644.
Requirements for type approval of antenna monitors (AM). 73.53.
Requirements for type approval of modulation monitors:
AM ..... 73.50 and 73.1668.
FM ..... 73.332 and 73.1668.
TV (aural) ..... 73.694 and 73.1660.
Requirements, Subscription TV, operating. 73.643.
Requirements, Operators:
AM ..... 73.93.
FM ..... 73.265.
NCE–FM ..... 73.565.
TV ..... 73.661.
Requirements, Power and antenna height:
AM ..... 73.189.
FM ..... 73.211.
NCE–FM ..... 73.511.
TV ..... 73.614.
Requirements, relating to logs, General. 73.1800.
Requirements, Transmission system:
FM ..... 73.317.
TV ..... 73.687.
Requirements, Transmission system performance (AM). 73.40.
Restrictions on use of channels (FM) .. 73.220.
Retention of letters received from the public. 73.1202.
Retention of logs ..... 73.1840.
(Rules common to all broadcast stations), Scope. 73.1001.
Rules in other Parts, Cross reference to. 73.1010.

S

Safety and installation requirements, AM transmission systems. 73.49.
Sales contracts, Failure to perform (*). 73.4230.
Sampling systems for antenna monitors (AM). 73.68.
SCA:
FM ..... 73.293.
NCE–FM ..... 73.593.
Schedule, Minimum operating ..... 73.1740.
Schedule; Operating, time sharing (NCE–FM). 73.561.
School closings ..... 73.1250.
Scope of Subpart A (AM) ..... 73.1.
Scope of Subpart E (TV) ..... 73.601.
Scope of Subpart H (rules common to all broadcast stations). 73.1001.
Separations (channel) (TV) ..... 73.610.
Separations, Minimum mileage, between co-channel and adjacent channel stations:
FM ..... 73.217.
NCE–FM ..... 73.507.
Separations, Stations at spacings below minimum (FM). 73.213.
Service and licensing requirements (NCE–FM). 73.503.
Share time ..... 73.1715.
Sharing time, Operating schedule (NCE–FM). 73.561
Short-spacing agreements: FM stations (*). 73.4235.
Showing required; Applications for broadcast facilities (AM). 73.37.
Signal, Computation of interference and overlap. 73.185.
Signal, Groundwave (AM) ..... 73.183.
Sirens and like emergency sound effects in announcements (*). 73.4240.
Site, common antenna, Use of:
FM ..... 73.239.
TV ..... 73.635.
Skeleton and partial proofs of performance, Field strength measurements (AM). 73.154.
Spacings, Stations below the minimum separations (FM). 73.213.
Special field test authorization ..... 73.1515.
Special temporary authorizations (STA's). 73.1635.
Specifications—Indicating instruments (meters). 73.1215.
Specified hours ..... 73.1730.
Sponsorship identification list retention; related requirements. 73.1212.
Sponsorship identification rules, Applicability of (*). 73.4242.
Sports announcer selection (*) ..... 73.4245.
STA's (Special temporary authorizations). 73.1635.
Standard time ..... 73.1208.
Standards and changes, Transmission (TV). 73.682.
Standards, engineering; Subsidiary communications multiplex operations (FM). 73.319.
Standards of allocation, Engineering (AM). 73.182.
Standards of good engineering practice: NCE–FM. 73.508.
Standards, Stereophonic transmission (FM). 73.322.
State-wide plans (NCE–FM) ..... 73.502.
Station and operator licenses, Posting of. 73.1230.
Station identification ..... 73.1201.
Station inspections by FCC ..... 73.1225.
Station license period ..... 73.1020.
Station location ..... 73.1120.
Station, main studio location ..... 73.1125.
Station program origination ..... 73.1130.
Station "trafficking" ..... 73.3597.
Station transferring ..... 73.1150.
Stations, Assignment of, to channels (AM). 73.28.
Stations at spacings below the minimum seperations (FM). 73.213.
Stations, Noncommercial educational (TV). 73.621.
Stations, Noncommercial educational FM, operating on unreserved channels. 73.513.
Stereophonic broadcasting:
AM ..... 73.128.
FM ..... 73.297.

NCE-FM ..... 73.597.
Stereophonic transmission standards:
AM ..... 73.170.
FM ..... 73.322.
Subcarriers, multiplex, Use of:
FM ..... 73.295.
NCE-FM ..... 73.595.
Subliminal perception (*) ..... 73.4250.
Subpart A, Scope of (AM) ..... 73.1.
Supart E, Scope of (TV) ..... 73.601.
Subpart H, Scope of (rules common to all broadcast stations). 73.1001.
(Subcription TV operations), Definitions. 73.641.
Subsidiary Communications Authorizations (SCA):
FM ..... 73.293.
NCE-FM ..... 73.593.
Subsidiary Communications Authorizations, Nature of:
FM ..... 73.294.
NCE-FM ..... 73.594.
Subsidiary Communications Authorizations, Operation Under:
FM ..... 73.295.
NCE-FM ..... 73.595.
Subsidiary Communications multiplex operations: engineering standards (FM). 73.319.
Subscription TV:
Definitions ..... 73.641.
Licensing policies ..... 73.642.
Operating requirements ..... 73.643.
Transmission systems ..... 73.644.

T

Table of assignments:
FM ..... 73.202.
TV ..... 73.609.
Tables (Distance-degree conversions and seperations) (TV). 73.698.
Taped, filmed, or recorded material; Broadcast of. 73.1208.
Tax certificates: Issuance of (*) ..... 73.4255.
Teaser announcements (*) ..... 73.4260.
Technical definitions:
AM ..... 73.14.
FM ..... 73.310.
TV ..... 73.681.
(Technical standards, AM broadcast), Introduction. 73.181.
(Technical standards), Definitions (TV). 73.681.
Telephone conversations, Broadcast of. 73.1206.
Telephone conversation broadcasts (network and like sources) (*). 73.4265.
TV broadcast signals: Technical Standards (*). 73.4270.
Television channels, Numerical designation of. 73.603.
Temporary authorizations, Special (STA's). 73.1635.
Territorial exclusivity in non-network program arrangements; Affiliation agreements and network program practices (TV). 73.658.
Territorial exclusivity, (Network):
AM ..... 73.132.
FM ..... 73.232.
TV ..... 73.658.
Test authorization, Special field ..... 73.1515.
Test stations, Portable ..... 73.1530.
Test and maintenance, Operation for ..... 73.1520.
Tests of equipment ..... 73.1610.
Tests, Program ..... 73.1620.
Time of operation ..... 73.1705.
Time, Limited ..... 73.1725.
Time, Reference to ..... 73.1209.
Time, Share ..... 73.1715.
Time Sharing, Operating schedule (NCE-FM). 73.561.
Time, Unlimited ..... 73.1710.
Tolerances, Carrier frequency deperture. 73.1545.
Tolerances, Directional antenna system (AM). 73.62.
Tolerances, Operating power ..... 73.1560.
Tone clusters: Audio attention-getting devices (*). 73.4275.
Topographic data (FM) ..... 73.3120.
Tower lighting and painting ..... 73.1213.
Trafficking in stations ..... 73.3597.
Transferring a station ..... 73.1150.
Transmission standerds and changes (TV). 73.682.
Transmission standards, Stereophonic (FM). 73.322.
Transmission system, Automatic, monitoring and alarm points:
AM ..... 73.146.
FM ..... 73.346.
NCE-FM ..... 73.546.
Transmission system emission limitations, (AM). 73.44.
Transmission system facilities, Automatic:
AM ..... 73.142.
FM ..... 73.342.
NCE-FM ..... 73.542.
Transmission system inspections ..... 73.1580.
Transmission system installation and safety requirements, AM. 73.49.
Transmission system performance requirements (AM). 73.40.
Transmission system requirements:
FM ..... 73.317.
TV ..... 73.687.
Transmission systems, automatic, Fail-safe transmitter control for:
AM ..... 73.144.
FM ..... 73.344.
NCE-FM ..... 73.544.
Transmission systems, automatic, (ATS), Use of:
AM ..... 73.140.
FM ..... 73.340.
NCE-FM ..... 73.540.
Transmission systems, Modification of. 73.1690.
Transmission systems, subscription TV. 73.644.
Transmissions, Permissible (FM) ..... 73.277.
Transmitter control, Fail-safe, for automatic transmission system:
AM ..... 73.144.
FM ..... 73.344.
NCE-FM ..... 73.544.
Transmitter duty operators ..... 73.1690.
Transmitter, Location:
AM ..... 73.156.
FM ..... 73.315.
Transmitter location and antenna system (TV). 73.685.
Transmitters, Auxiliary ..... 73.1670.
Transmitters, broadcast, Type acceptance of. 73.1660.
Transmitters, Main ..... 73.1665.
Transmitters, TV, aural and visual, Operation of. 73.653.
TV/FM dual-language broadcasting in Puerto Rico. 73.1210.
Type acceptance of broadcast transmitters. 73.1660.
Type approval of antenna monitors, Requirements for (AM). 73.53.
Type approval of modulation monitors, General requirements (TV). 73.692.
Type approval of modulation monitors, Requirements for:
AM ..... 73.50 and 73.1660.
FM ..... 73.332 and 73.1668.
TV (aural) ..... 73.694 and 73.1668.

U

Unauthorized operation ..... 73.1745.
U.S./Mexican Agreement ..... 73.3570.
USA-Mexico FM Broadcast Agreement, Channel assignments under (NCE-FM). 73.504.
Unlimited time ..... 73.1710.
Unreserved channels, Noncommercial educational broadcast stations operating on (NCE-FM). 73.513.
Use of automatic transmission systems (ATS):
AM ..... 73.140.
FM ..... 73.340.
NCE-FM ..... 73.540.
Use of channels, Restrictions on (FM). 73.220.
Use of common antenna site:
FM ..... 73.239.
TV ..... 73.635.
Use of multiplex subcarriers:
FM ..... 73.295.
NCE-FM ..... 73.595.

V

Vertical plane radiation characteristics. 73.160.
Violation of laws by station applicants (*). 73.4280.
Visual and aural TV transmitters, Operation of. 73.653.

W

Want ads ..... 73.1212.

Z

Zones:
FM ..... 73.205.
NCE-FM ..... 73.505.
TV ..... 73.609.

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Thirty-ninth Revised Service Order No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-ninth Revised Service Order No. 1473.

SUMMARY: Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 12:01 a.m., June 30, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

Decided: June 24, 1982.

Pursuant to section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits

carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 21, the authority for the Kyle Railroad Company (KYLE) to extend its operations eastward from Belleville to Mahaska, Kansas, a distance of approximately 17 miles, and southward from Belleville to Clay Center, Kansas, a distance of approximately 47 miles. This authority was previously held by the Brandon Corporation (BRAN), however, that operation has been embargoed since January 11, 1982. The remaining authority held by BRAN at Item 16 remain in effect in the hope that service be resumed over that portion of the line as well.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good causes exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., June 30, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and William F. Sibbald, Jr. J. Warren McFarland not participating.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*

A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.

2. *Peoria and Pekin Union Railway Company (PPU):*

A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.

B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

3. *Union Pacific Railroad Company (UP):*
A. Beatrice, Nebraska.
B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
4. *Toledo, Peoria and Western Railroad Company (TPW):*
A. Peoria Terminal Company trackage from Hollis to Iowa Junctions, Illinois.
5. *Chicago and North Western Transportation Company (CNW):*
A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.
D. from Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
E. from East Des Moines, Iowa (milepost 350.8) to West Des Moines, Iowa (milepost 364.34).
F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0)
H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
J. from Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502)
M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 98.2) and to serve all industry formerly served by the RI at Cedar Rapids.
O. at Sibley, Iowa.
P. at Worthington, Minnesota.
Q. from Carlisle to Indianola, Iowa.
R. at Omaha, Nebraska, (between milepost 502 to milepost 504).
S. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).
6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*
A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.
B. at Washington, Iowa.
C. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil refinery at St. Paul Park, Minnesota.
D. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).
E. at Davenport, Iowa.
7. *St. Louis Southwestern Railway Company (SSW):*
A. from Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.
B. at North Topeka and Topeka, Kansas.
8. *Little Rock & Western Railway Company (LRWN):*
A. from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).
B. from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).
9. *Missouri Pacific Railroad Company (MP):*
A. from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
B. from Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).
C. from Hot Springs Junction (milepost 0.0) to and including Rock Island (milepost 4.7).
D. from Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).
10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.
11. *Cadillac and Lake City Railway Company (CLK):*
A. from Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.
B. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.
C. from Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.
D. Rock Island trackage rights over Union Pacific Railroad company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.
12. *Baltimore and Ohio Railroad Company (BO):*
A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.
13. *Keota Washington Transportation Company (KWTR):*
A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
B. at Vinton, Iowa (milepost 120.0 to 123.0).
C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).d
14. *The La Salle and Bureau County Railroad Comany (LSBC):*
A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.
B. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
C. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
D. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.
15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*
A. at Alva, Oklahoma.
B. at St. Joseph, Missouri.
16. *The Brandon Corporation (BRAN):*
*A. from Clay Center, Kansas (milepost 178.37), to Manhattan, Kansas (milepost 143.0), a distance of approxmately 35 miles.
17. *Iowa Northern Railroad Company (IANR):*
A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1)
B. at Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.
18. *Iowa Railroad Company (IRRC):*
A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.
B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8) (This trackage is currently leased to the CNW, see Item, 5.E.)
E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.
F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 6.D.)
G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)
H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
I. at Rock Island, Illinois including 26th Street Yard.
J. from Altoona to Pella, Iowa.
19. *Missouri-Kansas-Texas Railroad Company (MKT):*
A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.
20. *Chicago Short Line Railway Company (CSL):*
A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.
21. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. Kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

+B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

+C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

22. *North Central Texas Railway, Inc (NCTR):*

A. from Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).

B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*

A. from Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.

B. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*

A. from Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).

B. from Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).

C. from Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).

D. from El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*

A. from El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

B. at Okeene, Oklahoma.

C. at Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*

A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.

B. at North Fort Worth, Texas (mileposts 603.0 to 611.4).

C. from Amarillo, Texas (milepost 760.6) to Groom, Texas (milepost 718.9).

28. *Okarche Central Railway, Inc. (OCRI):*

A. from Enid, Oklahoma (milepost 345.27) to El Reno Junction, Oklahoma (milepost 405.21).

B. from El Reno, Oklahoma (milepost 514.32) to Council, Oklahoma (milepost 496.40).

C. at El Reno, Oklahoma (milepost 402.73) to (milepost 404.19).

Note.—Certain segments of the above operation are overlapping with the NCOR (see Item 24). In the interest of operational clarity and efficiency, OCRI will be the supervising carrier for operations and maintenance.

+Added.
*Changed.

[FR Doc. 82-17610 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1057

[Ex Parte No. MC-43 (Sub-7A)]

Lease and Interchange of Vehicles (Leases Involving Carrier Agents)

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its leasing rules to clarify further which parties and leases are subject to them and which are not. One rule change will specifically exempt leases made between authorized carriers and their agents from the leasing regulations set forth at § 1057.12(e)–(1). A second will clarify that the obligation of an authorized carrier to ensure that the owner of the equipment receives all of the rights, benefits, and protections of the leasing regulations cannot be avoided simply by acting through an agent. This duty on the carrier's part will apply irrespective of whether the carrier leases the equipment directly from the equipment owner or indirectly through an intermediary third-party agent.

EFFECTIVE DATE: August 30, 1982.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, (202) 275–7863; Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking published in the **Federal Register** on November 23, 1977, the Commission instituted a rulemaking proceeding in Ex Parte No. MC–43 (Sub-No. 7), *Lease and Interchange of Vehicles,* for the purpose of rewriting and revising its leasing rules. The major objectives of that proceeding were to: (1) Simplify existing and new regulations; (2) promote truth-in-leasing—full disclosure between carriers and owner-operators; (3) eliminate or reduce opportunities for skimming and other illegal or inequitable practices; and (4) promote the stability and economic welfare of the independent trucker segment of the motor carrier industry. Several Commission staff studies, independent trucker surveys, Congressional and Commission hearings, and public comments on the matter had preceded and precipitated the rulemaking. Information gathered from these various sources revealed that owner-operators—a significant factor in America's transportation system—were experiencing significant problems, some of which could be traced to certain leasing practices at 44 FR 4680, January 23, 1979.

The Commission issued final rules in January 1979 at 44 FR 4680, January 23, 1979. *Lease and Interchange of Vehicles,* 131 M.C.C. 141 (1979). Those rules were affirmed in *Global Van Lines, Inc.* v. *I.C.C.* 627 F.2d 546 (D.C. Cir. 1980). During the course of the rulemaking process, however, two minor issues remained unresolved: first, whether the new leasing rule requirements appearing at 49 CFR 1057.12(e)–(1) should apply to leases between motor carriers and their agents, and, second, whether authorized motor carriers could avoid their responsibility under the leasing regulations by using agents for dealing with owner-operators.

Two new proposed rules[1] designed to clarify these matters were published in the **Federal Register** at 45 FR 13159, February 28, 1980, and interested parties were invited to submit written comments on the proposals. Upon review of the comments we have decided to amend our leasing regulations as proposed and (i) to exempt leases made between authorized carriers and their agents, and (ii) to ensure that the duty of carriers under the leasing rules will be the same whether or not they employ an agent as an intermediary.

Principal Arguments of the Parties

The American Movers Conference and number of individual motor carriers of household goods support the Commission's proposal to exempt leases made between authorized carriers and their agents from the new leasing regulations. However, the van lines are opposed to the proposal which would make them responsible for ensuring that owner-operators receive all the rights and benefits of the rules in situations where intermediary agents are involved. The carriers' basic arguments are: (1) The Commission lacks jurisdiction to promulgate such a regulation; (2) holding a carrier responsible for a lease concluded between two parties not within the Commission's jurisdiction, and to which it is not a party, is a violation of contract law principles; (3) holding a principal liable for payment of compensation, et cetera, between an agent and an independent contractor, or not allowing the principal to limit the scope of its agency relationship, is a violation of agency law principles; (4) the administrative and other costs of ensuring such compliance—both to the

[1] Section 1057.12(n) *Carrier obligations to owner regardless of presence of agent,* and § 1057.20 *Exemption for leases between authorized carriers and their agents.*

van lines and to consumers—outweigh any possible public benefits that might stem from such a regulation; (5) promulgation of such a rule is likely to interfere with labor matters—an area clearly beyond the Commission's expertise and jurisdiction; (6) because van lines are not directly involved in arrangements between their agents and owner operators, policing and enforcement of such a regulation would be impractical if not impossible; and (7) there is insufficient support in the record to establish a need for such a regulation.

The Commission's's Office of Special Counsel (OSC) fully supports both proposals. Regarding § 1057.12(n), it believes that owner-operators need prompt payment regardless of the party with whom they contract for the lease of their equipment. In fact, OSC would favor explicit, standard language in the lease between the van line and its agent specifying the latter's agreement to comply with the new leasing regulations.

The primary concern of the National Independent Truckers Unity Council is that its members be paid within 15 days from the date of submission of proper paperwork to the carrier. Accordingly, it strongly supports holding carriers fully and ultimately responsible for ensuring that their agents timely pay their owner-operators.

A carrier which leases owner-operator equipment through agents argues that the rules should only be applied to household goods agency situations and no others. It claims that non-household goods agency arrangements are more complex and require additional processing of paperwork which would make compliance extremely difficult if not impossible.

Finally, a single agent contents that agents do, in fact, need the protections of the rules, because they cannot timely pay their owner-operators if they are not timely paid by the van lines.

Discussion and Conclusions

We now believe that the two new proposed rules should be adopted.

We believe, to begin with, that agreements between motor carriers and their agents should, in fact, be exempted from the new leasing rules. In our notice of proposed rulemaking [2] we stated:

> We cannot ignore the fact that not a single agent requested coverage under the new leasing rules. The record so far in this proceeding just does not demonstrate a sufficient need on the part of agents for the application of any of the new leasing rules to leases between authorized carriers and their agents.

The fact that only one agent filed comments in response to the proposed rule serves only to buttress that conclusion. Agents as a class simply have not demonstrated a need or desire for such protections as may be afforded by the new regulations. Moreover, we do not believe that subjecting the carrier-agent relationship to those rules is necessary to achieve our objectives in this proceeding. Therefore, the rule excluding carrier-agent leases from coverage by the new leasing rules will be adopted.

We also believe, despite opposition from van lines and their organizations, that motor carriers should not be exempt from responsibility for ensuring that owner-operators performing transportation services on their behalf receive all the rights, benefits, and protections of the new leasing rules simply because carrier agents are employed as intermediaries. Each of the various arguments advanced by parties in opposition to § 1057.12(n) has previously been carefully considered and rejected either in the interim and final decisions in the Sub-No. 7 proceeding or in the notice of proposed rulemaking in this proceeding. However, we will again briefly address the more significant objections.

With respect to the jurisdictional issue, at 129 M.C.C. 702 and 703 of the Sub-No. 7 interim decision we stated:

> The Supreme Court held in *American Trucking Associations, Inc.* v. *United States*, 344 U.S. 298 (1953), that the power to regulate equipment leasing lies within the broad provisions of the act even though such authority was not then explicitly set forth. The Court found that the Commission holds implied power under section 204(a)(6) of the act [49 U.S.C. 304(a)(6)] to issue rules that concern the leasing of vehicles for the transportation of passengers or property by motor carriers in interstate or foreign commerce * * * Of course, the power to issue regulations is not unlimited. Regulations must be consistent with the enabling-statute and must be reasonable * * * With these guidelines in mind, we believe that we hold the authority under the act to issue regulations aimed at acomplishing a fair measure of truth-in-leasing.

None of the jurisdictional arguments raised in the comments alters our belief that this Commission does, in fact, have jurisdiction to adopt the new substantive leasing rules at issue here, including § 1057.12(n). These rules merely regulate, in what we believe to be a reasonable manner, the way in which an authorized carrier may lease equipment—an undertaking clearly sanctioned by the *American Trucking Associations* case and, more recently, the *Global Van Lines* case, *supra*.

We reject the notion that our regulations may not be adopted because they purportedly conflict with conventional agency principles. Congress has given the Commission authority to regulate the surface transportation industry and our authority to adopt reasonable leasing regulations governing the relationship between carrier and lessor has been sustained. Our decision here is a modest modification of existing rules designed to ensure simply that carriers cannot avoid the rules through the establishment of an intermediary agent. We have no doubt of our authority in this area.[3]

We also reject the carriers' contention that compliance on their part will be too difficult and that ensuring compliance on the part of their agents will be impossible. Major obstacles cited by the carriers include unrealistic time frames, no incentive for agents to comply or means of assuring their cooperation, and the magnitude of the task. We believe that time frames concerning such areas as payment and refund of escrow accounts are reasonable.[4] We also believe that the significant leverage which carriers exert over their agents is sufficient incentive for compliance on the part of the latter. Moreover, carriers can both protect themselves and better assure their agents' cooperation by including appropriate provisions in agency agreements and leases concluded with their agents. However, we will not, as suggested by OSC, dictate the terms of those provisions. We believe that is a matter best left to the parties involved. Finally, it is our belief that selective policing by carriers of their agents' behavior—as in the household goods weight-bumping area—

[2] 45 FR 13159 (February 28, 1980).

[3] We mention, in this connection, our recent decision in *North American Van Lines, Inc.—Invest. & Revoc. Of Certifs.*, 132 M.C.C. 60 (1980), where we concluded that household goods carriers should be held accountable for the acts of their agents. At page 71 Division 2 stated: ". . . [T]he Interstate Commerce Act provides for regulation of the carrier, not of its individual employees, and clearly places the responsibility for compliance upon the carrier. A carrier cannot escape this responsibility by attributing violations to its employees or agents. The Duty which Congress has placed on the Commission to regulate motor carriers under the act can be effectively performed only by holding the carriers accountable.

[4] Carriers are reminded that they can petition to have time frames modified in light of later convincing concrete evidence to the effect that present compliance is impossible or inequitable. At this time we simply do not find that the carriers have established their inability to comply with the 15-day payment period or refund of escrow provisions. Carriers are also reminded that the 15-day payment period does not begin to run until all appropriate paperwork has been submitted to them.

is a reasonable alternative to carriers' fears that they will have to monitor each and very case involving owner-operators and should ensure a sufficient level of agent compliance.

Regulatory Flexibility Act

The Regulatory Flexibility Act, Public Law 96–354, approved by the President on September 19, 1981, requires agencies to prepare a regulatory flexibility analysis outlining the effect of a proposal on small entities. The Act applies, in terms, however, only to proposals issued after January 1, 1981. Our action here, of course, is simply the final stage of proposals put forward long ago, and even our notice of proposed rulemaking dealing with the two minor items specifically at issue were published in the **Federal Register** over a year ago. As a consequence, the regulatory flexibility analysis portion of that Act is inapplicable.

The Act nevertheless requires periodic review of agency regulations which will have a significant economic impact upon a substantial number of small entities. The leasing regulations may well be a proper subject for overall reexamination.

Final Rules

The Commission is adopting two new leasing rules in final form. One will merely codify in the form of an exemption the Commission's previous decision that the new leasing rules appearing at 49 CFR 1057.12(e)–(1) do not apply to leasing arrangements between motor carriers of household goods and their agents. Moreover, because that decision was not totally clear as to whether the exemption was limited just to motor carriers of household goods, this final rule will clarify the point by extending the exemption to all authorized carriers.

A second rule will codify the responsibility of all motor carriers to ensure that owner-operators performing transportation on their behalf and pursuant to their authority receive all the rights, benefits, and protections of the new substantive leasing rules, irrespective of the presence of an agent. The second rule simply clarified the Commission's intent that motor carriers not be able to circumvent any of its leasing rules merely by leasing equipment from an intermediary third-party agent rather than directly from the equipment owner. The rule will further provide that this obligation must be specified in the written lease.

We find that these additions to the leasing rules are necessary so that all potential parties to leases may examine our leasing rules and determine what rights and duties thay have under these rules before entering into a lease.

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

It is ordered:

We adopt the rules set forth below:

1. In 49 CFR 1057.12 and a new paragraph (n) as follows:

§ 1057.12 Carrier obligation to owner regardless of presence of agent.

* * * * *

(n) This subsection applies to owners who are not agents but whose equipment is used by an agent of an authorized carrier in providing transportation on behalf of that authorized carrier. In this situation, the authorized carrier is obligated to ensure that these owners receive all the rights and benefits due an owner under the leasing regulations, especially those set forth in paragraphs (e)–(1) of this section. This is true regardless of whether the lease for the equipment is directly between the authorized carrier and its agent rather than directly between the authorized carrier and each of these owners. The lease between an authorized carrier and its agent shall specify this obligation.

2. In 49 CFR add a new § 1057.26 as follows:

§ 1057.26 Exemption for leases between authorized carriers and their agents.

The leasing regulations set forth in § 1057.12(e)–(1) do not apply to leases between authorized carriers and their agents.

This decision does not affect significantly the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1057

Motor carriers.

(49 U.S.C. 10321 and 11107, and 5 U.S.C. 553)

Decided: June 22, 1982.

By the Commission, Chairman Taylor, Vice Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Andre concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Andre, concurring:

I concur in the result to extend the Commission's lease disclosure rules. However, as I did not participate in the origination of this program, I reserve final judgment on its merits pending outcome of the review which has apparently been promised in connection with our Regulatory Flexibility responsibilities.

[FR Doc. 82-17618 Filed 6-29-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 2622–113]

Atlantic Sea Scallop Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Extension of emergency interim rule.

SUMMARY: An emergency interim rule is in effect through June 28, 1982, implementing the Fishery Management Plan for Atlantic Sea Scallops. NOAA extends the emergency interim rule from June 29, 1982, through August 12, 1982. The extension will continue the management program and its protection of the resource while public comments are considered in preparing final regulations for the fishery.

DATES: Emergency interim rule effective from June 29, 1982, through August 12, 1982.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Scallop Management Coordinator, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930–3097; telephone 617–281–3600.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Atlantic Sea Scallops (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on April 26, 1982. Emergency interim regulations implementing the FMP, with a request for public comments, were published on May 14, 1982 (47 FR 20776). The rulemaking stated that the regulations would be effective for 45 days and that they would be repromulgated for an additional 45 day period, if necessary, as authorized by section 305(e) of the Magnuson Fishery Conservation and Management Act. Comments were accepted through June 28, 1982.

The Assistant Administrator for Fisheries has determined that the emergency situation described in the initial rulemaking continues to exist. This action therefore extends those emergency regulations through August 12, 1982. During this period, public comments received during the initial rulemaking period will be considered in the preparation of final regulations, which should be issued on or before August 12, 1982.

Other Matters

The Administrator of NOAA determined on May 14, 1982 (47 FR 20776) that these regulations are non-major under Executive Order 12291, and at the same time that the emergency provisions of Section 8 of Executive Order 12291 apply to this rulemaking.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 650

Fish, Fisheries.

Dated: June 24, 1982.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 82-17848 Filed 6-28-82; 1:56 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 126
Wednesday, June 30, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

Irish Potatoes Grown in Colorado—Area No. 3; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed continuing regulation would require fresh market shipments of potatoes grown in Colorado—Area No. 3 to be inspected and meet minimum grade, size and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due July 15, 1982.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Statement relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 948) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0581–0111.

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 3 Potato Committee, established under the order, is responsible for its local administration.

This proposed continuing handling regulation is based upon recommendations made by the committee at its public meeting in Greeley, Colorado, on June 10, 1982.

The grade, size, maturity and inspection requirements recommended herein are similar to those which have been issued during past seasons. They are necessary to prevent potatoes of poor quality or undersirable sizes from being distributed to fresh market outlets. The specific proposals, hereinafter set forth, would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area.

Again the minimum quantity exemption is proposed to be 1,000 pounds. This should relieve the burden on handling noncommercial quantities of potatoes and allow direct marketing outlets to operate in greater freedom.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed would likewise be exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments would be exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Potatoes for prepeeling would be handled without regard to maturity requirements since skinning of such potatoes would be of no consequence. Also, the maturity requirements terminate on December 31 because at that stage of the marketing season potatoes are generally mature with skins firmly set.

This regulation, designed to standardize shipments and increase marketing efficiency, would have no measurable effect on the quantity of potatoes shipped from Colorado Area No. 3, nor would there be a discernable effect on U.S. retail potato prices. This regulation should enable the Colorado Area No. 3 potato industry to better compete with other potato producing areas in the U.S. by ensuring the use of grades and sizes acceptable to buyers.

It is proposed that requirements contained in this proposed handling regulation, effective August 1, 1982, would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment through July 15, 1982 with regard to the proposed handling regulation. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. The proposed change to issue regulations which would continue in effect from marketing season to marketing season reflects the fact that regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, the proposed action could result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season in accordance with § 948.20 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and

interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before July 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Colorado Area 3 potatoes would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 948

Marketing agreements and orders, Potatoes, Colorado.

PART 948—IRISH POTATOES GROWN IN COLORADO

It is proposed that § 948.385 (46 FR 39118, July 31, 1981) be removed and a new § 948.387 be added as follows:

§ 948.387 Handling regulation.

On and after August 1, 1982, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b) and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

a *Grade and size requirements—All varieties*—U.S. No. 2 or better grade, 1⅞ inches minimum diameter or 4 ounces minimum weight. However, Size B may be handled If U.S. No. 1 grade.

(b) *Maturity (skinning) requirements—All varieties*—During the period beginning August 1 and ending December 31 each season, for U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned"; thereafter no maturity requirements.

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspect certificate shall be valid for a period not to exceed five days following the date of inspect as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing, and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6).

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(e) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (d) of this section shall:

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as required, including certification by the buyer or receiver on the use of such potatoes; and

(3) Bill each shipment directly to the applicable buyer or receiver.

(f) *Minimum quantity.* For purpose of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes per shipment without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U. S. No. 1," "U. S. No. 2," "Size B," "moderately skinned" and "slightly skinned" shall have the same meaning as when used in the United States Standards for Grades of Potatoes (7 CFR 51.1540–51.1566) including the tolerance set forth therein. The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 52.2421–52.2433). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, "Import regulations" (7 CFR 980.1), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period beginning August 1 and ending June 4 each season, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 25, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 82-17087 Filed 6-29-82; 8:45 am]

BILLING CODE 3410-02-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 4, 15, 16, 18, 21, 32, 33, 145, 147, 155, 170 and 180

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program Provisions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has previously adopted regulations to govern a three-year pilot program under which options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for option trading. The Commission stated at that time that it intended to supplement those rules with rules authorizing the trading of options on physicals on domestic exchanges. The Commission is now proposing rules, principally consisting of amendments to existing rules, which would expand the pilot program regulations to permit and govern the trading of options on physicals on domestic exchanges. The proposed rules would allow any exchange, regardless of whether it is currently engaged in the trading of futures contracts or options on those contracts, to apply for contract market designation for an option on a physical. The Commission is also proposing rule amendments which would affect futures contracts and options on futures contracts.

DATE: Comments must be received on or before July 30, 1982.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Special Counsel, or Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, at the address listed above. Telephone: (202) 254–8955. For information concerning proposed amendments to 17 CFR Parts 15, 16, 18 and 21, contact: Lamont L. Reese, Associate Director, Division of Economics and Education, at the address listed above. Telephone: (202) 254–3310.

SUPPLEMENTARY INFORMATION:

I. Introduction

On the same date that the Commission published regulations to govern a three-year pilot program under which options on certain commodity futures contracts will be permitted to be traded on and through the facilities of domestic boards of trade designated by the Commission as contract markets for option trading (46 FR 54500 (November 3, 1981)), the Commission also published a notice of proposed rulemaking in which it reaffirmed its intention to adopt rules which would permit the trading of options on physicals, and sought comments from interested persons as to the manner in which the pilot program rules should be amended or supplemented to permit such trading. 46 FR 54570 (November 3, 1981). The Commission received nineteen written comments in response to that notice. The commentators included two securities exchanges which list stock options for trading, a contract market, a board of trade not designated as a contract market, a trade association, and fourteen individuals not directly identified with any particular segment of the commodity industry. Only three of the commentators, however, made specific suggestions as to how the Commission's rules should be amended or supplemented to accommodate options on physicals; the Commission has incorporated certain suggestions of those commentators in the proposed rules.

One commentator suggested that the public should have an opportunity to comment on specific regulations for options on physicals. The Commission agrees with that commentator and is now publishing proposed rules for public comment. The Commission has determined that a thirty-day comment period is sufficient in light of the Commission's extensive history of rulemaking proceedings regarding options and due to the fact that many of the proposals contained herein are minor amendments to the existing option pilot program regulations and other Commission regulations affecting futures contracts. Comments received in response to the Commission's November 3, 1981 notice of proposed rulemaking, as well as comments concerning options on physicals which were received in response to the Commission's proposed option pilot program regulations,[1] will be considered in this rulemaking proceeding.

II. Commodity Option Transactions

The Commission is proposing a new definition for the term "physical." Proposed § 1.3(11). The proposed definition is intended to be coextensive with the Commission's jurisdiction with respect to commodity options. The definition of physical (and thus the scope of references to "an option on a physical") would therefore be limited only by a specific statutory or regulatory ban involving commodity options, such as the current ban contained in Sections 4c(a)(B) and 4c(b), of the Commodity Exchange Act, as amended ("Act") (7 U.S.C. 6c(a)(B) and 6c(b)), which generally proscribes options involving the domestic agricultural commodities.[2] Any commodity option transactions which are in violation of the Act or the Commission's regulations would, of course, remain illegal.

The Commission is also proposing a minor change in the definition of the term "commodity option transaction" and "commodity option" to eliminate any reference to specific commodities. *See* proposed § 1.3(hh). The Commission believes that the definition of those terms does not depend upon and should not be defined in terms of any particular commodity. In its present form, § 1.3(hh) excludes from the definition of those terms any option involving a commodity specifically set forth in the definition of commodity in Section 2(a)(1) of the Act prior to 1974 and is intended to be consistent with the ban on certain option transactions referred to above. The Commission believes, however, that since that ban is contained in the statute, the inclusion of similar language in § 1.3(hh) is unnecessary.

When the Commission adopted rules to govern the option pilot program, it added a new Part 33 to its regulations to establish the necessary framework for the exchange trading of commodity options. Prior to the adoption of the pilot program regulations contained in Part 33, the Commission's Part 32 regulations governed all commodity option transactions. Thus, when it adopted regulations to permit the trading of commodity options on domestic exchanges the Commission specified in § 33.2(b) that "[t]he provisions of [Part 33, the pilot program regulations] apply to commodity option transactions except for transactions which are governed by Part 32 of this chapter." Because the Part 32 regulations do not contain a comparable provision which delineates their scope and applicability, the Commission is now proposing to adopt rules which would complement § 33.2(b) by specifying that the regulations in Part 32 generally do not apply to exchange-traded commodity options. Proposed §§ 32.1(a) and 32.11(b).

The Commission does not view the adoption of the pilot program regulations as affecting any obligation or responsibility established by the regulations contained in Part 32. Thus, a cease-and-desist order or injunction which prohibits the violation of the provisions of §§ 32.8 and 32.9 (which generally prohibit fraud, false statements, and the bucketing of an option customer's order) has not been affected by the Commission's adoption of regulations to govern the exchange trading of commodity options. However, because conduct which would violate the terms of such an order or injunction would, if it related to exchange-traded options, also violate the provisions of §§ 33.9 and 33.10,[3] the Commission is

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[1] *See* 46 FR 54570, 54571 n.2 (November 3, 1981), referring to 46 FR 33293 (June 29, 1981).

[2] The Commission notes that, as part of the Commission's reauthorization process, Congress is considering legislation to repeal the ban on options on "enumerated" commodities contained in those sections of the Act. If the ban were to be repealed, the enumerated commodities would then be within the definition in proposed § 1.3(11), and the regulations governing options on physicals could be applied generally to commodity options involving such commodities. The Commission would, of course, consider carefully whether such regulations should be amended or supplemented before permitting the trading of options on agricultural commodities.

The Commission further notes that, as another part of the Commission's reauthorization process, Congress is considering legislation which could affect the Commission's jurisdiction with respect to options on physicals involving certain securities and financial instruments. If such legislation were to be enacted, those instruments would not be included within the proposed definition of the term physical, and the regulations relating to options on physicals would not apply to options involving such instruments.

[3] The provisions of §§ 32.8 and 32.9 are duplicated, without substantive change, in §§ 33.9 and 33.10. Section 33.9 also contains certain additional provisions which apply only to exchange-traded options.

proposing to amend § 32.1 to provide explicitly that the provisions of §§ 32.8 and 32.9 continue to apply to all commodity option transactions.[4]

Commission rule 33.2(a)(2) currently provides that the provisions of certain specified sections of the Act apply to the trading of commodity options on domestic exchanges "as though such provisions were set forth herein and included specific references to commodity option transactions." The Commission is proposing to amend that rule to substitute a reference to Section 4c(a) of the Act in lieu of the current reference to Section 4c(a) (A) and (C) and also to add a reference to Section 4k of the Act. These amendments are of a technical nature and are intended merely to eliminate any ambiguity regarding the applicability of those sections of the Act.

Section 1.3(jj) current specifies that, for purposes of § 33.3, the term "option customer" does not include the owner or holder of a proprietary account. Section 33.3, which establishes certain registration requirements for persons engaging in option transactions, does not, however, refer to "option customers." The Commission is accordingly proposing to amend § 33.3 to make explicit that the registration requirements of that section apply only to the solicitation or acceptance of orders from an "option customer" and, therefore, that a person soliciting or accepting orders for option transactions solely for a proprietary account need not register as a futures commission merchant or as an associated person.[5]

The majority of the proposed amendments to Part 33 appear in § 33.4, which concerns designation as a contract market for the trading of commodity options. Certain distinctions would be made to differentiate the treatment of applications for contract market designation for the trading of options on futures contracts from the treatment of applications for the trading of options on physicals. For example, § 33.4(d)(1) requires a board of trade applying for designation to trade options on futures contracts to justify the expiration date of the commodity option if that date is less than ten business days before the last trading day or first notice of day of the underlying futures contract. With respect to options on physicals, however, the Commission is proposing, as one of the commentators suggested, that the option expiration date be considered under § 33.4(a)(8)(iv) in all instances.

Although § 33.4(a)(8)(iv) would require a board of trade applying for contract market designation to trade options on physicals to include in its application an analysis and justification of any proposed option expiration date, the proposed regulations do not otherwise restrict when such an option may be exercised. Under this approach, options on physical could be exercised at any time prior to their expiration and the grantor of such an option would therefore be required to obtain (in the case of a call) or accept (in the case of a put) the underlying physical. This approach may limit the number of people willing to grant such an option. Therefore, the Commission is specifically requesting comments as to whether there should be a limited period (or a single date) for the exercise of options on physicals.

Section 33.4(a)(1)(ii) specifies that options on futures contracts may be exercised only by the establishment, by book entry in the clearing organization, of positions in the underlying futures contract. The Commission is not proposing a comparable restriction on the delivery mechanism for options on physicals and will, if these proposed regulations are adopted, consider applications for contract market designation which provide for cash settlement in lieu of actual delivery of underlying physical in the event of exercise of an option on a physical.

The Commission believes that cash settlement of options on physicals may be appropriate where the effect of cash settlement is to reduce the possibility of disruption of either the cash or futures markets or where cash settlement would facilitate and improve trading in the option itself. The Commission notes, however, that an applicant board of trade may be required to demonstrate that there is sufficient liquidity in the cash market for the underlying physical and that there exists an accurate and widely-disseminated price series for the underlying physical, irrespective of whether it proposes to require the actual delivery of the underlying physical upon exercise or instead to settle such options in cash.

The Commission is proposing to amend § 33.4(a)(3), which relates to demonstrations by applicant contract markets of continued compliance with the requirements for contract market designation, to make the requirements of that section applicable solely to options on futures. The Commission is proposing, however, to establish a comparable rule for those boards of trade which are already designated as contract market for futures contracts or options on futures contracts and which may receive contract market designation for options on physicals. Proposed § 33.4(a)(4). Although neither §§ 33.4(a)(3) or (a)(4) would apply to an applicant board of trade which is not yet designated as a contract market, such a board of trade would nonetheless be required to demonstrate compliance with the requirements of Sections 5 and 5a of the Act (7 U.S.C. 7, 7a) as part of its initial application. *See* § 33.2.[6]

Although a board of trade must first be designated as a contract market for the underlying futures contract before it may be designated as a contract market for options on that futures contract (§ 33.4(a)(3)), the Commission is now proposing, in § 33.4(a)(6), to allow any board of trade meeting the requirements of the Act and the Commission's regulations to apply for designation to trade an option on a physical, irrespective of whether it has already received contract market designation for any futures contracts.[7]

Rule 33.4(a)(4) currently provides that a board of trade may not be designated for more than one option contract. The Commission is now proposing to broaden the scope of the pilot program to allow boards of trade to file applications for an option on a physical.[8] In proposing initially to allow only one option on a physical on each exchange, the Commission is cognizant of its responsibilities under Section 15 of the Act (17 U.S.C. 19). Section 15, however, does not require the Commission to subordinate the policies and purposes of the Act to those of the antitrust laws. Section 15 requires only that the Commission, in achieving the goals and policies of the Act, consider the public interest served by the

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[4] The Commission is also proposing to redesignate, without change, the existing definitions in §§ 32.1(a)–(e) as §§ 32.1(b) (1)–(5).

[5] *Compare* Commission rule § 1.7 (17 CFR 1.7). Effective July 1, 1982, rule § 1.7 is superseded by Commission rule § 3.10(d) (17 CFR 3.10(d)).

[6] In addition, if such a board of trade were designated as a contract market for the trading of options on physicals, it would then be subject, as are all contract markets, to the requirements of Commission rule 1.50 (17 CFR 1.50).

[7] The Commission has previously requested comments as to whether it should restrict the trading of options on physicals to those boards of trade which are designated as a contract market for a futures contract which draws on the same deliverable supply as the proposed option on a physical. 46 FR 33293, 33296 (June 29, 1981); 46 FR 54570, 54571 (November 3, 1981). Although the Commission is not now proposing such a requirement, it is proposing to consider the effect upon the deliverable supply for existing futures contracts of any option on a physical. *See* § 33.4(a)(8)(iv). The Commission of course expresses no view at this time as to the merits of any such application.

[8] The Chicago Board of Trade has petitioned the Commission to repeal § 33.4(a)(4) so that boards of trade may be designated for more than one commodity option.

antitrust laws and endeavor to use the least anticompetitive means available. Moreover, Section 15 does not require the Commission to adopt the least anticompetitive course of action where the objectives, policies and purposes of the Commodity Exchange Act would be better served in some other way.[9]

In this regard, the Commission believes it essential that it proceed with due caution in expanding the pilot program. The absence of regulation of option trading in commodities not enumerated in the Act resulted in massive frauds in the offer and sale of such options in the late 1960s and early 1970s. Therefore, in enacting the Commodity Futures Trading Commission Act of 1974, Congress granted the Commission broad power to decide whether to prohibit or to permit option transactions in the previously unregulated commodities.[10] The Commission responded by adopting interim regulations, effective December 9, 1976, to govern off-exchange and foreign commodity option transactions. 17 CFR Part 32 (41 FR 51808). The Commission did not, however, have the essential assistance of self-regulatory organizations in the performance of its regulatory responsibilities during this period because options were not traded on organized domestic exchanges and, despite vigorous enforcement efforts by the Commission, fraudulent practices pervaded the offer and sale of commodity options. Thus, the Commission found it necessary to suspend the offer and sale of commodity options in the United States, effective June 1, 1978;[11] this suspension was codified by Congress when it enacted the Futures Trading Act of 1978.[12]

With this background in mind, the pilot program centers on the assumption of direct and primary regulatory responsibilities by the contract markets for the participation of their member firms. It is only by placing these regulatory responsibilities on the exchanges that the Commission believes it can presently assure that sufficient regulatory resources will be deployed to prevent a recurrence of the abuses which have characterized commodity options in the past. The Commission therefore believes that this limited expansion is appropriate in light of the self-regulatory duties and responsibilities which exchanges must bear under the pilot program.[13] The Commission further believes that the proposed expansion of the pilot program to allow each exchange to be designated as a contract market for one option on a physical strikes a proper balance between the competitive interests of the exchanges and the Commission's ability to fulfill its regulatory responsibilities. The Commission is nonetheless requesting comments as to what specific criteria the Commission should employ in evaluating whether and when to expand the option pilot program. In addition, the Commission is requesting comments as to whether the Commission should allow exchanges to trade any two option contracts, regardless of whether those option contracts would involve options on futures contracts, options on physicals, or one of each type.

The Commission is proposing a number of other amendments to § 33. 4. For example, before a board of trade can be designated as a contract market for the trading of options on futures contracts, it must, among other things, demonstrate that:

On such board of trade, the volume of trading in all contract months for future delivery of the commodity for which the option designation is sought has averaged at least 1,000 contracts per week for the 12 months preceding the date of application for the designation, or, alternatively, that there is sufficient liquidity in the cash and futures markets in the commodity underlying the operation for which designation is being sought to prevent disruption of those markets by the trading of options.

Section 33.4(a)(5)(iii). The Commission is proposing to limit that rule to options on futures contracts and to add a new § 33.4(a)(5)(iv), which would establish similar requirements for options on physicals. Specifically, § 33.4(a)(5)(iv)(A) would require a board of trade applying for contract market designation for the trading of options on physicals to demonstrate that the cash market for the underlying physical exhibits sufficient liquidity so that option grantors and purchasers can purchase or sell the underlying physical at its economic value in normal cash marketing channels. Proposed § 33.4(a)(5)(iv)(B) would require a demonstration by the board of trade of the existence of an accurate, widely-disseminated price series for the underlying physical, while proposed § 33.4(a)(5)(iv)(C) would require an applicant board of trade to demonstrate that the trading of such options will not be disruptive of either trading in the cash market for the underlying physical or of any futures contract.

The Commission is proposing these latter requirements because it wishes to consider the extent to which non-commercial traders would be able to buy or sell the physical underlying the option at its economic value without significant disadvantage relative to other traders. The Commission also believes that there must be an accurate and widely-disseminated price series for the underlying physical which is readily available to all market participants because the option's premium and the intrinsic value of the option will be derived from the current market value of the underlying, physical.

The Commission is also proposing to require a board of trade to adopt rules which establish appropriate criteria which are reasonably designed to secure performance of those option contracts which may be exercised by the purchasers of those options. Proposed § 33.4(b)(11). Although the rule would apply to both options on futures and options on physicals, the Commission is particularly concerned that the grantor of a call option on a physical have the ability to perform his obligation to make delivery of the physical underlying the option.

The Commission is proposing certain additional conditions and requirements in connection with designation of a board of trade as a contract market for the trading of options on physicals. The Commission believes, consistent with the views of one of the commentators on its November 3, 1981 proposal, that the conditions and requirements which are applicable to the designation of futures

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[9] *See* British American Commodity Options Corp. v. Bagley, Comm. Fut. L. Rep. (CCH) ¶ 20,245 at 21,334 (S.D.N.Y. 1976), *aff'd in part and rev'd in part on other grounds*, 552 F.2d 482 (2d Cir.), *cert. denied*, 434 U.S. 938 (1977).

[10] Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, § 402(c), 88 Stat. 1412-13 (codified at 7 U.S.C. 6c(b)). *see, e.g.*, 120 Cong. Rec. S34997 (daily ed. Oct. 10, 1974) (remarks of Senator Talmadge; Hearings on the Review of the Commodity Exchange Act Before the House Committee on Agriculture, 93rd Cong., 1st Sess. 11 (1973) (statement of Rep. Smith); H.R. Rep. No. 93-975, 93rd Cong., 2d Sess. 37-39, 48-50 (1974).

[11] 43 FR 16153 (April 17, 1978).

[12] Futures Trading Act of 1978, Pub. L. No. 95-405, § 3, 92 Stat. 867 (codified at 7 U.S.C. 6c(c)). *See, e.g.*, 124 Cong. Rec. S16827 (daily ed. Sept. 28, 1978) (remarks of Senator Leahy); 124 Cong. Rec. H7207 (daily ed. July 24, 1978) (remarks of Rep. Jones); 124 Cong. Rec. H7329 (daily ed. July 26, 1978) (remarks of Rep. Madigan); S. Rep. No. 95-850, 95th Cong., 2d Sess. 25 (1978).

[13] In proposing these regulations, the Commission has been cognizant not only of the history of abuse in the trading of commodity options, but also the serious regulatory problems with respect to trading in exchange-listed stock options which, for a period of time, caused the Securities and Exchange Commission to announce a moratorium on further expansion of its pilot program for such trading. *See* Securities Exchange Act Release No. 13760 (July 18, 1977), 42 FR 38035 (July 26, 1977); Securities Exchange Act Release No. 14056 (October 17, 1977), 42 FR 56726 (October 27, 1977). *see also* Report of the Special Study of the Option Markets to the Securities and Exchange Commission (Decemer 22, 1978), printed for the use of the House Committee on Interstate and Foreign Commerce, Comm. Print 96-IFC3, 96th Cong., 1st Sess. (1979).

contracts are also appropriate to the designation of options on physicals. *See* proposed § 33.4(a)(7), (8) and (9). These proposed conditions and requirements are therefore adapted from the requirements of Commission Guideline No. 1 (40 FR 25849 (June 19, 1975)) and would codify and adopt those latter requirements for the trading of options on physicals.[14]

The Commission is proposing one minor amendment to § 33.5(c). Section 33.5(c) currently provides, in pertinent part, that:

> Except as may be specifically authorized by the Commission, no board of trade which has been designated as a contract market fot the trading of commodity options may authorize or allow the trading of any commodity option: (1) Which will expire after the termination of the effective period of such designation; (2) where the delivery month of the futures contract underlying such option is later than the termination of the effective period of such designation; or (3) where the delivery month for the underlying futures contract has not been listed.

The Commission is proposing to apply only the first restriction to options on physicals.

The Commission is proposing to amend § 33.6(c) to include a reference to a commodity underlying an option on a physical. That provision, which concerns commercial use of an option contract, presently refers only to commodity underlying a futures contract upon which an option is traded. Similarly, the Commission is proposing to amend § 33.7, which prescribes the disclosures which an FCM must make before opening a commodity option account for an option customer. As is the case with several of the regulations which the Commission is proposing to amend, many of the changes merely involve the addition of references to the underlying physical.

The more significant changes to § 33.7 would be made in the language which appears in capital letters at the beginning of the disclosure statement and in that portion of the statement which describes some of the risks of option trading. Specifically, the Commission is proposing to add to the required statement language which would alert the option customer to be aware of whether the option transaction involves an option on a futures contract or an option on a physical, point out the differences which result from the exercise of an option on a futures contract and an option on a physical, and elaborate upon the potential risk associated with the trading of options. *See* proposed § 33.7(b), (b)(1).

As discussed elsewhere in this release, the Commission is also proposing to amend certain of its regulations governing the operations and activities of commodity pool operators ("CPOs") and commodity trading advisors ("CTAs") including, in particular, the regulations governing the disclosure documents which must be furnished to prospective pool participants and trading program clients. *See* proposed §§ 4.21, 4.31.

A futures commission merchant's obligation to provide a disclosure document (§ 33.7) is, however, independent of a CPO's or CTA's separate duty to provide its prospective pool participants or clients with the disclosure documents required under §§ 4.21 and 4.31. In this regard, the Commission wishes to emphasize that § 33.7(a), which requires a futures commission merchant ("FCM") to furnish the required disclosure document to, and receive a signed and dated acknowledgment from, an option customer [15] is not satisfied by the receipt of an acknowlegment from a CTA who is directing trading in an option customer's account, irrespective of the form or scope of the agreement (*e.g.*, power of attorney) which authorizes the CTA to effect transactions in the account. Thus, FCMs which carry option customer accounts (other than on an omnibus basis for another FCM) must obtain the required acknowledgment from the option customer and not from an intermediary.[16]

III. Other Part 1 Regulations

The Commission wishes to reiterate that certain definitions have not been changed in connection with the trading of options on futures contracts and the Commission is proposing no changes in those definitions in contemplation of the trading of options on physicals. for example, the term "delivery month," as defined in § 1.3(1), refers only to futures contracts. Exchange-traded options have an expiration date, but since such options can be exercised at any time, there will be no specific delivery period as there is for futures contracts. The definition for the term "open contracts" in § 1.3(t) also was not changed, but option market participants should be aware that, for reporting purposes, § 15.00(k) provides that, as used in Parts 15 to 21 of the regulations, " 'open contracts' means 'open contracts' as defined in § 1.3(t) and commodity option positions held by any person on or subject to the rules of a contract market which have not expired, been exercised, or offset." (As used in § 15.00(k), the phrase "commodity option positions" will apply to both options on futures contracts and options on physicals.)

Another example of a definition which has not been changed for the options pilot program is the definition of "bona fide hedging transactions and positions" in § 1.3(z). The principal purpose of that latter definition is to set forth criteria and standards for exemptions from the speculative position limits which have been established by the Commission pursuant to Section 4a of the Act (7 U.S.C. 6a). *See* 17 CFR Part 150. Thus, § 1.3(z) would have no direct applicability to speculative position limits for options which have been established by the contract markets, subject to the Commission's approval, pursuant to § 1.61 (46 FR 50938 (October 16, 1981)). Section 1.61(b) provides, however, that these limits do not apply to "positions held by commercial interests in the underlying commodity which are determined by [the] contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise * * *" 46 FR at 50945.

The Commission further notes that because the definition of bona fide heldging transactions refers only to transactions in futures contracts, the exemption from the provisions of § 1.46 (which generally involves the closing out and offet of open positions) provided by paragraph (d)(2) of that section would not apply to option transactions. The Commission is specifically requesting comments, however, as to whether and under what circumstances it should exempt commercial option traders from the requirements of § 1.46.[17]

The Commission is proposing three changes in the minimum financial rule for future commission merchants (§ 1.17). The most significant change would be made in § 1.17(c)(5)(ii)(A) regarding the safety factor charge, or "haircut," which an FCM must take against certain inventory in determining adjusted net capital. The Commission is proposing that if the FCM's inventory is currently registered as deliverable on a

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[14] *See* 45 FR 73504 (November 5, 1980) (proposed codification of Guideline No. 1 as Commission rule 5.1).

[15] Section 1.3(jj) defines the term "option customer" to mean, with certain exceptions, any person who directly or indirectly purchases or grants or otherwise disposes of any interest in a commodity option for value.

[16] Where the option customer is a commodity pool, the requirements of § 33.7 are met by the delivery of the required disclosure statement to, and receipt of an acknowledgment from, the commodity pool operator.

[17] As discussed elsewhere in this release, the Commission is also proposing to delete § 1.46(d)(1), which provides an exemption for certain "cover" transactions.

contract market and is deliverable on an option on a physical, no safety factor charge would need to be applied against such inventory in determining adjusted net capital, consistent with the treatment accorded such inventory when the inventory is covered by an open futures contract.[18] Other minor changes of a clarifying nature are being proposed in paragraphs (c)(5)(x) and (c)(5)(x)(D) of § 1.17. In their present form, those two paragraphs refer to "grantor" commodity options. To clarify the Commission's intent with respect to those two paragraphs, the Commission is proposing to change "grantor" to "granted (sold)." The proposed amendments to paragraphs (c)(5)(x) and (c)(5)(x)(D) would make it clear that the safety factor charges referred to in those provisions apply to certain commodity options which have been (1) granted—*i.e.*, sold—by the owner or holder of a proprietary account, and (2) are being held in proprietary accounts carried by the FCM (or applicant for registration as an FCM).[19] Other proposed changes to § 1.17 involve the valuation of a commodity option which is not traded on a contract market (*e.g.*, a "dealer" option or an option traded overseas). Specifically, the Commission is proposing to amend §§ 1.17(c)(1)(iii) and (c)(5)(xi) to make clear that those provisions are consistent with the proposed definition of a physical and that they apply regardless of whether the option invovled is an option on a physical or an option on a futures contract.

Minor changes are also being proposed in certain other regulations contained in Part 1. Section 1.19 would be simplified by the use of the defined term "commodity option" (*see* proposed § 1.3(hh)), eliminating the need for repeating in § 1.19 the words which appear in the current § 1.3(hh). The concluding paragraph of § 1.35(e) would be amended by adding as cross-reference to "any transaction which is made non-competitively in accordance with the written rules of the contract market which have been submitted to and approved by the Commission in accordance with § 1.38" in lieu of the words "exchanges of futures for cash [and] transfer trades." Exchanges of futures for cash and transfer trades would be subsumed in the broader language being proposed. The intent of the Commission's proposed change to the concluding paragraph of § 1.35(e) is to make it consistent with § 1.38, since § 1.38 was amended when the option pilot program regulations were adopted to include references to commodity options. The amendment would ensure that appropriate records are maintained if the Commission were to approve any contract market rules allowing commodity option transactions to be made non-competitively. Of course, the Commission expresses no view as to any particular contract market rule proposal regarding the non-competitive execution of commodity option transactions and will consider any such proposal on a case-by-case basis.

Amendments are also being proposed to § 1.39 and to paragraphs (a)(3) and (a)(4) of § 1.46 regarding cross trades and the closing out of offsetting positions, respectively, so that transactions involving options on physicals would be treated in a manner which is similar to the treatment of futures transactions and transactions involving options on futures contracts under those regulations. The Commission is also proposing to delete § 1.46(d)(1), which was adopted as part of the option pilot program regulations. The Commission believes that the exception provided for by § 1.46(d)(1) is inappropriate because it refers to "cover" in the context of futures contracts versus options. The Commission has defined "cover" in § 1.17(j), however, to apply only in cases of physicals versus options or physicals versus futures contracts. Further, in a situation where § 1.46(d)(1) would apply as presently written, a portion of the overall market position involved would necessarily be "uncovered."

When it adopted rules establishing the option pilot program, the Commission made clear that it was instructing its staff to review carefully the applications for option contract market designation to ensure that each board of trade or its clearing organization, as applicable, will have in place a system to require the payment of margin by option grantors and, where applicable, their FCMs. The Commission is now proposing a clarifying amendment to § 1.41(a)(2) to include within the definition of "reviewable rule" proposed contract market rules or rule amendments relating to the payment or collection of commodity option margins.

The Commission is also proposing changes to §§ 1.42–1.44 of the regulations regarding deliveries and warehouses so that those regulations would refer to deliveries in satisfaction of options on physicals as well as deliveries on futures contracts. Because of the mechanism mandated by § 33.4(a)(1)(ii) for the exercise of options on futures contracts (establishment by a clearing organization of positions in the futures contract upon exercise of the option), no amendments were made to §§ 1.42 through 1.44 with respect to options on futures contracts.

Several of the other proposed changes to Part 1 of the Commission's regulations are basically technical in nature and would include, where appropriate, references to the underlying physical in various regulations which currently refer only to futures transactions or to options on futures contracts. *See* proposed amendments to §§ 1.3(aa), 1.3(kk), 1.33–1.35 and § 1.39(a)(4). The Commission is also proposing to amend § 1.33 to specify that FCMs must provide to their futures customers information relating to financial charges and credits to the customer's account during the preceding month. Proposed § 1.33(a)(1)(iv). The Commission understands that most FCMs already provide this information to their customers even though it is not required by regulation; in addition, this information must be provided for option transactions (§ 1.33(a)(2)(v)).

IV. Proposed Amendments to the Reporting Requirements

The Commission is proposing certain amendments to Parts 15, 16, 18 and 21 of the regulations concerning reporting by contract markets, members of contract markets, FCMs, foreign brokers and foreign traders to bring the regulation of options on physicals within the framework already established for the regulation of futures and options on futures. In addition, the Commission is proposing to amend its reporting requirements to further conform the regulations concerning options on futures and options on physicals and those governing futures.

A. Reporting Requirements for Options on Physicals

In order for the Commission adequately to perform market surveillance over options on physicals and to determine the commercial use of such instruments, the Commission is proposing that the reporting requirements already established for options on futures generally be applied to options on physicals. This would require exchanges designated to trade options on physicals to file information concerning:

[18] Because of the mechanism mandated by § 33.4(a)(1)(ii) for the exercise of options on futures contracts (establishment by a clearing organization of positions in the futures contract upon exercise of the option), there is no comparable provision relating to options on futures contracts.

[19] For purposes of § 1.17, the term "proprietary account" refers only to a commodity futures or commodity option account carried on the books of the FCM (or applicant therefor) for the firm itself, or for general partners of the firm. *See* § 1.17(b)(3).

1. Positions and transactions of clearing members as set forth in proposed § 16.00;

2. Volume, open interest, prices, options exercised and options that expired unexercised as set forth in proposed § 16.01;

3. The positions and identification of large option traders, as set forth in proposed § 16.02 and in existing § 16.03 if those positions exceed reporting levels established by the exchanges in accordance with proposed § 15.00(b)(2)(i);

4. The aggregate positions of commercials participating in the option markets as set forth in proposed § 16.04; and

5. The total composition of specified option markets as set forth in § 16.05.

Although, under Part 16 of the regulations, the contract markets will collect and provide the Commission with routine information on option traders (46 FR 54500, 54526–28 (November 3, 1981)), the Commission has retained, in Parts 18 and 21 of its regulations, the authority to make special calls on option traders and on contract markets, FMCs, members of contract markets, and foreign brokers for information on option positions.

There are two areas in which the Commission is proposing that the reports concerning large traders differ for options on futures and options on physicals. These areas involve the frequency with which such reports would be filed and the information which would be required to be reported. The Commission currently requires that reports on the positions of individual large traders in options on futures be filed on a weekly basis (or more frequently as the Commission may direct) for any trader who controls a reportable position in an expiring option. For reports on the positions of large traders in options on physicals, however, the Commission is proposing that reports on traders with positions in an expiring option be filed on a daily basis. Proposed § 16.02(a).

Reports from exchanges on the positions of individual large traders in options on futures are intended as a supplement to the Commission's own daily reporting system for monitoring the expiration of the future underlying the option. Positions in such options, if exercised, can directly affect the liquidation of an expiring futures contract.[20] Because the Commission maintains a daily large trader reporting system for futures, however, the Commission will be aware of substantial futures positions that result from option exercises and will be able to monitor these positions. Accordingly, the Commission has determined that, except under unusual circumstances, weekly reports from the exchanges concerning the positions of large traders in options on futures are sufficient for the purposes of market surveillance.

By comparison, the exercise of an option on a physical results in the transfer of ownership of the physical underlying the option which may, in turn, result in corners, squeezes or congestion in the futures market. In addition, concentrations of positions in options on physicals may result in option price distortions which could, in turn, affect the price of the underlying physical. Moreover, if the cash commodity underlying an option is the same as that deliverable on a futures contract, a large trader may influence the price of an expiring future as well as the premium of the option itself. In view of these considerations, the Commission is proposing that the exchanges file daily reports on the positions of traders in options on physicals who control reportable positions in an expiring option.[21]

For the same reasons as those cited above regarding the frequency of reports, the Commission also is proposing that traders who hold reportable positions in an expiring option on a physical report, in addition to position information, information concerning options which they have exercised. There is not similar requirement for options on futures.

B. Designation of an Agent for Service of Commission Communications

As noted above, the Commission is proposing other amendments to its reporting requirements to conform further the regulations concerning futures and options. These proposed amendments affect both options on futures and options on physical.

Under § 15.05, an FCM is designated as the agent of foreign brokers and foreign traders which have futures contract accounts with the FCM for purposes of accepting delivery and service of communications issued to those foreign brokers and traders by the Commission. The FCM is also designated as the agent of the customers of a foreign broker who have positions in accounts carried by the FCM in the name of the foreign broker. These requirements do not apply, however, where a foreign broker, its customer, or a foreign trader executes an agency agreement with any person domiciled in the United States and provides a copy of the agreement to an FCM effecting futures transactions for the foreign entity. Section 15.05(d). The FCM must file this agreement with the Commission. This rule permits the Commission to communicate expeditiously with foreign individuals and entities engaged in futures trading on United States commodity exchanges, thereby facilitating surveillance of those persons.

The Commission anticipates that special calls concerning options may be made on foreign entities, and believes that it should preclude, to the extent possible, the problems that it formerly experienced in making special calls on foreign entities for information relating to futures contracts.[22] Accordingly, the Commission is proposing to amend § 15.05 to make it applicable to option contracts as well as to future contracts. The Commission is also proposing to amend § 15.05 to make clear that the definition of "customer" contained in that rule will apply to any person for whose benefit a foreign broker makes or causes to be made any option contract as well as any futures contract. This is consistent with the definition of customer contained in § 15.00(j).

C. Reports by Exchanges Concerning Clearing Member Positions and Transactions

Exchanges are currently required under § 16.00 to provide information concerning the positions and transactions of clearing member firms for both futures and options on futures.

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[20] The expiration of options on futures and the first notice day of the underlying future will generally be near the same time. Although exercise of such an option can occur at any time, most exercises are likely to occur when the option nears expiration because of the "time value" associated with the price of the option.

[21] For the same reasons that pertain to options on futures, the Commission expects that exercises of options on physicals will occur when the option nears expiration.

[22] In the **Federal Register** notice announcing the adoption of Rule 15.05, the Commission stated that "* * * [it] has experienced considerable difficulty in having delivered * * * communications on a timely basis to certain foreign participants in certain foreign countries. In the past, the Commission has attempted to send documents directly to foreign persons by registered mail or telex. The Commission has been informed that this procedure may offend certain nations which impose restrictions on the ability of a foreign government or agency to send communications directly to citizens or firms of that nation. Under the laws of these countries, the Commission, or any other foreign governmental entity, may be prohibited from sending any form of communication directly to firms or traders. Moreover, the Commission has been informed that certain communications necessary to meet the requirements of the Commodity Exchange Act and due process may be perceived as offensive by officials in other countries, and for this reason, would not be delivered to the traders or brokers." 45 FR 30426, 30427 (May 8, 1980).

In adopting these requirements for options, the Commission noted that although information concerning option positions and transactions must be provided separately for proprietary and customer accounts, there is no similar requirement for futures. 46 FR 54500, 54512 (November 3, 1981). The Commission announced at that time, however, that it would request public comment at a later date on proposals to require that futures information also be provided by proprietary and customer accounts.

At present, all but three exchanges provide the futures transactions and positions of clearing members by proprietary and customer accounts.[23] When provided in this manner, this data is an important information source for market surveillance and for determining potential problems concerning the financial exposure of various firms during periods of price volatility. Combining this data for proprietary and customer accounts severely limits the usefulness of the information, however. In such cases, the Commission must forego the benefits which the additional information would contain or invest considerable resources in attempting to determine any further breakdown of the data. In addition, it would appear that providing this information for futures contracts separately by proprietary and customer accounts would involve only minimal costs since the majority of the exchanges now provide futures information in this manner. In this connection, the Commission notes that the three exchanges which do not presently provide this information separately have all applied for designation as contract markets for the trading of options on futures contracts and, under the rules established for the option pilot program, must provide options data by proprietary and customer accounts. Section 16.00(a). The Commission is nonetheless seeking specific comments on what costs may be incurred by the exchanges if the Commission's proposal is adopted.

D. Trading Volume, Open Contracts and Prices

Rule 16.01 currently requires contract markets to provide to the news media and the general public on a daily basis information concerning market volume, open interest and prices for both futures and options on futures, deliveries on futures, exchanges of futures for physicals, the total number of options exercised, and the number of options that expired unexercised. (The Commission is now proposing similar requirements for options on physicals.) All of the above information concerning options, but only the price information concerning futures, is already required to be provided to the Commission in machine-readable form. The Commission is now proposing that all information specified in § 16.01 be provided to the Commission in machine-readable form.[24] The Commission believes that such a requirement would expedite the Commission's processing and analysis of such data with little additional cost to contract markets.

With respect to prices, the Commission also announced in the November 3, 1981 **Federal Register** that it might also propose amendments to Part 16 to require that contract markets make available in printed form at their offices a description of the manner in which discretion, if any, may be utilized to determine settlement prices and/or nominal premiums for opening and closing ranges when no trades occur during those periods for a particular option contract. 46 FR 54512.

The regulations currently require contract markets to disclose the methods by which both nominal prices and settlement prices for futures are established and, if discretion is used in determining the futures opening and closing ranges, the contract markets must disclose to the public the manner in which that discretion is employed. In proposing such rules for futures, the Commission recognized that, in certain instances, nominal prices represent opinions from knowledgeable sources and may, therefore, be useful to the trading public in arriving at a judgment concerning an appropriate price level when actual trading data is not available. 45 FR 39280, 39282 (June 10, 1980). Moreover, the Commission recognized that discretion employed by a contract market to discard aberrant trades, bids or offers would be useful in ensuring that meaningful data is provided to the Commission and the public as long as the manner in which such discretion was employed was also available to interested persons. *Id.* The Commission believes that this rationale is equally applicable to option premiums. In addition, settlement prices, which may involve the use of discretion, are of importance to the public's ability to monitor contract performance and price activity. The Commission therefore believes that contract markets should be required to disclose to the public the discretion, if any, which is employed in determining settlement prices. In view of the above, the Commission is proposing to amend § 16.01(c) to apply to options as well as futures and to amend § 16.01(c)(2) to apply to settlement prices as well as opening and closing ranges.

E. Reports by Large Traders

Rules 18.00 and 18.04 currently require traders who own or control reportable futures positions to make certain reports to the Commission. Specifically, § 18.00 requires large futures traders to provide on call by the Commission certain information concerning open positions and transactions while § 18.04 specifies that reportable futures traders must routinely provide certain identification information (including ownership and control of futures trading accounts, occupation and hedging use of the futures markets, corporate affiliations, and association with foreign governments). This information is essential to the Commission for market surveillance and for general determinations as to the composition of large traders in the marketplace.

In adopting regulations for options on futures, the Commission determined to rely on position information and trader identification information provided by contract markets and, when necessary, to obtain additional information on call under § 18.05. Unless a need is demonstrated for routine reporting of this information during the pilot program, the Commission continues to believe that position and identification information from traders should be provided only on call. In order to allow the Commission to make calls for such information more expeditiously,[25] the Commission believes that options traders should be subject to calls for the specific information already set forth in §§ 18.00 and 18.04.[26] Accordingly, the Commission is proposing to amend §§ 18.00 and 18.04 to make the information set forth in those rules applicable to options on futures and

[23] Of these three, one provides futures information by proprietary and customer accounts upon request and another routinely provides this information for futures during the delivery period.

[24] In the November 3, 1981 **Federal Register** release announcing the adoption of rules governing the option pilot program, the Commission noted this difference in treatment of options and futures data and indicated that it contemplated proposing rule changes which would conform the reporting of the data. 46 FR at 54514.

[25] For purposes of making a special call under §§ 18.00 and 18.04, the definition of "reportable option trader" which would be used is currently contained in § 18.05. The Commission is, however, also proposing technical amendments to §§ 15.00 and 15.01(c) to define this term in Part 15 rather than in § 18.05.

[26] If a large option trader also owns or controls a reportable futures position, the Commission will have a Form 40 on file (*see* § 18.04), which would substantially lessen the need for making a special call.

options on physicals as well as to futures and to require that this information from reportable option traders be provided within one business day of a call by the Commission or its designee.

The Commission is also proposing several technical amendments to §§ 18.00 and 18.01(d) to simplify those regulations and to decrease the number of forms which the Commission now maintains and distributes. Currently, § 18.00(a)–(h) specifies in detail how certain positions and transactions are to be reported while § 18.01(d) requires that a trader show on the first '03 report filed with the Commission and monthly thereafter a listing of the names and individual positions held by all controlled accounts. The Commission is proposing to delete §§ 18.00(d)–(h) and 18.01(d) and to further amend §§ 18.00 and 18.01 to require that the information currently set forth in § 18.00(a)–(c) be provided only as specified in a call by the Commission or its designee and to add a new § 18.00(d) which would require the reporting of exercised options.

With respect to particular reporting forms, the Commission currently maintains 23 separate series '03 forms for reporting different commodities. The Commission is proposing to delete references to the series '03 forms in § 15.02 and in Part 18 and, in their place, use only one form for the reporting of all commodities.[27]

F. Special Call Under Part 21

Rule 21.02 is currently structured in two parts. Section 21.02(a) pertains to information concerning futures accounts which must be provided on call, while § 21.02(b) pertains to option information. Since the information requested in both subsections is essentially the same, the Commission is proposing to consolidate the information required for futures and options.

V. Related Matters

A. Registration

The Commission is proposing to amend certain of its registration regulations[28] to include references, where appropriate, to commodity option transactions. In particular, the Commission is proposing to amend § 3.20 (delegation of authority to deny registration), § 3.33 (withdrawal from registration),[29] and the appendix to Part 3, which sets forth the Commission's interpretation of the "other good cause" provisions of Section 8a(2)(B)(ii) of the Act (7 U.S.C. 12a(2)(B)(ii)).

B. Commodity Pool Operators and Commodity Trading Advisors

In a situation where an individual is purchasing account management rather than participating directly in the commodity markets (*i.e.*, where a managed account or commodity pool is involved), the Commission believes that the customer should base his investment decision in the first instance on a general risk disclosure statement concerning the risks of commodity trading, together with the specific performance data concerning the applicable commodity pool operator ("CPO") or commodity trading advisor ("CTA"). For this reason, the Commission is not proposing to modify the "Risk Disclosure Statement" required to be included in the Disclosure Document for CPOs and CTAs other than to include language which makes clear that those Statements apply to any commodity interest which may be traded.[30] (*See* proposed §§ 4.21(a)(17)(i) and 4.31(a)(8)(i).) Instead, the Commission is proposing to require in each case that the CPO or CTA separately disclose which commodity interests will be traded, and, in particular, whether futures, options on futures, options on physicals, or leverage will be trades. (*See* proposed §§ 4.21(a)(19) and 4.31(a)(10), respectively.)

The Commission is also proposed to amend §§ 4.23(b)(1) and 4.32(b)(1) to require CPOs and CTAs to include certain additional details (*e.g.*, realized gains and losses on commodity interest transactions) in the itemized daily record of the trading activity of the CPO, CTA, or its principals. The other proposed amendments to Part 4 are minor and are intended to make clear that the provisions of Part 4 apply to all "commodity interest" transactions, whether they involve futures contracts, options, or leverage contracts.

C. Trading Standards

When the Commission first adopted floor broker trading standards for commodity futures trading, it required each contract market to adopt a set of rules to prevent abuses of the relationships between its floor broker members and the persons for whom such members execute futures transactions. The Commission stated that it "intended to prohibit a floor broker from abusing his relationship with his customers by taking advantage of or trading ahead of the orders of those customers. Simply stated, the newly adopted regulation (§ 155.2) is intended to require that under all circumstances the customer must come first." 41 FR 56134, 56136 (December 23, 1976).

This philosophy is equally applicable to transactions involving the various combinations of futures and options transactions. The Commission is therefore proposing to amend §155.2 to make it clear that an exchange's rules on a dual trading should prohibit a floor broker from executing an order for his own account or an account in which he has an interest, whether such execution would involve a purchase or sale of a future, put option, or call option, if the floor broker is holding an executable customer order (for the purchase or sale of a future or an option) in the same commodity and that customer's order would benefit from a market move in the same direction as the broker's trade for his own account or the account in which he has an interest. The Commission believes it would breach a floor broker's fiduciary responsibility to his customers if any exchange were to permit a floor broker to accord any different treatment to his customers' orders. The Commission wishes to make clear, however, that consistent with past practice, it does not intend to prevent a floor broker from trading for his own account or an account in which he has an interest (futures or options) while holding a customer order (futures or options) for the same commodity if the floor broker trades in the "opposite" direction of his customer. The Commission is also proposing to amend § 155.3, which establishes comparable requirements for futures commission merchants.

D. Registered Futures Associations; Arbitration

The Commission is proposing to add references to commodity options to its regulations relating to registered futures associations (17 CFR Part 170). Specifically, the Commission is

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[27] The Commission is proposing to require that information submitted in response to a call under § 18.00 be prepared on the Commission's Large Trade Reporting Form, which would be denoted as Form 103. The Commission is also proposing amendments to its regulations under the Freedom on Information Act (5 U.S.C. 552) and the Government in the Sunshine Act (5 U.S.C. 552b) to provide for the general nonpublic treatment of, and the closing of Commission meetings (or portions thereof) which would be likely to disclose information contained in Form 103. *See* proposed §§ 145.5(d)(1)(vi) and 147.3(b)(4)(i)(F), respectively.

[28] The Commission's registration regulations have been revised and recodified at 17 CFR Part 3, effective July 1, 1982. 45 FR 80485 (December 5, 1980); 46 FR 24940 (May 4, 1981).

[29] 46 FR 48915 (October 5, 1981).

[30] Commission rule 4.10 defines the term "commodity interest" to include futures contracts, options, and leverage contracts.

proposing to amend § 170.5 to provide that a registered futures association must establish and maintain a program for the protection of both customers and option customers and monitor and enforce compliance with the customer and option customer rules.[31] The Commission is similarly proposing to amend §§ 170.8 and 180.1, both of which relate to the settlement of customers' claims and grievances, to include appropriate references to commodity option transactions.

E. Regulatory Flexibility Act

The Commission has previously determined that contract markets, registered futures commission merchants and commodity pool operators, and large traders are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 47 FR 18618 (April 30, 1982). The requirements of the Regulatory Flexibility Act do not, therefore, apply to those entities. With regard to the regulations the Commission is now proposing which specifically affect commodity trading advisors, the Commission is merely proposing to amend § 4.30, which generally prohibits CTAs from accepting funds, securities, or other property in the name of the CTA to margin, guarantee, or secure a client's trades, and to amend the requirements governing the contents of the disclosure document which must be furnished by certain CTAs (proposed § 4.31) and the requirements governing the records of trading in a customer's or option customer's account (proposed § 4.32) to include, where appropriate, references to "commodity interests"[32] rather than references solely to futures trading. The Commission does not believe that, if adopted, §§ 4.30–4.32 will have a significant economic impact on commodity trading advisors.

Accordingly, and for the reasons set forth above, the Chairman, on behalfd of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b), that the rules proposed herein, if promulgated, will not have a significant economic impact on a substantial number of small enties.

[31] Rule 33.3(b)(1)(i) currently restricts participation in the pilot program to those futures commission merchants who are members of the contract market on which the option is traded or who are members of a registered futures association—such as the National Futures Association—which, among other things, "provide[s] for the regulation of the commodity option related activity of its members in a manner equivalent to that required of contract markets * * *"

[32] Section 4.10(a) defines the term "commodity interest" to include futures, options, and leverage transactions.

F. Lists of Subjects Affected

List of Subjects

17 CFR Part 1

Commodity exchanges, Financial requirements, commodity exchange designation procedures, Commodity exchange rules, Reporting requirements, Records, Customer protection, Definitions.

17 CFR Part 3

Withdrawal from registration, Denial of registration.

17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Disclosure documents, Records.

17 CFR Part 15

Reporting requirements, Foreign brokers, Foreign traders.

17 CFR Part 16

Commodity exchange reports, Reporting requirements.

17 CFR Part 18

Reporting requirements.

17 CFR Part 21

Reporting requirements, Special calls for information.

17 CFR Part 32

Commodity options, Fraud.

17 CFR Part 33

Commodity options, Commodity exchange designation procedures, Fraud, Risk disclosure statement.

17 CFR Part 145

Records, Freedom of information.

17 CFR Part 147

Commission meetings, Sunshine Act.

17 CFR Part 155

Commodity exchange trading standards; futures commission merchant trading standards.

17 CFR Part 170

Futures Association.

17 CFR Part 180

Arbitrations; claims.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1), 4c(a), 4c(b), 4c(c), 4c(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17 thereof, 7 U.S.C. 2 and 4, 6c(a), 6c(b), 6c(c), 6c(d), 6d, 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21, and pursuant to the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 1.3, 1.17, 1.19, 1.22, 1.33–1.35, 1.39, 1.41–1.44, 1.46, 3.20, 3.33, Appendix A to Part 3, 4.13, and §§ 4.21–4.23, 4.30–4.32, 15.00–15.02, 15.05, 16.00–16.02, 16.04, 18.00, 18.01, 18.04, 18.05, 21.02, 32.1, 32.11, 33.2–33.7, 145.5, 147.3, 155.2, 155.3, 170.5, 170.8, and 180.1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 is proposed to be amended by revising paragraphs (aa), (hh) and (kk), and by adding a new paragraph (ll) to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who (as provided in Section 4k of the Act) is associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (1) the solicitation or acceptance of customers' or option customers' orders (other than in a clerical capacity) or (2) the supervision or any person or persons so engaged.

* * * * *

(hh) *Commodity option transaction; commodity option.* These terms each mean any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "call," "put," "advance guaranty," or "decline guaranty," and which is subject to regulation under the Act and these regulations.

* * * * *

(kk) *Strike price.* This term means the price, per unit, at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option: *Provided,* That for purposes of § 1.17, the term "strike price" means the total price at which a person may purchase or sell the contract of sale of a commodity for future delivery or the physical which is the subject of a commodity option (*i.e.*, price per unit times the number of units).

(ll) *Physical.* This term means any good, article, service, right or interest upon which a commodity option may be traded in accordance with the Act and these regulations.

2. Section 1.17 is proposed to be amended by revising paragraphs (c)(1)(iii), (c)(5)(ii)(A), (c)(5)(x), (c)(5)(x)(D) and (c)(5(xi) to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

* * * * *

(c) * * *

(1) * * *

(iii) The value attributed to any commodity option which is not traded on a contract market shall be the difference between the option's strike price and the market value for the physical or futures contract which is the subject of the option. In the case of a call commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is less than the strike price of the option, it shall be given no value. In the case of a put commodity option which is not traded on a contract market, if the market value for the physical or futures contract which is the subject of the option is more than the strike price of the option, it shall be given no value; and

* * * * *

(5) * * *

(ii) * * *

(A) Inventory which is currently registered as deliverable on a contract market and covered by an open futures contract or by a commodity option on a physical. – No charge.

* * * * *

(x) In the case of open futures contracts and granted (sold) commodity options held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a "changer trade" made in accordance with the rules of a contract market:

* * * * *

(D) For open contracts or granted (sold) commodity options for which there are no applicable maintenance margin requirements, 200 percent of the applicable initial margin requirement: *Provided,* the equity in any such proprietary account shall reduce the deduction required by this paragraph (c)(5)(x) if such equity is not otherwise includable in adjusted net capital;

(xi) In the case of an applicant or registrant which is a purchaser of a commodity option not traded on a contract market which has value and such value is used to increase adjusted net capital, ten percent of the market value of the physical or futures contract which is the subject of such option but in no event more than the value attributed to such option;

* * * * *

3. Section 1.19 is proposed to be revised to read as follows:

§ 1.19 Prohibited trading in certain options.

No futures commission merchant may make, underwrite, issue, or otherwise assume any financial responsibility for the fulfillment of, any commodity option except for commodity options traded on or subject to the rules of a contract market in accordance with the requirements of Part 33 of this chapter.

4. Section 1.22 is proposed to be revised to read as follows:

§ 1.22 Use of customer funds restricted.

No futures commission merchant shall use, or permit the use of, the customer funds of one commodity and/or option customer to purchase, margin, or settle the trades, contracts, or commodity options of, or to secure or extend the credit of, any person other than such customer or option customer. Customer funds shall not be used to carry trades or positions of the same commodity and/or option customer other than in commodities or commodity options traded through the facilities of a contract market.

5. Section 1.33 is proposed to be amended by adding paragraph (a)(1)(iv), by revising paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), (b)(2)(v), (b)(3), by removing and reserving paragraph (d)(2), and by revising paragraph (e) to read as follows:

§ 1.33 Monthly and confirmation statements.

(a) * * *

(1) * * *

(iv) A detailed accounting of all financial charges and credits to the commodity customer's account during the monthly reporting period, including all customer funds received from or disbursed to the commodity customer, commissions and fees, and realized profits and losses; and

(2) For each option customer—

(i) All commodity options purchased, sold, exercised, or expired during the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

(ii) The open commodity option positions carried for the option customer as of the end of the monthly reporting period, identified by underlying futures contract or underlying physical, strike price, transaction date, and expiration date;

* * * * *

(b) * * *

(2) * * *

(iv) The underlying futures contract or underlying physical;

(v) The expiration date, and the final exercise date, if different, of the commodity option purchased or sold, and, if applicable, the final trading date on the contract for future delivery underlying the option; and

* * * * *

(3) To each option customer, upon the expiration or exercise of any commodity option, a written confirmation statement thereof, which statement shall include the date of such occurrence, a description of the option involved, and, in the case of exercise, the details of the futures or physical position which resulted therefrom.

* * * * *

(d) * * *

(2) [Reserved]

* * * * *

(e) *Recordkeeping.* Each futures commission merchant shall retain, in accordance with § 1.31, a copy of each monthly statement and confirmation required by this § 1.33.

6. Section 1.34 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.34 Monthly record, "point balance."

* * * * *

(b) Each futures commission merchant shall prepare, and retain in accordance with the requirements of § 1.31, a listing in which all open commodity option positions carried for option customers are marked to the market. Such listing shall be prepared as of the last business day of each month, or as of any regular monthly date selected, and shall be by put or by call, by underlying contract for future delivery (by delivery month) or underlying physical (by option expiration date), and by strike price.

7. Section 1.35 is proposed to be amended by revising paragraphs (b)(2)(ii), (b)(3)(ii), (d) and (e) to read as follows:

§ 1.35 Records of cash commodity, futures, and option transactions.

* * * * *

(b) * * *

(2) * * *

(ii) All commodity option transactions executed for such account, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, and details of the purchases price of the option, including premium, mark-up, commission and fees; and

(3) * * *

(ii) All commodity option transactions executed on that day, including the date, whether the transaction involved a put or call, expiration date, quantity, underlying contract for future delivery or underlying physical, strike price, details of the purchase price of the option, including premium, mark-up, commission and fees, and the person for whom such transaction was made.

* * * * *

(d) *Members of contract markets.* Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery or commodity option on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or other record showing such purchase and sales. Such trading card or record shall show his own name, the name of the clearing member, transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, and strike price. Such trading card or record shall also clearly identify the opposite floor broker or floor trader with whom such transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market, such opposite clearing member is made known to him).

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures or option trade: the transaction date, time period (as described in paragraph (g) of this section), quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, delivery month or expiration date, whether the transaction involved a put or a call, strike price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer or option customer types. The customer and option customer type indicators shall show, with respect to each person executing the trade whether such person:

(1) Was trading for his own account;

(2) Was trading for his clearing member's house account;

(3) Was trading for another member present on the exchange floor, or an account controlled by such other member; or

(4) Was trading for any other type of customer or option customer.

The record required by this paragraph (e) shall also show, by appropriate and uniform symbols, any transaction which is made non-competitively in accordance with written rules of the contract market which have been submitted to and approved by the Commission in accordance with § 1.38, and trades cleared on dates other than the date of execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) shall be maintained in format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in § 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

* * * * *

8. Section 1.39 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.39 Simultaneous buying and selling orders of different principals; execution of, for and between principals.

(a) *Conditions and requirements.* A member of a contract market who shall have in hand at the same time both buying and selling orders of different principals for the same commodity for future delivery in the same delivery month or the same option (both puts or both calls, with the same underlying contract for future delivery or the same underlying physical, expiration date and strike price) may execute such orders for and directly between such principals at the market price, if in conformity with written rules of such contract market which have been approved by the Commission, and:

(1)(i) When trading is conducted in a trading pit or ring, such orders are first offered openly and competitively by open outcry in such trading pit or ring (A) by both bidding and offering at the same price, and neither such bid nor offer is accepted, or (B) by bidding and offering to a point where such offer is higher than such bid by not more than the minimum permissible price fluctuation applicable to such futures contract or commodity option on such contract market, and neither such bid nor offer is accepted; or

(ii) When in nonpit trading in contracts of sale for future delivery, bids and offers are posted on a board, such member (A) pursuant to such buying order posts a bid on the board and, incident to the execution of such selling order, accepts such bid and all other bids posted at prices equal to or higher than the bid posted by him, or (B) pursuant to such selling order posts an offer on the board and, incident to the execution of such buying order, accepts such offer and all other offers posted at prices equal to or lower than the offer posted by him;

(2) Such member executes such orders in the presence of an official representative of such contract market designated to observe such transactions and, by appropriate descriptive words or symbol, clearly identifies all such transactions on his trading card or other similar record, made at the time of execution, and notes thereon the exact time of execution and promptly presents said record to such official representative for verification and initialing;

(3) Such contract market keeps a record in permanent form of each such transaction showing the transaction date, by whom executed, the exact time of execution, quantity, and, as applicable, underlying commodity, contract for future delivery or physical, price or premium, whether a put or a call, and strike price; and

(4) Neither the futures commission merchant receiving nor the member executing such orders has any interest therein, directly or indirectly, except as a fiduciary.

* * * * *

9. Section 1.41 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 1.41 Contract market rules; submission of rules to Commission; exemption of temporary emergency rules and certain operational and administrative rules; emergencies.

(a) * * *

(2) The term "reviewable rule" of a contract market means any rule of a contract market which relates to terms and conditions of contracts of sale of a commodity for future delivery or of commodity option transactions to be executed on or subject to the rules of such contract market or relates to other trading requirements except those relating to the setting of levels of margin for contracts of sale of a commodity for future delivery: *Provided,* That any rule of a contract market relating to the payment or collection of commodity option margin or premiums shall be a reviewable rule.

* * * * *

10. Section 1.42 is proposed to be amended by revising paragraph (a) and by adding a new paragraph (c) to read as follows:

§ 1.42 Delivery notice; filing of copy.

(a) Each contract market shall furnish or cause to be furnished promptly to the Commission a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract or on a commodity option made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promplty to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

* * * * *

(c) For the purpose of this section, the term "delivery" includes the exercise of a commodity option on a physical.

11. Section 1.43 is proposed to be revised to read as follows:

§ 1.43 Information required concerning warehouses, depositories, and other similar entities.

Each contract market shall file with the Commission a list of all warehouses, depositories and other similar entities in which or out of which commodities are deliverable in satisfaction of futures contracts or options on physicals made on or subject to the rules of such contract market, which list shall show the name, location, and storage capacity of each such warehouse, depository or other similar entitly, together with the name and business address of the operator thereof. The Commission shall be kept currently advised of all changes affecting such information. Each contract market shall require the operator of such warehouse, depository or other similar entity to furnish, upon call by the Commission, a schedule of storage charges, handling charges, and the annual fire insurance rate applicable to such warehouse, depository or other similar entity.

12. Section 1.44 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.44 Records and reports of warehouses, depositories, and other similar entities; visitation of premises.

Each contract market shall require the operators of warehouses, depositories and other similar entities whose receipts are deliverable in satisfaction of commodity futures contracts or options on physicals made on or subject to the rules of such contract market:

(a) To keep records showing the stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market in store in such warehouses, depositories and other similar entities by kinds, by classes, and by grades, if stored under conditions requiring such designation or identification, and including also lots and parcels stored specially or separately or in specially leased space of the warehouse, depository or other similar entity;

(b) Upon call from the Commission, to report the stocks of commodities in such warehouses, depositories and other similar entities and to furnish information concerning stocks of each commodity traded for future delivery or upon which option contracts are traded on such contract market about, to be transferred or in the process of being transferred or otherwise moved into or out of such warehouses, depositories and other similar entities, as well as any other information concerning commodities stored in such warehouse, depositories and other similar entities and which are or may be available for delivery on futures contracts or options on physicals; and

* * * * *

13. Section 1.46 is proposed to be amended by revising paragraphs (a)(3), (a)(4) and the closing text of paragraph (a), and by removing and reserving paragraph (d)(1), to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

(a) * * *

(3) Purchases a put or call option for the account of any option customer when the account of such option customer at the time of such purchase has a short put or call option position with the same underlying futures contract or underlying physical, strike price, expiration date and contract market as that purchased; or

(4) Sells a put or call option for the account of any option customer when the account of such option customer at the time of such sale has a long put or call option position with the same underlying futures contract or underlying physical, strike price, expiration date and contract market as that sold

shall on the same day apply such purchase or sale against such previously held short or long futures or option position, as the case may be, and shall promptly furnish such customer or option customer a statement showing the financial result of the transactions involved.

* * * * *

(d) * * *

(1) [Reserved]

* * * * *

PART 3—REGISTRATION

14. The authority citation for Part 3 is proposed to be revised to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p and 12a.

15. Section 3.20 is proposed to be amended by revising paragraphs (a)(1)(ii) and (a)(1)(iii) to read as follows:

§ 3.20 Delegation of authority to deny registration.

(a) * * *

(1) * * *

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which (A) involves any transaction or advice concerning any commodity, contract for future delivery of a commodity, commodity option, or security; (B) arises out of the conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body, (A) from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing, or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities; or

* * * * *

16. Section 3.33 is proposed to be amended by revising paragraphs (b)(7)(i), (b)(7)(ii), (b)(7)(iii), and (b)(7)(v) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(b) * * *

(7) * * *

(i) That all customer or option customer agreements, if any, have been terminated;

(ii) That all customer or option customer positions, if any, have been transferred on behalf of customers or option customers or closed;

(iii) That all customer or option customer cash balances, securities, or other property, if any, have been transferred on behalf of customers or option customers or returned, and that there are no obligations to customers or option customers outstanding;

* * * * *

(v) The nature and extent of any pending customer, option customer or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer or commodity pool participant claims against the registrant.

* * * * *

17. Appendix A is proposed to be amended by revising paragraph (1), (3) and (4) to read as follows:

* * * * *

(1) The operations of such person disrupt or would tend to disrupt orderly market conditions, or cause or would tend to cause sudden or unreasonable fluctuations or unwarranted changes in the price of commodities or contracts for future delivery of commodities or commodity options.

* * * * *

(3) Such person has, within ten years preceding the filing of the application for registration, been convicted of a misdemeanor which (a) involves any transactions or advice concerning any commodity, contract for future delivery of a commodity, commodity option or security; or (b) arises out of conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or an affiliated person or employee of any of the foregoing; or (c) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes indicating a lack of high ethical standards or unreliability in maintaining a fiduciary relationship.

(4) Such person is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or by agreement of settlement to which the Commission, the Securities and Exchange Commission, or any State agency or governmental body is a party, from (a) acting as a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company or employee or affiliated person of any of the foregoing or (b) engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, commodity options, or securities.

* * * * *

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

18. Section 4.13 is proposed to be amended by revising paragraph (b)(2)(i)(B) to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(B) Clearly show on such statement, or on an accompanying supplemental statement, the net profit or loss on all commodity interests closed since the date of the previous statement; and

* * * * *

19. Section 4.21 is proposed to be amended by revising paragraphs (a)(1)(vi) and (a)(1)(vii), by adding a new paragraph (a)(1)(viii), and by revising paragraphs (a)(9)(ii), (a)(9)(iii) and (a)(17)(i) to read as follows:

§ 4.21 Disclosure to prospective pool participants.

(a) * * *

(1) * * *

(vi) The name of the person who will make the trading decisions for the pool;

(vii) If known, the name of the futures commission merchant through which the pool will execute its trades; and

(viii) The types of commodity interests the commodity pool operator intends that the pool will trade, which a description of any restrictions or limitations on such trading established by the commodity pool operator.

* * * * *

(9) * * *

(ii) The form in which pool funds not deposited as margin or paid as premiums will be held after the commencement of trading by the pool. If those funds will be held in assets other than cash, the pool operator must disclose:

* * * * *

(iii) If pool funds not deposited as margin or paid as premiums will be held outside of the United States, its territories or possessions, the pool operator must specify where those funds will be held.

* * * * *

(17)(i) The following Risk Disclosure Statement, to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLSOURE STATEMENT

YOU SHOULD CAREFULLY CONSIDER WHETHER YOUR FINANCIAL CONDITION PERMITS YOU TO PARTICIPATE IN A COMMODITY POOL. YOU MAY LOSE A SUBSTANTIAL PORTION OR EVEN ALL OF THE MONEY YOU PLACE IN THE POOL.

IN CONSIDERING WHETHER TO PARTICIPATE IN A COMMODITY POOL, YOU SHOULD BE AWARE THAT TRADING COMMODITIES CAN QUICKLY LEAD TO LARGE LOSSES AS WELL AS GAINS. SUCH TRADING LOSSES CAN SHARPLY REDUCE THE NET ASSETS VALUE OF THE POOL AND CONSEQUENTLY THE VALUE OF YOUR INTEREST IN THE POOL. ALSO, MARKET CONDITIONS MAY MAKE IT DIFFICULT OR IMPOSSIBLE FOR THE POOL TO LIQUIDATE A POSITION.

IN SOME CASES, COMMODITY POOLS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT, ADVISORY AND BROKERAGE FEES. IT MAY BE NECESSARY FOR THOSE POOLS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH EXPENSE TO BE CHARGED THIS POOL.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF PARTICIPATING IN A COMMODITY POOL. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU DECIDE TO PARTICIPATE IN A COMMODITY POOL.

* * * * *

20. Section 4.22 is proposed to be amended by revising paragraph (a)(1)(iii) to read as follows:

§ 4.22 Reporting to pool participants.

(a) * * *

(1) * * *

(iii) The total amount of net gain or loss from all other transactions in which the pool engaged during the reporting period, including interest and dividends earned on funds not paid as premiums or used to margin the pool's commodity interest positions;

* * * * *

21. Section 4.23 is proposed to be amended by revising paragraphs (a)(1), (a)(7), (b)(1) and (b)(2) to read as follows:

§ 4.23 Recordkeeping.

* * * * *

(a) * * *

(1) An itemized daily record of each commodity interest transaction of the pool, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

* * * * *

(7) Copies of each confirmation of a commodity interest transaction of the pool, each purchase and sale statement and each monthly statement for the pool received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity pool operator and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity pool operator relating to a personal account of the pool operator, and (ii) each principal of the pool operator relating to a personal account of such principal.

* * * * *

22. Section 4.30 is proposed to be revised as follows:

§ 4.30 Prohibited activities.

No commodity trading advisor may solicit, accept or receive from an existing or prospective client funds, securities or other property in the trading advisor's name (or extend credit in lieu thereof) to purchase, margin, guarantee or secure any commodity interest of the client; *Provided, however,* That this section shall not apply to a futures commission merchant that is registered as such under the Act or to a leverage transaction merchant that is registered as commodity trading advisor under the Act.

23. Section 4.31 is proposed to be amended by revising paragraphs (a)(1)(iii) and (a)(1)(iv)(B), by adding a new paragraph (a)(1)(v), and by revising paragraph (a)(8)(i) to read as follows:

§ 4.31 Disclosure to prospective clients.

(a) * * *

(1) * * *

(iii) A description of the trading program;

(iv) * * *

(B) If the client is free to choose the futures commission merchant with which it will maintain its account, the trading advisor must make a statement to that effect; and

(v) The types of commodity interests the commodity trading advisor intends to trade, with a description of any restrictions or limitations on such trading established by the commodity trading advisor.

* * * * *

(8)(i) The following Risk Disclosure Statement to be prominently disclosed as, and the only language on, the first page of the Disclosure Document:

RISK DISCLOSURE STATEMENT

THE RISK OF LOSS IN TRADING COMMODITIES CAN BE SUBSTANTIAL. YOU SHOULD THEREFORE CAREFULLY CONSIDER WHETHER SUCH TRADING IS SUITABLE FOR YOU IN LIGHT OF YOUR FINANCIAL CONDITION. IN CONSIDERING WHETHER TO TRADE OR TO AUTHORIZE SOMEONE ELSE TO TRADE FOR YOU, YOU SHOULD BE AWARE OF THE FOLLOWING:

(1) IF YOU PURCHASE A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE PREMIUM AND OF ALL TRANSACTION COSTS.

(2) IF YOU PURCHASE OR SELL A COMMODITY FUTURE OR SELL A COMMODITY OPTION YOU MAY SUSTAIN A TOTAL LOSS OF THE INITIAL MARGIN FUNDS AND ANY ADDITIONAL FUNDS THAT YOU DEPOSIT WITH YOUR BROKER TO ESTABLISH OR MAINTAIN YOUR POSITION. IF THE MARKET MOVES AGAINST YOUR POSITION, YOU MAY BE CALLED UPON BY YOUR BROKER TO DEPOSIT A SUBSTANTIAL AMOUNT OF ADDITIONAL MARGIN FUNDS, ON SHORT NOTICE, IN ORDER TO MAINTAIN YOUR POSITION. IF YOU DO NOT PROVIDE THE REQUIRED FUNDS WITHIN THE PRESCRIBED TIME, YOUR POSITION MAY BE LIQUIDATED AT A LOSS, AND YOU WILL BE LIABLE FOR ANY RESULTING DEFICIT IN YOUR ACCOUNT.

(3) UNDER CERTAIN MARKET CONDITIONS, YOU MAY FIND IT DIFFICULT OR IMPOSSIBLE TO LIQUIDATE A POSITION. THIS CAN OCCUR, FOR EXAMPLE, WHEN THE MARKET MAKES A "LIMIT MOVE."

(4) THE PLACEMENT OF CONTINGENT ORDERS BY YOU OR YOUR TRADING ADVISOR, SUCH AS A "STOP-LOSS" OR "STOP-LIMIT" ORDER, WILL NOT NECESSARILY LIMIT YOUR LOSSES TO THE INTENDED AMOUNTS, SINCE MARKET CONDITIONS MAY MAKE IT IMPOSSIBLE TO EXECUTE SUCH ORDERS.

(5) A "SPREAD" POSITION MAY NOT BE LESS RISKY THAN A SIMPLY "LONG" OR "SHORT" POSITION.

(6) THE HIGH DEGREE OF LEVERAGE THAT IS OFTEN OBTAINABLE IN COMMODITY TRADING CAN WORK AGAINST YOU AS WELL AS FOR YOU. THE USE OF LEVERAGE CAN LEAD TO LARGE LOSSES AS WELL AS GAINS.

IN SOME CASES, MANAGED COMMODITY ACCOUNTS ARE SUBJECT TO SUBSTANTIAL CHARGES FOR MANAGEMENT AND ADVISORY FEES. IT MAY BE NECESSARY FOR THOSE ACCOUNTS THAT ARE SUBJECT TO THESE CHARGES TO MAKE SUBSTANTIAL TRADING PROFITS TO AVOID DEPLETION OR EXHAUSTION OF THEIR ASSETS. THIS DISCLOSURE DOCUMENT CONTAINS A COMPLETE DESCRIPTION OF EACH FEE TO BE CHARGED TO YOUR ACCOUNT BY THE COMMODITY TRADING ADVISOR.

THIS BRIEF STATEMENT CANNOT DISCLOSE ALL THE RISKS AND OTHER SIGNIFICANT ASPECTS OF THE COMMODITY MARKETS. YOU SHOULD THEREFORE CAREFULLY STUDY THIS DISCLOSURE DOCUMENT AND COMMODITY TRADING BEFORE YOU TRADE.

* * * * *

24. Section 4.32 is proposed to be amend by revision paragraphs (a)(6) (b)(1) and (b)(2) to read as follows:

§ 4.32 Recordkeeping.

(a) * * *

(6) Copies of each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement received from a futures commission merchant.

* * * * *

(b) * * *

(1) An itemized daily record of each commodity interest transaction of the commodity trading advisor and each principal thereof, showing the transaction date, quantity, commodity interest, and, as applicable, price or premium, delivery month or expiration date, whether a put or a call, strike price, underlying contract for future delivery or underlying physical, the futures commission merchant carrying the account, whether the interest was purchased, sold, exercised, or expired, and the gain or loss realized.

(2) Each confirmation of a commodity interest transaction, each purchase and sale statement and each monthly statement furnished by a futures commission merchant to (i) the commodity trading advisor relating to a personal account of the trading advisor, and (ii) each principal of the trading

advisor relating to a personal account of such principal.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

25. Section 15.00 is proposed to be amended by revising paragraph (b)(2) and redesignating paragraph (b)(2) as paragraph (b)(2)(i), by adding paragraph (b)(2)(ii), and by revising paragraphs (g) and (h) to read as follows:

§ 15.00 Definition of terms used in Parts 15 to 21 of this chapter.

* * * * *

(b) * * *

(2) For purposes of reports regarding commodity options—

(i) For reports specified in Part 16 and in § 17.01 of this chapter, any open contract position on any one contract market in the put option or separately in the call option of a specified option expiration date, which is carried on the books of any one futures commission merchant or foreign broker or which is held by a member of a contract market, and which, at the close of the market on any business day, equals or exceeds 25 options on futures contracts or 25 options on physicals, except as otherwise approved by the Commission.

(ii) For reports specified in §§ 18.00 and 18.04 of this chapter, and for recordkeeping requirements specified in § 1805 of this chapter, 25 or more open options on futures contracts or 25 or more open options on physicals on any one contract market in a put option or separately in a call option of a specified option expiration date.

* * * * *

(g) "Guided account program" means any customer trading program which limits trading to the purchase or sale of a particular contract for future delivery of commodity or a particular commodity option that is advised or recommended to the participant in the program.

(h) "Discretionary account" means a commodity futures or commodity option trading account for which buying and/or selling orders can be placed or originated, or for which transactions can be effected, under a general authorization and without the specific consent of the customer, whether the general authorization for such orders or transactions is pursuant to a written agreement, power of attorney, or otherwise.

* * * * *

26. Section 15.01 is proposed to be amended by revising paragraph (c) to read as follows:

§ 15.01 Persons required to report.

* * * * *

(c) Traders who holds or control reportable positions as specified in Part 18 of this chapter.

* * * * *

27. Section 15.02 is proposed to be revised to read as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Forms to be used for the filing of reports are listed below and persons required to file these forms may be determined by referring to the rule listed in the column opposite the form number.

Form No.	Title	Rule
40	Statement of Reporting Trader	18.04
102	Identification of Special Accounts	17.01
103	Large Trader Report	18.00
Series 04	Cash Positions of Traders in Specified Commodities.	18.00
	204—Grains (including Oilseeds)	
	304—Cotton	
	504—Eggs	
	604—Potatoes	
Series 01	Positions of Special Accounts on or Subject to the Rules of Specified Markets.	17.00
	01-60—Board of Trade of the City of Chicago.	
	01-61—Board of Trade of the City of Kansas City, Missouri, Inc.	
	01-62—Minneapolis Grain Exchange.	
	01-63—MidAmerica Commodity Exchange.	
	01-64—Chicago Mercantile Exchange.	
	01-65—New York Mercantile Exchange.	
	01-66—New York Cotton Exchange and Associates.	
	01-69—Commodity Exchange, Inc	
	01-73—Coffee, Sugar and Cocoa Exchange.	
	01-74—International Monetary Market.	
	01-77—New York Futures Exchange.	
	01-78—New Orleans Commodity Exchange.	

28. Section 15.05 is proposed to be revised to read as follows:

§ 15.05 Designation of a futures commission merchant to be the agent of foreign brokers, customers of a foreign broker, and foreign traders.

(a) For purposes of this section, the term "futures contract" means any contract for the purchase or sale of any commodity for future delivery traded or executed on or subject to the rules of any contract market; the term "option contract" means any contract for the purchase or sale of a commodity option traded or executed on or subject to the rules of any contract market; the term "customer" means any person for whose benefit a foreign broker makes or causes to be made any futures contract or option contract; and the term "communication" means any summons, complaint, order, subpoena, special call, request for information, or notice, as well as any other written document or correspondence.

(b) Any futures commission merchant who makes or causes to be made any futures contract or option contract for the account of any foreign broker or foreign trader shall thereupon be deemed to be the agent of the foreign broker or the foreign trader for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the foreign broker or the foreign trader with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. In the case of a futures commission merchant who makes or causes to be made any futures or option contract for the account of a foreign broker, the futures commission merchant shall also be the agent of the customers of the foreign broker (including any customer who is also a foreign broker and its customers) who have positions in the foreign broker's futures or option contract account carried by the futures commission merchant for purposes of accepting delivery and service of any communication issued by or on behalf of the Commission to the customer with respect to any futures or option contracts which are or have been maintained in such accounts carried by the futures commission merchant. Service or delivery of any communication issued by or on behalf of the Commission to a futures commission merchant pursuant to such agency shall constitute valid and effective service or delivery upon the foreign broker, a customer of the foreign broker or the foreign trader. A futures commission merchant who has been served with, or to whom there has been delivered, a communication issued by or on behalf of the Commission to a foreign broker, a customer of the foreign broker or the foreign trader shall transmit the communication promptly and in a manner which is reasonable under the circumstances, or in a manner specified by the Commission in the communication, to the foreign broker, a customer of the foreign broker or the foreign trader.

(c) It shall be unlawful for any futures commission merchant to open a futures or options contract account for, or to effect transactions in futures contracts or option contracts for an existing account of, a foreign broker or foreign trader unless the futures commission merchant informs the foreign broker or foreign trader prior thereto, in any

reasonable manner which the futures commission merchant deems to be appropriate, of the requirements of this section.

(d) The requirements of paragraphs (b) and (c) of this section shall not apply to any account carried by a futures commission merchant if the foreign broker, customer of a foreign broker, or foreign trader for whose benefit such account is carried has duly executed and maintains in effect a written agency agreement in compliance with this paragraph with a person domiciled in the United States and has provided a copy of the agreement to the futures commission merchant prior to the opening of an account, or placing orders for transactions in futures contracts or option contracts of an existing account, with the futures commission merchant. This agreement must authorize the person domiciled in the United States to serve as the agent of the foreign broker and customers of the foreign broker or the foreign trader for purposes of accepting delivery and service of all communications issued by or on behalf of the Commission to the foreign broker, customers of the foreign broker, or foreign trader and must provide an address in the United States where the agent will accept delivery and service of communications from the Commission. This agreement must be filed with the Commission by the futures commission merchant prior to opening an account for the foreign broker or foreign trader or effecting transactions in futures or option contracts for an existing account of a foreign broker or foreign trader. Unless otherwise specified by the Commission, the agreements required to be filed with the Commission shall be filed with the Secretary of the Commission at 2033 K Street, NW., Washington, D.C. 20581. A foreign broker, customer of a foreign broker, or foreign trader shall notify the Commission immediately if the written agency agreement is terminated, revoked or is otherwise no longer in effect. If a futures commission merchant carrying an account for a foreign broker or foreign trader knows or should know that the agreement has expired, has been terminated or is otherwise no longer in effect, the futures commission merchant shall notify the Secretary of the Commission immediately. If the written agency agreement expires, terminates or is not in effect, the futures commission merchant and the foreign broker, customers of the foreign broker or foreign trader are subject to the provisions of paragraphs (b) and (c) of this section.

PART 16—REPORTS BY CONTRACT MARKETS

29. Section 16.00 is proposed to be amended by revising paragraph (a) to read as follows:

§ 16.00 Clearing member reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, in accordance with paragraph (b) of this section, a report for each business day, showing for each clearing member, by proprietary and customer account, the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

30. Section 16.01 is proposed to be amended by revising paragraphs (a), (b), (c) and (d) to read as follows:

§16.01 Trading volume, open contracts and price.

(a) *Trading volume and open contracts.* Each contract market shall publish for each business day the following information separately for futures by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(b) *Prices.* Each contract market shall make readily available to the new media and the general public no later than the business day following the day to which the information pertains, the following information separately for futures, by commodity and by future, and, for options, by underlying futures contract for options on futures contracts or by underlying physical for options on physicals, and by put, by call, by expiration date and by strike price:

* * * * *

(c) *Additional information.* Each contract market shall make readily available to the public, in printed form at the office of the contract market, the following information with respect to transactions in commodity futures and commodity options on that contract market: (1) The method used by the contact market in determining nominal prices and settlement prices; and (2) if discretion is used by the contract market in determining the opening and closing ranges or the settlement prices, an explanation that certain discretion may be employed by the contract market and a description of the manner in which that discretion may be employed.

(d) *Reports to the Commission.* Unless otherwise approved by the Commission or its designee, the information specified in paragraphs (a) and (b) of this section shall be submitted to the Commission on compatible data processing punched cards, magnetic tapes or magnetic discs using a format and coding structure approved in writing by the Commission or its designee. Unless otherwise instructed by the Commission or its designee, such information shall be submitted the business day following the day to which the information pertains at the Regional Office of the Commission having local jurisdiction with respect to such contract market.

31. Section 16.02 is proposed to be amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 16.02 Large option trader reports.

(a) *Information required.* When an option becomes the option which will expire next, and, in any case, at least six weeks prior to an option's expiration date, each contract market shall submit to the Commission a weekly report for options on futures and a daily report for options on physicals containing the following information for each option trader controlling a reportable option position in the option which will expire next or controlling a reportable option position in an option which will expire in six weeks or less:

(1)(i) For options on futures contracts, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All positions in the option which is next to expire, by strike price;

(B) All positions in any other options which expire within six weeks, by strike price;

(C) All positions in the next-deferred option expiration date, regardless of strike prices;

(D) All positions in all other more distant option expiration dates, regardless of strike prices; and

(E) The total position controlled by the option trader in all option expiration dates, regardless of strike prices.

(ii) For options on physicals, with respect to each put and call and each long and short controlled by the option trader, the following information shown separately by futures commission merchant or member of the contract market and combined for all futures commission merchants and members:

(A) All positions in the option which is next to expire, by strike price, and the number of contracts exercised;

(B) All positions in any other options which expire within six weeks, by strike price, and the number of contracts exercised;

(C) All positions in the next-deferred option expiration date, regardless of strike prices, and the number of contracts exercised;

(D) All positions in all other more distant option expiration dates, regardless of strike prices, and the number of contracts exercised; and

(E) The total position controlled by the option trader in all option expiration dates, regardless of strike prices, and the total number of contracts exercised.

(iii) Each contract market shall identify all option positions controlled by the same trader which are carried at the same futures commission merchant or held by a member of the contract market by use of the number which is assigned by the futures commission merchant or member in accordance with § 17.01(a) of this chapter.

* * * * *

(b) *Form and manner of reporting.* The information required by paragraph (a) of this section shall be submitted in hard copy form and on compatible data processing punched cards, magnetic tapes or magnetic discs, using a format and coding structure approved in writing by the Commission or its designee. For options on futures, such information shall be compiled weekly as of the close of business on Tuesday, or Monday if Tuesday is a holiday, or more frequently than weekly as the Commission's may direct. Unless otherwise instructed by the Commission or its designee, the information shall be submitted by the business day following that to which the information pertains at the Regional Office of the Commission's having local jurisdiction with respect to such contract market.

32. Section 16.04 is proposed to be amended by revising paragraph (a) to read as follows:

§ 16.04 Month-end reports.

(a) *Information to be provided.* Each contract market shall submit to the Commission, for each month, a report for options on futures contracts and separately a report for options on physicals showing long and short open option positions held at month-end in all accounts, reported separately by underlying futures contract or physical, for commercial and noncommercial option traders, by put, by call, by expiration date, by strike price and by clearing member.

* * * * *

PART 18—REPORTS BY TRADERS

33. Section 18.00 is proposed to be amended by revising the introductory paragraph, paragraphs (a), (b), (c) and (d) and by removing paragraphs (e), (f), (g) and (h) to read as follows:

§ 18.00 Information to be furnished by traders.

Every trader who owns, holds or controls, or has held, owned or controlled, a reportable futures or options position on a commodity shall within one business day after a special call upon such trader by the Commission's or its designee file reports to the Commission's concerning transactions and positions in such futures or options. Reports shall be filed for the period of time that the trader held or controlled a reportable position as instructed in the call. Each such report shall be prepared on the Commission's Large Trader Reporting Form (Form 103) on a separate sheet for each commodity or option, and shall show for the day covered by the report the following information, as specified in the call, separately for each future or option and for each contract market:

(a) Open contracts;

(b) Purchases and sales;

(c) Delivery notices issued and stopped; and

(d) Options exercised.

§ 18.01 [Amended]

34. Section 18.01 is proposed to be amended by removing paragraph (d).

35. Section 18.04 is proposed to be amended by revising the introductory paragraph, paragraphs (a)(2), (a)(5), (a)(9), (b)(3), (b)(4), (c)(3), (c)(4), (c)(5), (c)(6) and (d) to read as follows:

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable futures position shall file with the Commission a "Statement of Reporting Trader" on Form 40. Each trader shall file an initial Form 40 at such time as the Commission directs, but not later than the tenth business day following the date the trader assumes the reportable position. Subsequent filings shall be made at the time specified in paragraph (e) of this section. In addition, every trader who holds or controls a reportable option position, as set forth in § 15.00(b)(2)(ii) of this chapter, shall within one business day after a special call upon such trader by the Commission or its designee file a "Statement of Reporting Trader" with respect to such option positions. All traders shall complete Part A of the Form 40 and, in addition, shall complete:

Part B—If the trader is an individual, a partnership or a joint tenant.

Part C—If the trader is a corporation or type of trader other than an individual, partnership, or joint tenant.

(a) * * *

(2) Principal business and occupation of the reporting trader and, in addition, whether transactions are made for, on behalf of, or in association with, a customer trading program of a futures commission merchant, a commodity pool, a producer cooperative, any business activities in which the trader is commercially engaged, or for personal use.

* * * * *

(5) The name and address of each person whose account is controlled by the reporting trader.

* * * *

(9) The following information concerning accounts which the reporting trader guarantees or in which the trader has a financial interest of ten percent or more if such accounts are in a name other than that of the reporting trader:

* * * * *

(b) * * *

(3) If the trader is self-employed and engaged in the marketing of a cash commodity or in a business activity which is hedged by use of the futures market, or the trader uses the option market in connection with such business, the cash commodity marketed or risk exposure covered, types of associated marketing activities, the option contract used or the futures contract used for hedging.

(4) The name, address, and type of any organization in which the reporting trader participates in the management if such organization holds another futures or option trading account.

* * * * *

(c) * * *

(3) Names and locations of all subsidiary firms that trade in commodity futures or options and whether or not the subsidiary firms are organized under the law of any state (including the District of Columbia) or territory or possession of the United States.

(4) Name, address, and business telephone number of person(s) actually controlling the trading and, if different persons are responsible for different commodities or options, the commodities or options for which each controller has responsibility.

(5) Name, office address and business telephone number of person or persons to contact regarding trading.

(6) If the firm is engaged in the marketing of a cash commodity or in a business activity which is hedged by using the futures markets, or the firm uses the option market in conjunction with such business, the cash commodity marketed or risked exposure covered, types of associated marketing activities, and the option contracts used or the futures contracts used for hedging.

(d) *Updating reports.* If at the time a trader holds or controls a reportable futures position and (1) the trader has not filed a Form 40 during the previous twelve months or (2) a Form 40 previously filed by the trader is no longer accurate because, since the previous filing, there has been a change in the information required under paragraph (a)(1), (a)(2), (a)(3), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (b) or (c) of this section, the trader shall file an updated Form 40 with the Commission not later than 10 calendar days after the expiration of such twelve month period or after such change occurs, as the case may be.

36. Section 18.05 is proposed to be revised to read as follows:

§ 18.05 Maintenance of books and records.

Every trader who holds or controls a reportable futures or option position shall keep books and records showing all details concerning all positions and transactions for future delivery in the commodity on all contract markets, all positions and transactions in the commodity option, and all positions and transactions in the cash commodity, its products and byproducts and, in addition, commercial activities that the trader hedges in the commodity underlying the futures contract in which the trader is reportable, and shall upon request furnish to the Commission any pertient information concerning such positions, transactions or activities.

PART 21—SPECIAL CALLS FOR INFORMATION FROM CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS, AND FOREIGN BROKERS

37. Section 21.02 is proposed to be revised to read as follows:

§ 21.02 Special calls for information on open contracts in accounts carried by futures commission merchants, members of contract markets, and foreign brokers.

Upon special call by the Commission for information relating to futures and/or option positions held on the dates specified in the call, each futures commission merchant, member of a contract market, or foreign broker, and, in addition, for options information, each contract market, shall furnish to the Commission the following information concerning accounts of traders owing or controlling such futures and/or options positions as may be specified in the call:

(a) The name and address of the person for whom each account is carried;

(b) The principal business or occupation of the person for whom each account is carried, as specified in the call;

(c) The type of each such account;

(d) The name, address and principal business or occupation of any person who controls the trading of each account;

(e) The name and address of any person having a financial interest of ten percent or more in each account;

(f) The number of open futures and/or option positions carried in each account as specified in the call; and

(g) As applicable, the following identifying information:

(1) Whether a trader who holds commodity options is classified as a commerical or as a noncommercial for each commodity option;

(2) Whether the open commodity futures contracts are classified as speculative, spreading (straddling), or hedging; and

(3) Whether any of the accounts in question are omnibus accounts and, is so, whether the originator of the omnibus account is another futures commission merchant or foreign broker.

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

38. Section 32.1 is proposed to be revised to read as follows:

§ 32.1 Scope of Part 32; definitions.

(a) *Scope.* The provisions of this Part, except for the provisions of §§ 32.8 and 32.9 which shall in any event apply to all commodity option transactions, shall apply to all commodity option transactions except for commodity option transactions conducted or executed on or subject to the rules of a contract market pursuant to section 4c(c) of the Act and the regulations promulgated thereunder.

(b) *Definitions.* As used in this part:

(1) "Commodity option transaction" and "commodity option" each means any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "deline guaranty" involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Sloanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed, meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(2) "Interstate commerce" shall be construed and have the same meaning as set forth in sections 2(a) and 2(b) of the Act;

(3) "Option customer" means any person who directly or indirectly, purchases or otherwise acquires for value any interest in a commodity option, but shall not include a person required to register as a futures commission merchant in accordance with this part;

(4) "Purchase price" means the total actual cost paid or to be paid, directly or indirectly, by an option customer for entering into and maintaining an interest in a commodity option transaction by whatever name called; and

(5) "Striking price" means the price at which an option customer may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option transaction.

39. Section 32.11 is proposed to be amended by revising paragraph (b) to read as follows:

§ 32.11 Suspension of commodity option transactions.

* * * * *

(b) The provisions of paragraph (a) of this section shall not apply to any commodity option transaction conducted in accordance with the provisions of § 32.4(a) or any commodity option transaction conducted on or subject to the rules of a contract market in accordance with the provisions of Section 4c(c) of the Act and the regulations promulgated thereunder.

* * * * *

PART 33— REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

40. Section 33.2 is proposed to be amended by revising paragraph (a) to read as follows:

§ 33.2 Applicability of Act and rules; scope of Part 33.

(a) Except as otherwise specified in this part and unless the context otherwise requires:

(1) Each board of trade designated, or applying for designation, by the

Commission as a contract market for the purpose of trading commodity options pursuant to this Part shall be deemed for such purpose to be a "board of trade," "exchange," and a "contract market" and, with respect to commodity option transactions conducted pursuant to such designation, shall comply with and be subject to all of the provisions of the Act relating to boards of trade, exchanges, or contract markets as though such provisions were set forth herein; and

(2) The provisions of sections 2(a)(1), 2(a)(8)(B), 4, 4a, 4c(a), 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4m, 4n, 5, 5a, 5b, 6, 6a, 6b, 6c, 7, 8(a)–(e), 8a, 8b, 8c, and 16 of the Act shall apply to commodity option transactions that are subject to the requirements of this Part as though such provisions were set forth herein and included specific references to commodity option transactions. Nothing contained in this section shall be construed to confer designation as a contract market absent issuance of an order of the Commission so designating an applicant board of trade.

* * * * *

41. Section 33.3 is proposed to be amended by revising paragraphs (b)(1) and (b)(2) to read as follows:

§ 33.3 Unlawful commodity option transactions.

* * * * *

(b) * * *

(1) Any person to solicit or accept orders from an option customer (other than in a clerical capacity) for any commodity option transaction, or to supervise any person or persons so engaged, unless such person is:

* * * * *

(2) Any person registered or required to be registered as a futures commission merchant under the Act to permit another person to become or remain associated with such person as a partner, officer, employee, agent or representative (or in any status or position involving similar functions) in any capacity involving the solicitation or acceptance of an order from an option customer (other than in a clerical capacity) for any commodity option transaction or the supervision of any person or persons so engaged, if such person knows or should know that such other person is or was not registered as required by this Part or that such registration has expired, been suspended (and the period of suspension has not expired) or been revoked.

42. Section 33.4 is proposed to be amended by revising the introductory paragraph and paragraphs (a)(1)(ii) and (a)(3), by revising paragraph (a)(4) and redesignating paragraph (a)(4) as paragraph (a)(6), by adding a new paragraph (a)(4), by revising (a)(5)(iii) and by adding a new paragraph (a)(5)(iv), by adding new paragraphs (a)(7), (a)(8), and (a)(9), by revising paragraph (b)(1)(iii), by adding a new paragraph (b)(11), by revising paragraphs (c), (d), (d)(1), and (d)(3), and by revising paragraph (g), to read as follows:

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery or options on physicals when the applicant complies with and carries out the requirements of the Act (as provided in §33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) * * *

(1) * * *

(ii) With respect to options on futures contracts, may be exercised only by the establishment, by book entry, in the clearing organization of positions in the underlying futures contract.

* * * * *

(3) If designation for the trading of options on futures contracts is sought, is designated as a contract market for the underlying contract of sale for future delivery which is the subject of the option for which designation is sought, and submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designation as a contract market) for the specified futures contract underlying the option for which the designation is sought, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in Sections 5 and 5a of the Act and as set forth in these regulations.

(4) In the case of a contract market which is requesting designation for the trading of options on physicals for which it is designated as a contract market for contracts of sale for future delivery or for options on futures contracts, submits, if so requested by the Commission, the information called for by § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designation as a contract market) for that specified futures contract and/or options on that futures contract, and the applicant complies with the conditions and requirements for designation as a contract market for such contract for future delivery as set forth in sections 5 and 5a of the Act and as set forth in these regulations.

(5) * * *

(iii) If designation for the trading of options on futures contracts is sought, the volume of trading in all contract months for future delivery of the commodity for which the option designation is sought has averaged at least 1,000 contracts per week on such board of trade for the 12 months preceding the date of application for the designation, or, alternatively, that there is sufficient liquidity in the cash and futures markets in the commodity underlying the option for which designation is being sought to prevent disruption of those markets by the trading of options on a futures contract; and

(iv) If designation for the trading of options on physicals is sought:

(A) The cash market for the underlying physical exhibits sufficient liquidity such that the grantor and purchaser of the option have the opportunity to purchase or sell the underlying physical at its economic value in normal cash marketing channels;

(B) There exists an accurate and widely-disseminated price series for the underlying physical which is deliverable on the option contract; and

(C) Trading of such options will not be disruptive of trading in the cash market for the underlying physical or of any futures contract.

(6) If designation for the trading of options on a futures contract is sought, is not designated as a contract market for any other option on a futures contract, and if designation for the trading of options on a physical is sought, is not designated as a contract market for any other option on a physical.

(7) If designation for the trading of options on physicals is sought, and thereafter for the purpose of demonstrating continued compliance with the requirements of the Act and these regulations, provides to the Commission:

(i) A description of the cash market which is or will be the source of supply for the physical on which the option is based which must include statistical data, where applicable and available, which cover a period of time sufficient to reflect accurately historical patterns of production, consumption and exchange of the physical. At least five years of such data must be provided, unless a justification for providing data for a shorter period is furnised. If the

board of trade cannot through reasonable effort obtain sufficient data, interviews with or statements by persons knowledgeable concerning the cash market may be used to supplement or, if necessary, substitute for quantitative information. For purposes of paragraphs (a)(7) and (a)(8) of this section, the term "cash market" includes all aspects of the spot and forward markets in which the physical underlying the option is merchandised. The description of the cash market must also include the following information:

(A) Production and storage of the underlying physical, including, as appropriate, geographical locations and seasonal patterns;

(B) Consumption of the underlying physical, including, as appropriate, geographic locations and seasonal patterns of intermediate and ultimate consumption;

(C) The nature and structure of the cash marketing channels, including the nature and number of marketing institutions, the nature of the forward contracting market, and the manner in which the price of the physical is determined at various stages in its marketing. This information shall also include a description of the degree and nature of both vertical and horizontal integration within the industries in which the physical is produced and consumed; and

(D) As appropriate, the nature and structure of the transport, communication, storage, and financing sectors which support the physical underlying the proposed option.

(8) If designation for the trading of options on a physical is sought, the board of trade must include an analysis and justification of the individual terms and conditions of the option contract. In providing the information required by paragraphs (d)(8)(i) through (xii) of this section, the board of trade must include statistical data, where applicable and available, which covers a period of time sufficient to reflect accurately the historical pattern of conditions in the cash market. In the absense of a justification for providing data from a shorter period, at least 5 years of such data should be provided. If the board of trade cannot through reasonable effort obtain sufficient data, interviews with or statements by persons knowledgeable concerning the cash market may be used to supplement or, if necessary, substitute for quantitative information. The justification submitted by a board of trade concerning each option term or condition referred to in paragraphs (d)(8)(i) through (xii) of this section must include evidence of conformity with current commercial practices of the underlying cash market, and, as noted, the impact of the term or condition on deliverable supply. If the term or condition is not in conformity, the reason for variance and why the contract term or condition is necessary or appropriate for the option on a physical must be provided. Information concerning the following items must be included:

(i) The characteristics for par and non-par delivery of the underlying physical (such as grade, class and weight), including a description of the impact of those characteristics on deliverable supply, and the economic basis for the premiums and discounts on such deliveries;

(ii) All delivery points, including, where applicable, for each point:

(A) The nature of the cash market at the delivery point (e.g., auction market, buying station or export terminal);

(B) The number of major buyers and sellers;

(C) The normal commercial practice for establishing cash market values;

(D) The level of deliverable supplies normally available, including the seasonal distribution of such supplies;

(E) The impact of delivery months for futures contracts which draw on the same deliverable supply;

(F) The availability of published cash prices reflecting the value of the physical deliverable upon exercise of the option; and

(G) Any locational differentials for delivery points, and where applicable, the reasons for selecting the par point and the rationale for discounts or premiums applying to non-par delivery points, including any departure from commercial locational differentials prevailing in the cash market;

(iii) A description of the delivery facility, including:

(A) The type of delivery facility at each delivery point;

(B) The number and total capacity of facilities meeting contract requirements;

(C) The proportion of such capacity expected to be available for option grantors who may be required to make or take delivery as a result of exercise by the option purchaser; and

(D) The extent to which ownership and control of such facilities is dispersed or concentrated;

(iv) The option expiration date, including its relationship to the delivery months for existing futures contracts which draw on the same deliverable supply. In the case of seasonal commodities, the board of trade shall describe the relationship of each expiration date to seasonal variations in deliverable supplies, availability of warehouse space, transportation facilities, cash market activity, and any other factors which may affect the appropriateness of each such expiration data;

(v) The permissible delivery pack or composition of delivery units, including a description of any restrictions on the composition of the delivery unit and a description of the impact of the delivery pack specifications on deliverable supply;

(vi) The size of option contract unit, and, where relevant, information concerning the typical commercial unit of the underlying physical involved and the rational for any proposed deviation, the usual means of transportation for the physical, including the quantity of the physical customarily carried by such means, and, if a storable physical is involved, the size of the unit normally handled by commercial storage facilities;

(vii) The inspection and certification procedures for the verification of delivery eligibility and, for perishable commodities, the duration of the inspection certificate and any discounts applied to deliveries of a given age;

(viii) The delivery instrument (such as a warehouse receipt), and the conditions under which such instrument is negotiable;

(ix) The transportation terms at point of delivery (such as FOB, CIF, proportional rail billing or freight paid to another destination);

(x) The provisions for payment of costs in making and taking delivery, including a detailed description of costs (such as inspection, assay, certification, warehouse charges or rail charges);

(xi) The minimum option price change (minimum price fluctuation) and the manner in which prices for the underlying physical are normally quoted; and

(xii) Any restrictions on option price movements (maximum price fluctuations), including the effect of any such restrictions upon the option's risk management functions.

(9) If designation for the trading of options on physicals is sought, the board of trade shall provide evidence that the option terms and conditions will provide for a deliverable supply which will not be conducive to price manipulation or distortion.

(b) * * *

(1) * * *

(iii) The point, in terms of the price of the underlying future or of the underlying physical, at which a new strike price will be introduced in any option which is already trading;

* * * * * *

(11) Establish appropriate criteria which are reasonably designed to secure performance, upon exercise, of the option contracts.

(c) Such board of trade establishes procedures and conducts sales practice audits of member futures commission merchants which engage in the offer or sale of option contracts regulated under this Part. These sales practice audits must be of sufficient scope to enforce the contract market's rules, including investigation for the improper handling of discretionary accounts, inadequate internal supervision, fraudulent or high-pressure sales communications, compliance with disclosure requirements, improper handling and dispostion of option customer complaints, and, where applicable, the futures commission merchant's offer or sale of deep-out-of-the-money options.

(d) A board of trade must submit an analysis and justification of the individual terms and conditions of the option contract. In determining whether to approve option contract terms and conditions, the Commission may consider the analysis and justification submitted for such terms and conditions, including, without limitation:

(1) The expiration date of the option on a futures contract if that date is less than ten business days before the earlier of the last trading day or the first notice day of any futures contract on the same or a related commodity;

* * * * *

(3) The nature of the clearing mechanism to be utilized for the commodity option, and the differences, if any, among the clearing mechanisms for options on futures contracts, options on physicals, and futures contracts;

* * * * *

(g) Such board of trade provides a comprehensive list of occupational or business categories of commercial users of the commodity underlying the option contract (either an option on a futures contract or an option on a physical) for which the board of trade is seeking designation.

43. Section 33.5 is proposed to be amended by revising paragraph (c) to read as follows:

§ 33.5 Application for designation as a contract market for the trading of commodity options.

* * * * *

(c) The effective period for designation as a contract market for a particular commodity option under this Part shall be for a period not to exceed three years from the effective date of the designation, or such shorter period as the Commission may specify at the time the designation is granted, and in any event shall be of no further force or effect should be Commission, by rule or regulation, repeal the provisions of this Part under which such designation is granted. Except as may be specifically authorized by the Commission, no board of trade which has been designated as a contact market for the trading of commodity options may authorize or allow the trading of any commodity option which will expire after the termination of the effective period of such designation, and, with respect to an option on a futures contract, where the delivery month of the futures contract underlying such option is later than the termination of the effective period of such designation or where the month for the underlying futures contract has not been listed.

44. Section 33.6 proposed to be amended by revising paragraph (c) to read as follows:

§ 33.6 Suspension or revocation of designation as a contract market for the trading of commodity options.

* * * * *

(c) The option market is not used on more than an occasional basis for other than speculative purposes by producers, processors, merchants or commercial users engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) underlying an option on a physical or the contract of sale for future delivery on which an option on a futures contract is traded, in interstate commerce; or

* * * * *

45. Section 33.7 is proposed to be amended by revising portions of paragraph (b) (Options Disclosue Statement) as follows:

§ 37.7 Disclosure.

* * * * *

(b) The disclosure statement must read as follows:

OPTIONS DISCLOSURE STATEMENT

BECAUSE OF THE VOLATILE NATURE OF THE COMMODITIES MARKETS, THE PURCHASE AND GRANTING OF COMMODITY OPTIONS INVOLVE A HIGH DEGREE OF RISK. COMMODITY OPTION TRANSACTIONS ARE NOT SUITABLE FOR MANY MEMBERS OF THE PUBLIC. SUCH TRANSACTIONS SHOULD BE ENTERED INTO ONLY BY PERSONS WHO HAVE READ AND UNDERSTOOD THIS DISCLOSURE STATEMENT AND WHO UNDERSTAND THE NATURE AND EXTENT OF THEIR RIGHTS AND OBLIGATIONS AND OF THE RISKS INVOLVED IN THE OPTION TRANSACTIONS COVERED BY THIS DISCLOSURE STATEMENT.

BOTH THE PURCHASER AND THE GRANTOR SHOULD KNOW WHETHER THE PARTICULAR OPTION IN WHICH THEY CONTEMPLATE TRADING IS AN OPTION WHICH, IF EXERCISED, RESULTS IN THE ESTABLISHMENT OF A FUTURES CONTRACT (AN "OPTION ON A FUTURES CONTRACT") OR RESULTS IN THE MAKING OR TAKING OF DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION (AN "OPTION ON A PHYSICAL COMMODITY"). BOTH THE PURCHASER AND THE GRANTOR OF AN OPTION ON A PHYSICAL COMMODITY SHOULD BE AWARE THAT, IN CERTAIN CASES, THE DELIVERY OF THE ACTUAL COMMODITY UNDERLYING THE OPTION MAY NOT BE REQUIRED AND THAT, IF THE OPTION IS EXERCISED, THE OBLIGATIONS OF THE PURCHASER AND GRANTOR WILL BE SETTLED IN CASH.

A PERSON SHOULD NOT PURCHASE ANY COMMODITY OPTION UNLESS HE IS ABLE TO SUSTAIN A TOTAL LOSS OF THE PREMIUM AND TRANSACTION COSTS OF PURCHASING THE OPTION. A PERSON SHOULD NOT GRANT ANY COMMODITY OPTION UNLESS HE IS ABLE TO MEET ADDITIONAL CALLS FOR MARGIN WHEN THE MARKET MOVES AGAINST HIS POSITION AND, IN SUCH CIRCUMSTANCES, TO SUSTAIN A VERY LARGE FINANCIAL LOSS.

A PERSON WHO PURCHASES AN OPTION SHOULD BE AWARE THAT IN ORDER TO REALIZE ANY VALUE FROM THE OPTION, IT WILL BE NECESSARY EITHER TO OFFSET OPTION POSITION OR TO EXERCISE THE OPTION. IF AN OPTION PURCHASER DOES NOT UNDERSTAND HOW TO OFFSET OR EXERCISE AN OPTION, THE PURCHASER SHOULD REQUEST AN EXPLANATION FROM THE FUTURES COMMISSION MERCHANT. CUSTOMERS SHOULD BE AWARE THAT IN A NUMBER OF CIRCUMSTANCES, SOME OF WHICH WILL BE DESCRIBED IN THIS DISCLOSURE STATEMENT, IT MAY BE DIFFICULT OR IMPOSSIBLE TO OFFSET AN EXISTING OPTION POSITION ON AN EXCHANGE.

THE COMMODITY FUTURES TRADING COMMISSION REQUIRES THAT ALL CUSTOMERS RECEIVE AND ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT BUT DOES NOT INTEND THIS STATEMENT AS A RECOMMENDATION OR ENDORSEMENT OF EXCHANGE-TRADED COMMODITY OPTIONS.

Contents of Disclosure Statement

1. Some of the risks of option trading
2. Description of commodity options
3. The mechanics of option trading
4. Margin requirements
5. Profit potential of an option position
6. Deep-out-of-the-money options
7. Glossary of terms

(1) *SOME OF THE RISKS OF OPTION TRADING.* THE GRANTOR OF AN OPTION SHOULD BE AWARE THAT A COMMODITY OPTION MAY BE EXERCISED AT ANY TIME FROM THE TIME IT IS GRANTED UNTIL IT EXPIRES.

THE PURCHASER OF A PUT OR A CALL IS SUBJECT TO THE RISK OF LOSING THE ENTIRE PURCHASE PRICE OF THE OPTION—THAT IS THE PREMIUM PAID

FOR THE OPTION PLUS ALL TRANSACTION COSTS.

Specific market movements of the underlying future or underlying physical Commodity cannot be predicted accurately.

The grantor of a call option who has a long position in the underlying futures contract or underlying physical commodity is subject to risk of loss should the price of the underlying futures contract or underlying physical commodity increase by a amount greater than the premium received for granting the call option.

The grantor of a call option who has a long position in the underlying futures contract or underlying physical commodity is subject to the full risk of a decline in price of the underlying position. In exchange for the premium received for granting a call option, the option grantor gives up all of the potential gain resulting from an increase in the price of the underlying futures contract or underlying physical commodity above the option strike price if the option is exercised against the grantor.

The grantor of a put option who does not have a short position in the underlying futures contract or underlying physical commodity (*e.g.*, commitment to sell the physical) is subject to risk of loss should the price of the underlying futures contract or underlying physical commodity decrease by an amount in excess of the premium received for granting the put option.

The grantor of a put option on a futures contract who has a short position in the underlying futures contract is subject to the full risk of a rise in the price in the underlying position. In exchange for the premium received for granting a put option on a futures contract, the option grantor gives up all of the potential gain resulting from a decrease in the price of the underlying futures contract below the option strike price if the option is exercised against the grantor. The grantor of a put option on a physical commodity who has a short position (*e.g.*, commitment to sell the physical) is subject to the full risk of a rise in the price of the commodity which must be obtained to fulfill the commitment. In exchange for the premium received for granting a put option on a physical commodity, the option grantor gives up all of the potential gain which, if the option is exercised against the grantor, would result from a decrease in the price of the commodity which must be obtained to fulfill the commitment below the option strike price.

(2) *DESCRIPTION OF COMMODITY OPTIONS.* Prior to entering into any transaction involving a commodity option, an individual should thoroughly understand the nature and type of option and the underlying futures contract or underlying physical commodity involved. The futures commission merchant is required to provide, and the individual contemplating an option transaction should obtain, a description of the following:

(i) The futures contract or the physical commodity which is the subject of the option;

(ii) The quantity of the underlying futures contract or underlying physical commodity which may be purchased or sold upon exercise of the option or, if applicable, whether exercise of the option will be settled in cash;

* * * * *

(v) A description of all costs in addition to the purchase price which may be incurred if the commodity option is exercised, including the amount of commissions (whether termed sales commissions or otherwise), storage, interest, and all similar fees and charges which may be incurred;

(vi) An explanation and understanding of an option grantor's initial margin requirement and obligation to provide additional margin in connection with such an option position, or a position in a futures contract, if applicable;

* * * * *

(viii) If applicable, the loss (or profit) that could be generated by the option position by a limit move (or a series of limit moves) in the underlying future, both in total dollars and as a percentage of the total cost of the option.

(3) *THE MECHANICS OF OPTION TRADING.* Before entering into any exchange-traded option transaction, an individual should obtain a description of how commodity options are traded.

Option customers should clearly understand that there is no guarantee that option positions may be offset by either a closing purchase or closing sale transaction on an exchange. In this circumstance, option grantors could be subject to the full risk of their positions until the option positions expire, and the purchaser of a profitable option might have to exercise the option to realize a profit.

For a option on a futures contract, an individual should clearly understand the relationship between exchange rules governing option transactions and exchange rules governing the underlying futurs contract. For example, an individual should understand what action, if any, the exchange will take in the option market if trading in the underlying futures market is restricted or the futures prices have made a "limit move."

* * * * *

(5) *PROFIT POTENTIAL OF AN OPTION POSITION.* An option customer should carefully calculate the price which the underlying futures contract or underlying physical commodity would have to reach for the option position to become profitable. This price would include the amount by which the underlying futures contract or underlying physical commodity would have to rise or fall below the strike price to cover the sum of the premium and all other costs incurred in entering into and exercising or closing (offsetting) the commodity option position.

(6) *DEEP-OUT-OF-THE-MONEY OPTIONS.* A person contemplating purchasing a deep-out-of-the-money option (that is, an option with a strike price significantly above, in the case of a call, or significantly below, in the case of a put, the current price of the underlying futures contract or underlying physical commodity) should be aware that the chance of such an option becoming profitable is ordinarily remote.

On the other hand, a potential grantor of a deep-out-of-the-money option should be aware that such options normally provide small premiums while exposing the grantor to all of the potential losses described in section (1) of this disclosure statement.

(7) *GLOSSARY OF TERMS.*

(i) *Contract market*—Any board of trade (exchange) located in the United States which has been designated by the Commodity Futures Trading Commission to list a futures contract or commodity option for trading.

(ii) *Exchange-traded option; put option; call option*—The options discussed in this disclosure statement are limited to those which may be traded on a contract market. These options (subject to certain exceptions) give an option purchaser the right to buy in the case of a call option, or to sell in the case of a put option, a futures contract or the physical commodity underlying the option at the stated strike price prior to the expiration date of the option. Each exchange-traded option is distinguished by the underlying futures contract or underlying physical commodity, strike price, expiration date, and whether the option is a put or a call.

(iii) *Underlying futures contract*—The futures contract which may be purchased or sold upon the exercise of an option on a futures contract.

(iv) *Underlying physical commodity*—The commodity of a specific grade (quality) and quantity which may be purchased or sold upon the exercise of an option on a physical commodity.

(v) *Class of options*—A put or a call covering the same underlying futures contract or underlying physical commodity.

(vi) *Series of options*—Options of the same class having the same strike price and expiration date.

(vii) *Exercise price*—*See* strike price.

(viii) *Expiration date*—The last day when an option may be exercised.

(ix) *Premium*—The amount agreed upon between the purchaser and seller for the purchase or sale of a commodity option.

(x) *Strike price*—The price at which a person may purchase or sell the underlying futures contract or underlying physical commodity upon exercise of a commodity option. This term has the same meaning as the term "exercise price."

(xi) *Short option position*—*See* opening sale transaction.

(xii) *Long option position*—*See* opening purchase transaction.

(xiii) *Types of options transactions*—

(A) *Opening purchase transaction*—A transaction in which an individual purchases an option and thereby obtains a long option position.

(B) *Opening sale transaction*—A transaction in which an individual grants an option and thereby obtains a short option position.

(C) *Closing purchase transaction*—A transaction in which an individual with a short position liquidates the position. This is accomplished by a closing purchase transaction for an option of the same series as the option previously granted. Such a transaction may be referred to as an offset transaction.

(D) *Closing sale transaction*—A transaction in which an individual with a long option position liquidates the position.

This is accomplished by a closing sale transaction for an option of the same series as the option previously purchased. Such a transaction may be referred to as an offset transaction.

(xiv) *Purchase price*—The total actual cost paid or to be paid, directly or indirectly, by a person to acquire a commodity option. This price includes all commissions and other fees, in addition to the option premium.

(xv) *Grantor, writer, seller*—An individual who sells an option. Such a person is said to have a short position.

(xvi) *Purchaser*—An individual who buys an option. Such a person is said to have a long position.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

46. Section 145.5 is proposed to be amended by revising paragraph (d)(1)(vi) to read as follows:

§ 145.5 Nonpublic matters.

* * * * *

(d) * * *

(1) * * *

(vi) Reports filed on forms in the '01, '03 and '04 series, and on Form 103, required to be filed pursuant to § 17.00, § 18.00 and Part 19 of this chapter; and

* * * * *

PART 147—OPEN COMMISSION MEETINGS

47. Section 147.3 is proposed to be amended by revising paragraph (b)(4)(i)(F) to read as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(4) * * *

(i) * * *

(F) Reports filed on forms in the '01, '03 and '04 series, and on Form 103, required to be filed pursuant to § 17.00, § 18.00 and Part 19 of this chapter; and

* * * * *

PART 155—TRADING STANDARDS

48. Section 155.2 is proposed to be amended by revising paragraphs (a), (b), and (i) to read as follows:

§ 155.2 Trading standards for floor brokers.

Each contract market shall adopt and submit to the Commission for approval pursuant to section 5a(12) of the Act and § 1.41 of this chapter, a set of rules which shall, at a minimum, with respect to each member of the contract market acting as a floor broker:

(a) Prohibit such member from purchasing any commodity for future delivery, purchasing any call commodity option, or selling any put commodity option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) purchase of any future, (2) purchase of any call commodity option, or (3) sale of any put commodity option, in the same commodity which is executable at the market price or at the price at which such purchase or sale can be made for the member's own account or any account in which he has an interest.

(b) Prohibit such member from selling any commodity for future delivery, selling any call commodity option, or purchasing any put commodity option, for his own account or for any account in which he has an interest, while holding an order of another person for the (1) sale of any future, (2) sale of any call commodity option, or (3) purchase of any put commodity option, in the same commodity which is executable at the market price or at the price at which such sale or purchase can be made for the member's own account or any account in which he has an interest.

* * * * *

(i) Require that every execution of a transaction on the floor by such member be confirmed promptly with the opposite floor broker or floor trader; such confirmation shall identify price or premium, quantity, future or commodity option and respective clearing members. In the event a contract market cannot require prompt identification of respective clearing members without seriously disrupting the functions of its marketplace, the contract market may petition the Commission for exemption from this requirement. Such petition shall include:

* * * * *

49. Section 155.3 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 155.3 Trading standards for futures commission merchants.

(a) * * *

(1) Insure, to the extent possible, that each order received from a customer or from an option customer which is executable at or near the market price is transmitted to the floor of the appropriate contract market before any order in any future or in any commodity option in the same commodity for any proprietary account, any other account in which an affiliated person has an interest, or any account for which an affiliated person may originate orders without the prior specific consent of the account owner, if the affiliated person has gained knowledge of the customer's or option customer's order prior to the transmission to the floor of the appropriate contract market of the order for a proprietary account, an account in which the affiliated person has an interest, or an account in which the affiliated person may originate orders without the prior specific consent of the account owner; and

* * * * *

PART 170—REGISTERED FUTURES ASSOCIATIONS

50. The authority citation for Part 170 is proposed to be revised to read as follows:

Authority: 7 U.S.C. 6c, 12a, and 21.

51. Section 170.5 is proposed to be revised to read as follows:

§ 170.5 Prevention of fraudulent and manipulative practices (Section 17(b)(7) of the Act).

A futures association must establish and maintain a program for the protection of customers and option customers, including the adoption of rules to protect customers and option customers and customer funds and to promote fair dealing with the public. These rules shall set forth the ethical standards for members of the association in their business dealings with the public. An applicant association must also demonstrate its capability to foster a professional atmosphere among its members, including an acceptance of and adherence to the ethical standards, and to monitor and enforce compliance with the customer and option customer protection program and rules.

52. Section 170.8 is proposed to be revised to read as follows:

§ 170.8 Settlement of customer disputes (Section 17(b)(10) of the Act).

A futures association must be able to demonstrate its capability to promulgate rules and to conduct proceedings which provide a fair and equitable procedure, through arbitration or otherwise, for the voluntary settlement of a customer's or option customer's claim or grievance of less than $15,000 brought against any member of the association or any employee of a member of the association. Such rules shall conform to and be consistent with Section 17(b)(10) of the Act and be consistent with Part 180 of the Commission's regulations governing contract market arbitration and dispute settlement procedures.

PART 180—ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

53. Section 180.1 is proposed to be amended by revising paragraph (a) to read as follows:

§ 180.1 Definitions.

(a) The term "claim or grievance" as used in this Part shall mean any dispute which arises out of any transaction on or subject to the rules of a contract market, executed by or effected through a member of that contract market or employee thereof which dispute does not require for adjudication the presence of essential witnesses or third parties over whom the contract market does not have jurisdiction and who are not otherwise available. The term claim or grievance does not include disputes arising from cash market transactions which are not a part of or directly connected with any transaction for the purchase or sale of any commodity for future delivery or commodity option.

* * * * *

Issued in Washington, D.C. on June 25, 1982 by the Commission.

Jean A. Webb,

Deputy Secretary of the Commission.

[FR Doc. 82-17678 Filed 6-29-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1, 274, 284, 375 and 381

Fees Applicable to the Natural Gas Policy Act; Correction

June 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document makes corrections in a Notice of Proposed Rulemaking in Docket No. RM82-30-000 concerning fees applicable to the Natural Gas Policy Act that appeared in the **Federal Register** on June 8, 1982 (47 FR 24726). This action corrects certain data set forth in the preamble and adds to the Initial Regulatory Flexibility Analysis a line which was inadvertently omitted from the preamble.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8400.

The following two corrections are made in F.R. Doc. 82-15523, beginning on page 24726 of the issue of June 8, 1982. First, the table summarizing the average number of work-months and average costs incurred in rendering the services for which the Commission proposes fees, shown at 47 FR 24731, is corrected (as indicated by italics) to read:

Service	Total WMs	Total completions	Average number WM's per completion	Average cost per completion
Adjustments under NGPA section 502(c) including exemptions from incremental pricing under NGPA section 206(d)	*236.4*	*65*	*3.668*	*$14,791.83*
Jurisdictional Agency Determination Reviews	850.5	52,303	.0163	*$70.54*
Initial Title III Filings	177	*464*	*0.381*	*1,535.45*
Extension Filings under Title III	19	100	0.190	*766.27*
Interpretation of the NGPA	*113.9*	63	*1.808*	*7,291.07*

The above corrections do not affect the fees proposed.

Second, in the Initial Regulatory Flexibility Analysis, the fourth and fifth sentences of the last paragraph, shown at 47 FR 24732, insert between the words "the" and "a" the words "costs incurred by the Commission. The proposal also contains", so that the sentences read:

The fees proposed for the categories that will have the most significant economic impact on producers (adjustments and interpretations) recover only a small proportion of the costs incurred by the Commission. The proposal also contains a provision for waiver or reduction of those fees to protect further any individuals subject to the fees from economic hardship.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17603 Filed 6-29-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Parts 154, 157, 375 and 381

Fees Applicable to Producer Matters Under the Natural Gas; Correction

June 23, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document makes corrections in a Notice of Proposed Rulemaking in Docket No. RM 82-25-000 concerning fees applicable to producer matters under the Natural Gas Act, that appeared in the **Federal Register** on May 13, 1982 (47 FR 20621). This action corrects certain data set forth in the preamble.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Room 9310, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357-8400.

The following correction is made in F.R. Doc. 82-13104, appearing on page 20621 of the issue of May 13, 1982. In Part III of the preamble, entitled Fees Proposed, shown at 47 FR 20624, the Average Cost Per Completion satistics for the three listed services are corrected to read: $1,617.10 (Review of Applications for Blanket Small Producer Certificates); $2,125.22 (Review of Applications for Producer Certificates); and $334.71 (Review of Producer Rate Schedule Filings).

This correction reflects the proper product of multiplying the average work-month cost by a 3-digit average number of work-months per completion. It does not affect the proposed fees.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-17602 Filed 6-29-82; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 271

[Docket No. RM79-76-118 (New York-2)]

High-Cost Gas Produced from Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formation. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of New York that the Medina Group and Queenston Shale be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on July 26, 1982.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on July 9, 1982.

ADDRESS: Comments and requests for hearing must be file with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or John Roy Johnson, (202) 357–8731.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, OPPR

Issued June 24, 1982.

I. Background

On May 19, 1982, the State of New York, Department of Environmental Conservation (New York) submitted to the Commission a recomendation, in accordance with § 271.703 of the Commission's regulations 45 FR 56034, August 22, 1980), that the Medina Group and Queenston Shale located in Erie, Genesee, Wyoming, Allegany, Livingston, Ontario, Yates, Seneca, Cayuga, and Tompkins Counties, New York, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether New York's recommendation that the Medina Group and Queenston Shale be designated a tight formation should be adopted. New York's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

New York recommends that the Medina Group and Queenston Shale in Erie, Genesee, Wyoming, Allegany, Livingston, Ontario, Yates, Seneca, Cayuga, and Tompkins Counties, New York, be designated a tight formation. The recommended area encompasses approximately 3.6 million acres and does not include any Medina gas storage areas, including buffer zones, or any areas within Medina or Queenston "existing fields".[1]

The Medina Group (also known as the Albion Group) is of Early Silurian age and overlies the Queenston Shale (called the "red shale" by some drillers), which is of Late Ordovician age. The recommended Medina-Queenston interval is bounded above by the Thorold Formation or its time equivalent, the Kodak Sandstone, and bounded below by the Oswego Sandstone. The average depth to the top of the interval is 1,500 feet.

The Medina Group is a sequence of interbedded sandstones, siltstones, and shale which averages 100 feet in thickness and consists of (from base to top) the Whirlpool Sandstone (called "white Medina" by drillers), the Power Glen Shale (also known as the Cabot Head Shale), and the Grimsby Sandstone (called "red Medina" by drillers).

The Queenston Shale averages several hundred feet in thickness and consists of interbeded shales and sandstones.

III. Discussion of Recommendation

New York claims in its submssion that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

New York further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by New York that the Medina Group and Queenston Shale, as descirbed and delineated in New York's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 26, 1982. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–118 (New York–2), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than July 9, 1982.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight informations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event New York's recommendation is adopted.

Kenneth A. Williams

Director, Office of Pipeline and Producer Regulation.

PART 271—CEILING PRICES

Section 271.703 is amended by adding new paragraph (d)(120) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(120) *Medina Group and Queenston Shale in New York.* RM79–76–118 (New York–2).

(i) *Delineation of formation.* The Medina Group and Queenston Shale are found in Erie, Genesee, Wyoming, Allegany, Livingston, Ontario, Yates, Seneca, Cayuga, and Tompkins Counties, New York. Excluded from the delineated Medina-Queenston interval are any Medina gas storage areas, including buffer zones, or any areas within Medina or Queenston "existing fields" (as defined in Title 6, New York Code of Rules and Regulations, section 550.3(q)). The Medina Group (also known as the Albion Group) is of Early Silurian age and overlies the Upper Ordovician Queenston Shale (called the "red shale" by some drillers). The

[1] Title 6 of the New York Code of Rules and Regulations, § 550.3(q), defines an "existing field" as an area underlain by one or more existing pools which have been discovered, developed, and operated, or were in the process of being developed and operated on or prior to October 1, 1963.

vertical limits of the Medina-Queenston interval are the Thorold Formation or time equivalent Kodak Sandstone above and the Oswego Sandstone below. The Medina Group consists of (from base to top) the Whirlpool Sandstone (called "white Medina" by drillers), the Power Glen Shale (also known as the Cabot Head Shale), and the Grimsby Sandstone (called "red Medina" by drillers).

(ii) *Depth.* The average depth to the top of the delineated Medina-Queenston interval is 1,500 feet. The Medina Group averages 100 feet in thickness and the Queenston Shale averages several hundred feet in thickness.

[FR Doc. 82-17577 Filed 6-29-82; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-161-81]

Industrial Development Bonds for Residential Rental Housing; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to industrial development bonds the proceeds of which are used for residential rental housing.

DATES: The public hearing will be held on July 27, 1982, beginning at 10:00 a.m. Outlines of oral comments must be mailed or delivered by July 13, 1982.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-161-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 103(b)(4)(A) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, May 26, 1982 (47 FR 22966).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing indicating the time they wish to devote to each subject by July 13, 1982. Each speaker will be limited to 10 minutes for oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Jason R. Felton,

Assistant Director, Legislation and Regulations Division.

[FR Doc. 82-17688 Filed 6-29-82; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 740, 741, 742, 743, 744 and 745

Federal Lands Program; Cancellation of Public Hearings on Proposed Rule To Amend 30 CFR Chapter VII, Subchapter D, the Federal Lands Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Cancellation of public hearing.

SUMMARY: The Office of Surface Mining (OSM) is announcing the cancellation of public hearings scheduled on the proposed rule relating to the Federal Lands Program because no requests were received to testify at such hearings within the specified time period June 25, 1982. See 47 FR 25092. The Director of the Office of Mining has determined that no hearings are necessary and, in the interest of cost savings, is hereby cancelling the hearings which were scheduled for July 1, 1982, in Denver, Colorado and July 2, 1982, in Washington, D.C.

This notice cancels the public hearings but does not alter the comment period during which interested persons may submit written comments on the proposed rule.

DATES: The following hearings are cancelled: The public hearings on the proposed rule amending 30 CFR Chapter VII, Subchapter D, scheduled for July 1, 1982, in Denver, Colorado and July 2, 1982, in Wahington, D.C.

Written comments must be received on or before 4:00 p.m., on July 23, 1982, to be considered.

ADDRESS: Written comments should be mailed or hand delivered to: H. Leonard Richeson, Federal Lands Specialist, Office of Surface Mining, U.S. Department of the Interior, Administrative Record (R&I-04), Room 5315, 1100 L Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: H. Leonard Richeson, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343-5866.

SUPPLEMENTARY INFORMATION: On June 9, 1982, the Office of Surface Mining published a proposed rule in the **Federal Register** which would revise 30 CFR Chapter VII, Subchapter D, the Federal Lands Program. The proposed rule provided for two public hearings to be held to receive comments. It further provided that if no person indicated an intention to testify by 5 days before the appropriate hearing date, that hearing would be cancelled. As of 5 days before the scheduled hearings, no persons contacted OSM indicating that they wished to testify at either of the hearings. Therefore, in the interest of cost savings, the Director of OSM is cancelling the hearings. While there will be no public hearings, interested persons may still submit written comments on the proposed rule. Written comments must be received on or before 4:00 p.m., on July 23, 1982, to be considered.

Date: June 28, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 82-17701 Filed 6-29-82; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[SWH-FRL 2158-2]

Hazardous Waste Management System: Standards for Generators of Hazardous Waste; Standards for Transporters of Hazardous Waste; Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period for proposed rule.

SUMMARY: On March 4, 1982, the Environmental Protection Agency, in a joint rulemaking with the Department of Transportation, proposed a rule which would establish a uniform hazardous waste manifest form (47 FR 9336). Generators would be required to use this form for all shipments of hazardous waste. EPA, upon receiving several meritorious requests, extended the closing date for public comment on the proposed rule from May 3, to June 17, 1982, (47 FR 20008). The Association of State and Territorial Solid Waste Management Officials and the Hazardous Materials Advisory Council requested a further extension of the comment period. EPA has evaluated this request and concluded that a longer comment period is warranted. Accordingly, the Agency is extending the comment period until July 20, 1982.

DATE: Comments on the national manifest proposed March 4, 1982, must be received on or before July 20, 1982.

ADDRESS: Comments should be addressed to the Docket Clerk (3002—Manifest), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C., 20460, (202) 382-4487.

The public docket for this rulemaking is available in Room S-269, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C., 20460 and is available for viewing from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For technical information on the proposal or on the extension, contact Mary E. McCaffery, Environmental Protection Agency, Office of Solid Waste (WH-563), 401 M Street SW, Washington, D.C., 20460 or call (202) 382-4697. For additional assistance, call the RCRA Hotline at (800) 424-9346 (in Washington, D.C. call 382-3000).

SUPPLEMENTAL INFORMATION: On March 4, 1982, in a joint rulemaking effort, the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) published a draft Uniform Hazardous Waste Manifest from and proposed its required use by generators for the interstate and intrastate transportation of hazardous waste.

A manifest form is a control and transport document that travels with the waste from its point of generation to its point of disposal. EPA's Resource Conservation and Recovery Act regulations presently require generators who transport, or offer for transportation, hazardous waste for offsite treatment, storage or disposal to prepare a manifest which must accompany the waste. Although the regulations specify certain required information that must appear on the manifest, there are no requirements for a standard form to be used.

Since those regulations became effective, numerous States have developed their own manifest forms which meet Federal requirements but require additional State information. These differing manifest requirements among States have resulted in confusion and compliance difficulties for the transport of hazardous waste. EPA and DOT proposed to resolve these difficulties through a joint rulemaking effort. EPA, on March 34, 1982, proposed to amend its regulations to require the use of a specific manifest form. DOT, in a companion action, proposed to amend its Hazardous Materials Regulations to require that shippers and carriers of hazardous waste comply with EPA's proposed amendments and to clarify that, whether or not a State has interim or final authorization by EPA, any requirement of a State or political subdivision of a State specifying a different or additional manifest is inconsistent with the Hazardous Materials Regulations (47 FR 9346).

The Agency, upon request, extended the public comment deadline from May 3, to June 17, 1982, (47 FR 20008). Since that time EPA has received a request from the Association of State and Territorial Solid Waste Management Officials and Hazardous Materials Advisory Council to once again extend the comment period. This extension, the members of the State and industry associations reasoned, will enable them to resolve a few remaining complex issues and to present their joint recommendations for a uniform manifest to their respective Association boards for approval.

The Agency wants to encourage continued dialogue between the Hazardous Material Advisory Council and the State Association on the proposed rule. The comments and recommendations which should result from these talks will enable EPA and DOT to develop a manifest form which better accommodates the views of the regulated community and the States. The Agency is therefore extending the comment period until July 20, 1982.

The Department of Transportation has indicated that it does not intend to formally extend its comment period. However, DOT has stated that it does not intend to act on the matter before August. Therefore, late filed comments will be considered pursuant to 49 CFR 106.23.

Dated: June 21, 1982.

Rita Lavelle,

Assistant Administrator for the Office of Solid Waste and Emergency Response.

[FR Doc. 82-17703 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 162

[OPP-250036; PH-FRL 2159-1]

Criteria for Initiation of RPAR Proceedings; Notification to the Secretary of Agriculture of Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule related notice.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation amending the criteria for initiation of the Rebuttable Presumption Against Registration (RPAR) Process. This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

FOR FURTHER INFORMATION CONTACT: Arthur Donner, Special Pesticide Review Division (TS-791), Office of Pesticide Programs, Environmental Protection Agency, Room 728E, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (703-557-8193).

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA requires that the Administrator provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the **Federal Register**. If the Secretary comments in writing regarding the proposed regulation within 30 days after receiving it, the Administrator shall issue in the **Federal Register**, with the proposed regulation, the comments of the

Secretary and the response of the Administrator. If the Secretary does not comment in writing within 30 days after receiving the proposed regulation, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. This regulation was also submitted to the FIFRA Scientific Advisory Panel as required by section 25(d)

(Sec. 25, 92 Stat. 836 (Pub. L. 95–396); 89 Stat. 752 (Pub. L. 94–140); 7 U.S.C. 136 *et. seq.*)

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: June 24, 1982.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 82-17605 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-326; RM-3909; FCC 82-276]

Amendment of the Commission's Rules Regarding the Allocation and Assignment of Radio Frequency Channels for a Self Powered Vehicle Detector

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This Notice of Inquiry responds to a petition for rule making submitted to the Commission by the Coast Guard requesting that rules be adopted to permit the use of a radio controlled traffic signal control system. Since the Commission could not determine from the limited response to the petition whether or not a new traffic signal control system is actually desired by the public safety agencies, it is issuing this Notice of Inquiry to elicit that information.

DATES: Comments are due by August 23, 1982 and replies by September 22, 1982.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Arthur C. King, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Radio.

Notice of Inquiry

Adopted: June 15, 1982.

Released: June 18, 1982.

By the Commission.

1. The Commission has before it a petition (RM–3909) filed May 20, 1981 by the United States Coast Guard, an agency of the Department of Transportation. The petition asks that the Commission institute a new rulemaking proceeding looking toward amendment of Part 90 of the Rules and Regulations to make frequencies available for a traffic sensing device (Self Powered Vehicle Detecter (SPVD)) designed to enhance traffic safety.

2. In support of its request, the Coast Guard states that it has developed a vehicle detector which would be buried in a traffic lane at the approach to an intersection so that, as a vehicle passes over, it would sense the presence of the vehicle and transmit two 30 millisecond pulses to a nearby receiver which would then pass the information along via wireline or radio link to a central processor. The central processor would keep track of vehicles passing through the intersection and change the traffic signal in such a manner that the maximum amount of traffic could move through the intersection in the least possible time. According to the data supplied by the petitioner, the SPVD input power to its final stage is 200 mw. and the output power to the spiral-wrapped antenna is 100 mw. The antenna efficiency is calculated to be .015 percent from its underground location. At 45 MHz a signal of 31.62 μv/m was measured when field tests were made. The Coast Guard states that: the vehicle detector, as described, would be economical to buy, if purchased in large quantities; could be installed with little disruption to traffic, since installation consists of simply drilling a four and a half inch diameter hole 17 inches deep in the center of each traffic lane; and would have to be serviced only once every two years, barring component failure prior to that time. Presently used induction loop detectors require frequent servicing, especially during cold weather when shrinkage of paving material causes breakage. The same occurs in very hot weather when expansion causes buckling of the paving material. Additionally, loop detectors are expensive to install.

3. The Coast Guard petition goes on to state:

"When compared with conventional induction loop detectors, the SPVD equals the accuracy of vehicle volume, occupancy, and speed messurements. Five highway agencies have tested the SPVD in actual trafic control and surveillance applications and have reported sucessful results. The SPVD can provide vehicle movement information for computerized traffic signal systems, conventional signal systems, isolated signalized intersections, and remote highway locations.

"Unnecessary traffic congestion at intersections can be reduced when traffic signals are operated in response to actual vehicle movements. Unfortunately, many signalized intersections operate ineffectively because highway agencies either cannot afford to install vehicle detectors, or they cannot afford to maintain detectors that are installed. Because the SPVD is easy to install and maintain, it is expected that highway agencies will utilize this device at many signalized intersections to improve traffic operations and safety."

The Coast Guard proposed using frequencies in the 45 MHz range. They specifically mention the offset frequenies lying halfway between the interleaved Police Radio Service and Local Government Radio Service channels from 45.07 MHz to 45.85 MHz. These particular frequencies are not an absolute requirement, however, and other frequenceis in the 40 to 50 MHz range could be substituted.

4. Comments in response to the public notice of receipt of the petition were filed by Associated Public Safety Communications Officers, Inc. (APCO), Public Broadcasting Service (PBS), and Consumer Electronics Group of the Electronic Industries Association (EIA). The comments raised two subjects for discussion. First, mentioned by both PBS and EIA was the matter of possible interference to television. In its comments EIA said:

"EIA/CEG does not oppose the SPVD concept, but believes that the proponent of the rule making has not yet met its obligation to demonstrate that the SPVD would not interfere with existing services. Commission action on the proposed rule making should await a supplementary showing by the proponent on the interference issue."

In the same vein, PBS said: "PBS is concerned about the Coast Guard's proposed use of frequencies at or near the 45.75 MHz video carrier intermediate frequency (IF) of television receivers for

vehicle detectors. Given the power proposed, and the number of vehicle detectors contemplated, it appears that there is a substantial chance of interference to television reception. Thus while PBS has no objection *per se* to the concept of vehicle detectors, it believes that the Coast Guard should provide further information as to what steps will be taken to protect television reception before the Commission proceeds further with rule making.

5. APCO's concern dealt with the frequency range selected, but did not touch on the possibility of interference to television. It instead raised three points. The first was the selection of 45 MHz without justification when other frequencies could, in its view, have just as easily been selected. The second was the proposal to center the SPVD's between Police and Local Government Radio Service channels. In this connection APCO raised the possibility of interference to two services' channels instead of one. Additionally, APCO was concerned with the possibility of SPVD's being interfered with by Police transmitters, stating:

"If a highway patrol unit responded to the scene of an accident at an intersection controlled by the detecting device, would the traffic signal malfunction each time the highway patrol transmitter was keyed? Would nearby police or local government high powered base stations cause such traffic devices to malfunction?"

The third concern dealt with police use of frequencies under Section 90.19(g) which states in part:

"A licensee may use without specific authorization from the Commission any mobile service frequency between 40 MHz and 952 MHz listed in paragraph (d) of this section for communications in connection with physical surveillance, stakeouts, raids, and other such activities. . . ."

6. APCO further stated:

"Regardless of the nature of the Highway Administration's operations, whether primary or secondary, these devices should not cause or receive interference from the type of police operation permitted by this section of the rules. In addition, the use of radio direction finders in connection with police surveillance operations is often necessary. Direction finder accuracy could be seriously affected by transmissions of the type proposed by the Highway Administration, since the power of the surveillance transmitter is quite low."

APCO concluded its comments with the suggestion that the proposed operation be placed on the low-band channels of the Highway Maintenance Radio Service and be "subject to coordination by the Highway Maintenance Coordinator for the area."

7. In a supplemental submission, the Coast Guard submitted measurements that purport to show that there should be no danger of interference to television reception; however, the Coast Guard's supplemental submission did not specifically address the issues raised by EIA and PBS, nor were the issues raised by APCO specifically addressed either. Upon receipt of the supplemental petition, however, the Commission placed the Coast Guard petition and supplemental submission on public notice a second time but received no comments in response.

8. We cannot determine from the small number of comments that were received in response to the petition for rule making whether or not there is a substantial amount of interest in the SPVD. With only three parties submitting comments, and none of those indicating a desire to see such systems implemented, it is not possible for us to determine the degree of interest or to decide whether the public interest would be served by the denial of the rule making petition or by the adoption of a Notice of Proposed Rule Making. Accordingly, we are issuing this Notice of Inquiry so that a number of parties will have the opportunity to comment on the issues raised by this petition for rule making and indicate their degree of interest or their concerns. Questions we would like commenters to address include the following:

a. What are the requirements for a self powered vehicle detector (SPVD)?

b. Does the SPVD described herein appear to fulfill needed requirements?

c. Would the SPVD described be more reliable than existing vehicle detection methods?

d. Would the SPVD as described be more economical than existing detection methods?

e. Are any adverse impacts on existing instrumentation foreseen? In this respect, we would like specific documentation.

f. Would the SPVD be more appropriately authorized under Part 15 of the Commission's rules where specific licensing would not be required than under Part 90 where each jurisdiction's SPVD installations would have to have a specific license?

g. Would the proposed SPVD interfere with television reception by use of frequencies at or near 45.75 MHz, which is the standard intermediate frequency for video carriers of television receivers? What other frequencies are recommended if frequencies in the 45 MHz range are deemed inappropriate?

h. Would the proposed SPVD be compatible with existing operations in the Public Safety Radio Services? If so, how would it be integrated into existing structure?

i. Would the Highway Maintenance Radio Service be better suited for SPVD than the Police Radio Service?

Authority for this action is contained in Sections 4(i), 303(r) & 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) & 403.

9. Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before August 23, 1982, and reply comments on or before September 22, 1982. All relevant and timely comments will be considered by the Commission before action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that that fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-17632 Filed 6-29-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1310

[Ex Parte No. MC-158]

Rates for a Named Shipper or Receiver

AGENCY: Interstate Commerce Commission

ACTION: Notice of proposed rules.

SUMMARY: The Commission is proposing to eliminate the general prohibition, now contained in 49 CFR 1310.7(a)(5) against publishing rates restricted to named shippers, receivers, and locations. The existing rule is believed to prevent the lawfulness of such a tariff provision from being fully considered on the merits. Under this proposal, the existing rule would be modified specifically to authorize this form of rate filing.

DATE: Comments should be filed within 30 days following publication of this notice in the **Federal Register.**

ADDRESS: Send an original and, if possible, 15 copies of comments to: Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway (202) 275–7277.

SUPPLEMENTARY INFORMATION: The proof necessary to show unlawful discrimination under 49 U.S.C. 10741 is well settled. A complaining party must show disparity of rates, competitive injury, and common control by the carrier over the rates charged to both the preferred and prejudiced shippers. Such a prima facie showing can be rebutted if the defending carrier demonstrates that the differences in rates is justified by differing transportation conditions. See, for example, *Harborlite Corp.* v. *Southern Pacific Transp. Co.*, 364 I.C.C. 585 (1981).

49 CFR 1310.7(a)(5) conflicts with this established legal standard for judging unlawful discrimination. It provides that

> [r]ates may not be published to apply * * * from or to a named shipper or receiver (except for the purpose of identifying the site), or from or to a named site located within a city, town, or township unless the carrier's operating authority is so restricted in the same words.

The mechanical rejection of tariffs not in conformance with 49 CFR 1310.7(a)(5) establishes an irrebuttable presumption that a rate for a name shipper, receiver or location is unlawful. Thus, it improperly disregards the other necessary elements of a discrimination analysis required by case law. The rule may also have an improper chilling effect on new rate filings.

Accordingly, we believe the rule establishes an improper and unlawful bar to tariff publications of this type. The proper method of addressing issues under section 10741 is not the rejection process. Instead, issues of unlawful discrimination should be addressed on the merits (with reference to the four established criteria) through protests at the suspension stage and formal complaints. Before taking final action, we call for comments from interested persons on the proposed rule reproduced in the appendix.

While this action should not significantly affect the quality of the human environment or conservation of energy resources, comments on this issue are also invited. We do not believe that this proceeding is likely to have a significant impact on a substantial number of small entities, since any action will result in elimination of regulation—not an addition to it.

(49 U.S.C. 10762 and 5 U.S.C. 553).

The index terms covering 49 CFR 1310 are as follows: exports, freight, imports, intermodal transportation, maritime carriers, and motor carriers.

Dated: June 18, 1982.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Sterrett, Andre, and Simmons. Commissioner Simmons concurred with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Simmons, concurring:

I continue to believe that a broad public inquiry into discount rates would be beneficial to the Commission, to carriers, and to the shippers. *See Lawfulness of Vol. Discount Rates*,365 I.C.C. 711 (1982). I nonetheless, support the Commission's effort to obtain public comment on the more limited, though still significant, issues raised in this notice.

Appendix

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

We propose to revise 49 CFR 1310.7(a)(5), to read as follows:

§ 1310.7 [Amended]

(a) * * *

(5) Rates may be published to specifically named sites as well as for the accounts of specifically named shippers. When rates are published to apply from or to a named plant site construction site, or other site to comport with the carrier's operating authority, the location of the site must be identified as specifically as possible. For example, the "plant site of John Doe Manufacturing Company on U.S. Highway 10 approximately 23 miles east of A Town, Z State." The term "near" or "near or at" should be avoided, unless they contribute still more specificity.

[FR Doc. 82–17009 Filed 6–29–82; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Humane and Healthful Transport of Wild Animals and Birds to the United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The Service has been directed to promulgate regulations for the humane and healthful transport of wild animals and birds into the United States pursuant to a mandate from Congress found in the Lacey Act Amendments of 1981. The Service is considering using currently existing regulations of the Department of Agriculture governing the humane transport of warm-blooded animals and the "Guidelines for Transport of Live Wild Animals and Plants" developed by the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora as a framework for developing these regulations. The Service hereby solicits comments and suggestions on this approach. The Service also requests information on environmental and economic impacts, and effects on small entities as well as information on alternatives to the suggested framework.

DATE: Information and comments on this notice must be received on or before July 31, 1982, to be assured consideration.

ADDRESS: The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, persons may submit written comments, suggestions, or objections concerning this notice. Comments should be address to: Director (WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

Comments received will be available for public inspection and copying between the hours of 8:30 a.m. and 4 p.m. at 1000 N. Glebe Road, Room 621, Arlington, Virginia, both during and after the comment period.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (Telephone: (703) 235–2418).

SUPPLEMENTARY INFORMATION: On November 16, 1982, the President signed into law the Lacey Act Amendments of

1981 (Pub. L. 97–79, 95 Stat. 1073). Section 9 of the amendments shifts authority for promulgating regulatory requirements for the humane and healthful transport of wild animals and birds from the Secretary of the Treasury to the Secretary of the Interior, any such regulations to be promulgated within 180 days of the effective date of the amendments.

By **Federal Register** notice of February 26, 1982, the Service announced that it would hold a public meeting to receive information and comments with regard to the development of the regulations (47 FR 8386). The meeting was held on March 25, 1982, in the Main Interior building and was attended by approximately 31 persons representing the zoo community, persons engaged in shipping and carrying live animals, organizations concerned with the humane treatment of wild animals and several concerned Federal agencies.

At the meeting, the following issues were raised and discussed:

1. Which elements of the chain of trade can/should be regulated? Regulatory authority extends only to transport of live wild animals and birds to the United States. Obviously, some of the persons engaged in transporting animals to the United States will be outside the scope of U.S. jurisdiction. Should "innocent" importers be held responsible in any way under the regulations? Which modes of transport should be subject to the regulations?

2. The Lacey Act authorizes the Secretary of the Interior to "* * * prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds * * *." Under what circumstances, if any, should the regulations include a permit requirement. The Service does not favor the addition of another tier of permits to the trade of wild animals, but there may be a need for some type of system in light of the importance of regulatory flexibility, given the international character of the activities regulated and the wide variety of shipping techniques and laws involved.

3. How will these regulations interrelate to other regulations, in particular the Animal Welfare Act regulations (9 CFR Parts 2 and 3)? The Animal Welfare Act ("AWA") regulations govern interstate transport of live warm-blooded animals, including birds, by certain persons. A shipment coming from abroad could be subject to the regulations contemplated by this notice and the AWA regulations during different time periods. The regulations should not have standards so different from AWA regulations as to cause unnecessary and possibly harmful delays in a shipment involving both foreign and interstate transport.

4. Labelling and Documentation: How much, if any, information relevant to the health and humane transport of animals should accompany the shipment taking into consideration the need for expeditious transport, the food, watering and health requirements of the animal and the need for security of the shipment? In addition to humane transport regulations, the Service is obligated to draft joint regulations with the Department of Commerce to carry out its mandate under section 7 of the amendments to promulgate specific regulations for the marking of containers or packages containing fish or wildlife, such regulations to be in accordance with existing commercial practices. The primary purpose of the Section 7 regulations would be to assist in the identification of fish and wildlife. Any additional requirements of the humane transport regulations should be designed to foster the humane and healthful transport of wild animals and birds. As such, the regulations may require more information than would be required under any "section 7" regulations.

5. Container Reuse: Should reuse of containers that can be sanitized and can meet containment and safety requirements be allowed?

6. Expeditious Clearance on Arrival: Should any time constraints or priorities be mandated for carriers to make live animals expeditiously available for pickup at the final destination?

7. Does the volume of traffic to the United States in certain species of animals justify the promulgation of regulations directed at them? Here the Service would appreciate receiving information on traffic volume and instances of inhumane and unhealthful conditions of transport of wild animals or birds to the United States.

8. Flexibility of Container Requirements: How detailed should the regulations be with regard to container materials and structural requirements in light of the wide variety of materials currently in use and the potential for the development of new materials and techniques.

9. Should the regulations use the Interagency Primate Steering Committee Guidelines for the Transportation of Nonhuman Primates, March 1981, as a framework for a section of the regulations covering transport of nonhuman primates? The AWA regulations contain a separate section dealing with nonhuman primates.

10. Compatibility: Under what circumstances, if any, could animals of different species be shipped in the same container?

11. What is the meaning of "wild animals and birds"? There were questions at the meeting as to whether the term included live eggs, or blood samples and how to define the term "wild". The Service has received advice from the Assistant Solicitor, Fish and Wildlife that this term includes non-domestic mammals, birds, reptiles, amphibians, fish, mollusks, crustaceans, arthropods, coelenterates and any other invertebrates.

These issues by no means exhaust the possiblities and the public is invited to provide comments with regard to any aspect of the regulations under consideration.

The Service is considering using the Animal Welfare Act regulations of the Department of Agriculture as a framework for developing that portion of the regulations governing tansport to the United States of warm-blooded animals. The advantage of this approach would be that many shipments coming into the United States which met the Service's regulations would more readily meet requirements of the Animal Welfare Act regulations which would control any portion of such shipments thereafter continuing in interstate commerce. This would appear to be in keeping with the intent of Congress as expressd in House of Representatives Report No. 97–276, in which the Committee on Merchant Marine and Fisheries stated that:

> The amendment is not intended to affect the regulation of the care, handling or transportation of animals by Federal agencies under laws other than the Lacey Act. The Committee is aware, for example, that humane handling and transportation regulations have been promulgated for certain mammals under the terms of the Animal Welfare Act by the Department of Agriculture. The Committee does not intend by this amendment to in any way affect those or other similar regulations issued under the Animal Welfare Act or other laws, or to authorize the Department of the Interior to promulgate regulations covering species and activities that are already the subject of human care and handling regulations pursuant to some other Federal statute.

It could also enable the Service and the Animal and Plant Health Inspection Service ("APHIS") of the Department of Agriculture to take advantage of each other's inspection and enforcement capabilities. This could be done in the form of joint regulations issued by the Service and APHIS or, due to the fact that the animals and persons to be regulated by the Service will probably vary somewhat from those regulated by the AWA regulations, the Service may issue separate regulations concerning

warm-blooded animals similar to the AWA regulations.

With regard to cold-blooded animals, the Service is considering using the "Guidelines for Transport of Live Wild Animals and Plants" developed by the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") as a framework on which to develop the regulations. These guidelines may be purchased from: UNIPUB, 345 Park Avenue South, New York, New York 10010. Over 75 countries are party to CITES and the guidelines were designed primarily for use in determining whether a proposed export of live animals will be so shipped as to minimize the risk of injury or damage to health. The Parties have developed a system for amending the guidelines upon recommendation of a Party and approval by the biennial "Conference of the Parties". These guidelines were developed under instructions that they be broadly based on the "Live Animals Regulations" of the International Air Transport Association and that they cover all forms of transport.

It should be noted here that the Congressional deadline (May 16, 1982) for the promulgation of the regulations will not be met. This is in large part due to the scope and complexity of the task. The Service is proceeding with diligence in the preparations for the regulation. Consultations have begun with APHIS on the development of the regulations.

The purpose of this notice is to give interested persons an opportunity to submit comments and suggestions on the regulations as outlined above, before the issuance of any notice of proposed rulemaking. Also, the Service hereby requests information on environmental and economic impacts, as well as any effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) that would result from the regulations outlined above. Similar information on possible alternatives to such regulations is also requested. This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal Regulation, and the Regulatory Flexibility Act.

List of Subjects in 50 CFR Part 14

Exports, Fish, Imports, Labeling, Transportation, Wildlife.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: June 24, 1982.

G. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

[FR. Doc. 82-17633 Filed 6-29-82; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 2517-97]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; notice of approval and availability of a fishery management plan.

SUMMARY: The Assistant Administrator for Fisheries (Assistant Administrator), NOAA, has approved the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP). This action announces the availability of the FMP for public review and proposes regulations to implement the FMP. The FMP was prepared by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act. The intended effect of this action is to ensure orderly growth of the spiny lobster fishery in the western Pacific fishery conservation zone.

DATE: Comments are invited until August 16, 1982.

ADDRESSES: Comments should be addressed to Alan W. Ford, Regional Director, Sourtwest Region, National Marine Fisheries Service, 300 South Ferry Street, Room 2016, Terminal Island, CA 90731, or Doyle E. Gates, Administrator, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, P.O. Box 3830, Honolulu, HI 96812. Mark "Comments on Spiny Lobster Regulations" on the outside of the envelope. Copies of the FMP are available by writing to either of the above individuals or by writing to Svein Fougner, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford, Regional Director, Southwest Region, 213-548-2575; Doyle E. Gates, Administrator, Western Pacific Program Office, Southwest Region, 808-955-8831; or Svein Fougner, Executive Director, Western Pacific Fishery Management Council, 808-523-1368.

SUPPLEMENTARY INFORMATION:

Background

Section 305(a) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act), authorizes the Secretary of Commerce (Secretary) to promulgate regulations implementing approved fishery management plans prepared by regional fishery management councils for their geographic areas of concern. The Western Pacific Fishery Management Council (Council) developed the fishery management plan (FMP) for the spiny lobster fisheries in the fishery conservation zone (FCZ) off the coasts of America Samoa, Guam, and Hawaii. The FMP was prepared by a team of State and Federal fishery scientists with substantial guidance from the Council's Spiny Lobster Advisory Subpanel, Scientific and Statistical Committee and the concerned public.

The draft FMP was combined with a draft environmental impact statement (EIS), draft regulatory analysis, and draft regulations to reduce redundancy and enhance public participation in the early decision-making process. Public hearings were held in Honolulu, Pago Pago, American Samoa, and Agana, Guam.

The FMP was submitted for Secretarial review under Section 304 (a) and (b) of the Magnuson Act in early May, 1981. The review period was interrupted, however, while issues involving the size-limit management measure and protection for Hawaiian monk seals were resolved by revision of certain sections of the FMP. This was accomplished and the review period restarted on February 16, 1982. The FMP was approved by the Assistant Adminstrator on May 14, 1982.

Scope of Proposed Regulation

These regulations would govern all domestic commercial fishing for spiny lobsters (including the species *Panulirus marginatus, P. Penicillatus,* and incidental catches of slipper lobster and Kona crab of the families Scyllaridae and Raminidae respectively) in the FCZ surrounding American Samoa, Guam, and Hawaii. Since the only significant development potential for this fishery is in that part of the FCZ surrounding the Northwesten Hawaiian Islands (NWHI), most of the proposed regulations apply only to this area. For commercial lobster fishing in the NWHI area, the proposed regulations would restrict harvesting of lobsters to specific sizes, areas, and

reproductive condition. In addition, only specified gear could be used, permits and logbooks would be required, the catch would have to be available for inspection, and scientific observers would be carried when requested. Recreational catches would be exempted from permit and reporting requirements. Experimental fishing would be allowed by vessels carrying a scientific observer.

Need for the FMP

The NWHI lobster fishery began in 1976 on an experimental basis. While landings of NWHI lobsters have been sporadic, the fishery in recent years has increased; now a possible danger of overfishing exists. Hence, conservation of the NWHI lobster resource in the FCZ is the primary reason for implementing the FMP. A second and related need for the FMP is to promote economic stability in the fishery. If overfishing occurred, future productivity of the lobster resource could be severely limited until more restrictive regulations became effective, thus disrupting the economic vitality of the fishery.

A third need for the FMP is to prevent adverse impacts on endangered and threatened species. Particular concern has been expressed about protecting the endangered Hawaiian monk seal, endemic only to the NWHI, from adverse interactions with the fishery. The FMP contains such protective provisions, including special measures to investigate and prevent monk seal mortalities resulting from the spiny lobster fishery. These measures carry out recommendations contained in the biological opinion, prepared under Section 7 of the Endangered Species Act.

Finally, implementing the FMP will provide a means for monitoring the condition of the lobster resource through systematic collection of catch and fishing effort information. Because the fishery is relatively new and no Federal regulations currently apply to the NWHI lobster fishery in the FCZ, incomplete data exist on which to base future management decisions. The FMP is designed to provide basic information on the fishery so that future variations can be monitored and management changes made if necessary.

Management Strategy

The FMP selects a management regime designed to control development of the western Pacific spiny lobster fisheries so that domestic catches can increase while protecting the lobster stocks and endangered and threatened species. The management regime consists of measures in six basic categories.

Size and condition of lobsters. The FMP establishes a minimum harvestable size (carapace length) for whole lobsters of 7.7 cm, or 5.0 cm tail width for lobsters with the carapace removed. An allowance is provided such that no more than 15 percent of landed lobster tails may be between 4.9 cm and 4.5 cm in tail width at the first segment. Female lobsters carrying eggs must be released.

Gear. Lobster may be caught only with specified traps or by hand. Use of nets, spears, explosives, chemicals, poisons, or other means are not allowed by these regulations except as experimental fishing.

Data collection. Specified logbooks of fishing catch and effort will be required of all commercial fishermen taking lobsters. In addition, scientific observers may be placed on commercial fishing vessels at the discretion of the National Marine Fisheries Service (NMFS). NMFS will distribute logbooks to all permit holders.

Closed areas. No commercial lobster fishing will be permitted within 20 miles of Laysan Island or landward of water less than 10 fathoms in depth as marked on National Ocean Survey charts. These closures are designed to protect the monk seal population.

Monk seal protection. Certain emergency measures may be imposed if the investigation of the death of a monk seal demonstrates that it was related to the lobster fishery.

Compliance. Commercial fishing permits, specific for either the NWHI or other management areas, will be required. All commercial catches of lobster must be made available for inspection at the port of landing or at sea.

For areas covered by the FMP outside of the NWHI, the only requirements for commercial lobster fishing are permits, logbooks, observers at the discretion of the NMFS, and inspection of the catch.

The Council has determined that management of the NWHI lobster fishery according to these measures will achieve optimum yield (OY) from the fishery. Specifically, OY is defined as the catch of non-berried lobsters with a carapace length of 7.7 cm or larger that can be taken from the waters of the FCZ seaward of 10 fathoms throughout the NWHI and more than 20 miles from Laysan Island. The Council has estimated that the long-term average catch under provisions of the FMP will likely range from 168,000 to 420,000 lobsters per year. Since the average lobster with a 7.7 cm carapace weighs nearly one pound (14.1 ounces), approximately the same range could apply if the catch were expressed in pounds. This range is not intended to constitute a quota or a target harvest level. Instead, it is a first approximation of sustained annual yield against which future refinements to the FMP can be judged.

The domestic annual harvest (DAH) is estimated to be equivalent to OY, since domestic vessels already participating in the fishery have the capacity to harvest more than 420,000 lobsters per year. The total allowable level of foreign fishing (TALFF) is therefore zero. Most vessels currently harvesting lobsters in the NWHI to be marketed as frozen tails have the ability to process their catch on board. Lobsters sold alive are not processed prior to sale. Hence, the domestic annual processing (DAP) capability is fully used and the amount available for joint venture processing is zero.

Classification

The Assistant Administrator has determined that the FMP is necessary and appropriate for the conservation of the western Pacific spiny lobster resources. He has also determined that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Administrator of NOAA has determined that these regulations do not constitute a major rule under Executive Order 12291. A regulatory impact review (RIR) has been prepared. Based on the analysis in the RIR, the Office of General Counsel, Department of Commerce, has determined that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations are expected to affect only about six vessel owners.

The FMP provides an environment for orderly development of the western Pacific spiny lobster fisheries, and in particular the NWHI fishery. Without the FMP, the NWHI lobster resource is expected to show signs of overharvesting by 1983. With implementation of the FMP, overfishing could be prevented and an annual average harvest of about 450,000 pounds could be sustained over the ten-year period 1983–1992. NMFS estimates that between 1983 and 1992, the dockside value of increased catches under the FMP will be approximately $6 million (at 1982 ex-vessel prices, discounted at 10 percent). The comparable cost of Federal implementation and enforcement of the FMP over the next decade is about $21,000 per year.

Additional nonquantifiable benefits would be derived from implementing the FMP through protection of Hawaiian monk seals, economic stability in the fishery, and information on catch and effort.

The Council prepared a draft environmental impact statement (EIS) under Section 102(2)(C) of the National Environmental Policy Act of 1969. The combined EIS/FMP describes the affected marine, coastal, and human enivronments, and discusses the possible impacts of the preferred and alternative management measures considered by the Council. The draft EIS/FMP was filed with the Environmental Protection Agency (EPA) on November 17, 1980 (45 FR 75749), and reviewed by the public. The Assistant Administrator considered the analysis in the EIS/FMP, public comments, and alternative management measures before approving the FMP. The final EIS/FMP is being submitted to EPA with publication of these proposed regulations. A separate notice of availability for the EIS will be published soon.

The Administrator of NOAA has determined that these regulations are consistent with the approved coastal zone management programs of American Samoa, Guam, and Hawaiian. The State of Hawaii has not agreed with this determination, however. Discussions between State and Federal officials are underway to resolve this issue.

The Council requested a consultation and biological opinion under Section 7 of the Endangered Species Act (ESA). NMFS issued a biological opinion on February 18, 1981, stating that were was insufficient information to make a finding of jeopardy or no jeopardy. However, the opinion recommended that the FMP be implemented if it included two "reasonable and prudent alternatives." The Council included these alternatives in the data collection and monk seal protection management measures. Therefore, the FMP is consistent with the ESA.

The degree of conservation and management success resulting from the FMP over time will be determined mostly from the collection of two types of information. The first is a daily catch report or logbook. This logbook and a processing and sales trip report are required to be submitted to the NMFS Regional Director after each fishing trip is completed. The second type of information is an annual report from processors of lobster products during the preceding year. These surveys enable annual review of the state of the lobster fisheries and redetermination of OY, DAH, and DAP, as appropriate. Other Federal requests for information will be involved in application for fishing permits (OMB #648-0097). Because there are fewer than ten respondents anticipated for each type of information requested, clearance provisions of the Paperwork Reduction Act are not applicable to any of these requests.

List of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting requirements.

Dated: June 17, 1982.

William H. Stevenson,

Deputy Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, it is proposed to add a new part 681 to Title 50 of the CFR as follows:

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

Subpart A—General Provisions

Sec.

681.1 Purpose and scope.
681.2 Relation to State law.
681.3 Definitions.
681.4 Permits
681.5 Recordkeeping and reporting.
681.6 Vessel identification.
681.7 Prohibitions.
681.8 Enforcement.
681.9 Penalties.
681.10 Observers.

Subpart B—Management Measures for Permit Area 1 (the Northwestern Hawaiian Islands)

681.20 General.
681.21 Size restrictions.
681.22 Reproductive condition restriction.
681.23 Closed areas (refugia).
681.24 Gear restrictions.
681.25 Landing requirements.
681.26 Experimental fishing.
681.27 Monk seal protective measures.
681.28 Monk seal emergency protective measures.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 681.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific (FMP) developed by the Western Pacific Fishery Management Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

(b) These regulations govern commercial fishing for spiny lobsters by fishing vessels of the United States, within the U.S. fishery conservation zone (FCZ) seaward of American Samoa, Guam, and Hawaii. The management measures specified in Subpart B apply only in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.2 Relation to State law.

Any State law which applies to vessels registered under the laws of that State and which is consistent with this Part (including any State landing law) continues in effect with respect to fishing activities covered by this Part.

§ 681.3 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Administrator means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), or a designee.

Authorized Officer means:

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

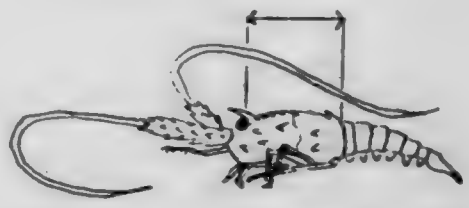
(b) Any certified enforcement or Special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal, State, or Territorial agency which has entered into an agreement with the Secretary and the Secretary of Transportation to enforce the provisions of the Magnuson Act; and

(d) Any Coast Guard personnel accompanying, and acting under the direction of, any person described in paragraph (a) of this definition.

Caraspace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace (see figure 1).

FIGURE 1.- METHOD OF MEASURING CARAPACE LENGTH



Closed area means an area of the FCZ that is closed to the harvest of spiny lobster.

Commercial fishing means fishing with the intent to sell all or part of the catch of spiny lobsters. All spiny lobster fishing in the Northwestern Hawaiin Islands (Permit Area 1) is considered commercial fishing.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line each point of which is

200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish;

(d) Any operations at sea in support of or in preparation for any activity described in paragraphs (a) through (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing or for assisting or supporting a vessel engaged in fishing.

Interested parties means the State of Hawaii Department of Land and Natural Resources, the Western Pacific Fishery Management Council, holders of permits issued under this Part, and any person who has notified the Regional Director of his or her interest in the procedures and decisions described in Sections 661.28 and 681.28 and who has specifically requested to be considered an "interested party."

Kona crab means a crustacean of the species *Ranina ranina*.

Land or Landing means bringing fish to shore or off-loading fish from a fishing vessel.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Management Area means the FCZ of the United States seaward of the Territory of American Samoa, the Territory of Guam, and the State of Hawaii.

NMFS means the National Marine Fisheries Service.

Official number means the documentation number issued by the Coast Guard or the number issued by a State or the Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by a person described in paragraph (a), (b), or (c) of this definition.

Permit Area 1 means the FCZ of the Hawaiian Islands Archipelago lying to the west of 161°00′ W. longitude, commonly known as the Northwestern Hawaiian Islands.

Permit Area 2 means the FCZ of the Hawaiian Islands Archipelago lying to the east of 161°00′ W. longitude, commonly known as the Main Hawaiian Island; the FCZ of the Territory of Guam; and the FCZ of the Territory of American Samoa.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Processing means changing the form of a product through such methods as freezing, cleaning, or removing tails. It does not include the boxing or packaging of a product.

Regional Director means Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, or a designee.

Secretary means the Secretary of Commerce of a designee.

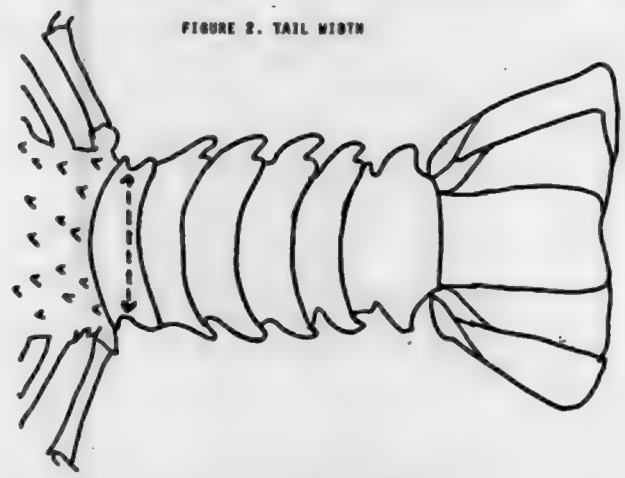
Slipper lobster means any crustacean of the genus *Scyllaridae*.

Spiny lobster means either of the following two species of crustaceans: *Panulirus marginatus* or *Panulirus penicillatus*.

State means the State of Hawaii, the Territory of American Samoa, and the Territory of Guam.

Tail width means the straight line distance between the lateral notches on the first tail segment (see Figure 2).

FIGURE 2. TAIL WIDTH



Trap means a box-like device used for catching and holding lobsters.

U.S.—harvested spiny lobster means spiny lobster caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented or numbered by the Coast Guard under U.S. law; or

(b) Any vessel, under five net tons, registered under the laws of any State.

§ 681.4 Permits.

(a) *General.* (1) Any vessel of the United States engaged in commercial fishing for spiny lobsters in the Management Area must have a permit issued under this section.

(2) Each permit is valid for fishing only in the area specified in the permit. Permit areas are defined in § 681.3.

(3) Only one permit issued under this Part is valid for one vessel at any one time.

(4) The holder of a permit allowing a vessel to fish one area may obtain a permit for that vessel to fish another area upon surrendering to the Regional Director any current permit issued for that vessel under this part.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 15 days before the date on which the applicant desires to have the permit made effective.

(2) Each application must be submitted on an appropriate form which may be obtained from the Regional

Director. Each application must be signed by the vessel owner or operator and contain the following information:

(i) The applicant's name;

(ii) The owner's name, mailing address, and telephone number;

(iii) The operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The vessel's official number;

(vi) The radio call sign of the vessel;

(vii) The home port of the vessel;

(viii) The engine horsepower of the vessel;

(ix) The approximate fish-hold capacity of the vessel;

(x) The processing capacity of the vessel;

(xi) The type and quantity of lobster fishing gear used by the vessel;

(xii) The permit area in which the applicant proposes to fish;

(xiii) Whether the application is for a new permit or a renewal; and

(xiv) The number and expiration date of any prior permit for the vessel issued under this part.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days before the effective date of the change.

(e) *Issuance.* (1) Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit.

(2) If an incomplete or inproperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* Permits issued under this section expire on the June 30 following issuance of the permit.

(g) *Renewal.* An application for renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit that has been substantially altered, erased, or multilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated permits.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is fishing for spiny lobster in the FCZ. Any permit issued under this section must be displayed for inspection upon request of any Authorized Officer.

(l) *Sanctions.* 50 CFR §§ 621.51–56 govern the imposition of sanctions against a permit issued under this part. As specified in those regulations, a permit may be revoked, modified, or suspended if the vessel for which the permit is issued is used in the commission of an offense prohibited by the Magnuson Act or this part; or if a civil penalty or criminal fine imposed under the Magnuson Act, and pertaining to such a vessel, is not paid.

§ 681.5 Recordkeeping and reporting.

(a) *Logbook.* The operator of any vessel engaged in commercial fishing for spiny lobster subject to this part shall:

(1) Maintain on board the fishing vessel, while fishing for spiny lobster, an accurate and complete NMFS spiny lobster fishery logbook, recording all information specified and paragraph (b) of this section;

(2) Make the fishing logbook available for inspection by an Authorized Officer or any employee of the National Marine Fisheries Service designated by the Regional Director to make such an inspection; and

(3) Within 72 hours of each landing of spiny lobster, submit to the Regional Director a copy of the log sheet(s) for that fishing trip.

(b) *Fishing information.* Fishing logbooks must contain the following information for all spiny lobster taken under this part:

(1) Vessel information:

(i) Name of vessel;

(ii) Call sign of vessel;

(iii) Permit number of vessel;

(iv) Size of crew; and

(v) Number of traps.

(2) Fishing information:

(i) Location of lobster catch by statistical area as depicted in the NMFS spiny lobster fishery logbook;

(ii) Date and time of trap deployment, and number of traps deployed;

(iii) Date and time of trap retrieval and number of traps retrieved;

(iv) Number and species of legal spiny lobsters per trap deployment;

(v) Number and species of sublegal spiny lobsters per trap deployment;

(vi) Number and species of berried female spiny lobsters per trap deployment; and

(vii) Number of slipper lobsters and kona crabs per trap deployment.

(3) Endangered species information:

(i) Whether monk seals or sea turtles are observed in the fishing area;

(ii) Whether monk seals or sea turtles are observed in the vicinity of the fishing gear;

(iii) Whether monk seals or sea turtles interfere with fishing operations;

(iv) Whether monk seals or sea turtles prey on released lobsters;

(v) Whether monk seals or sea turtles are entangled but released alive; and

(vi) Whether monk seals or sea turtles are entangled but released dead.

(4) Processing information:

(i) Weight of whole lobsters frozen at sea;

(ii) Weight of lobster tails frozen at sea;

(iii) Weight of whole lobsters to be frozen on land; and

(iv) Weight of lobster tails to be frozen on land.

(5) Sale information:

(i) Number, weight, and revenue from sale of live lobsters;

(ii) Number, weight, and revenue from sale of whole, frozen lobsters;

(iii) Number, weight, and revenue from sale of frozen tails; and

(iv) Weight and revenue from sale of lobster byproducts.

(c) *Processor information.* Processors of lobster products harvested in the Management Area shall submit an annual report to the Regional Director on a form which can be obtained from the Regional Director. This report must specify:

(1) Source (by FCZ surrounding each State) of lobsters processed;

(2) Poundage of lobsters processed by species;

(3) Number of individual lobsters processed by species;

(4) Method of Processing;

(5) Form of final product; and

(6) Current actual lobster-processing capacity.

§ 681.6 Vessel identification.

(a) *Official number.* Each fishing vessel subject to this part must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals.* The official number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches in height for fishing vessels of 65 feet in length or longer, and at least ten inches in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) *Duties of operator.* The operator of each fishing vessel subject to this part shall:

(1) Keep the displayed official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, it rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

§ 681.7 Prohibitions.

(a) It is unlawful for any person to:

(1) Use any vessel to fish for spiny lobster in a permit area unless a permit has been issued for that vessel and area as specified in § 681.4, and that permit is aboard the vessel;

(2) Falsify or fail to make, keep, maintain, or submit any logbook or other record or report required by § 681.5;

(3) Fail to affix and maintain vessel markings, as required by § 681.6;

(4) Fail to comply immediately with enforcement and boarding procedures specified in § 681.8;

(5) Refuse to carry an observer when requested to do so by the Regional Director under § 681.10;

(6) Possess, have custody or control of, ship, transport, offer for sale, sell, import, export, or land any spiny lobster which was taken or retained in violation of the Magnuson Act, this part, or any regulation issued under the Magnuson Act;

(7) Refuse to allow an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(8) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an Authorized Officer in the conduct of any search or inspection described in paragraph (a)(7) of this section;

(9) Resist a lawful arrest for any act prohibited by this part;

(10) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person by an Authorized Officer, knowing that such other person has committed any act prohibited by this part;

(11) Transfer directly or indirectly, or attempt to transfer, any U.S.-harvested spiny lobster to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested spiny lobster; or

(12) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(b) In Permit Area 1, in addition to the prohibitions in paragraph (a) of this section, it is unlawful for any person to:

(1) Fish for, take, or retain spiny lobsters:

(i) By methods other than lobster traps or by hand, as specified in § 681.24, or

(ii) From closed areas specified in § 681.23;

(2) Retain or possess on a fishing vessel any spiny lobster or tail which is less than the minimum size specified in § 681.21, except for the tail-width allowance of § 681.21(b);

(3) Possess on a fishing vessel any spiny lobster taken in Permit Area 1 in a condition such that neither its carapace length nor its tail width can be determined;

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing spiny lobster, as specified in § 681.22;

(5) Fail to report before landing, as specified in § 681.25; or

(6) Fail to comply with any protective measures promulgated under § 681.26 or 681.27.

§ 681.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, permit, and catch, for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are those which may be used:

(1) "L" means "You should stop your vessel instantly;"

(2) "SQ3" Means "You should stop or heave to; I am going to board you;" and

(3) "AA AA AA etc," is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by § 681.6.

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding shall:

(1) Stop the vessel immediately and lay to or maneuver in such a way as to allow the Authorized Officer and the boarding party to come aboard;

(2) Provide a safe ladder for the Authorized Officer and the boarding party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and

(4) Take such other action as required to ensure the safety of the Authorized Officer and the boarding party and to facilitate the boarding.

§ 681.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions, permit sanctions, and forfeiture provisions of the Magnuson Act, and to 50 CFR Parts 620 and 621, 15 CFR Part 904, and other applicable law.

§ 681.10 Observers.

All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

Subpart B—Management Measures for Permit Area 1 (the Northwestern Hawaiian Islands)

§ 681.20 General.

The management measures specified in this subpart govern fishing for spiny lobster in the FCZ seaward of the Northwestern Hawaiian Islands (Permit Area 1).

§ 681.21 Size restrictions.

(a) *Whole lobsters.* Only spiny lobsters with a carapace length of 7.7 cm or greater may be retained.

(b) *Lobster tails.* If the carapace length cannot be determined, only lobsters with tails at least 5.0 cm wide may be retained, except for an allowance of up to 15 percent of the catch, by number, which may have tail widths between 4.5 and 4.9 cm.

§ 681.22 Reproductive condition restrictions.

A female spiny lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female spiny lobsters.

§ 681.23 Closed areas (refugia).

(a) Spiny lobster fishing is not allowed within 20 nautical miles of Laysan Island.

(b) Spiny lobster fishing is not allowed within the FCZ landward of the 10 fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, and 19016.

§ 681.24 Gear restrictions.

(a) Spiny lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hooks, or explosives.

(b) An entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the larger end, and no greater than 6½ inches in its greatest diagonal or diameter at the smaller end.

§ 681.25 Landing requirements.

The operator of a fishing vessel that has taken spiny lobsters in the FCZ off the Northwestern Hawaiian Islands shall contact, by radio or otherwise, an Authorized Officer (see § 681.3) at least 24 hours before landing, and report to this officer the port, the approximate date, and time at which the lobsters will be landed.

§ 681.26 Experimental fishing.

(a) *General.* The Secretary may authorize experimental fishing for spiny lobster which would otherwise be prohibited by this part. No experimental fishing may be conducted unless an NMFS sicentific observer is aboard the vessel.

(b) *Council review.* Before authorizing experimental fishing, the Secretary will submit to the Western Pacific Fishery Management Council a copy of the plan under which the experimental fishing will be conducted, and request the Council's comments.

(c) *Implementation.* After authorization by the Secretary, as demonstrated by the placement of an NMFS scientific observer on a vessel, the vessel may fish in accordance with the plan described in paragraph (b) of this section.

§ 681.27 Monk seal protective measures.

(a) *General.* This section establishes a procedure which will be followed if the Regional Director receives a report of a monk seal death that appears to be related to the spiny lobster fishery in Permit Area 1.

(b) *Notification.* Upon receipt of a report of a monk seal death that appears to be related to the spiny lobster fishery, the Regional Director will notify all interested parties of the facts known about the incident. He will also notify them that an investigation is in progress, and that, if the investigation reveals a threat of harm to the monk seal population, protective measures may be implemented.

(c) *Investigation.* The Regional Director will investigate the incident reported and will attempt:

(1) To verify that the incident occurred:

(2) To determine the extent of the harm to the monk seal population;

(3) To determine the probability of the incident's recurring;

(4) To determine details of the incident such as: (i) The number of animals involved,

(ii) The cause of the mortality,

(iii) The age and sex of the dead animals,

(iv) The relationship of the incident to the reproductive cycle, e.g., breeding season (March–September), non-breeding season (October-February),

(v) The population estimates or counts of animals at the island where the incident occurred, and

(vi) Any other relevant information;

(5) To discover and evaluate any extenuating circumstances; and

(6) To evaluate any other relevant factors.

The Regional Director will make the results of his investigation available to the interested parties and request their advice and comments.

(d) *Determination of relationship.* The Regional Director will review and evaluate the results of the investigation and any comments received from interested parties. If there is substantial evidence that the death of the monk seal was related to the spiny lobster fishery, the Regional Director will:

(1) Advise the interested parties of his conclusion and the facts upon which it is based; and

(2) Request from the interested parties their advice on the necessity of protective measures and suggestions of appropriate protective measures.

(e) *Determination of response.* The Regional Director will consider all relevant information discovered during the investigation or submitted by interested parties in deciding on the appropriate response. Protective measures may include, but are not limited to, changes in trap design, changes in gear, closures of specific aras, or closures for specific periods of time.

(f) *Action by the Regional Director.* If the Regional Director decides that protective measures are necessary and appropriate, the Regional Director will:

(i) Prepare a document which describes the incident, the protective measures proposed, and the reasons for the protective measures;

(ii) Provide it to the interested parties; and

(iii) Request their comments.

(g) *Implementation.* (1) If, after completing the steps described in paragraph (f) of this section, the Regional Director still thinks that protective measures are necessary and appropriate, he will recommend the protective measures to the Administrator and provide notice of this recommendation to the Chairman of the Western Pacific Fishery Management Council and the Director of the Division of Aquatic Resources, Department of Land and Natural Resources, State of Hawaii.

(2) If the Administrator concurs with the Regional Director's recommendation, a notice will be published in the **Federal Register** which includes:

(i) The protective measures;

(ii) The reasons for the protective measures; and

(iii) A description of the incident that triggered the procedure described in this section.

(h) *Notification of "no action".* If at any point in the process described in this section, the Regional Director or Administrator decides that no further action is required, the interested parties will be notified of this decision.

(i) *Effective dates.* (1) The protective measures will take effect 10 days after the date of publication in the **Federal Register.**

(2) The protective measures will remain in effect for the shortest of the following time periods:

(i) Until the FMP and this section are amended to respond to the problem;

(ii) Until other action that will respond to the problem is taken under the Endangered Species Act;

(iii) Until the Administrator, following the procedures set forth in paragraph (j) of this section, decides that the protective measures are no longer required and repeals the measures; or

(iv) For the period of time set forth in the **Federal Register** notice, not to exceed three months. The measures may be renewed for three months after again following procedures in paragraph (b) through (g) of this section.

(j) *Repeal.* (1) If the Administrator decides that protective measures may no longer be necessary for the protection of the monk seals, the interested parties will be notified of this preliminary decision and the facts upon which it is based. The Administrator will request advice on the proposed repeal of the protective measures.

(2) The Administrator will consider all relevant information obtained by the Regional Director or submitted by interested parties in deciding whether to repeal the protective measures.

(3) If the Administrator decides to repeal the protective measures:

(i) Interested parties will be notified of the decision, and

(ii) The notice of repeal and the reasons for the repeal will be published in the **Federal Register.**

§ 681.28 Monk seal emergency protective measures.

(a) *Determination of emergency.* If at any time during the process described in § 681.27 the Regional Director determines that an emergency exists involving monk seal mortality related to the spiny lobster fishery and that measures are needed immediately to protect the monk seal population, he will:

(1) Notify the interested parties of this determination and request their immediate advice and comments; and

(2) Forward a recommendation for emergency action and any advice and comments received from interested parties to the Administrator.

(b) *Implementation of emergency provisions.* If the Administrator agrees with the recommendation for emergency action:

(1) He will determine the appropriate emergency protective measures;

(2) A notice of the emergency protective measures will be published in the **Federal Register**; and

(3) He will notify the interested parties of the emergency protective measures. Holders of permits to fish in Permit Area 1 will be notified by certified mail. Permit holders that the Regional Director knows are on the fishing grounds also will be notified by radio.

(c) *Effective dates.* (1) Emergency protective measures are effective against a fisherman at 12:01 a.m. local time of the day following the day the fisherman receives actual notice of the measures.

(2) Emergency protective measures are effective for 10 days from the day following the day the first permit holder is notified of the protective measures.

(3) Emergency protective measures may be extended for an additional 10 days if necessary to allow the completion of the procedures set out in § 681.27.

[FR Doc. 82-17601 Filed 6-29-82; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 126
Wednesday, June 30, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1982 Tobacco Price Support Levels

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of 1982 Tobacco Price Support Levels.

SUMMARY: This notice sets forth the price support levels applicable to eligible kinds of 1982-crop tobacco. The support levels have been determined in accordance with Section 106 of the Agricultural Act of 1949, as amended.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Stabilization and Conservation Service (ASCS), (202) 447–5187. Since there are no options associated with the determinations set forth in this notice, a Final Regulatory Impact Analysis has not been prepared. However, the impacts associated with these determinations are discussed under Supplementary Information.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." This action has been classified "not major" since implementation of these determinations will not result in: (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical region, or (3) significant adverse effects on competition, employment, investment, productivity innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The title and number of the Federal assistance program to which this notice applies are: Title: Commodity Loan and Purchases; Number: 10.051. This action will not have a significant impact specifically on area and community development. Therefore, review as established by Office of Management and Budget (OMB) Circular A–95 was not used to assure that units of local government are informed of this action.

Price support is required to be made available for each crop of tobacco at a level which is determined in accordance with a formula prescribed in Section 106 of the Agricultural Act of 1949, as amended. Under Section 106, the level of support for each kind of tobacco for which marketing quotas are in effect or for which marketing quotas have not been disapproved by producers is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers including wage rates, interest, and taxes (referred to as the "parity index"), for the three previous calendar years to the average index of such prices paid by farmers, including wage rates, interest, and taxes for the 1959 calendar year. For the 1982-crop support calculation, the average parity indexes for the three previous years are: 1979=850; 1980=950; and 1981=1031, and the 3-year average is 944. The ratio of the 1979–81 average parity index (944) to the 1959 average parity index (298) is 3.17. Accordingly, the support level for the 1982 crop of each eligible kind of tobacco is 317 percent of the 1959 level as shown in the following table:

Kind and type of tobacco	Adjustment factor (number)	Support level (cents per pound)	
		1959	1982
Flue-cured, types 11–14	3.17	55.5	175.9
Burley, type 31	3.17	57.2	181.3
Virginia fire-cured, type 21	3.17	38.8	123.0
Kentucky-Tennessee fire-cured, types 22–23	3.17	38.8	123.0
Dark air-cured, types 35–36	3.17	34.5	109.4
Virginia sun-cured, type 37	3.17	34.5	109.4
Cigar binder, types 51–52	3.17	39.8	125.5
Cigar filler and binder types 42–44, 53–55	3.17	28.8	91.7
Puerto Rican, type 46	3.17	23.7	84.1

Since the Secretary of Agriculture has no discretion in determining the levels of support for 1982 crops of tobacco and since the levels must be established in accordance with the formula prescribed by Section 106 of the 1949 Act, it has been determined that no further public rulemaking is required with respect to the determination of the price support levels specified herein.

Impacts

Price support is make available to producers for nine kinds of tobacco comprising 96 percent of the total U.S. production. Two kinds, flue-cured and burley, comprise about 95 percent of all tabacco pledged as collateral for a CCC price support loan. Most tobacco is sold at auction warehouses to the highest bidder. If the final bid for any particular lot of tobacco does not exceed the established price support loan rate for that grade, the entire lot is eligible for price support. The producer receives a price support advance from the warehouseman and the tobacco is consigned to a producer association which pledges the tobacco to CCC for a price support loan.

Price support for the 1982 crops of tobacco may require outlays for loans made by CCC to the associations in amounts sufficient to cover the price support advances which are made to producers, and the cost of processing and storing the loan tobacco in both fiscal years 1982 and 1983. Unlike most commodities, tobacco can be stored for several years without deterioration and then sold at a price with usually covers interest and storage costs, as well as price support advances paid to producers.

For fiscal year 1982, projected loan outlays will be exceeded by projected repayments of loans which are outstanding from previous crops to give net receipts of $80 million. In addition, assuming that there are no major shifts in the supply and use of tobacco, net outlays of $37 million are projected for fiscal year 1983.

Market prices for the various kinds of tobacco are projected to range between 7 cents and 16 cents per pound higher than last year's prices. The rise in support levels is expected to result in higher gross receipts to producers. A major impact of increased price supports will be higher leaf tobacco costs for both domestic manufacturers and exporters. If these increases are passed on to consumers in about two years (after the tobacco is aged), cigarette prices would increase about 1 percent and prices of other tobacco products would increase around 3 percent.

Determinations

Accordingly, it has been determined that the following support levels will be applicable for the following kinds of 1982-crop tobacco.

Kind and type of tobacco	Average price support level (cents per pound)
Flue-cured, types 11–14	175.9
Burley, type 31	181.3
Virginia fire-cured, type 21	123.0
Kentucky-Tennessee fire-cured, types 22–23	123.0
Dark air-cured, types 35–36	109.4
Virginia sun-cured, type 37	109.4
Cigar binder, types 51–52	125.5
Cigar filler and binder types 42–44, 53–55	90.7
Puerto Rican, type 46	94.1

(Sec. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); Secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423))

Signed At Washington, D.C., on June 25, 1982.

John R. Block,

Secretary.

[FR Doc. 82-17652 Filed 6-29-82; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Coconino National Forest Grazing Advisory Board; Meeting

The Coconino National Forest Grazing Advisory Board will hold its first meeting since the Charter was approved for renewal at 1:30 P.M., September 3, 1982, at the Coconino National Forest Supervisor's Office Conference Room, 2323 E. Greenlaw Lane, Flagstaff, Arizona.

The purpose of the meeting is to:

1. Review the minutes of the September 4, 1981, meeting.
2. Elect a Board Chairman.
3. Discuss and adopt the Operating By-laws.
4. Review the 1984–1985 and Proposed 1983 Work Plans involving Range Betterment Funds.
5. Review Allotment Management Plans that may come before the Board.

The meeting is open to the public.

Dated: June 22, 1982.

Neil R. Paulson,

Forest Supervisor.

[FR Doc. 82-17720 Filed 6-29-82; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Meat Import Limitations; Third Quarterly Estimate

Pub. L. 88-482, approved August 22, 1964, as amended by the Meat Import Act of 1979 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1982 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

As published on December 24, 1981 (46 FR 62487), the estimated aggregate quantity of meat articles prescribed by Section 2(c) of the Act during the calendar year 1982 is 1,182 million pounds.

In accordance with the requirements of the Act, I have determined that the third quarterly estimate for 1982 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1982 is 1,225 million pounds.

Done at Washington, D.C., this 25th day of June 1982.

John R. Block,

Secretary.

[FR Doc. 82-17644 Filed 6-29-82; 8:45 am]

BILLING CODE 3410-01-M

Section 22 Import Fees; Determination of Quarterly Import Fees on Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the third calendar quarter of 1982.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the third calendar quarter of 1982 is 19.88 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the third calendar quarter of 1982 has been calculated to be 16.4607 cents per pound. This results in a fee of 3.4193 cents per pound for item 956.15, the amount by which the 16.4607 cents adjusted average spot price is less than 19.88 cents. Accordingly, the fee for items 956.05 and 957.15 for the third calendar quarter of 1982 is 4.4193 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Notice

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the third calendar quarter of 1982 shall be as follows:

Item	Fee
956.05	4.4193 cents per pound.
956.15	3.4193 cents per pound.
956.15	4.4193 cents per pound.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C., on June 25, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-17643 Filed 6-29-82; 8:45 am]

BILLING CODE 3410-10-M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 8:00a and will end at 10:00 p, on July 22, 1982, and will convene at 8:00 a.m. and will end at 11:30 a.m., July 23, 1982, at the Hilton Inn, 100 Sandoval Street, Sante Fe, New Mexico, 87501. The purpose of this meeting is to conduct a Consultation and Workshop on Block Grants in the State of New Mexico.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Honorable Roberto A. Mondragon, Lieutenant Governor's Office, State Capitol, Room 425, Santa Fe, New Mexico, 87503, (505) 827-2513 or the Southwestern Regional Office, Heritage Plaza, 418 South Main, San Antonio, Texas, 78204, (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., June 24, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-17637 Filed 6-29-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Animal Glue and Inedible Gelatin From Yugoslavia; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covers the one known exporter of this merchandise to the United States, Kemija-Impex, and the period December 1, 1980 through November 30, 1981. There were no known shipments of this merchandise to the U.S. during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require a cash deposit of estimated antidumping duties on future entries equal to the calculated margin on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Betty H. Laxague or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3601).

SUPPLEMENTARY INFORMATION:

Background

On June 11, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 25391-2) the final results of its first administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia and announced its intent to conduct the next administrative review by the end of December 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents, as an essential part of many compositions, and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of one Yugoslavian exporter of this merchandise to the United States, Kemija-Impex. The review covers this firm for the period December 1, 1980 through November 30, 1981.

Preliminary Results of the Review

As a result of our review we preliminarily determine that there were no known shipments to the U.S. during the period and there are no known unliquidated entries.

The Department received information from one of the Yugoslavian firms, HP Kolinska (Kemin), that it is no longer involved in the manufacture or marketing of animal glue and inedible gelatin. The Department preliminarily has decided not to include this firm in this section 751 review or in future reviews until it again ships Yugoslavian animal glue and inedible gelatin to the U.S.

Interested parties may submit written comments on these preliminary results on or before July 30, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication of this notice or the first workday thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties

of 9.7 percent, based on the margin on the firm's last known shipments, shall be required on all shipments of Yugoslavian animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

June 21, 1982.

[FR Doc. 82-17661 Filed 6-29-82; 8:45 am]

BILLING CODE 3510-25-M

Clear Sheet Glass From Italy; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on clear sheet glass from Italy. The review covers the five known exporters of this merchandise to the United States and the period December 1, 1980, through November 30, 1981. There were no known shipments of this merchandise to the United States during the period.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated antidumping duties on future entries equal to the calculated margins on the last known shipments. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1982, the Department of Commerce ("the Department") published in the *Federal Register* (47 FR 992-3) the final results of its first administrative review of the antidumping finding on clear sheet glass from Italy and announced its intent to conduct the next administrative review by the end of November 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of clear sheet glass, currently classifiable under item numbers 542.3120 through 542.4835 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of five Italian exporters of clear sheet glass to the United States. The review covers the period December 1, 1980, through November 30, 1981 for all five firms.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that there were no shipments by the five firms during the review period and there are no known unliquidated entries.

Interested parties may submit written comments on these preliminary results on or before July 30, 1982 and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after publication of this notice or the first working day thereafter. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent margin for each firm shall be required on all shipments of clear sheet glass from Italy by these firms entered, or withdrawn from warehouse for consumption on or after the date of publication of the final results. The most recent margin calculated for each of the firms is listed below. These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Exporter	Time period	Margin (percent)
Social Italiana Vetro	12/1/80-11/30/81	[1]19.82
Vernante Pennitalia	12/1/80-11/30/81	[1]44.56
Vetreria Italiana Balzaretti-Modigliani	12/1/80-11/30/81	[1]37.40
Vetreria Milanese Lucchini	12/1/80-11/30/81	[1]43.90
Vetrobel	12/1/80-11/30/81	[1]59.80

[1] No shipments during the review period.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a) (1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

June 21, 1982.

[FR Doc. 82-17662 Filed 6-29-82; 8:45 am]

BILLING CODE 3510-25-M

DEC/ISAC Liaison Subcommittee of the President's Export Council; Open Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The President's Export Council was initially established by Executive Order 11753 of December 20, 1973. The Council was reconstituted by Executive Order 12131 of May 4, 1979, and continued by Executive Order 12258 of December 31, 1980. The Council's purpose is to advise the President on matters relating to United States export trade. The DEC/ISAC Liaison Subcommittee was formed by the Council to co-ordinate exchange of information among organizations concerned with U.S. exports.

TIME AND PLACE: July 15, 1982, from 9:30 a.m.-12:00 noon. The meeting will be held at the Department of Commerce, 14th and Constitution Avenue NW., Room 4830, Washington, D.C. 20230.

AGENDA:

9:30-9:40—Welcome and Opening Remarks
9:40-10:15—USG View of Industry Consultations Program
10:15-10:30—The Industry Policy Advisory Committee (IPAC): Its role and 1982 agenda
10:30-10:45—The Advisory Committee for Trade Negotiations: Its role and 1982 agenda
10:45-11:00—The Industry Sector Advisory Committees (ISACs): Their Role and 1982 agenda
11:00-11:15—The President's Export Council and its Liaison Subcommittee (PEC): Role and 1982 agenda
11:15-Noon—Discussion of Future Liaison and Mutual Support Activities

PUBLIC PARTICIPATION: The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Norma Yost, Room 4823, U.S. Department of Commerce, Washington, D.C. 20230, Telephone (202) 377-2544.

Dated: June 25, 1982.

Henry Misisco,

Acting Director, Office of Policy and Coordination.

[FR Doc. 82-17679 Filed 6-29-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Solicitation for Public Key Cryptograhic Algorithms

Under the provisions of Pubic Law 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards. This solicitation requests the submission of public Key Cryptographic Algorithms as candidates for consideration as a Federal Information Processing Standard. Public Key Cryptographic Algorithms make use of two distinct keys: one for encryption and one for decryption. Since the decryption key cannot be computed from the encryption key, the encryption key may be made public without compromising the secret decryption key. This permits several parties to send encrypted messages to the owner of the public encryption key without compromising the means of decoding the messages.

To be considered, submissions should include:

a. A completely defined Public Key Algorithm (PKA), including the specification of all parameters sufficient to implement and analyze the algorithm for security and efficiency.

b. A completely defined Key Generation Algorithm (KGA), including a description of the techniques to generate both the public and non-public keys, and a description for any restrictions on the keys.

c. A mathematical description of the PKA and KGA.

d. Flow charts for implementing the PKA and KGA.

e. Fortran programs (including all necessary subroutines) for implementing the PKA and KGA.

f. A statement of the advantages and disadvantages of the proposed PKA and KGA, including a quantitative statement of their security and efficiency.

g. A statement identifying the inventor(s) of the PKA and KGA, and anyone who refined the original algorithms in producing the submitted algorithms.

h. An agreement to release the PKA and KGA for publication in order to permit analyses of their security and efficiency.

i. An agreement to license, royalty free and on a nonexclusive basis, the PKA and KGA under any patent, issued or applied for, and any copyright, if the algorithm is selected as a Federal Information Processing Standard.

In order to ensure that all parties have an opportunity to present their submissions, the National Bureau of Standards (NBS) is soliciting candidate algorithms for the proposed standard. Interested parties may submit an algorithm in writing to the Director, Institute for Computer Sciences and Technology, Attn: Public Key Cryptographic Algorithms, Washington, D.C. 20234. To be considered, either a complete submission or a statement of intent to submit must be received on or before September 27, 1982.

Algorithms received in response to this notice will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230. Persons desiring more information about this solicitation may contact Dennis K. Branstad or Miles E. Smid, (301) 921-3427.

Dated: June 24, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-17601 Filed 6-29-82; 8:45 am]

BILLING CODE 3510-CN-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Man-Made Fiber Apparel From Macau

June 25, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for woven blouses of man-made fibers in Category 641, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1982, by the deduction of 583 dozen in overshipments from 1981. The adjusted level for 1982 will be 73,866 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979 between the Governments of the United States and Portugal, the United States Government is adjusting the level of restraint for man-made fiber textile products in Category 641 for 1982 to account for 1981 overshipment amounting to 583 dozen.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On December 14, 1981 there was published in the **Federal Register** (46 FR 60872) a letter dated December 9, 1981 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain cotton, wool, and man-made fiber textile products, including Category 641, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1982. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the level of restraint for Category 641 to 73,866 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

June 25, 1982.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This letter amends, but does not cancel, the letter of December 9, 1981 which directed you to prohibit entry during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982 of cotton, wool, and man-made fiber textile products in certain specified categories, produced or manufactured in Macau.

Effective on July 1, 1982, the directive of December 9, 1981 is amended to reduce the level of restraint established for Category 641 to 73,866 dozen.[1]

The action taken with respect to the Government of Portugal and with respect to imports of man-made fiber textile products from Macau has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore,

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1981.

these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-17680 Filed 6-29-82; 8:45 am]

BILLING CODE 3510-25-M

COPYRIGHT ROYALTY TRIBUNAL

[CRT DOCKET NO. 82-2]

Use of Certain Copyrighted Works by Noncommercial Broadcasting

In accordance with 17 U.S.C. 118, notice is hereby given of the commencement by the Copyright Royalty Tribunal of proceedings concerning the determination of the royalty rates pertaining to use of certain copyrighted works in connection with noncommercial broadcasting.

Parties wishing to participate in this proceeding shall notify the Copyright Royalty Tribunal, 1111 20th Street, N.W., Washington, D.C. 20036 by July 30, 1982 of their intention.

Commissioner Frances Garcia,

Chairman.

June 15, 1982

[FR Doc. 82-17100 Filed 6-29-82; 8:45 am]

BILLING CODE 1410-01

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Services/or Supplies Provided by Civilian Hospitals (DA Form 1863-1).

The CHAMPUS Form 1863-1 is a claim for used by civilian hospitals to file for payment of health care services. Use of the form assures uniform compliance and efficient handling. The information is required to reimburse the provider and the beneficiary for authorized health care services rendered.

Civilian Hospitals and CAMPUS Beneficiaries; 850,000 responses; 425,000 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, OASD(C), IRMS, Room 1A658, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Fred E. Hammer, Chief, Information Systems Divisions, Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Aurora, Colorado 80045, telephone (303) 361-8088.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 25, 1982.

[FR Doc. 82-17600 Filed 6-29-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electonic Devices (AGED) will meet in closed session on 29-30 July 1982 at the Palisades Institute for Research Services, Inc. 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

June 25, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-17683 Filed 6-29-82; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Defense Department.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per diem Bulletin Number 113. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 113 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 25, 1982.

ADDRESS: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 113.

To the Heads of Executive Departments and Establishments.

Subject: Table of Maximum Per Diem Rates in Lieu of Subsistence for United States Government Civilian Officers and Employees for Official Travel in Alaske, Hawaii, the Commonwealth of Puerto Rico and Possessions of the United States.

1. The bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretay of Defense, August 17, 1966, "Executive Order 11294, August 4, 1966 Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for

Government Civilian Personnel in Travel Status," in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 112 except in the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$12.60
Anaktuvuk Pass	140.00
Anchorage	89.00
Barrow	169.00
Bethel	114.00
College	97.00
*Cordova	109.00
Deadhorse	142.00
Dillingham	103.00
Dutch Harbor	82.00
Eielson AFB	97.00
Elmendorf	89.00
Fairbanks	97.00
Fort Richardson	89.00
Fort Wainwright	97.00
Juneau	97.00
Ketchikan	95.00
Kodiak	103.00
Kotzebue	109.00
Muphy Dome	97.00
Noatak	109.00
Nome	110.00
Noorvik	109.00
Petersburg	98.00
Point Hope	100.00
Prudhoe Bay	142.00
Shemya AFB [1]	11.00
Shungnak	109.00
Sitka—Mount Edgecombe	95.00
Skagway	95.00
Spruce Cape	103.00
Tanana	110.00
Valdez	93.00
Wainwright	79.00
Wrangell	95.00
All other localities	83.00
American Samoa	55.00
Guam M.I.	74.00
Hawaii:	
Oahu	91.00
All other localities	87.00
*Johnston Atoll [2]	19.10
Midway Islands [1]	12.60
Puerto Rico:	
Bayamon:	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
Carolina:	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
Fajardo (including Luquillo):	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
Fort Buchanan (including GSA Service Center, Guaynabo):	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
Ponce (including Fort Allen NCS)	70.00
Roosevelt Roads	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
Sabana Seca:	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
San Juan (including San Juan Coast Guard Units):	
Dec. 16 to May 15	119.00
May 16 to Dec. 15	89.00
All other localities	77.00
Virgin Islands of United States:	
Dec. 1 to Apr. 30	102.00
May 1 to Nov. 15	82.00
Wake Island [2]	15.00
All other localities	20.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveller.

[2] Commercial facilities are not available. Only government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

June 25, 1982.

[FR Doc. 82-17684 Filed 6-29-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82-CERT-009]

Public Service Electric & Gas Co.; Recertification of Eligible Use of Natural Gas to Displace Fuel Oil

On May 17, 1982 Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 7.3 billion cubic feet of natural gas per year to displace approximately 1,102,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 30,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; in Kearny; Linden Kearny in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is National Gas and Oil Corporation (National), 1500 Granville Road, Newark, Ohio 43055. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001. Notice of that application was published in the **Federal Register** (47 FR 25048, June 9, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On June 24, 1981, Public Service received a recertification (ERA Docket 81-CERT-008, effective June 25, 1981) of an eligible use of natural gas purchased from National for a period of one year expiring on June 24, 1982, for use in its electric generating stations in New Jersey.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday Friday, except Federal holidays.

Issued in Washington, D.C., on June 24, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuel Programs, Economic Regulatory Administration.

[FR Doc. 82-17588 Filed 6-29-82; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 82-CERT-010]

Public Service Electric & Gas Co.; Recertification of Eligible Use of Natural Gas to Displace Fuel Oil

On May 17, 1982, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for recertification of an eligible use of up to 7.5 billion cubic feet of natural gas per year to displace approximately 1,158,000 barrells of No. 6 fuel oil (0.3 percent sulfur) and approximately 42,000 barrels of No. 2

fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny, Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919. The gas will be transported by Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77001; and Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001. Notice of that application was published in the **Federal Register** (47 FR 25047, June 9, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On June 24, 1981, Public Service received a recertification (ERA Docket 81–CERT–069, effective June 25, 1981) of an eligible use of natural gas purchased from East Tennessee for a period of one year expiring on June 24, 1982, for use in its electric generating stations in New Jersey.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual recertification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG–631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on June 24, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuel Programs, Economic Regulatory Administration.

[FR Doc. 82-17562 Filed 6-29-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decision and Order; Week of May 17 Through May 21, 1982

During the week of May 17 through May 21, 1981, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of a proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 23, 1982.

Nortru, Inc., 5/18/82; BEE–1682

Nortru, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67(a)(5)(i)(H). The exception request, if granted, would permit the firm to receive entitlement benefits under the Petroleum Substitutes Entitlements Program retroactive to April 1, 1980. On May 18, 1982, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied.

[FR Doc. 82-17563 Filed 6-29-82; 8:45 am]

BILLING CODE 6450-01-M

Notice of Issuance of Proposed Decision and Order; Week of June 7 Through June 11, 1982

During the week of June 7 through June 11, 1982, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 23, 1982.

Dixon R–I Schools, Dixon, Missouri; BEE–1535

Dixon R–I Schools filed an Application for Exception from the provisions of 10 CFR Part 455. The exception request, if granted, would permit Dixon to take a credit designated for energy conservation measures at its elementary school building and use it to implement conservation measures in its other school buildings. On June 10, 1982, the Department of Energy issued a Proposed

Decision and Order which determined that the exception request be denied.

[FR Doc. 82-17584 Filed 6-29-82; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of June 4 Through June 11, 1982

During the week of June 4 through June 11, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 23, 1982.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of June 4 through June 11, 1982]

Date	Name and location of applicant	Case No.	Type of submission
June 4, 1982	Economic Regulatory Administration/Marathon Oil Company, Washington, D.C.	HRD-0053, HRH-0024	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted to the Economic Regulatory Administration and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Marathon Oil Company in response to the Proposed Remedial Order issued to it (Case No. HRO-0024).
June 7, 1982	Gerald Holton, Boston, Mass	HFA-0060	Appeal of an Information Request Denial. If granted: The May 3, 1982, Information Request Denial issued by the Department of Energy would be rescinded and Gerald Holton would receive access to transcripts of interviews with German nuclear physicists made at the end of World War II.
Do	Petroleum Delivery Service, Inc., Atlanta, Ga	HRD-0054, HRH-0054	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Petroleum Delivery Service, Inc. in response to a Proposed Remedial Order issued to it (Case No. HRO-0040).
June 8, 1982	Atlantic Richfield Company, Los Angeles, Calif	HRD-0055, HRH-0055	Motion for Discovery and Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened and discovery would be granted to Atlantic Richfield Company in connection with the Statement of Objections submitted in response to the November 27, 1981, Proposed Remedial Order issued to the firm (Case No. HRO-0027).
Do	Metropolitan Petroleum Company, McLean, Va	HRD-0056	Motion for Discovery. If granted: Discovery would be granted to Metropolitan Petroleum Company in connection with the Statement of Objections submitted in response to the February 24, 1982, Proposed Remedial Order (Case No. HRO-0037) issued to the firm.
Do	System Fuels, Inc., New Orleans, La	HFX-0030	Supplemental Order. If granted: The Application for Refund filed by System Fuels, Inc., would be granted and the firm would receive a portion of the escrow fund provided by Pennzoil Company in Case No. RF7-29.
Do	University of Washington, Seattle, Wash	HFA-0061	Appeal of an Information Request Denial. If granted: The May 11, 1982, Information Request Denial issued by the Bonneville Power Administration would be rescinded, and the University of Washington would receive access to copies of legal opinions prepared by the Bonneville Power Administration's Office of General Counsel.
June 11, 1982	State of Maryland, Baltimore, Md	HEE-0031	Exception to the Energy Conservation Program. If granted: The State of Maryland would receive an exception from the provisions of 10 CFR 455, the Institutional Conservation Program, regarding the use of administrative grant funds under Cycle IV.
Do	State of New York, Albany, N.Y	HRD-0057	Motion for Discovery. If granted: Discovery would be granted to the State of New York in connection with the Statement of Objections submitted in response to the May 5, 1982, Proposed Remedial Order issued to Shell Oil Company (Case No. HRO-0021).

REFUND APPLICATION RECEIVED

[Week of June 4 through June 11, 1982]

Date	Name of refund proceeding/refund applicant	Case No.
May 17, 1982	Pennzoil Company/Refrigerated Express	RF10-1.
Do	Pennzoil Company/B & L Motor Freight, Inc.	RF10-2.
May 24, 1982	Pennzoil Company/Saunders Cartage, Inc.	RF10-3.
Do	Pennzoil Company/Associated Truck Lines	RF10-4.
Do	Pennzoil Company/Lee Cartage Company	RF10-5.
May 26, 1982	Pennzoil Company/Venta, Inc.	RF10-6.
Do	Pennzoil Company/Elliott Oil Company	RF10-7.
Do	Pennzoil Company/Seaway Sand & Stone, Inc.	RF10-8.
May 27, 1982	Pennzoil Company/Ney Oil Company	RF10-9.
May 28, 1982	Pennzoil Company/Bessemer & Lake Erie Railroad Company	RF10-10.
June 1, 1982	Pennzoil Company/Lillian A. Tomko	RF10-11.
Do	Pennzoil Company/Coastal Tank Lines, Inc.	RF10-12.
June 7, 1982	Pennzoil Company/Gillespie Oil Company	RF10-16.
Do	Pennzoil Company/Hubert Jones, Inc.	RF10-17.
Do	Pennzoil Company/Yellow Freight System, Inc.	RF10-18.
Do	Pennzoil Company/A. A. Rocco Trucking Company	RF10-19.
Do	Pennzoil Company/Pacific Intermountain Express	RF10-20.
Do	Pennzoil Company/W.L. Mead, Inc.	RF 10-21.
June 8, 1982	Pennzoil Company/Green Shingle Service & Restaurant, Inc.	RF10-22.
Do	Pennzoil Company/The Plain Dealer	RF10-23.
Do	Pennzoil Company/Slesnick Bros. Distributors	RF10-24.
Do	Tenneco Oil Company/Consumers Coal Company, Inc.	RF 7-82.
June 9, 1982	Pennzoil Company/Mt Eaton Transportation Company, Inc.	RF10-25.
Do	Pennzoil Company/Klaasen Oil Company	RF10-26.
June 10, 1982	Pennzoil Company/System Fuels, Inc.	RF10-30.

REFUND APPLICATION RECEIVED—Continued

[Week of June 4 through June 11, 1982]

Date	Name of refund proceeding/refund applicant	Case No.
June 11, 1982	Pennzoil Company/United Parcel Service	RF10-27.
Do	Pennzoil Company/Herron Transfer	RF10-29.
Do	Pennzoil Company/Emery Oil Company, Inc.	RF10-28

NOTICES OF OBJECTION RECEIVED

[Week of June 4 through June 11, 1982]

Date	Name and location of applicant	Case No.
June 7, 1982	Norjax, Incorporated, Southfield, Michigan	BEE-1682.

[FR Doc. 82-17585 Filed 6-29-82; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of May 10 through May 14, 1982

During the week of May 10 through May 14, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

National Wildlife Federation, May 14, 1982; HFA-0049

The National Wildlife Federation filed an Appeal from a partial denial by the Bonneville Power Administration of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). The National Wildlife Federation requested information regarding the environmental impacts of proposed Bonneville Power Administration policies. In considering the Appeal, the DOE found that the material was exempt from mandatory disclosure pursuant to Exemption 5 of the FOIA. Important issues considered in the Decision and Order were (i) whether the determination letter adequately described the withheld material, (ii) whether the material consisted of predecisional and deliberative inter-agency or intra-agency memoranda, which are exempt from mandatory disclosure under Exemption 5, and (iii) whether the material contained any reasonably segregable factual portions.

Remedial Order

Energy Corporation of America, May 10, 1982; DRO-0238

Energy Corporation of America objected to a Proposed Remedial Order which the Southwest District Office of the Economic Regulatory Administration issued to the firm on May 25, 1979. In the Proposed Remedial Order, the ERA found that the firm charged unlawful prices for crude oil sold from two of its producing properties. First, the ERA found that Energy improperly counted a gas well as a producing well. The firm therefore miscalculated the average daily production of crude oil per well for purposes of determining the applicability of the stripper well lease exemption. Second, the ERA found that Energy improperly divided a single property into two separate properties by transferring an undivided working interest in one well. The firm treated the two remaining parcels as separate properties and determined that the stripper well lease exemption applied to one of them. The ERA found that they were in fact one property which did not qualify for stripper status. The DOE concluded that the Proposed Remedial Order should be issued as a final Order. The DOE found that Energy did not prove that the gas well produced gas condensate during the audit period, that Ruling 1974-28 was procedurally valid, and that the transfer of a working interest in one well does not create a new property under the DOE regulations.

Requests For Exception

A. O. Smith Corporation, May 12, 1982; HXE-0018

A. O. Smith Corporation requested an extension of exception relief granted by the Office of Hearings and Appeals in *A. O. Smith Corp.*, 7 DOE ¶ 81,213 (1981) which relived the firm of its testing obligations under 10 CFR Part 430 until January 15, 1982 or until the Consumer Product Efficiency Branch of the DOE and the National Bureau of Standards developed tests appropriate for testing the firm's finned copper tube boiler. The present OHA Decision grants the extension of exception relief through December 31, 1982 or until the testing procedures are revised, whichever is earlier. The OHA declined, however, to direct that the Test and Evaluation Branch of the Building Equipment Division of the DOE Office of Conservation commence a rulemaking proceeding within 30 days to modify test procedures.

Jones & Brown Enterprises, Inc., Exxon Company, U.S.A., Conoco, Inc., May 13, 1982; DEE-3274, DEA-0626, BEA-0601

Jones & Brown Enterprises, Inc. (J&B) filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought the assignment of new, lower-priced suppliers of motor gasoline to replace the higher-priced based period suppliers of the firm. In considering the request, the DOE found that J&B was threatened with serious financial injury as a result of its uncompetitively high acquisition cost for motor gasoline. Accordingly, on July 12, 1979, the DOE issued proposed and interim determinations that ordered the Economic Regulatory Administration (ERA) to select moderately-priced suppliers for J&B with respect to the months of July through September 1979. Pursuant to these determinations, the ERA issued assignment orders to Exxon Company, U.S.A (Exxon), Conoco. Inc. (Conoco), and three other firms.

In the final determination in this proceeding, the DOE considered Appeals of the ERA's Assignment Orders filed by Exxon and Conoco as well as Exxon's Statement of Objections to the July 12, 1979 proposed determination. In considering the two Appeals, the DOE found no basis for remanding the ERA assignment proceedings or taking any other specific action with respect to the orders issued to Exxon and Conoco. The DOE also considered Exxon's Statement of Objections and found no basis in that submission for altering the findings of the proposed exception decision. Accordingly, the Appeals were denied, and the preliminary findings on the J&B exception request were affirmed and issued as a final determination of the Department of Energy.

Special Refund Procedures

Office of Enforcement, Economic Regulatory Admnistration: In the Matters of Triton Oil and Gas Corporation, Perry Gas Processors, Inc., and Upham Gas and Oil Company, May 11, 1982; BEF-0038, BEF-0048, BEF-0051

The Office of Enforcement filed Petitions for the Implemenetation of Special Refund Procedures in connection with consent orders entered into with Triton Oil and Gas Corporation, Perry Gas Processors, Inc., and Upham Gas and Oil Company. The DOE issued a final Decision and Order setting forth procedures to be used in adjudicating claims to the settlement funds involved in those cases. The decision established a two-stage procedure. In the first stage, those firms that purchased natural gas liquids from the firms involved and who believed that they were entitled to a portion of the consent order funds could file Applications for

Refund. The final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, however, because the most appropriate disposition of the remaining funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding. Instead, the final decision solicits further comments on the appropriate distribution of these funds.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name and Case No.

Arizona Fuels Corp., Cities Service Co.—HEJ–0020

Dismissals

The following submissions were dismissed without prejudice;

Company Name and Case No.

A. Johnson & Co., Inc.—HEE–0020
Memphis Aero Corporation—HRR–0022
Mobile Oil Corporation/OSC—HRS–0006; HRS–0007; HRS–0008; HRS–0009; HRS–0011
Twin-Tech Oil Company—DEX–0212

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management; Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 23, 1932.

[FR Doc. 82–17586 Filed 6–29–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of May 31 through June 4, 1982

During the week of May 31 through June 4, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Marathon Oil Company, Shell Oil Company, 6/1/82; BEA–0619, BEA–0640, BEA–0657

Marathon Oil Company and Shell Oil Company filed Appeals of the November and December 1980 Entitlements Notices which were issued under the DOE Crude Oil Entitlements Program (10 CFR 212.67). In considering the Appeals, the DOE rejected the firms' claims that the entitlements notices were fatally flawed and that the issuance of such notices was arbitrary and capricious. Accordingly, the Appeals were denied.

Imperial Refineries Corporation, 6/2/82; BRO–0093

Imperial Refineries Corporation objected to a Proposed Remedial Order that the Central Enforcement District of the Economic Regulatory Administration issued to the firm on September 27, 1979. In the Proposed Remedial Order, the ERA found that during the period October 1, 1973, through June 30, 1974, the firm, a "reseller-retailer" of "covered products," had charged prices for gasoline, No. 1 heating oil, and propane in excess of the prices permitted by applicable regulations. After considering the firm's objections, the DOE concluded that the Proposed Remedial Order should issue as a Remedial Order. The important issues discussed in the Decision and Order include separate inventory pricing, proper valuation of inventory, the definitions of "seller" and "firm," the equal application (deemed recovery) rule, recovery of non-product costs, proper pricing periods, the DOE's authority to assess interest, interest rates, and proper remedies for overcharges.

Requests For Exception

Colebrook School District, 6/4/82; BEE–1689

Colebrook School District filed an Application for Exception from the provisions of 10 CFR Part 455 in which the firm sought funds from the DOE to reimburse the School District for costs incurred at the Colebrook Academy. In considering the request, the DOE found that the School District failed to make every good faith effort to follow the grant procedures of Part 455. Accordingly, exception relief was denied.

Stoudnour Atlantic, Inc., 6/4/82; HEE–0014

Stoudnour Atlantic, Inc. (Stoudnour) filed an Application for Exception in which the firm sought to be relieved of the obligation to file Form EIA–9A, No. 2 Distillate Price Monitoring Report. In considering the request, the DOE found that the firm would not suffer an inordinate burden in fulfilling its filing requirement. Accordingly, exception relief was denied.

Motion For Discovery

True Oil Company, 6/3/82; HRD–0026

In a Decision and Order issued on June 12, 1981, the DOE had granted substantial portions of a Motion for Discovery filed by True Oil Company (True). *True Oil Company*, 8 DOE ¶ 82,580 (1981). The ERA subsequently released to True the documents that were responsive to the terms of the *True* Order, but withheld twelve documents on privilege grounds. In the present decision, the DOE reviewed each of the claims of executive privilege asserted by the ERA and determined that two of the documents should be submitted for an *in camera inspection*. *The DOE determined that the remaining documents at issue were properly withheld under the executive privilege.*

Supplemental Order

Twin Montana, Inc., 6/4/82; HCX–0004

The Federal Energy Regulatory Commission remanded in part a Remedial Order that the DOE issued to Twin Montana, Inc. on February 20, 1980. *Twin Montana, Inc.*, 5 DOE ¶83,008 (1980), *remanded*, 17 FERC ¶61,166 (1981). In the Order of remand, FERC directs that the DOE issue a supplemental Order in which it explains the proper application to Twin Montana of the new DOE policy with respect to the assessment of interest on outstanding overcharges in remedial order cases. Accordingly, an Order was issued pursuant to FERC's remand.

Dismissals

The following submissions were dismissed without prejudice:

Name and Case No.

S. H. Killingsworth, BRR–0141
Eubert H. Malone, Jr., HFA–0058

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Penn. Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

June 23, 1982.

[FR Doc. 82–17587 Filed 6–29–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–281; PH–FRL 2155–5]

Certain Companies; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–261]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP) and feed additive petitions (FAP) relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2683. FMC Corp., 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR 180 by establishing tolerances for the combined residues of insecticide carbofuran (2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-diemthyl-3,7-benzofurandiol in or on the raw commodity sunflower seeds at 0.8 part per million (ppm), of which no more than 0.4 ppm is carbamates. Proposed analytical method for determining residues is gas chromatography. (Jay Ellenberger, PM 12, 703–557–2386).

FAP 2H5351. FMC Corp. Proposes amending 21 CFR 561.67 by establishing a regulation permitting residues of the insecticide carbofuran in or on sunflower seed hulls and meal at 1.2 ppm, of which no more than 0.5 ppm is carbamates. (Jay Ellenberger, PM 12, 703–557–2386).

PP 2F2684. Dow Chemical USA, P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.342 by establishing tolerances for the residues of insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the agricultural commodities sugar beets (roots) at 1 ppm and sugar beet (tops) at 8 ppm. Proposed analytical method for determining residues is gas chromatography. (Jay Ellenberger, PM 12, 703–557–2386).

PP 1E2542. Merck and Co., Inc., P.O. Box 2000, Rahway, NJ, 07065. Proposes amending 40 CFR 180.242 by establishing tolerances for the residues of fungicide thiabendazole (2-(4-thiazolyl) benzimidazole and its metabolite 5-hydroxythiabendazole in goat's milk at .4 ppm. Proposed analytical method for determining residues is spectrophotoflurometry analysis. (Henry Jacoby, PM 21, 703–557–1900).

PP 6F1748. EPA issued a notice published in the **Federal Register** of April 7, 1976, (41 FR 14924), which announced that E. I. du Pont De Nemours and Co., Wilmington, Delaware 19801, had submitted PP 6F1748 proposing to amend 40 CFR 180.294 by establishing tolerances for the combined residues of the fungicide benomyl [methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate] and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodities barley grain and straw, oats grain and straw, rye grain and straw, and wheat grain at 0.2 ppm, and in or on wheat straw at 15 ppm.

Du Pont has amended the petition to propose tolerances for liver (cattle, goats, hogs, horses, and sheep) at 2.0 ppm. The proposed analytical method for determining residues is by cation exchange liquid chromatography. (Henry Jacoby, PM 21, 703–557–1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136); sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated June 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–17343 Filed 6–29–82; 8:45 am]

BILLING CODE 6560–50–M

[PF–279; PH–FRL 2155–6]

Certain Companies; Food and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received food and feed additive petitions proposing the establishment of regulations permitting the residues of certain pesticide chemicals in or certain food and feed commodities.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM–17), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–279]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following food and feed additive petitions relating to the establishment of regulations permitting residues of certain pesticide chemicals in or on certain food and feed commodities in accordance with the Federal Food, Drug, and Cosmetic Act.

FAP 2H5346. Shell Oil Co., Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036. Proposes amending 21 CFR 561.97 by establishing a regulation permitting residues of insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the commodities sunflower hulls at 2.0 parts per million (ppm) and sugarcane bagasse at 20.0 ppm.

FAP 1H5283. Mclaughlin Gormley King Co., 8810 Tenth Ave. N., Minneapolis, MN 55427. Proposes amending 21 CFR 193 by establishing a regulation permitting residues of insecticide 3-phenoxybenzyl *d-cis* and *trans* 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate as an indirect food additive to be present in food from service establishments, food manufacturing and/or processing establishments, and food warehousing establishments as a consequence of the use, according to label directions, of Multicide Pressurized Spray, F–2269 to control flies and gnats in the establishments with a tolerance limitation of 0.1 ppm.

(Sec. 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: June 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–17344 Filed 6–29–82; 8:45 am]

BILLING CODE 6560–50–M

[PF-284; PH-FRL 2155-7]

Certain Companies; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Written, comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF-284]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP) and food additive petitions (FAP) relating to the establishment and amendment of tolerances for residies of certain pesticide chemicals in or on certain raw commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2F2698. BFC Chemicals Inc., 4311 Lancaster Pike, P.O. Box 2867, Wilmington, DE 19805. Proposes amending 40 CFR 180.345 by establishing tolerances for the combined residues of herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in or on the raw agricultural commodity grass, fresh at 10.0 parts per million (ppm). Proposed analytical method for determining residues is gas liquid chromatographic determination process using a flame photometric detector in the sulphur mode. (Richard Mountfort, PM 23, 703-557-1830).

FAP 2H5349. Sandoz, Inc., Crop Protection, 480 Camino Del Rio South, San Diego, CA 92108. Proposes amending 21 CFR 193 by establishing a regulation permitting residues of .01 ppm of [(e)-l-methylethyl 3-[[(ethylamino)methoxyphosphinothioyl]oxy]-2-butenoate] in or on food resulting from application of the insecticide in food handling establishments. (William Miller, PM 16, 703-557-2600).

PP 2F2695. Agricultural Division Ciba-Geigy Corp., P.O. Box 11422, Greenboro, NC 27409. Proposes amending 40 CFR 180 by establishing tolerances for the residues of fungicide metalaxyl [*N-2,6-(dimethylphenyl-N*-methoxyacetyl) alanine methyl ester] in or on the raw agricultural commodities forage grasses, forage legumes, grain crops, seed and pod vegetables, and peanuts at .1 ppm. Proposed analytical method for determining residues is gas chromatography. (Henry Jacoby, PM 21, 703-557-1900).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136)), (Sec. 409 (b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: June 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17345 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-283; PH-FRL-2156-1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities.

ADDRESS: Written comments to the product manager (PM) cited in each specific petition at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the agency. The comments are to be identified by the document control number "[PF-283]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager cited in each petition at the telephone number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions relating to establishment and amendment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

PP 2E2691. Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.349 by the establishment of tolerances for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities cocoa beans at 0.01 part per million (ppm) and garlic at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography with flame photometry using an electron capture detector. (PM-21, Henry Jacoby, 703-557-1900).

PP 2F2688. Mobay Chemical Corp. Proposes amending 40 CFR Part 180 by establishing a tolerance for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite *B*-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the raw agricultural commodity pineapple (fresh) at 3.0 ppm. The proposed analytical method for determining residues is gas chromatography and a nitrogen alkali-flame detector. (PM-21, Henry Jacoby, 703-557-1900).

PP 8E2047. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. In the **Federal Register** of March 16, 1978 (43 FR 10971), EPA announced that Chevron Co. submitted a pesticide petition (PP 8E2047) proposing to amend 40 CFR 180.267 by the establishment of a tolerance for residues of the fungicide captafol cis-*N*-[(1,1,2,2-tetrachloroethyl)thio]-4-cyclohexene-1,2-dicarboximide in or on the raw agricultural commodity green coffee beans at 0.20 ppm.

Chevron Co. has amended the petition by increasing the proposed tolerance on green coffee beans from 0.20 ppm to 5.0 ppm. The proposed analytical method for determining residues is by electron capture gas chromatography. (PM-21, Henry Jacoby, 703-557-1900).

PP 2E2693. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105. Proposes amending 40 CFR 180.381 by the establishment of

tolerances for residues of the herbicide oxyfluorefen [2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene] and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities banana (plantain) and coffee 0.05 ppm. The proposed analytical method for determining residues is gas chromatography using an electron capture detector. (PM–23, Richard Mountfort, 703–557–1830).

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: June 10, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17347 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2619/T301; PH-FRL 2155-8]

Ethephon; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the plant growth regulator ethephon in or on the raw agricultural commodities wheat and barley grain and wheat and barley straw. These temporary tolerances were requested by Union Carbide Agricultural Products Co., Inc.

DATE: These temporary tolerances expire April 20, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709, has requested, in pesticide petition PP 2G2619, the establishment of temporary tolerances for residues of the plant growth regulator ethephon [(2-chloroethyl) phosphonic acid] in or on the raw agricultural commodities wheat and barley grain at 2.0 parts per million (ppm), and wheat and barley straw at 10.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 264–EUP–62 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Union Carbide Agricultural Products Co., Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 20, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96.534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: June 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17346 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2593/T300; PH-FRL 2156-2]

Fenarimol; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the fungicide fenarimol in or on the raw agricultural commodities apples and grapes. These temporary tolerances were requested by Elanco Products Company.

DATE: These temporary tolerances expires March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: Elanco Products Company, 740 South Alabama Street, Indianapolis, IN 46285, has requested, in pesticide petition PP 2G2593, the establishment of temporary tolerances for residues of the fungicide fenarimol [a-(2-chlorophenyl)-a-(4-chlorophenyl)-5-pyrimidine-methanol] in or on the raw agricultural commodities apples at 0.10 part per million (ppm), and grapes at 0.05 ppm as a result of preharvest applications.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 1471–EUP–75 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used on accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of

the EPA or the Food and Drug Administration.

These tolerances expires March 18, 1983. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346(j)))

Dated: June 16, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-17348 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30201A; PH-FRL 2156-6]

Nor-Am Products Inc.; Approval of Application to Conditionally Register a Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by Nor-Am Products Inc. to register the defoliant Dropp Cotton Defoliant containing an active ingredient not included in any previously registered pesticide product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency CM#2 Rm. 237, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of August 5, 1981 (46 FR 39893) that Nor-Am Agricultural Products, Inc. 350 West Shurman Blvd., Naperville, IL 60566, had submitted an application to register the defoliant Dropp Cotton Defoliant containing 50 percent of the active ingredient thidiazuron *N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea, an ingredient not included in any previously registered product.

The application was approved on June 1, 1982 for general use in pesticide formulation. The product was assigned EPA registration No. 2139–122.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. The data and other scientific information used to support registration, except for the material specifically protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136), will be available for public inspection in accordance with section 3(c)(2) of FIFRA within 30 days after registration date. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: June 17, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 82-17349 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

[OLCE-FRL 2158-7]

Shenango Incorporated; Steel Industry Compliance Extension Act of 1981

AGENCY: Environmental Protection Agency.

ACTION: Notice of withdrawal.

SUMMARY: EPA announces that Shenango Incorporated ("shenango") has withdrawn its application under the Steel Industry Compliance Extension Act of 1981.

DATES: Effective June 2, 1982.

FOR FURTHER INFORMATION CONTACT: Michael Alushin, Acting Deputy Associate Enforcement Counsel for Air, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D. C. 20460, (202) 382–2824.

SUPPLEMENTARY INFORMATION: On November 17, 1981, Shenango submitted an application to the Environmental Protection Agency under the Steel Industry Compliance Extension Act of 1981. On February 6, 1982, the Administrator of EPA gave notice at 47 FR 6484 (February 12, 1982) of her preliminary intention to exercise her statutory discretion by extending a certain compliance date to which Shenango is subject in its existing consent decree. (Civil Action No. 80–1172; *United States of America and County of Allegheny* v. *Shenango Incorporated,* W.D. Penn., entered October 16, 1980.) The extension was to be contingent upon the successful negotiation of amendments to the consent decree in accordance with the Administrator's findings.

By letter dated June 2, 1982, Shenango withdrew its application for extension from further consideration by EPA. EPA will not further process Shenango's application. As a result, pursuant to the preliminary findings of the Administrator, no extension of the compliance date in the original consent decree shall be granted.

The application and supplementary materials, excluding confidential information, is available for public inspection at the Centeral Docket Room, West Tower, U.S. EPA, 401 M Street S.W., Washington, D.C. 20460 (Docket No. EN–81–16–F).

Dated: June 21, 1982.

Robert M. Perry,

Associate Administrator for Legal and Emforcement Counsel.

[FR Doc. 82-17634 Filed 6-29-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

June 25, 1982.

Task Group A–1 of Working Group A: U.S. Requirements.

Chairman: W. Naleszkiewicz (301) 652–4660.

Meeting: Wednesday, August 11, 1982.

Time: 9:30 a.m.–1 p.m.

Location: Federal Communications Commission, 2025 M Street NW., Room 7327, Washington, D.C.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17699 Filed 6-29-82; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It

June 24, 1982.

Task Groups C-1 and C-2 of Working Group C.

Date: Friday, July 30, 1982.

Time: 9:30 a.m.–4 p.m.

Location: Federal Communications Commission, 2025 M Street NW., Room 7327, Washington, D.C.

Contact: Perry G. Ackerman (213) 648-4134.

Agenda: (1) Approval of Agenda, (2) Introductions, (3) Approval of Minutes, (4) Status Report and Overview of Working Group A—W. Schnicke, (5) Status Report and Overview of Working Group B—R. Stowe, (6) Working Group C-1—M. Mitchell, Status and Document Review, (7) Working Group C-2—M. J. Manning Status and Document Review (8) Review of Other Documents (9) Other Business (10) Next Meeting Date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17690 Filed 6-29-82; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

June 25, 1982.

As previously announced, the Technical Subgroup of the Advisory Committee on Radio Broadcasting will resume its continuing meeting on Wednesday, June 30, 1982 in Room 5119, 2025 M Street, N.W., Washington, D.C.

The hour of that meeting has been advanced to 9:30 am, in order to allow time, between 9:30 am and 10 am for the Subgroup's review of its report on FM receiver characteristics and their impact on FM allocations.

At 10 am, the Subgroup will commence its consideration of that portion of its agenda relating to preparations for bilateral discussions with Canada concerning AM broadcasting, as previously announced.

All meetings of the Subgroup are open for participation by all interested persons. For further information call the Committee chairman, Louis C. Stephens at FCC Headquarters, (202) 632-7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-17691 Filed 6-29-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-219; Order of Revocation

Scandinavian World Cruises (Bahamas) Limited and Scandinavian Seaways (Bahamas) Ltd. Scandinavian World Cruises, 1080 Port Blvd., Port of Miami, Florida 33132, have never operated the passenger vessel SCANDINAVIAN STAR to or from United States ports.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Order, Commission Order No. 1 (Revised), Section 10.06 dated November 12, 1981;

It is ordered, that Certificate (Performance) No. P-219 issued to Scandinavian World Cruises (Bahamas) Limited and Scandinavian Seaways (Bahamas) Ltd. covering the SCANDINAVIAN STAR, be and is hereby revoked effective June 25, 1982.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served on the Certificants.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-17651 Filed 6-29-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writting and received by the appropriate Federal Reserve Bank not later than July 23, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Louisiana): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Baton Rouge, Louisiana and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Baton Rouge, Louisiana location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; and the sale of consumer oriented financial management courses. The proposed service area for the aforementioned proposed activities shall be comprised of the entire State of Louisiana. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes, the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) terms life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other

extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Louisiana for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

2. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Florida): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center of Florida, Inc., located in Orlando, Florida, and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Orlando, Florida location. The activities in which Citicorp Person-to-Person Financial Center of Florida, Inc. proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned activities shall be comprised of the entire state of Florida. In activities in which the *de novo* office of Citicorp Homeowners, Inc. proposes to engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit-related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; and the sale of consumer oriented financial management courses. The proposed service area for the *de novo* office shall be comprised of the entire State of Florida for all the aforementioned proposed activities. Credit-related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc.

3. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Ohio, Indiana and Kentucky): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Mortgage Corporation located in Springdale, Ohio and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Springdale, Ohio location. The new activities in which the office of Citicorp Person-to-Person Mortgage Corporation proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire States of Ohio, Indiana and Kentucky. The proposed expanded service area of the Citicorp Person-to-Person Mortgage Corporation office shall be the entire states of Ohio, Indiana and Kentucky for all of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; and the making of loans to individuals and businesses secured by second mortgage liens. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire States of Ohio, Indiana and Kentucky for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Mortgage Corporation and Citicorp Homeowners, Inc.

4. *Citicorp,* New York, New York (lease financing activities; Texas, Southwestern Oklahoma): To engage through a *de novo* office of Citicorp Industrial Credit, Inc. in leasing personal or real property or acting as agent, broker, or advisor in leasing such property and servicing such leases, subject to all of the qualifications specified in 12 CFR 225.4(a)(6) (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from an office in Dallas, Texas, serving the states identified in the caption above.

5. *Citicorp,* New York, New York (consumer finance and credit-related insurance activities; Indiana): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Indianapolis, Indiana and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Indianapolis, Indiana location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring, servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire State of Indiana. The proposed expanded service area of the Citicorp Person-to-Person Financial Center, Inc. office shall be the entire state of Indiana for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or

decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individual secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Indiana for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

6. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Oklahoma): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Oklahoma City, Oklahoma and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Oklahoma City, Oklahoma location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire state of Oklahoma. The proposed expanded service area of the Citicorp Person-to-Person Financial Center, Inc. office shall be the entire State of Oklahoma for a portion of its previously approved activities, specifically, the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Oklahoma for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

7. *Citicorp*, New York, New York (consumer finance and credit-related insurance activities; Oklahoma): To expand the activities of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in Tulsa, Oklahoma and to establish a *de novo* office of Citicorp Homeowners, Inc. at the same Tulsa, Oklahoma location. The new activities in which the Citicorp Person-to-Person Financial Center, Inc. office proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortage loans. The proposed service area for the aforementioned proposed activities shall be comprised of the entire State of Oklahoma. The activities in which the proposed *de novo* office of Citicorp Homeowners, Inc. will engage are: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service area of Citicorp Homeowners, Inc. shall be comprised of the entire State of Oklahoma for all the aforementioned activities. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. and Citicorp Homeowners, Inc.

Board of Governors of the Federal Reserve System, June 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17593 Filed 6-29-82; 8:45 am]

BILLING CODE 6210-01-M

East Central Holding Co.; Formation of Bank Holding Co.

East Central Holding company, Cambridge, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.5 per cent or more of the voting shares of First State Bank of Isanti, Isanti, Minnesota. The factors that are considered in acting on the application are set forth in section (3)(c) of the Act (12 U.S.C. 1842(c)).

East Central Holding Company, Cambridge, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permision to acquire voting shares of Isnti Agency, Inc., Isanti, Minnesota.

Applicant states that the proposed subsidiary would engage in the activities conduct general insurance activities in a town of less than 5,000 population. These activities would be performed from offices of Applicant's

subsidiary in Isanti, and the geographic areas to be served are Isanti County and northern Chisago County, Minnesota. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minnesota.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than July 23, 1982.

Board of Governors of the Federal Reserve System, June 23, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-17594 Filed 6-29-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Conveyance of Public Land

June 22, 1982.

Notice is hereby given that pursuant to section 203 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), Waldemar Klimach and Marie Klimach, have purchased by noncompetitive sale public land in Mohave County, Arizona, described as:

Gila and Salt River Meridian, Arizona,

T. 20 N., R. 16 W.,
Sec. 12, Lot 1,
Containing 0.43 acres.

The purpose of this notice is to inform the public and interested State and local government officials of the issuance of the patent to the above-named persons.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-17721 Filed 6-29-82; 8:45 am]

BILLING CODE 4310-84-M

[ES 30498, Survey Group 78]

Michigan; Filing of Plat of Survey

1. On Novermber 19, 1981, the plat representing the survey of omitted islands in T. 42 N., R. 1 W., Michigan Meridian, Michigan, was accepted. It will be officially filed in the Eastern States Office, Alexandria, Virginia, at 7:30 a.m., September 28, 1982.

Michigan Meridian, Michigan

T. 42 N., R. 1 W.,
Tract Nos. 37, 38, 39, 40, 41, 42, 43, and 44.

2. The island tract number 37–44 were found to be separate and distinct in all respects to that of the adjacent surveyed lands. The tracts numbered 37, 38, 39, 41, 42, and 43 have a soil composition of stony loam over a formation of glacial-till. Tract 40 has a soil composition of organic material over a formation of glacial-till. Tract 44 has a soil composition of solid rock.

Elevations on the island Tract No. 37 range up to approximately 6 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, balsam fir, aspen, and birch. Borings showed trees to be up to 70 years old. Decomposed stumps and boulders 3 feet in diameter were found on the island.

Elevations on the island Tract No. 38 range up to approximately 5 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, tamarack, balsam fir, birch, and aspen. Borings showed trees to be up to 80 years old. Decomposed stumps and large boulders were found on the island.

Elevations on the island Tract No. 39 range up to approximately 5 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, tamarack, aspen, and birch. Boring showed several trees to be up to 80 years old. Decomposed stumps and large boulders were found on the island.

Elevations on the island Tract No. 40 range up to approximately 3 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, tamarack, aspen, and birch. A large boulders were found on the island.

Elevations on the island Tract No. 41 range up to approximately 4 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, tamarack, birch. Borings showed trees to be up to 95 years old. Large boulder were found on the island.

Elevations on the island Tract No. 42 range up to approximately 3 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, aspen and, birch. Borings showed trees to be up to 70 years old. Large boulders were found on the island.

Elevations on the island Tract No. 43 range up to approximately 3 feet above the ordinary high water mark of Lake Huron. Timber consists of cedar, spruce, aspen, and birch. Borings showed trees to be up to 90 years old. Large boulders were found on the island.

Elevations on the island Tract No. 44 range up to approximately 7 feet above the ordinary high water mark of Lake Huron.

3. Tracts 37–44 were found to be over 50 percent upland in character within the purview of the Swamp Lands Act of September 28, 1850 (9 Stat. 519). They are therefore held to be public land.

4. Except for valid existing rights, these islands will not be subject to application, petition, location, selection, or any other type of appropriation under any public law, until a further order is issued.

5. All inquires relating to these islands should be sent to the Chief, Division of Lands and Minerals Operations, Bureau of Land Mangement, 350 South Pickett Street, Alexandria, Virginia 22304, September 28, 1982.

Jeff O. Holdren,

Chief, Division of Lands and Minerals Operations.

[FR Doc. 82-17724 Filed 6-29-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Announcement of Areas of Critical Environmental Concern

Pursuant to the provisions of the Federal Land Policy and Management Act of October 21, 1976, the following listing of Areas of Critical Environmental Concern (ACEC) has been designated through the Bureau's land use planning process. These ACEC's are located in the Casper and Rock Springs Districts. Management of these areas, and their identified critical values, will be a priority item for funding. An annual update will be published in the **Federal Register** to add areas designated through subsequent land use plans.

Casper District

Red Wall—14,142 acres, located in T. 40 and 41 N., R. 83 and 84 W. A specific listing of sections involved may be

obtained from the Casper District Office. The Red Wall is a prominent escarpment of the Chugwater formation. Its size, color, and lack of manmade intrusions make it a high quality visual resource. Cultural resource sites and raptor habitat are other special features of this area.

Pteradactyl Tracks—1,120 acres, located in T. 29 and 30 N., R. 82 and 83 W. A specific listing of sections involved may be obtained from the Casper District Office. The Alcova Pteradactyl Track area is the largest of four known sites of this type in the world. Tracks of these prehistoric flying reptiles are preserved in stone at the site.

Jackson Canyon—4,500 acres, located in T. 32 N., R. 80 W. A specific listing of sections involved may be obtained from the Casper District Office. Jackson Canyon provides an essential night roosting area for approximately 60 bald eagles from December through March. Because the area is close to a principal population center in Wyoming, special measures must be taken to protect the eagles from human disturbance.

Salt Creek—74,880 acres, located in Converse, Natrona, and Johnson Counties along the Salt Creek Drainage. A specific listing of townships involved may be obtained from the Casper District Office. This area is an old oil field that still has production going on. The area contains hazards in the form of circulating wells, boggy areas, areas covered by oil and tar, contaminated water, and piles of oil field debris.

Whoop-up Canyon—240 acres, located in T. 43 and 44 N., R. 60 and 61 W., sixth principal meridian. This area contains a unique style of well preserved petroglyphs. These Indian writings include animal drawings, stick figures, and geometric designs. The Canyon appears to have been used by prehistoric people for several centuries. These prehistoric people were possibly ancestors of the historic tribes of the Northwestern Plains.

Rock Springs District

Rock Creek—5,284 acres, located in T. 27 N., R. 114 and 115 W. A specific listing of sections involved may be obtained from the Pinedale Resource Area Office. Rock Creek contains a population of Colorado River cutthroat trout which has been determined to be the best representative of a wholly pure strain of this species. This fish has been designated rare by the Wyoming Game and Fish Department and sensitive by the Wyoming BLM. This area also has one of the last remaining naturally wintering elk populations in the upper Green River Basin.

Raymond Mountain—13,530 acres, located in T. 26, 27, and 28 N., R. 119 W. A specific listing of the sections involved may be obtained from the Kemmerer Resource Area Office. This ACEC contains two drainages that are important to the continued existence of the Bear River Cutthroat trout. The Raymond Creek and Huff Creek drainages are a part of the larger Thomas Fork drainage which is crucial habitat for the continued existence of this fish subspecies. Crucial elk and deer winter range are included in this ACEC.

Recreation values in Raymond Canyon are exceptionally high due to the lush vegetation, variety of wildlife species, and outstanding recreational opportunities.

Oregon Buttes—3,520 acres, located in T. 26 N., R. 101 W. A specific listing of sections involved may be obtained from the Rock Springs District Office. The Oregon Buttes were a principal landmark for fur trappers, missionaries, Oregon settlers, Mormons, and California gold seekers traveling the Emigrant Trail. Journals of some early travelers speak of the psychological and spiritual lift inspired by the Oregon Buttes. The Buttes are also important raptor habitat and significant elk and deer winter range.

Greater Sand Dunes—38,480 acres, located in T. 23 and 24 N., R. 102, 103, 104, and 105 W. A specific listing of involved sections may be obtained from the Rock Springs District Office. The Greater Sand Dunes ACEC is a part of the larger Killpecker Dune field which is one of the largest active dune fields in North America. The ACEC contains important cultural evidence of occupation by Indian cultures dating back to 11,000 years. Plant and animal associations in the dunes have some unique characteristics due to the presence of dune ponds that qualify the area as a natural system suitable for scientific study. A unique desert elk herd also inhabits the area.

White Mountain Petroglyphs—20 acres, located in T. 22 N., R. 105 W., sections 11 and 12. The White Mountain Petroglyphs are Indian drawings of late prehistoric or early historic period. The petroglyphs are probably associated with the Fremont culture and the early ancestors of the present Shoshone tribe. Common drawings include elk, feather head dresses, and human stick figures. The petroglyphs and immediate area are intensively used by local schools for environmental education field trips.

Cedar Canyon—2,560 acres, located in T. 22 N., R. 103 W. Cedar Canyon contains an extensive rock art site that probably is related to the Plains Indian culture, specifically Shoshone. These petroglyphs probably date to the late prehistoric and White contact period. The panel of incised figures include stick figures and geometric designs which presumably have some symbolic meaning. Additionally, Cedar Canyon contains valuable raptor habitat and some key big game habitat.

Natural Corrals—1,116 acres, located in T. 21 N., R. 101 and 102 W. The area has cultural, geologic, and recreation values. Volcanic silicate monoliths jut above the Zerkel Mesa and contain many small sites similar to enclosures or corrals. These sites include a bison kill, a site having evidence of stone tools associated with mammoth remains, a site related to Indian/White contact, and unusual rock grottos attractive for exploring, climbing, and general outdoor recreation.

Pine Springs— 80 acres, located in T. 14 N., R. 109 W. This site is one of the most significant prehistoric campsites in southwest Wyoming. The site was continously occupied from about 8000 B.C. to 1200 A.D.

Red Creek Watershed—59,532 acres, located in T. 12 and 13 N., R. 103, 104, 105, and 106 W. The watershed was designated an ACEC because of the highly erodible soils and fragile watershed conditions. Red Creek is a major contributor of silt and salinity to the Green River. Special management is designed to address this problem. In addition, wildlife values associated with big game will be protected.

The above described areas aggregate approximately 218,984 acres.

Maxwell T. Lieurance,

State Director.

[FR Doc. 82-17713 Filed 6-29-82; 8:45 am]

BILLING CODE 4310-84-M

Motor Vehicles, Off-road, etc., Area Closures and Openings; California

AGENCY: Bureau of Land Management, Interior.

ACTION: California emergency closure of public land.

SUMMARY: Notice is hereby given of the emergency closure to off-road vehicles and overnight camping on the following public lands:

San Bernardino Base and Meridian

T. 7 N., R. 6 N.,
Sec. 6;
Secs. 7 and 8, those portions north of the main wash.
T. 8 N., R. 6 W.,
Secs. 31 and 32.
T. 8 N., R. 7 W.,
Secs. 18, 20, and 28.

The above aggregates 3,960 acres in San Bernardino County, California.

Mineral claiminants operating under an approved plan of operation and any other person using public lands under a valid BLM use authorization are exempt from these restrictions.

The reasons for implementing this closure are:

1. To protect health and safety of local residents and recreationists.

2. To protect the resources and private structures from wildfire.

The authority for this closure is 43 CFR Part 8364.

The closure will be in effect from 1:00 am Friday, July 2 to 12:00 midnight, Monday, July 5, 1982

FOR FURTHER INFORMATION CONTACT: Alden Sievers, Area Manager, Barstow Resource Area, 831 Barstow Road, Barstow, California 92311, or telephone (714) 256–3591.

Dated: June 25, 1982.

Bruce Ottenfeld,

Acting District Manager.

[FR Doc. 82–17900 Filed 6–29–82; 8:45 am]

BILLING CODE 4310–84–M

[W–80234]

Wyoming; Invitation for Coal Exploration License, Northwestern Resources Co.

June 4, 1982.

Correction

In FR Doc. 82–16387 appearing on page 26246 in the issue for Thursday June 17, 1982, make the following correction.

Or page 26243, second column, in the land description headed "Sixth Principal Meridian, Wyoming", line six, "98W.," should be corrected to read "99W.,"

BILLING CODE 1505–01–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Pennzoil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Pennzoil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3332, Block 337, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 22, 1982.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–17705 Filed 6–29–82; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 4, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by July 15, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

WASHINGTON

King County

Seattle, *Ballard Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* Spans Lake Washington Ship Canal

Seattle, *Fremont Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* Fremont Ave.

Seattle, *University Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* Eastlake Ave.

Mason County

Eldon vicinity, *North Hamma Hamma Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* Spans Hamma Hamma River

Eldon vicinity, *South Hamma Hamma Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* Spans Hamma Hamma River

Skagit County

Anacortes, *Canoe Pass Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* WA 20

Anacortes, *Deception Pass Bridge (Historic Bridges and Tunnels in Washington State Thematic Resources),* WA 20

[FR Doc. 82–17902 Filed 6–29–82; 8:45 am]

BILLING CODE 4210–01–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance

requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It Is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79671. By decision of June 8, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to REBEL LEASING, INC., of Gladstone, MO, of Certificate Nos. MC–146871 (Sub-Nos. 5, 6, 7, 8, and 10), issued to PRODUCE SERVICE, INC., d/b/a PSI, of North Kansas City, MO, which authorize the transportation of (1) *charcoal, charcoal briquets, fireplace logs, wood chips, and lighter fluid* (except in bulk), (a) from Meta, MO, to point in Arizona, California, Colorado, Florida, Georgia, Kansas, Mississippi, Nebraska, New Mexico, Oklahoma, Ohio, South Dakota, Texas, Utah, and Washington, (b) from Dickinson, ND, to points in Minnesota, South Dakota, Iowa, Nebraska, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Montana, Idaho, Washington, Oregon, Wyoming, California, Nevada, Arizona, Colorado, Utah, and New Mexico, and (c) from Branson, MO to points in Arkansas, Louisiana, Mississippi, Indiana, Tennessee, Illinois, Ohio, Texas, Oklahoma, Kentucky, Nebraska, Iowa, West Virginia, Virginia, Pennsylvania, California, Colorado, Kansas, Utah, Alabama, and Nevada; (2) *foodstuffs* (except in bulk), from Booner Springs, KS, to points in Oklahoma, Texas, Missouri, Arkansas, Louisiana, New Mexico, and Arizona; and (3) *apple cider* (except in bulk), from Alton and Olney, IL, to points in Iowa, Missouri, Kansas, Nebraska, Oklahoma, Texas, Arkansas, and Colorado. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309.

Note.—Transferee is not a carrier.

MC–FC–79687 Correction. By decision of March 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Dakota Bake-N-Serv, Inc., of Jamestown, ND, of Permit No. MC–152915 issued May 26, 1981, MC–152915 (Sub-No. 1) issued May 26, 1981, and MC–152915 (Sub-No. 2) issued February 16, 1982,[1] to Sunnydale Distributing Corporation, of Jamestown, ND, authorizing: (1) *drugs, medicines, toilet preparations, chemicals, medical products and appliances, food, sweeteners, cleaning products, containers, store displays, adhesives* and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale and distribution of the commodities in (1), between points in the U.S., under continuing contracts with (a) William H. Rorer, Inc., (b) Vicks Health Care Division and Vicks Toiletry Division of Richardson-Merrell, Inc., (c) Mallinckrodt, Inc., (d) W. F. Young, Inc., (e) The Upjohn Company, (f) ICI Americas, Inc., (g) Norwich-Eaton Pharmaceuticals, Division Morton-Norwich, (h) Noxell Corporation, (i) Johnson & Johnson Products, Inc., (j) Alberto-Culver Co., and (k) Warner-Lambert Company; *bakers yeast*, between points in the U.S., under continuing contract with Anheuser-Busch Companies, Inc., of St. Louis, MO; and *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contracts with (a) North Pacific Canners and Packers of Portland, OR, (b) Lamb-Weston, Inc., of Portland, OR, (c) The Gillette Company of Boston, MA, (d) The J. B. Williams Company, Inc., of Cranford, NJ; (e) Carter-Wallace, Inc., of Cranford, NJ, (f) Knouse Foods of Peach Glen, PA, (h) White Drug Enterprises, Inc., of Jamestown, ND, (i) Jovan, Inc., of Bensenville, IL (j) Helene Curtis Industries, Inc., of Chicago, IL, (k) PATCO Products of Kansas City, MO, and (l) Abbott Laboratories of North Chicago, IL. Representative: Daniel J. Sweeney, Attorney, 1750 Pennsylvania Avenue NW., Suite 1105, Washington, DC 20006, (202) 393–5710. TA lease is not sought. Transferee is not a carrier.

MC–FC–79822. By decision of June 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Fast Transportation Company, Inc., of Oklahoma City, OK of Certificate No. MC–89913 (Sub-Nos. 56 and 67X both in part) issued to Frisco Transportation Company of Denver, CO. authorizing the transportation of *general commodities*, with exceptions, over regular routes between certain named points in OK and TX. Representative: Mike Lennox, 531 North Portland, Oklahoma City, OK 73147. TA lease is sought. Transferee is not a carrier.

MC–FC–79857. By decision of June 15, 1982 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GREENWAY TRANSPORTATION, INC., of Jamaica, NY, of Certificate No. MC–150443 issued to E & E TRANSPORTATION, INC., of Tenafly, NJ, authorizing passengers and their baggage, between New York, NY, on the one hand, and, on the other, points in the U.S. (with exceptions). Representative: Donald I. Shapss, 450 Seventh Ave., New York, NY 10123. TA lease is not sought. Transferee is not a carrier.

MC–FC–79860. By decision of June 15, 1982 issued under 49 U.S.C. 10924 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to Festive Tours, Ltd. of East Providence, RI, of License No. MC–157102 issued to America Travel, Inc., of East Providence, RI authorizing *brokerage service* at East Providence and East Greenwich, RI, of *passengers and their baggage*, beginning and ending at points in Rhode Island and Bristol County, MA, and extending to points in the U.S. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103. Transferee is not a carrier.

MC–FC–79966. By decision of 6/14/82 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to PERRY EXPRESS, INC. of Permit No. MC–151384 (Sub-No. 4) issued to G & J TRUCKING, INC. authorizing the transportation of *general commodities*, usual exceptions, between points in the United States (except AK and HI), under continuing contract(s) with (a) Colt Industries, Inc., Colt Industries Operating Corporation, Central Moloney, Inc., Crucible, Inc., and Garlock, Inc., all of New York, NY; (b) Menasco, Inc. of Burbank, CA; and (c) Stemco, Inc., Longview, TX. Representative: G. William Fowler, 115 West Fifth Street, Odessa, TX 79761.

Note (S):—(1) Transferee is a non-carrier. (2) An application for temporary authority had been filed. (3) This application was originally docketed MC–F–14866.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17014 Filed 6–29–82; 8:45 am]

BILLING CODE 7035–01–M

[1] Corrected to show that transferor is selling all of its authority consisting of: MC–152915 issued May 26, 1981, MC–152915 (Sub-No. 1) issued May 26, 1981, and MC–152915 (Sub-No. 2) issued February 16, 1982.

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–181. The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 112223 (Sub-4–10 TA), filed June 18, 1982. Applicant: QUICKIE TRANSPORT CO., 1700 New Brighton Blvd., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Blvd., Minneapolis, MN 55413. *Polymeric Isocyanates and Polyurethane Resins in Bulk* between Minneapolis, MN; Baytown, TX; Baton Rouge, LA; Pell City, AL and River Falls, WI limited to the account of Foam Enterprises, Inc.

MC 138569 (Sub-4–4), filed June 18, 1982 Carrier: BRAITHWAITE TRUCKING, INC., 3819 Sunset Drive, Rapid City, SD 57701. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101. *Contract,* irregular: *Coal and coke* from the facilities of C F & I, at or near Minnequa, CO, to Gering, Mitchell, Scotts Bluff, NE, Billings, MT, and Lovell, WY, under contract with The Great Western Sugar Company, for 270 days. An underlying ETA seeks 120 days. Supporting shipper: The Great Western Sugar Company, Box 5308, 1530 16th Street, Denver, CO 80217.

MC 155118 (Sub-4–10TA), filed June 17, 1982. Applicant: T.D.S. TRANSPORTATION, INC, 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper, 1700 South Wolf Road, Des Plaines, IL 60018. *Contract; irregular, General commodities (except classes A & B explosives, household goods and commodities in bulk), including* paper, greeting cards and gift boxes between Memphis, TN, on the one hand, to all points in the U.S. (except AK and HI), on the other hand. Supporting shipper: Cleo Wrap, Division of Gibson Greeting Cards, Inc., 4025 Viscount, Memphis, TN 38118.

MC 155118 (Sub-4–11TA), filed June 17, 1982. Applicant: T.D.S. TRANSPORTATION, INC, 1700 South Wolf Road, Des Plaines, IL 60018. Representative: Julie L. Roper, 1700 South Wolf Road, Des Plaines, IL 60018. *Contract; irregular, Yarn,* between Dalton, GA, on the one hand, to all points in the U.S. (except AK AND HI), on the other hand. Supporting shipper: Needlecraft Corporation of America, 1627 Abutment Road, Dalton, GA 30720.

MC 155242 (Sub-4–3TA), filed June 14, 1982. Applicant: ADVANCE POOL DISTRIBUTION, INC., 3700 Central Ave., Detroit, MI 48120. Representative: Alex J. Miller, 555 S. Woodward Ave., Suite 512, Birmingham, MI 48011. *Such commodities as are dealt in or used by retail stores,* between Grand Rapids, MI and its commercial zone on the one hand and on the other points in the Lower Peninsula of MI for K-Mart Corporation. Supporting Shipper: K-Mart Apparel Corp., 7373 West Side Avenue, North Bergen, NJ, 07047.

MC 158429 (Sub-4–2TA), filed June 18, 1982. Applicant: ARTHUR, PETER, PHILIP and HANSEL, MULDER d.b.a. ART MULDER AND SONS TRUCKING, A4406 M–40 South, Holland, MI 49423. Representative: Paul M. Ross, Attorney, 3104 S. Cedar St., Lansing, MI 48910. *Contract* Irregular: *Food and related products* between points east of the Mississippi River, including TX, on one hand, and on the other, between points in MI, IN, IL, OH, NC, SC, TX, FL, MO, WI, MS, and GA, under continuing contracts with Benco Pet Food, Inc., and Chef Pierre, Inc. Supporting shippers: Benco Pet Food, Inc., P.O. Box 270, Zanesville, OH and Chef Pierre, Inc., 2314 Sybrandt, Traverse City, MI.

MC 159040 (Sub-4–1TA), filed June 3, 1982. Applicant: K.I.S.S. EXPRESS CO., 4820 West Belmont Avenue, Chicago, IL 60641. Representative E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Washington, DC 20006. *Contract;* irregular *General commodities* (except househod goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between point in the U.S. under continuing contract(s) with Schnadig Corporation, of Chicago, IL, Cole Sewell Corporation, of St. Paul, MN, Genie Toys, of St. Louis, MO, Pettibone-Chicago, Inc., Of Chicago, IL, St. Charles Manufacturing Company, of St. Charles, IL, Adams Foam Rubber Company, Inc., Of Chicago, IL, and Lee Rowan Company, of St. Louis, MO, for 270 days. Supporting shippers: There are 7 supporting shippers.

MC 161107 (Sub-4–1TA), filed June 17, 1982. Applicant: MILBANK FREIGHTWAYS, INC., 1860 East 28th Street, P.O. Box 9485, Minneapolis, MN 55440. Representative: Richard L. Gill, 1805 American National Bank Building, St. Paul, MN 55101. *Common*-Regular—*General commodities* (except household goods, commodities in bulk, and classes A and B explosives) between Minneapolis-St. Paul, MN and its commercial zone and Milbank, SD, restricted to movements originating at or destined to the facilities of Farwell, Ozmun, Kirk & Co.: From Minneapolis/St. Paul, MN over U.S. Highway 12 to Milbank, SD, and return; From Minneapolis/St. Paul, MN over U.S. Highway 212 to juncture U.S. Highway 75; thence over U.S. Highway 75 to Ortonville, MN thence over U.S. Highway 12 to Milbank, SD and return. Supporting shipper: Farwell, Ozmun, Kirk & Co., 411 Farwell Avenue, South St. Paul, MN. Applicant intends to interline at Minneapolis-St. Paul, MN.

MC 162526 (Sub 4–1TA) filed June 16, 1982. Applicant: LEE F. PETERSON d.b.a. J & L ENTERPRISES, 5466 Norway Grove, School Road, De Forest, WI 53532. Representative: Charles E. Dye, Swan Lake Village Saddle Ridge No. 832, Portage, WI 53901. *Contract-*Irregular *General Commodities* (except classes A & B explosives, Household Goods and Commodities In Bulk) Between points in the U.S. (except AK and HI) under continuing contract with Trachte Building Systems of Madison,

WI. Supportin shipper: Trachte Building Systems, Madison, WI.

MC 162528 (Sub-4–1TA), filed June 17, 1982. Applicant: URBANA MOVING & TRANSFER CO., Rural Route No. 1, Box 53, Rantoul, IL 61866. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703. *Foodstuffs* Between points in the states of MN, WI, IA, IN, KY, AL, & IL. Supporting shipper: J.M. Jones Company, 2611 N. Lincoln Ave., P.O. Box 8, Champaign, IL 61820.

MC 162548 (Sub-4–1TA), filed June 16, 1982. Applicant: STANLEY WOLKEN, R.R. No. 1, P.O. Box 81, Rantoul, Il 61866. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St., Springfield, IL 62703, *Liquid fertilizer* between Terre Haute, IN, on the one hand, and points in Douglas, Champaign, & Edgar Counties, IL, on the other hand. Supporting shipper: Illini FS Incorporated, 1509 E. University, Urbana, IL 61801.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, 211 Main St. Suite 501, San Francisco, CA 94105.

MC 162241 (Sub-6–1TA), filed June 15, 1982. Applicant: VIRGIL CLARK, d.b.a. V. CLARK TRANSPORTATION, P.O.B. 2341, Roseburg, OR 97470. Representative: Virgil Clark, C/O Gaylord Cudmore, 583 West Terrace Dr., San Dimas, CA 91773. (1) *Excercise and health equipment;* from CA to points in forty-eight (48) states; (2) *Plastic toys;* from CA to points in OR, WA, UT, and CO; (3) *New furniture and furniture parts;* to and from points in forty-eight (48) states; (4) *Pulp, paper and related products;* between points in CA, AZ, NV, OR, WA, UT, ID, NM, TX, and CO; (5) *Bath tubs, sheet steel, earthenware, and plumbers goods;* from Dallas, TX to points in thirty-seven (37) states excluding: MA, RI, VT, NH, NY, ME, CT, PA, NJ, and DE, 270 days. Supporting shipper's: There are five (5) shippers. Their statements may be examined at the Regional office listed.

MC 162517 (Sub-6–1TA), filed June 16, 1982. Applicant: DECKER BROS., INC., P.O.B. 635, Worland, WY 82401. Representative: James B. Hovland, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Oilfield production equipment, materials and supplies* (except oil field drilling rigs and liquid commodities), in hot-shot service, between Worland, WY on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and Canada located in MT, for 270 days. An underlying ETA seeks 120 days authority. Shipper: Kobe, Inc., Box 873, 1043 W. River Rd., Worland, WY 82401.

MC 150756 (Sub-6–10TA), filed June 15, 1982. Applicant: GUTHMILLER TRUCKING, INC., P.O.B. 206, Union City, CA 94587. Representative: Eldon M. Johnson, 650 California St. Suite 2808, San Francisco, CA 94108. *Filters,* from Santa Rosa, CA, to points in AZ, WA, OR, CO, NM, and UT, for 270 days. Supporting shipper: Environmental Filter Corporation, 460 Tesconi Circle, Santa Rosa, CA 95401.

MC 98713 (Sub-6–1TA), filed June 16, 1982. Applicant: ORANGE BELT STAGES, 525 East Acequia Street, Visalia, CA 93277. Representative: T. S. Haworth (same as applicant). *Common carrier,* regular route *passengers and their baggage and express and newspapers in the same vehicle with passengers,* (1) between Fresno, CA and Lemoore, CA: from Fresno over CA State Hwy 99 to junction CA State Hwy 43, then over CA State Hwy 43 to Hanford, then over CA State Hwy 198 to Lemoore and return over the same route, serving all intermediate points; (2) between Fresno, CA and the junction of CA State Hwy 41 and CA Hwy 46: from Fresno over CA State Hwy 41 to junction CA Hwy 46 and return over the same route, serving all intermediate points; (3) between Fresno, CA and Visalia, CA: from Fresno over Business CA Hwy 99 to Selma then over Unnumbered Hwys via Parlier, Reedley and Dinuba to junction CA State Hwy 63 at Orosi, then over CA State Hwy 63 to Visalia and return over the same route, serving all intermediate points for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority it presently holds. Supporting Shippers: There are eight (8) shippers. Their statements may be examined at the Regional Office listed.

MC 152393 (Sub-6–4TA), filed June 11, 1982. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, POB 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract Carrier,* Irregular Routes: (1) *Expanded or foamed plastics,* from points in IN, MA, MD, MI, NC, NJ, NY, OH, and PA to points in CA, for the account of Wilshire Foam Products, and (2) *Plastic products, fabricated metal products, solder, soldering flux, chemicals or allied products,* from points in OH to points in CA, for the account of Oatey, Inc., for 270 days. Supporting shippers; (1) Wilshire Foam Products, 1240 E. 230th Street, Carson, CA 90745, and (2) Oatey, Inc., 1860 Dobbin Drive, San Jose, CA 95133.

MC 14311 (Sub-6–6TA), filed June 16, 1982. Applicant: QUALITY STEAKS TRANSPORTATION CO., INC., 5100 Race St., Denver, CO 80216. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *(1) Foodstuffs (except in bulk) and (2) alcoholic and non-alcoholic beverages (except in bulk)* from points in CA to the facilities of Mile-Hi Fruits & Vegetable Co., Inc. at or near Denver, CO for 270 days. Supporting shipper: Mile-Hi Fruit & Vegetable Co., Inc., 4701 E. 50th Street, Denver, CO 80216.

MC 142311 (Sub-6–7TA), filed June 16, 1982. Applicant: QUALITY STEAKS TRANSPORTATION, CO., INC., 5100 Race St., Denver, CO 80216. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *(1) Malt Beverages, (except in bulk); (2) wine, (except in bulk); and (3) other beverages, (except in bulk),* from points in San Joaquin and Napa Counties, CA, Thurston County, WA, Chautauqua County, NY, La Crosse, WI, and St. Louis, MO, and points in its commercial zone to the facilities of C & C Distributing, Inc. at or near Denver, CO for 270 days, Supporting shipper: C & C Distributing, Inc., 6275 East 39th Street, Denver, CO 80207.

MC 162509 (Sub-6–1TA), filed June 16, 1982. Applicant: THOMAS E. BROWN, d.b.a. TEBCO TRUCKING, 9155 Petit, POB 2373, Sepulveda, CA 91343. Representative: Milton W. Flack, 8484 Wilshire Blvd., 840 Beverly Hills, CA 90211. *Contract Carrier,* Irregular routes: *spas and bathtubs, and related materials, equipment and supplies,* from the facilities of Gerico Fiberglass Products, Inc., located at Huntington Beach, CA, and Hydro-Spa, Inc., located at Piru, CA, to points in the U.S. (except AK and HI), under continuing contract(s) with Gerico Fiberglass Products, Inc., of Huntington Beach, CA, and Hydro-Spa, Inc., of Piru, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Gerico Fiberglass Products, Inc., 5482 Argosy Dr., Huntington Beach, CA 92649; Hydro-Spa, Inc., 3741 E. Telegraph Road, Piru, CA 93040.

MC 129480 (Sub-6–6TA), filed June 15, 1982. Applicant: TRI-LINE EXPRESSWAYS, LTD., 9559 40th Street SE, Calgary, Alberta, CD T2H 2J1. Representative: David J. Lister, 6035 E. 51 Avenue, Commerce City, CO 80020. *General commodities,* except Classes A and B explosives, between points in AZ, CA, OR and WA, on the one hand, and, on the other points in AZ, CA, ID, MT, NV, OR, UT and WA, for 270 days. An underlying ETA seeks 120 days

authority. Supporting shipper(s): There are 22 supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 162401 (Sub-6–1 TA), filed June 17, 1982. Applicant: BOISE TRUCK & EQUIPMENT, INC., 7920 Overland Rd., Boise, ID 83709. Representative: Craig Farmer (same as applicant). *Wrecked or disabled vehicles* between points in the U.S. (except AK and HI) for 270 days. Supporting shipper(s): Willis Shaw Frozen Express, P.O., 5693, Boise, ID 83705; Ida-Cal Freightlines, Inc., P.O. Drawer M, Nampa, ID 83651.

MC 162606 (Sub-6–1 TA), filed June 21, 1982. Applicant: DAN DAVIS & SONS TRUCKING, 31125 WCR 91, Briggsdale, CO 80611. Representative: Dan Davis (same as applicant). *Contract carrier;* Irregular Routes: *Metal products, machinery and commodities which because of size and weight require the use of special equipment* from Arapahoe and Denver Counties CO and from Carbon County WY to points in UT, CO, ND, NM, MT & WY for 270 days. Supporting Shipper(s): Energy Development Co., P.O. B 600, Hanna, WY 82327; Saf-Loc Systems, Inc., 2925 S. Tedon, Englewood, CO 80110.

MC 162211 (Sub-6–1 TA), filed June 17, 1982. Applicant: K.P.H. TRANSPORTATION CO., INC., 510 South Mathilda, Suite 7, Sunnyvale, CA 94086. Representative: James D. Keller (same as above). *General commodities* (except Classes A & B Explosives, Hazardous Materials, and Household Goods) between points in U.S. restricted to shippers and suppliers of U.S. Comex Corporation for 270 days. Underlying ETA seeks 120 day authority. Supporting shipper: U.S. Comex Corporation, P.O.B. 130, Geismar, LA 70734.

MC 162616 (Sub-6–1 TA), filed June 21, 1982. Applicant: LORNE E. HENNER, d.b.a. LEAL TRUCK LINES, P.O.B. 1132, Citrus Heights, CA 95610. Representative: Lorne E. Henner (same as applicant). *Contract Carrier:* Irregular Routes; *General Commodities* to and from rail ramps with CA and OR loading points for further transportation by rail under continuing contract with Pacific Rail Services for 270 days. Supporting shipper: Pacific Rail Services, 1900 Powell St., Suite 255, Emeryville, CA 94608.

MC 153758 (Sub-6–6 TA), filed June 21, 1982. Applicant: LAMPMAN BROKERAGE, INC., d.b.a. MASTRO ENTERPRISES, 4233 W. Sierra Madre, Fresno, CA 93711. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd, Madison, WI 53719. *Contract Carrier;* Irregular Routes: *Food and related products and materials, equipment used in the manufacture, sale and distribution of these commodities* from points in IL and WI to South San Francisco (County of San Mateo), CA, restricted to transportation performed under continuity contract with Monterey Cheese Company for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Monterey Cheese Company, 468 Littlefield Ave., Box 2487, S. San Francisco, CA 94080.

MC 157131 (Sub-6–2 TA), filed June 21, 1982. Applicant: REDWOOD COAST TRUCKING, INC, 2210 Samoa Road Arcata, CA 95521. Representative: Frank N. Blagen (same as applicant). *Contract carrier,* Irregular Route: *Lumber and Wood Products; Pulp, Paper, and Related Products; Metal Products; Building Materials, and Commodities used in the Manufacture of the Above,* between points in the U.S., for 270 days. Restricted to shipments moving for the account of Louisiana-Pacific Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564.

MC 147978 (Sub-6–7 TA), filed June 18, 1982. Applicant: SYSTEM REFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract Carrier,* Irregular Routes: *Chemicals and plastics and related articles,* from points in Ohio to Santa Fe Springs, CA, including its commercial zone, for the account of Norton Company—Chemical Process Products Division and Specialty Plastics Division, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Notron Company—Chemical Process Products Division and Specialty Plastics Division, P.O.B. 350, Akron, OH 44309.

MC 144956 (Sub-6–4 TA), filed June 18, 1982. Applicant: TRANS–MUTUAL TRUCK LINES LTD., 4427A 72nd Ave., Calgary, Alberta, Canada T2C 2C1. Representative: Grant J. Merrift, 4444 IDS Center, 80 S. Eighth St., Minneapolis, MN 55402. *Lumber and wood products* between OR and WA on the one hand, and, on the other, ports of entry on the international boundary line between the U.S. and CD in WA, ID and MT for 270 days. Supporting shippers: Doubletree Forest Products, Ltd., 4649 E. Hastings St., Burnaby, British Columbia, CD V5C 2K6; R. S. Plant, Ltd., 475 W. Georgia St., Vancouver, British Columbia, CD V6B 3T2; Olympic Industries, Inc., Suite 802, Kapilano 100 Park Royal S., West Vancouver, British Columbia, CD V7V 3P5; Taiga Wood Products, Ltd., 4400 Dominion St., Burnaby, British Columbia, CD V5H 3X6.

MC 110325 (Sub-6–58 TA), filed June 18, 1982. Applicant: TRANSCON LINES, P.O.B. 92220, Los Angeles, CA 90009. Representative: Jerome Biniasz (same as applicant). *General Commodities* (except Classes A & B explosives, household goods, hazardous wastes and commodities in bulk) between points in the U.S. (except AK and HI) under continuing contract(s) with E.I. du Pont de Nemours & Company, Inc., and subsidiaries for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: E.I. du Pont de Nemours & Company Inc., 1007 Market St., Wilmington, DE 19898.

MC 162551 (Sub-6–1 TA), filed June 17, 1982. Applicant: WES–TRAN, INC., P.O.B. 1364, Boise, ID 83701. Representative: David E. Wishney, P.O.B. 837, Boise, ID 83701. *(1) Such commodities as are dealt in by office equipment and supply stores,* from points in CA and Portland, OR to Boise and Caldwell, ID; *(2) food and related products,* (a) from Ada County, ID, to points in CA, NV, OR and WA, and (b) from points in Weber County, VT to points in Ada County, ID; and *(3) chemicals and related products* (except in bulk), (a) from Portland, OR, Salt Lake City, UT and points in CA to Nampa, ID and (b) from points in CA to Salt Lake City, UT. Supporting shippers: There are 5 shippers their statements may be examined at the Regional office listed.

MC 112989 (Sub-6–22TA), filed: June 21, 1982. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans (same as applicant). *Such commodities as are dealt in or used by dealers or manufacturers of agricultural equipment, industrial equipment and lawn care and leisure products,* between points AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shippers: International Harvester Co., 401 N. Michigan Ave., Chicago, IL 60611; and J. I. Case Co., 700 State St., Racine, WI 53404.

MC 162617 (Sub-6–1TA), filed: June 21, 1982. Applicant: WIL–DOM INDUSTRIES, INC., 1200 N. Main St., Suite 530, Santa Ana, CA 92701. Representative: Roger Curtis Mckee, Millberg, Dickstein & McKee, 5030 Camino de la Siesta, #305, San Diego, CA 92108. *Passengers and their baggage* in the same vehicle beginning and ending in Ventura, Los Angeles, Orange, San Bernardino, Riverside and San Deigo counties of CA extending to Las Vegas, Reno, Lake Tahoe and Laughlin,

NV for 180 days. Supporting shippers: There are eleven (11) supporting shippers. Their statements may be examined at the Regional Office listed above.

MC 153628 (Sub-6-6TA), filed: June 21, 1982. Applicant: JIM LARSEN, d.b.a. WIND RIVER TRUCKING, 215 First Avenue., SW., Park City, MT 59063. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are dealt in or used by manufacturers and distributors of metal and aluminum products* from Canton, OH and points in its commercial zone to the facilities of Mountain States Standards, Inc., at or near Berthoud, CO for 270 days. Supporting shipper: Mountain States Standards, Inc., P.O.B. 948, Berthoud, CO 80513.

MC 156882 (Sub-6-2TA), filed: June 17, 1982. Applicant: L. D. YOUNG, INC., P.O.B. 26855, Salt Lake City, UT 84104. Representative: Steven D. Crawley, Suite 880, 50 S Main St., Salt Lake City, UT 84144. *Contract Carrier;* Irregular Routes: *Processed salt in bags and in bulk* between points in UT, NV, CA, ID, OR, WA, MT, WY, CO, NM, and AZ for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Leslie Salt Co., 866 W. 2600 S., Salt Lake City, UT 84119.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17817 Filed 6-29-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP1-107

Decided: June 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-100 (Sub-3), filed June 10, 1982. Applicant: WESTERN RIVER FORWARDERS, INC., P.O. Box 1867, Pittsburgh, PA 15230. Representative: Arthur J. Diskin, 402 Law & Finance Bldg., Pittsburgh, PA 15219, (412) 281-9494. As a *freight forwarder,* in connection with the transportation of *general commodities* (except classes A and B explosives and household goods), between points in AR, IL, IA, KY, LA, MI, MN, MS, MO, OK, TN, TX, WV, WI, IN, AL, and those in NY on and west of U.S. Hwy 15.

MC 56640 (Sub-62), filed June 14, 1982. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA 94604. Representative: Kirk Wm. Horton (same address as applicant), (415) 577-7000. Transporting *films, chemicals, paints, fibres and resins,* between points in the U.S., under continuing contract(s) with E. I. du Pont de Nemours & Company, Inc., of Wilmington, DE.

MC 65491 (Sub-21), filed June 11, 1982. Applicant: GEORGE W. BROWN, INC., P. O. Box 1208, Hightstown, NJ 08520. Representative: Irving Klein, Suite 7, 1205 Franklin Ave., Garden City, NY 11530, (516)-746-3050. Transporting *metal products,* between Chicago, IL, on the one hand, and, on the other, points in Lycoming County, PA.

MC 75471 (Sub-7), filed June 17, 1982. Applicant: ELSTON RICHARDS STORAGE COMPANY, 3739 Patterson SE, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459-6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Meijer, Inc., of Grand Rapids, MI.

MC 112430 (Sub-2), filed June 14, 1982. Applicant: BIG BOY'S RIGGING SERVICE, INC., 4312 Pistorio Road, Baltimore, MD 21229. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893-4924. Transporting *machinery; metal products; building materials; transportation equipment; clay, concrete, glass or stone products;* and *those commodities which because of size or weight require the use of specialized handling or equipment,* between those points in the U.S. in and east of MN, IA, MO, OK, and TX.

MC 128030 (Sub-133), filed June 11, 1982. Applicant: THE STOUT TRUCKING CO., PO Box 98, Urbana, IL 61801. Representative: James R. Madler, 120 W. Madison Street, Chicago, IL 60602, (312) 726-6525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 134781 (Sub-6), filed June 14, 1982. Applicant: FAST FREIGHT TRANSFER, INC., P.O. Box 2163, Hialeah, FL 33012. Representative: Clayton R. Byrd, 2870 Briarglen Drive, Doraville, GA 30340 (404) 492–1696. Transporting (1) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with F. W. Woolworth Co., of New York, NY, and (2) *building materials*, between points in the U.S. (except AK and HI), under continuing contract(s) with Interstate Insulation, Inc., of Atlanta, GA.

MC 139130 (Sub-4), filed June 15, 1982. Applicant: G T S CARTAGE, INC., 11930 S. Western Avenue, Blue Island, IL 60406. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016 (312) 298–1094. Transporting (1) *electrical machinery, equipment, and supplies*, under continuing contract(s) with Samsung Electronics America, Inc., of Oakbrook, IL; (2) *chemicals and related products and petroleum or coal products*, under continuing contract(s) with Krex, Inc., of Highland Park, IL; (3) *clay, concrete, glass or stone products*, under continuing contract(s) with The Dri-Rite Co. of Blue Island, IL; (4) *florists' materials, supplies and equipment and hardgood flora commodities*, under continuing contract(s) with Vans Inc., of Alsip, IL; and (5) *food and related products*, under continuing contract(s) with Evans Food Products, of Chicago, IL, between points in the U.S. (except AK and HI).

MC 141091 (Sub-1), filed June 11, 1982. Applicant: VIRGINIA TANK LINES, INC., 814 Warrenton Rd., P.O. Box 5249, Fredericksburg, VA 32401. Representative: Calvin F. Major, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220 (804)–649–7591. Transporting *petroleum products*, between points in MD, on the one hand, and, on the other, points in VA, under continuing contract(s) with Solv-X U.S.A., Inc., of McLean, VA.

MC 142011 (Sub-6), filed May 24, 1982. Applicant: LEISURE TIME TOURS, 4 Houvenkoph Road, Mahwah, NJ 07430. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123 (212) 239–4610. Over regular routes, transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between points in Franklin Lakes, NJ, from junction Pulis Ave. and Campgaw Road over Pulis Ave. to junction Muncipial Drive, then over Municipal Drive to junction Bender Ct., then over Bender Ct. to junction Franklin Ave., and return over the same route, serving all intermediate points, (2) between junction Franklin Ave. and Wyckoff Ave., in Wyckoff, NJ, and junction NJ Hwy 4 and NJ Hwy 17 in Paramus, NJ, from junction Wyckoff Ave. and Franklin Ave. over Wyckoff Ave. to junction Goffle Rd., the over Goffle Rd. to junction NJ Hwy 208 in Hawthorne, NJ, then over NJ Hwy 208 to junction NJ Hwy 4 in Fair Lawn, NJ, then over NJ Hwy 4 to junction access roads, then over access roads to NJ Hwy 17 in Paramus, NJ, and return over the same route except using access roads provided for use in the reverse direction leading from NJ Hwy 17 to NJ Hwy 4 in Paramus and returning from NJ Hwy 4 to NJ Hwy 208 in Fair Lawn, NJ, serving all intermediate points and serving the junction of NJ Hwy 17 and NJ Hwy 4 for the purpose of joinder only, (3) between junction NJ Hwy 4 and NJ Hwy 17 in Paramus, NJ, and New York, NY, from junction NJ Hwy 4 and NJ Hwy 17 over NJ Hwy 4 to junction access roads, then over access roads to junction Garden State Parkway, then over Garden State Parkway to junction access roads, then over access roads to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction access roads, then over access roads to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction access roads, then over access roads to junction Interstate Hwy 495, then over Interstate Hwy 495 to the Lincoln Tunnel, then through the Lincoln Tunnel to New York, NY, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing authorized regular-route operations.

MC 143341 (Sub-1), filed June 14, 1982. Applicant: ABBEY TRANSPORTATION SYSTEM, INC., 4588 W. Shaw, Fresno, CA 93711. Representative: Jack L. Sawl (same address as applicant), (209) 486–2330. Transporting *passengers and their baggage*, in the same vehicle with passengers in charter and special operations, beginning and ending at points in Fresno, Kings, Madera, Mariposa, Merced, and Tulare Counties, CA, and extending to points in the U.S. (excluding AK and HI).

MC 144370 (Sub-12), filed June 11, 1982. Applicant: DON NASS TRUCKING, INC., 210 Front St., Clinton, WI 53525. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608)–238–3119. Transporting *food and related products*, between points in IL, IN, IA, KY, MI, MN, MO, OH, TN, and WI.

MC 145731 (Sub-4), filed June 14, 1982. Applicant: BREADNER TRANSPORTS LTD., ι26 Highway Meaford, Ontario, Canada NOH 1YO. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853-0200. Transporting (1) *lumber and wood products*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IL, IN, KY, MI, NC, NY, OH, PA, SC, TN, VA, and WV, (2) *metal products*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IL, MI, NY, OH, CA, and FL, (3) *such commodities* as are dealt in or used by a distributor of fireplaces, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in MO, IN, OH, and WI, (4) *food and related products*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in FL, NY, MI, OH, and PA, (5) *Machinery*, between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IL, and (6) *Clay, concrete, glass or stone products*, between ports of entry on the international boundary line between the U.S. and Canada, and on the one hand, and, on the other, points in MI.

MC 149301 (Sub-4), filed June 17, 1982. Applicant: FRANKLIN J. DAVIS, d.b.a. DAVIS TRUCK LINE, 705 Park St., Box 304. Stanhope, IA 50246. Representative: Franklin J. Davis (same address as applicant), (515) 826–3299. Transporting *metal products*, between points in IL, IN, IA, MN, MO, NE, ND, SD, UT, WI, and WY.

MC 151090 (Sub-2), filed June 10, 1982. Applicant: R. L. GARRETT, INC., 1709 Kemper Avenue, Muscatine, IA 52761. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *commodities in bulk*, between points in IL, IA, and MN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151401 (Sub-3), filed June 11, 1982. Applicant: TRI-SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814, (301) 654–2240. Transporting *textile mill products*, between points in Campbell County, TN, on the one hand, and, on the other, points in FL, GA, NC, SC, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, and ME.

MC 153441 (Sub-2), filed June 11, 1982. Applicant: JOHNSON'S BUS SERVICE, INC., P.O. Box 245, Mt. Joy, PA 17552. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *passengers and their baggage,* in the same vehicle with passengers, in roundtrip charter and special operations, between points in Bucks, Chester, Dauphin, Delaware, Lancaster, Lebanon, Montgomery, Philadelphia and York Counties, PA, New Castle County, DE, and Camden County, NJ, on the one hand, and, on the other, points in the U.S.

MC 154461 (Sub-1), filed June 14, 1982. Applicant: VILLAGE CHARTERS, INC. OF WICHITA, KANSAS, 2024 Amidon, Wichita, KS 67203. Representative: Michael D. Gragert, Suite 920, Century Plaza Bldg., 111 West Douglas, Wichita, KS 67202, (316) 265–9480. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in KS and Kay, Grant, Noble, Garfield, and Pawnee Counties, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154840 (Sub-2), filed June 15, 1982. Applicant: THE SMITHFIELD PACKING COMPANY, INCORPORATED, P.O. Box 447, Smithfield, VA 23430. Representative: Blair P. Wakefield, Suite 1001, First and Merchants National Bank Bldg., Norfolk, VA 23510, (804) 627–0070. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in MD, NC, and VA, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 155021 (Sub-2), filed June 10, 1982. Applicant: ECONEXPRESS INCORPORATED, 618 South West Street, Wheaton, IL 60187. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603, (312) 236–0548. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 155550 (Sub-1), filed June 17, 1982. Applicant: CENTRAL TRUCKING, INC., P.O. Box 168, Columbus, IN 47201. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240 (317) 846–6655. Transporting *chemicals and related products, and plastics,* between points in the U.S. (except AK and HI), under continuing contracts(s) with CIBA-GEIGY Corporation, of Glen Falls, NY.

MC 160161 (Sub-1), filed June 10, 1982. Applicant: COASTMASTER TRANSPORT, 4904 Lacey Blvd. S.E., Lacey, WA 98503. Representative: Kenneth R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421 (206) 383–3998. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Durametal Corporation, of Tualatin, OR, and Uni-Bond, Inc., of Ferndale, MI.

MC 160201, filed June 11, 1982. Applicant: MOUNTAIN EXPIRE SECURITY SERVICES INC., d.b.a. MOUNTAIN EMPIRE DELIVERY SERVICES, P.O. Box 516, 100 N. Ridge Road, Pound, VA 24279. Representative: Dan Mullins (same address as applicant) (703) 796–4606. Transporting *mining machinery, equipment and parts,* between points in Wise County, VA, on the one hand, and, on the other, points in WV, PA, TN, and KY, under continuing contract(s) with Lee-Norse Company, of Pittsburgh, PA.

MC 161541, filed June 15, 1982. Applicant: J.H.M. TRANSPORTATION COMPANY, 68 Ferry St., South Hadley, MA 01075. Representative: James H. Moynahan (same address as applicant) (413) 533–7617. Transporting *paper and paper products, rubber and plastic products,* between points in MA, on the one hand, and, on the other, points in CT, NY, PA, NJ, DE, MD, OH, IN, IL, MI, WI, VA, NC, SC, WV, TN, KY, GA, AL, MS, and DC.

MC 162431, filed June 10, 1982. Applicant: TRIPLE L. TRANSPORT, INC., 7149 S. Hall Dr., E. West Jordan, UT 84084. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111 (801)–531–1300. Transporting (1) *metal products;* and (2) *building materials,* between points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, WA and WY.

MC 162470, filed June 14, 1982. Applicant: WORLD WIDE MOVERS OF WASHINGTON, INC., 8240 South 19th St., Kent, WA 98031. Representative: E. Larry Wells, P.O. Box 45538, Dallas, TX 75245, (214) 358–3341. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except HI), under continuing contract(s) with Burroughs Corporation, of Detroit, MI, and Wastington-Oregon Shippers Cooperative Association, Inc., of Seattle, WA.

MC 162491, filed June 15, 1982. Applicant: NOI TRANSFER, INC., P.O. Box 325, Jenkintown, PA 19046. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113, (215) 365–5141. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, CT, DE, FL, GA, IL, IN, MD, NJ, NY, NC, OH, PA, SC, VA, WV, and DC.

MC 162510, filed June 16, 1982. Applicant: G. E. SMITH, d.b.a. G. E. SMITH TRUCKING CO., P.O. Box 286, Madison, VA 22727. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312, (703) 750–1112. Transporting *building materials, lumber and wood products, plastic products, and non-metallic minerals,* between points in Culpeper and Madison Counties, VA, on the one hand, and, on the other, points in CT, DE, FL, GA, ME, MA, MD, NH, NJ, NY, NC, OH, PA, RI, SC, VT, WV, and DC.

Volume No. OP2–133

Decided: June 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF 602, filed May 27, 1982. Applicant: RAIL ROLL, INC., FORWARDING, 4075 E. 15th Place, Gary, IN 46403. Representative: Eugene LeBoeuf (same address as applicant), 219–938–8050. *As a freight forwarder,* in connection with the transportation of *iron and steel and iron and steel products,* between points in the U.S. (except AK and HI).

MC 16513 (Sub-38), filed June 1, 1982. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Avenue, Pennsauken, NJ 08110. Representative: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312, (703) 750–1112. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 16513 (Sub-39), filed June 14, 1982. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, Suite 304—Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, 703–750–1112. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Kennecott Minerals Company, Division of Kennecott Corporation, of Salt Lake City, UT.

MC 17592 (Sub-1), filed June 10, 1982. Applicant: LEONARD TROGOLO, d.b.a. TROGOLO TRANSFER, P.O. Box 640, Jeannette, PA 15644. Representative: Kevin W. Walsh, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Westmoreland, Fayette and Allegheny Counties, PA, on the one hand, and, on the other, points in PA, OH, WV, VA, NY, NJ, MI, MD and CT.

MC 45282 (Sub-1), filed June 1, 1982. Applicant: M. H. HEATON, INC., 92 Main St., Salem, NJ 03079. Representative: Frank M. Cushman, 36 South Main St., Sharon, MA 02067, 617–784–6041. Transporting *motorcycles, parts and accessories,* between points in Albany County, NY, and NJ, on the one hand, and, on the other, points in ME, MA, NH and VT.

MC 69043 (Sub-5), filed May 28, 1982. Applicant: RICH'S SOUTH SHORE EXPRESS, INC., Webster St., Hanover, MA 02339. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, 413–781–8205. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between points in MA, and (2) between points in CT, ME, MA, NH, NJ, NY, VT, and RI. Condition: Prior or coincidental cancellation of Certificate of Registration MC–69043, issued November 20, 1975.

Note.—(Part (1) of this application seeks to convert applicant's Certificate of Registration to a Certificate of Public Convenience and Necessity.

MC 106702 (Sub-1), filed June 10, 1982. Applicant: RODGERS BROTHERS EXPRESS INCORPORATED, 102 Maryland Ave., Paterson, NJ 07503. Representative: Nathaniel Rodgers (same address as applicant), 201–278–8148. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC.

MC 107012 (Sub-771), filed May 28, 1982. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429–2110. Transporting *household goods,* between points in the U.S., under continuing contract(s) with American Airlines, Inc., of Dallas, TX.

MC 107403 (Sub-1351), filed June 7, 1982. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Allen H. Knouft (same address as applicant), 215–259–9800. Transporting *food and related products,* between points in Dauphin County, PA., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 111432 (Sub-25), filed June 7, 1982. Applicant: FRANK J. SIBR & SONS, INC., 2122 York Road, Oak Brook, IL 60521. Representative: Douglas G. Brown, 913 South Sixth St., Springfield, IL 62703, (217) 753–3925. Transporting *commodities in bulk* between points in the U.S., under continuing contract(s) with Thomas Solvent Company, of Battle Creek, MI.

MC 135753 (Sub-6), filed June 4, 1982. Applicant: WILLIAMS TRANSPORT Co., INC., P.O. Box 11, Richmond, VA 22044. Representative: Dennis Dean Kirk, Suite 929, Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *those commodities which because of their size or weight require the use of special handling or equipment, machinery, metal products, and lumber products,* between those points in the U.S., in and east of WI, IL, KY, TN, and MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141652 (Sub-51), filed June 3, 1982. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St. NE, Atlanta, GA 30303, 404–522–2322. Transporting *such commodities* as are dealt in or used by wholesale and retail food business houses, between New Orleans, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 142463 (Sub-8), filed June 3, 1982. Applicant: SPECIALIZED HAULING, INC., 1500 Omaha St., Sioux City, IA 51102. Representative: Jack H. Blanshan, 205 W. Toughy Ave., Suite 200–A, Park Ridge, IL 60068. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IA, IL, MN, NE, and SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 143183 (Sub-15), filed June 7, 1982. Applicant: D & L TRUCKING, INC., P.O. Box 1741, Wilmington, NC 28402. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415 (212) 263–2078. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Hercules, Inc., of Wilmington, DE.

MC 144693 (Sub-15), filed June 7, 1982. Applicant: GLENN'S TRUCK SERVICE, INC., 3812 N. 21st, St. Louis, MO 63107. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *food and related products,* between Bloomington, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147913 (Sub-6), filed June 15, 1982. Applicant: T–LINE, INC., 350 1st St., SW, New Brighton, MN 55112. Representative: Robert L. Cope, 1730 M St. NW., Suite 501, Washington, D.C. 20036 (202) 296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148143 (Sub-17), filed June 11, 1982. Applicant: MID–AMERICA FARM LINES, INC., M.P.O. Box 71, Springfield, MO 65801. Representative: John M. Ringenberg (same address as applicant), (417) 862–7468. Transporting *furniture and fixtures,* between points in Culpeper County, VA, and Harrison County, IN, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 151203 (Sub-2), filed June 14, 1982. Applicant: AZTEC TRUCKING, INC., 6516 Colleyville Blvd., Colleyville, TX 76034. Representative: E. Larry Wells, P. O. Box 45538, Dallas, TX 75245 (214) 358–3341. Transporting *construction machinery* and *equipment,* between points in the U.S. (except AK and HI).

MC 152232 (Sub-3), filed June 10, 1982. Applicant: TYLER TRANSPORTATION, INC., 2020 Old State Rd., 31–E, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202 (202) 589–5400. Transporting (1) *food and related products,* between points in MN, IA, NE, MO, MS, IL, OK, TX, AL, FL, SC, KY, IN, and VA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (2) *chemicals and related products* and *such commodities* as are dealt in or used by manufacturers and distributors of automotive equipment, materials, and supplies, between points in KY, WV, OH, IN, PA, NY, and MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 159852, filed June 14, 1982. Applicant: TODD HAULING, INC., P.O. Box 312, Chapel Hill, TN 37034. Representative: Roland M. Lowell, 5th Floor, 501 Union St., Nashville, TN 37219 (615) 255–0540. Transporting *such commodities* as are dealt in or used by retail grocery chains and food business houses, between points in the U.S. (except AK and HI), under continuing contract(s) with The Kroger Co., of Cincinnati, OH.

MC 160722, filed June 14, 1982. Applicant: LARRY SWIHART, d.b.a. SWIHART TRUCKING, Route 2, Silver Lake, IN 46982. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 So. Second St., Elkhart, IN 46516 (219) 293–3597. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nexus Marketing Group, of Wabash, IN.

MC 161173 (Sub-2), filed June 14, 1982. Applicant: BESTWAY SYSTEMS, INC., P.O. Box 597, Lilburn, GA 30247. Representative: David P. Clark (same address as applicant) 404–921–2378. Transporting *rubber and plastic products, metal products, machinery, and building materials*, between points in the U.S. (except AK and HI).

MC 162282, filed June 1, 1982. Applicant: DONOVAN TRAVEL, INC., 5932 Glenway Ave., Cincinnati, OH 45238. Representative: Timothy O. Donovan, 6660 Woodcrest Dr., Cincinnati, OH 45238 (513) 451–4155. As a *broker*, at Cincinnati, OH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage, in the same vehicle with passengers*, in chartered and special operations, beginning and ending at Cincinnati, OH, and extending to points in the U.S. (including AK but excluding HI).

MC 162342, filed June 4, 1982. Applicant: BROOKS TRUCKING, INC., 942 Escambia St., Jacksonville, FL 32206. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632–2300. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Patio Wire Products, Inc., dba Florida Metals, of Jacksonville, FL.

MC 162362, filed June 7, 1982. Applicant: MUNTZ TRUCKING, INC., A–433 St. Rt. 109, Rt. 3, Leipsic, OH 45856. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215, (614) 228–1541. Transporting *meat, meat products, meat by-products and articles and supplies used by meat-packing houses* between points in MI, on the one hand, and, on the other, points in OH, under continuing contract(s) with Glendale Foods, Inc., of Detroit, MI.

MC 162432 filed June 11, 1982. Applicant: C. S. & J. TRUCKING, INC., 84 Lisa terrace, Somerville, NJ 08520. Representative: Irving Klein, Suite 7, 1205 Franklin Ave., Garden City, NY 11530, (516) 746–3050. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) between points in NJ, on the one hand, and, on the other, MA, CT, RI, NY, NJ, PA, DE, MD, and DC.

MC 16245 filed June 11, 1982. Applicant: THORNTON ASKEW, INC., RT. 3, Box 234–F, Ahoskie, NC 27910. Representative: Thornton Askew, Jr. (same address as applicant) 919–332–5991. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in NC and VA.

MC 162453, filed June 14, 1982. Applicant: HES TRANSPORT, INC., 5303 North Santa Fe, Oklahoma City, OK 73118. Representative: Daniel C. Sullivan, 180 North Michigan Ave., Suite 1700, Chicago, IL 60601 (312) 263–1600. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Jamison Bedding, Inc., of Franklin, TN.

MC 162512, filed June 16, 1982. Applicant: TRANS-FLORIDA FREIGHTWAYS, INC., 1240 SE 10th Court, Hialeah, FL 33011. Representative: Ronald N. Cobert, 1730 M St. NW., Suite 501, Washington, DC 20036, 202–296–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in FL, AL, and GA.

Volume No. OP2–135

Decided: June 23, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier.

FF 332 Sub 1, filed June 14, 1982. Applicant: FRITZ TRANSPORTATION INTERNATIONAL, 735 Market St., San Francisco, CA 94103. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60602 (312) 263–2397. As a *freight forwarder*, in connection with the transportation of *general commodities* (except used household goods and used automobiles), between points in the U.S.

FF 603, filed June 2, 1982. Applicant: AJAX INTERNATIONAL, INC., 112 E. Woodbridge Lane, Kansas City, MO 64165. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, D.C. 20006 (202) 833–8884. As a *freight forwarder* in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles* between points in the U.S. (except AK and HI).

MC 682 (Sub–34), filed June 15, 1982. Applicant: BURNHAM VAN SERVICE, INC., 5000 Burnham Blvd., Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Ave., NW, Suite 1113, Washington, DC 20036–5391 (202) 887–5868. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Gulf Forwarding, Inc., of Biloxi, MS.

MC 15643 (Sub-14), filed June 1, 1982. Applicant: FOUR WINDS VAN LINES, INC., 7035 Convoy Court, San Diego, CA 92138. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, 202–785–0024. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Xerox Corp., of Rochester, NY.

MC 56853 (Sub-11), filed May 13, 1982. Applicant; B AND B LINES, INC., 1002 North Owasso Ave., Tulsa, OK 71406. Representative: Martin E. Wyatt, P.O. Box 771, Tulsa, OK 74101, (1–918) 744–0306. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between Joplin, MO, and Wichita, KS, over U.S. Hwy 71 to junction U.S. Hwy. 54, then over U.S. Hwy 54 to Wichita KS (2) between Joplin, MO, an junction Interstate Hwy 35, over U.S. Hwy 166, (3) between Miami, OK, and Junction U.S. Hwy 54, over U.S. Hwy 59, (4) between Pittsburg, KS, and U.S. Hwy 54, over U.S. 69, (5) between U.S. Hwy. 71 and U.S. Hwy. 169, over U.S. Hwy. 160, (6) between junction U.S. Hwy 169 and Kansas Hwy 96, over U.S. Hwy 169 to its junction with U.S. Hwy 54, (7) between junction U.S. Hwy 75 and junction with U.S. Hwy 54, over Kansas Hwy. 96, (8) between junction U.S. Hwy 69 and Kansas Hwy 96, over Kansas Hwy 39, (9) between junction Kansas Hwy 96 and U.S. Hwy 54, over U.S. Hwy 75, (10) between Vinita, OK, and Dallas, TX, over U.S. Hwy 69 to its junction with U.S. Hwy 75, thence over U.S. Hwy 75 to Dallas, TX (11) between Ardmore, OK, and Dallas, TX, via Interstate Hwy 35, (12) between junction Interstate Hwy. 40 and U.S. Hwy 69, over Indian Nations Turnpike, (13) between Duncan, OK, and Ft. Worth, TX, over U.S. Hwy 81, (14) between junction U.S. Hwy 64 and U.S. Hwy 177 and Interstate Hwy 35, over Cimarron Turnpike, (15) between junction U.S. Hwy 66 and U.S. Hwy 169,

over U.S. Hwy 60, (16) between junction U.S. Hwy 177 and Interstate Hwy 35, over Okla. Hwy 51, (17) between Tulsa, OK, and Joplin, MO, over Interstate Hwy 44, serving all intermediate points in (1) through (17) above, and serving points in TX and OK as offroute points.

Note.—Applicant may tack this authority with its existing authority.

MC 108223 (Sub-48), filed June 1, 1982. Applicant: CENTURY MOTOR FREIGHT, INC., 2160 Mustang Dr., P.O. Box 43050, St. Paul, MN 55164. Representative: Robert S. Lee, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting, over regular routes, *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Des Moines, IA and San Francisco, CA, over Interstate Hwy 80, serving all off-route points in NE, WY, UT, NV, and CA, (2) between Dickinson, ND and Denver, CO: from Dickinson over Interstate Hwy 94 to junction U.S. Hwy 85, then over U.S. Hwy 85 to Denver, and return over the same route, serving all off-route points in SD and CO, (3) between Oklahoma City, OK and Los Angeles, CA: from Oklahoma City over U.S. Hwy 66 (Interstate Hwy 40) to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Los Angeles, and return over the same route, serving all off-routes points in OK, TX, NM, and AZ, (4) between St. Louis, MO and Boston, MA: from St. Louis over Interstate Hwy 70 to junction Interstate Hwy 79, then over Interstate Hwy 79 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Boston, and return over the same route, serving all off-route points in IN, MO, OH, PA, NY, and MA, (5) between Cleveland, OH and Atlanta, GA: from Cleveland over Interstate Hwy 71 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, and return over the same route, serving all off-route points in KY, TN, and GA, (6) between St. Louis, MO and New Orleans, LA; from St. Louis over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all off-route points in AR, MS, and LA, (7) between Cleveland, OH and Boston, MA; from Cleveland over Interstate Hwy 77 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 93, then over Interstate Hwy 93 to Boston, and return over the same route, serving all off-route points in NJ, CT, and RI, (8) between Chicago, IL and Cleveland, OH: from Chicago over Interstate Hwy 80 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 75, at Detroit, MI, then over Interstate Hwy 75 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route, serving all off-route points in MI, and (9) in connection with routes (1) through (8) above, serving all intermediate points.

Note.—Applicant may tack this authority with its existing authority.

MC 123272 (Sub-56), filed June 1, 1982. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Ave., Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602, 312–236–5944. Transporting *general commodities* (except classes A and B explosives, household goods and commodites in bulk), between points in the U.S. (except AK and HI).

MC 127922 (Sub-2), filed June 11, 1982. Applicant: NELLO PISTORESSI & SON, INC., P.O. Box 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Benton, WA 98055, (206) 228–3807. Transporting *feed and feed ingredients and food and related products,* between points in WA, OR, CA, ID, MT, UT, CO, AZ, NV, and WY.

MC 129732 (Sub-9), filed June 15, 1982. Applicant: EMPIRE TRANSFER CO., P.O.B. 128, Coos Bay, OR 97420. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, 503–226–6491. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Coos, Curry, and Douglas Counties, OR, on the one hand, and, on the other, points in CA, OR, and WA.

MC 140763 (Sub-12), filed June 15, 1982. Applicant: ONEIDA-COLUMBUS EXPRESS COMPANY, P.O. Box 356, Oneida, TN 37841. Representative: Marshall Kragen, 1919 Pennsylvania Ave., NW., Suite 300, Washington, DC 20006, 202–466–3778. Transporting *general commodities* (except classes A and B explosives, household goods and commodites in bulk), between points in the U.S., under a continuing contract(s) with Formall Plastics, Inc., of Knoxville, TN.

MC 143433 (Sub-20), filed June 14, 1982. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South 1st Ave., Stroud, OK 74079. Representative: Greg E. Summy, 208 Century Center Plaza, 100 West Main St., Oklahoma City, OK 73102, (405) 235–3661. Transporting *food and related products* (1) between those points in the U.S., in and east of MN, CO, NE, SD and ND, and (2) between points in OH, on the one hand, and, on the other, points in WA, OR, ID, CA, AZ, NV, UT, MT and WY.

MC 143702 (Sub-22), filed June 14, 1982. Applicant: ALL FREIGHT SYSTEMS, INC., 1026 South 10th St., Kansas City, KS 66105. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, (816) 444–747. Transporting *foodstuffs,* between points in the U.S., under continuing contract(s) with Inland Center, a Division of Beatrice Foods Co., of Kansas City, KS.

MC 143732 (Sub-3), filed June 1, 1982. Applicant: PICK-A-TREAT, INC., 3820 West Wisconsin Ave., Milwaukee, WI 53208. Representative: Lawrence P. Kahn, 633 West Wisconsin Ave., Milwaukee, WI 53203, (414) 276–2260. Transporting *dated publications and printed matter,* between points in NE, KS, MO, OK, AR, AL, LA, MS, GA, FL, NC, SC, TN, and KY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146703 (Sub-34), filed May 28, 1982. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: John P. Zumwalt, 4240 Blue Ridge Tower, Suite 820, Kansas City, MO 64133, (816) 356–3212. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148073 (Sub-1), filed June 3, 1982. Applicant: AMOCO OIL COMPANY, 200 East Randolph Dr., Chicago, IL 60601. Representatives: Richard D. Fortin, 914 Washington Bldg., 15th St. and New York Ave. NW., Washington, D.C. 20005, 202–783–1215. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148522 (Sub-11), filed June 15, 1982. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, 717–344–8030. Transporting *food and related products,* between points in GA, PA, and NJ, on the one hand, and, on the other, points in NY, NJ, MD, DE, OH, NC, SC, GA, VA, and DC.

MC 150783 (Sub-25), filed June 1, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. BOX 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, (501) 456–

2453. Transporting *shoes, handbags, hosiery, polish and fixtures,* between Brockton and Canton, MA on the one hand, and, on the other, points in AZ and CA.

MC 158103 (Sub-1), filed June 2, 1982. Applicant: WILLIS TRANSPORTATION, INC., 102 12th St., S.E., Ft. Payne, AL 35967. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210, 703–525–4050. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of textile mill products, between points in the U.S. (except AK and HI), under continuing contract(s) with Amoco Fabrics Company, of Hazelhurst, GA.

MC 159033 (Sub-1), filed June 14, 1982. Applicant: ROBERT D. FANSLER, d.b.a. CUMBERLAND LIMOUSINE SERVICE, P.O. Box 1477, 1301 Ford Ave., Cumberland, MD 21502. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, 703–525–4050. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, limited to the transportation of not more than 14 passengers in any one vehicle (excluding the driver), between Washington, Garrett and Allegany Counties, MD, on the one hand, and, on the other, points in PA, WV, VA, MD, ME, VT, NH, MA, RI, CT, NY, NJ, DE, OH, KY, TN, NC, SC, GA, FL, and DC.

MC 160543, filed June 4, 1982. Applicant: PICKETT TRUCKING, R.R. Box 50, Tijeras, NM 87059. Representative: Larry Pickett (same address as applicant), (505) 281–1976. Transporting *tires, shocks, wheels, batteries, petroleum products, and related products, animals and pet feeds,* between points in the U.S., under continuing contract(s) with (a) New Mexico Tire & Battery Co., of Albuquerque, NM, (b) Yearwood & House, W. Tex Duke City Dist. Co., of Albuquerque, NM, and (c) Millers Feeds, of Albuquerque, NM.

MC 159782, filed June 10, 1982. Applicant: ANZAC CALIFORNIA TOURS & LIMOUSINE SERVICE, INC., 6861 La Tijera Blvd., Los Angeles, CA 90045. Representative: Richard A. Lintz, (same address as applicant), (213) 776–3977. Transporting *passengers and their baggage, in the same vehicle with passengers,* in special and charter operations, between points in CA on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY.

MC 160572, filed June 1, 1982. Applicant: APEX SERVICES, INC., 121 Bremen, St. Louis, MO 63147. Representative: Glen A. Coverdell (same address as applicant), 314–231–5151. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 160643, filed June 1, 1982. Applicant: RONALD LEE SHAFFER AND SHARON LOUISE SHAFFER, d.b.a. R. L. SHAFFER AND SON TRUCKING, 331 South 4th St., P.O. Box 532, LaSalle, CO 80645. Representative: Ronald Lee Shaffer (same as address as applicant), 303–284–6237. Transporting *clay, concrete, glass, or stone products,* between points in McPherson and Franklin Counties, KS on the one hand, and, on the other, points in Weld, Larimer, Boulder, Denver, Adams, Jefferson, Logan, Arraphoe, and Morgan Counties, CO and Laramie County, WY.

MC 160753 (Sub-1), filed June 1, 1982. Applicant: ROLAND ACOSTA, d.b.a. ACOSTA FRUIT & VEGETABLE CO., 1903 South Closner St., Edinburg, TX 78539. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, 512–476–8066. Transporting *pulp, paper, and related products,* between points in LA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, KS, KY, MO, MS, NE, NM, OK, TN and TX, under continuing contract(s) with Crown Zellerbach Corporation, of Bogalusa, LA.

MC 161023, filed June 11, 1982. Applicant: BOWDEN TRUCKING, INC., Rte 1, Box 275, Clayton, AL 36016. Representative: Charles Bowden (same as applicant), (205) 775–8650. Transporting *lumber and wood products,* and *such commodities* as are dealt in or used in the manufacture, production and sale of lumber and wood products (except commodities in bulk), between points in AL, on the one hand, and, on the other, points in GA, FL, MS, LA, AR, TX, TN, NC, SC, VA, OH, IN, IL, and KY.

MC 161583, filed June 2, 1982. Applicant: RESOURCE RECYCLING TECHNOLOGIES, INC., P.O. Box 350, Portland, TN 37148. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, D.C. 20006, 202–828–5015. Transporting *hazardous materials, hazardous wastes and industrial waste material,* between points in the U.S. under continuing contract(s) with Stauffer Chemical Company, of Westport, CT.

MC 162092, filed June 1, 1982. Applicant: RAY'S TRUCKING COMPANY, P.O. Box 2808, Bryan, TX 77801. Representative: Nelson M. Davidson, Jr., P.O. Box 1148, Austin, TX 78767, 512–472–8800. Transporting *mercer commodities,* between points in CO, LA, NM, OK, WY, KS, and MS, on the one hand, and, on the other, points in TX.

MC 162212, filed June 8, 1982. Applicant: URIAS R. MAYS, d.b.a. MAYS DELIVERY SERVICE, 1817 W. 77th St., Los Angeles, CA 90047. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017, (213) 627–8471. Transporting *prepared animal feed* between points in IL, MO, and OH, on the one hand, and, on the other, points in Los Angeles, Orange, Riverside, and San Bernadino Counties, CA.

MC 162243, filed June 15, 1982. Applicant: DALE H. WILLIAMS, 7309 So. 78th St., Omaha, NE 68128. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. Transporting *food and related products,* between Chicago, IL, Omaha, NE, points in Macon County, IL, Lancaster County, NE, and Linn and Lee Counties, IA, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, and UT.

MC 162322, filed June 1, 1982. Applicant: SHARON TRANSPORTATION, INC., 105 Vance, Taylor, TX 76574. Representative: Robert J. Birnbaum, 3636 Executive Center Dr., Suite 151, Austin, TX 78731, 512–346–4800. Transporting *mercer commodities,* between points in TX, MS, CO, LA, OK, NM, WY, and UT.

MC 162403, filed June 9, 1982. Applicant: VOYAGEUR TRANSPORT, INC., 11420 Voyageur Way, Richmond, BC Canada V6X 3E1. Representative: Henry C. Winters, 12600 S. E. 38th St., Ste. 200, Bellevue, WA 98006, (206) 644–2100. Transporting *lumber and wood products, and metal and metal products,* between ports of entry on the international boundary line between United States and Canada, at points in WA, on the one hand, and, on the other, points in OR and WA.

MC 162482, filed June 11, 1982. Applicant: RUEL BROTHER LTD., 795 Trans-Canada Highway, Levis, Quebec G6V 6R8. Representative: Raymond Ruel (same address as applicant), 418–833–3657. Transporting *lumber* between ports of entry on the international boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S. under continuing contract(s) with Empire Wholesale Lumber Company, of Akron, OH.

MC 162513, filed June 17, 1982. Applicant: NOVA TRANSPORTATION,

INC., 294 Kimberly Ave., New Haven, CT 06519. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103, 203–278–1330. Transporting *general commodities* (except classes A and B explosives household goods and commoditiies in bulk), between points in CT, MA, RI, NY and NJ and points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

Volume No. OP5–136

Decided: June 22, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 529 (Sub-8), filed June 14, 1982. Applicant: WINFIELD BUS SERVICE, INC., 1421 Olive St., Winfield, KS 67156. Representative: Eugene W. Hiatt, 207 Casson Blvd., 603 Topeka Blvd., Topeka, KS 66603, 913–232–7263. Transporting *passangers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in MO and OK, and extending to points in the U.S. (including AK but excluding HI.)

MC 12779 (Sub-1), filed June 14, 1982. Applicant: TRAVELOGUE, INC., 420 West Superior St., Duluth, MN 55802. Representative: David A. Bailly, 500 Park National Band Bldg., 5353 Wayzata Blvd., Minneapolis, MN 55416, (612) 544–6116. Transporting *passengers and their baggage* in same vehicle with passengers, in special and charter operations, beginning and ending at Duluth, MN, and extending to points in the U.S.

MC 72069 (Sub-145), filed June 14, 1982. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005, (202) 296–3555. Transporting *rubber and plastic products* between points in the U.S. (except AK and HI).

MC 78039 (Sub-13), filed June 11, 1982. Applicant: B & R MOTOR EXPRESS, INC., P.O. Box 4085, Utica, NY 13504. Representative: Murray J. S. Kirshtein, 118 Bleecker St., Utica, NY 13501, (315) 797–1970. Transporting *machinery* between points in Oneida County, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 79658 (Sub-21), filed June 14, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *general commodities* (except classes A and B explosives) between points in the U.S. (except AK and HI) under continuing contract(s) with Auto-Trol Technology Corporation, of Denver, CO.

MC 79658 (Sub-22), filed June 14, 1982. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), (812) 424–2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Gulf & Western Manufacturing Co., of Southfield, MI.

MC 112989 (Sub-160), filed June 14, 1982. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans (same address as applicant), (503) 747–1283. Transporting *clay and related products* between points in WY, on the one hand, and, on the other, points in CA, CO, IL, IA, KS, LA, MI, MO, MT, NE, NM, ND, OH, OK, SD, TX, and UT.

MC 128449 Sub 13, filed March 10, 1982 (Previously published in (republication) **Federal Register** on March 30, 1982). Applicant: JIMMIE TUCKER TRUCKING, INC., Box 428, Broken Bow, OK 74728. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *metal products and machinery* between points in Lancaster County, PA, McLean County, IL, Butts County, GA, and McCurtain County, OK on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, of certificate issued May 28, 1982 in MC 128449 Sub 13.

Note:—This republication corrects County in PA and IL.

MC 138569 (Sub-3), filed March 15, 1982. Initially published in the **Federal Register** on March 30, 1982. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Drive, Rapid City, SD 57701. Representative: David J. Stanton, 2040 West Main, Suite 202, Rapid City, SD 57701, (605) 348–7748. Transporting *coal, sand, gravel, haydite, and crushed rock*, between points in Pennington County, SD, on the one hand, and, on the other, points in Campbell County, WY. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation of the certificate in MC 138569 (Sub-3) issued on May 28, 1982.

Note.—This application is republished to show Campbell County, WY, in lieu of Campbell County, KY.

MC 142368 (Sub-38), filed June 8, 1982. Applicant: DANNY HERMAN TRUCKING, INC., P.O. Box 55, Mountain City, TN 37683. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *clay, concrete, glass or stone products* between points in Kane County, IL, Kalamazoo County, MI, and Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146438 (Sub-16), filed May 10, 1982. Initially published in the **Federal Register** on May 27, 1982. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, (313) 962–6492. Transporting *frozen food* between Montgomery, AL, Atlanta, GA, Chicago, IL, Dallas, TX, Denver, CO, Kansas City, KS, Los Angeles, CA, Portland, OR, Syracuse, NY, and points in Berrien County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This application is republished to include all ten origins.

MC 147178 (Sub-1), filed June 15, 1982. Applicant: INFLATION FIGHTERS TRANSPORT, INC., 101 State St., Springfield, MA 01103. Representative: David M. Marshall, 101 State St., Suite 304, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Northeast Distributing and Warehousing, Inc., of Three Rivers, MA.

MC 148069 (Sub-2), filed June 14, 1982. Applicant: SUSQUEHANNA TRANSIT COMPANY, P.O. Box U, Avis, PA 17721. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Centre, Montour, Northumberland, Snyder, Tioga, and Union Counties, PA, and extending to points in the U.S.

MC 148938 (Sub-2), filed June 14, 1982. Applicant: RPT, INC., d.b.a. RELIABLE PRODUCT TRANSPORT, 121 Maresco Drive, NE, Dalton, GA 30720. Representative: Paul P. Watkins, P.O. Box 76358, Atlanta, GA 30358, (404) 255–0688. Transporting *general commodities*

(except classes A and B explosives, household goods, and commodities in bulk), between points in Whitfield County, GA, on the one hand, and, on the other, points in GA, IL, IN, KY, MI, NY, OH, PA, TN, and WV, under continuing contract(s) with Carpet Shippers' Association, Inc., of Dalton, GA.

MC 146978 (Sub-5), filed June 14, 1982. Applicant: OHIO SWIFTWAY, INC., 105 Jamison Ave., Cadiz, OH 43907. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, 412–471–1800. Transporting (1) *building materials*, (2) *metal products*, and (3) *lumber and wood products* (except building materials), between those points in the U.S. in and east of WI, IL, KY, TN, AR, and LA.

MC 151178 (Sub-1), filed June 15, 1982. Applicant: KENNETH DIXON and NITA JO DIXON, d.b.a., DIXON FARM SUPPLY, 102 S.W. A St., Stigler, OK 74462. Representative: Kenneth Dixon (same address as applicant), 918–967–4618. Transporting (1) *coal*, (a) between points in Haskell, Le Flore and Muskogee Counties, OK, on the one hand, and, on the other, points in Le Flore County, OK and points in AR, and (b) between points in Haskell, Le Flore and Muskogee Counties, OK, on the one hand, and, on the other, points in AR, TX, and MO, and (2) *nonmetallic minerals except fuels*, between points in OK, on the one hand, and, on the other, points in AR, TX, MO, and NM.

MC 156029 (Sub-1), filed June 14, 1982. Applicant: TRANSPORT ENTERPRISES, INC., 400 Broadway, Freehold, NJ 07728. Representative: A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068, 201–992–2200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Carter-Wallace, Inc. of Cranbury, NJ.

MC 158579, filed February 2, 1982. Initially published in the **Federal Register** on February 19, 1982. Applicant: MD ASSOCIATES-NORTHEAST, One Ararat Boulevard, Harrisburg, PA 17110. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting (1) *malt beverages* and (2) *such commodities* as are dealt in or used by producers and distributors of beverages, between Milwaukee, WI, points in Peoria County, IL, and Merrimack County, NH, and points in NJ, NY, PA, MD, MI, OH, GA, NC, and VA, on the one hand, and, on the other, points in NH, MA, MD, ME, VT, NY, NJ, MI, CT, RI, PA, DE, OH, VA, WV, GA, NC, SC, and DC.

Note.—This application is republished to include part (2) of the requested authority.

MC 159778, filed May 28, 1982. Applicant: MOHEGAN CONTRACTOR CORP., 20 Leary Lane, Nesconset, NY 11767. Representative: William J. Augello, 120 Main St., Huntington, NY 11743, (516) 427–0100. Transporting *building materials*, between points in the U.S., under continuing contract(s) with Pacific Wood Products Company, of Pennsauken, NJ, Athenica Mason Supply, Inc., of Clifton, NJ, Abbey Hart Company, of Verona, NJ, Atlantic Brick Corp., of Saddle Brook, NJ, and Ply-Gen Industries, Inc., of New York, NY.

MC 159878, filed June 14, 1982. Applicant: J. B. TOWN CARS, INC., 10 Linden St., Norwalk, CT 06851. Representative: Warren D. Kealey, 71 East Ave., Norwalk, CT 06851, 203–838–7140. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 6 passengers in the vehicle including the driver, between points in Fairfield County, CT on the one hand, and, on the other, John F. Kennedy International, Westchester County and LaGuardia Airports, all in NY.

MC 160268, filed June 11, 1982. Applicant: TOMBSTONE PIZZA CORPORATION, 940 South Whelen Ave., Medford, WI 54451. Representative: Linda Heller Kamm, 1775 Pennsylvania Ave., N.W., Washington, DC 20006, 202–862–5330. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, IA, IL, IN, KS, KY, MN, MO, MT, ND, NE, NJ, NY, OH, SD, and WI.

MC 162109, filed June 11, 1982. Applicant: MAYPOLE PACKER SALES & RENTAL, INC., 1203 West Dunnam, Hobbs, NM 88240. Representative: Alan W. Ralston, P.O. Box 1672, Hobbs, NM 88240, 505–397–3554. Transporting *Mercer commodities*, between points in NM, TX, and OK.

MC 162278, filed June 1, 1982. Applicant: STERLING WESTERN, INC., P.O. Box 68019, Oak Grove, OR 97268. Representative: Grafton L. Sterling (same address as applicant), (503) 253–9972. Transporting *rough iron castings*, between points in CA, on the one hand, and, on the other, points in WA and OR.

MC 162389, filed June 7, 1982. Applicant: DANNY ROY CORUM, 746 Ireland Road, Winston, OR 97496. Representative: Danny Roy Corum (same address as applicant), (503) 679–4637. Transporting (1) *metal products* and *machinery*, between points in Douglas County, OR, on the one hand, and, on the other, points in WA, OR, CA, NV, and ID; and (2) *lumber, building materials* (except lumber) and *steel products* between points in Douglas County, OR, on the one hand, and, on the other, points in CA, NV, AZ, NM, CO, WY, MT, ND, SD, NE, KS, OK, and TX.

MC 162469, filed June 14, 1982. Applicant: JAMES L. MORGAN, WILMA R. MORGAN, JEANETTE D. TYHURST AND JOHN A. MORGAN, d.b.a. MORGAN TRUCKING, RR #2, Martinsville, IL 62442. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Stephen's Binns & Buildings, Inc., of Martinsville, IL.

MC 162499, filed June 15, 1982. Applicant: SCHNUCKS TRANSPORTATION COMPANY, INC., 12991 Enterprise Way, Bridgeton, MO 63044. Representative: William H. Borghesani, Jr., 1150 17th St., NW, Suite 1000, Washington, DC 20036, (202) 457–1122. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in St. Louis and Clay Counties, MO, and Clay and St. Clair Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17616 Filed 6-29-82; 8:45 am]

BILLING CODE 7535-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested only on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request

and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7328.

Volume No. OP1-108

Decided: June 22, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 142831 (Sub-23), filed June 11, 1982. Applicant: HAMRIC TRANSPORTATION, INC., PO Box 1124, Grand Prairie, TX 75051. Representative: James K. Hamric, 3318 E. Jefferson Street, Grand Prairie, TX 75051, (214) 262-5134. Transporting *Shipments weigning 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162440, filed June 8, 1982. Applicant: DAVID R. GREEN, d.b.a. BOBBY'S, 1415 Richmond Rd., Lakeland, FL 33801. Representative: David R. Green (same address as applicant), (813)-665-4618. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP2-130

Decided: June 21, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 162193, filed May 25, 1982. Applicant: DICK'S TRANSPORT, 2012 So. 146th, Seattle, WA 98168. Representative: Kennety R. Mitchell, 2320A Milwaukee Way, Tacoma, WA 98421, (206) 383-3998. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used households goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162223, filed May 27, 1982. Applicant: SCHIESHER TRUCKING, INC., 11722 Mill St., Huntley, IL 60142. Representative: Donald L. Schiesher (same address as applicant), (312) 669-5065. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162382, filed June 7, 1982. Applicant: INTER-CON TRANSPORTATION SERVICES, INC., 22982 La Cadena Drive—Suite 1, Laguna Hills, CA 92653. Representative: William T. Martin, 21676 Superior Lane, Lake Forest, CA 92630, 714-951-0730. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP2-134

Decided: June 23, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

Mc-138772 (Sub-13), filed June 11, 1982. Applicant: ALL WAYS FREIGHT LINE, INC., P.O Box 2426, Kansas City, KS 66110. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601, (913) 234-0565. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Morrowville, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 162163, filed May 24, 1982. Applicant: WILLIAM H. HALVORSEN, d.b.a. HALVORSEN TRUCKING, 2323 Knobcone, Anderson, CA 96007. Representative: William H. Halvorsen (same address as applicant) 916-365-8632. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162303, filed June 1, 1982. Applicant: LeROY A. WIMER, d.b.a. WIMER TRUCKING, Route 1, Box 185, Little Falls, MN 56345. Representative: William L. Libby, 5200 Willson Rd., Suite 307, Edina, MN 55424, 612-927-8855. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162393, filed June 8, 1982. Applicant: ENOS N. WEAVER, JR., R.D. 2, New Holland, PA 17557. Representative: Enos N. Weaver, Jr. (same as applicant) (717) 354-0689. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *Agricultrual limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162402, filed June 9, 1982. Applicant: HOWARD GRAHAM AND GARY GRAHAM d.b.a. GRAHAM

TRUCKING, Lakeview, Route, Valentine, NE 69201. Representative: Charles E. Johnson, Box 2056, Bismarck, ND 58502 (710) 223–5300. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI), and (2) Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, commodities in bulk, classes A and B explosives, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162483, filed June 11, 1982. Applicant: TECHNOLOGY EXPRESS CORP., P.O. Box 8258, Northfield, IL 60093. Representative: Neal A. Jackson, 1156 15th St., NW., Washington, D.C. 20005 202–223–6680. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds between points in the U.S. (except AK and HI).

MC 162492, filed June 15, 1982. Applicant: DON L. HORNE d.b.a. CAMEL TRUCKING CO., 6416 SE 80 Pl., Portland, OR 97206. Representative: Don L. Horne (same address as applicant), 503–775–5328. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP4–227

Decided: June 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 145107 (Sub 37, filed June 11, 1982. Applicant: WILMINGTON DELIVERY SERVICE, INC., 806 Seville Ave., Wilmington, DE 19809. Representative: Bayard Marin, 1112 King St., Wilmington, DE 19801, (302) 658–4000. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 162427, filed June 10, 1982. Applicant: PANALPINA AIRFREIGHT, INC., 1310 Parairie, Suite 614, Houston, TX 77002. Representative: Anthony R. Piazza (same address as applicant), (713) 225–5371. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162487, filed June 11, 1982. Applicant: LITTLE ROCK TRANSPORTATION SERVICES, INC., d.b.a. BEAR TRUCKING COMPANY, 4255 LBJ Freeway, Suite No. 148, Dallas, TX 75234. Representative: Charles E. Munson, 500 W. Sixteenth St., Austin, TX 78767, (214) 239–3095. As a *broker of general commodities* (except household goods) between points in the U.S. (except AK and HI).

Volume No. OP4–229

Decided June 23, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 151866 (Sub-4), filed November 18, 1980. Applicant: R. L. JONES & SONS DELIVERY SERVICE, 4900 East 12th St., Kansas City, MO 64127. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives, and household goods), between Excelsior Springs, Altamont, and Marysville, MO; Arriba, Burlington, Calhan, Flagler, Limon, Roman, Simla, and Stratton, CO; and Smith Center, Belleville, Mankato, Cuba, Norton, and Colby, KS; on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is conditioned upon applicant certifying to the Commission, prior to commencing operations, that all rail service has actually terminated at specified points. The certification should be sent to the Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423.

MC 162436, filed June 11, 1982. Applicant: LEROY M. JESKE, Rural Route 1, Sobieski, WI 54171. Representative: Nancy J. Johnson, 103 E. Washington St., Box 218, Crandon, WI 54520, (715) 478–3341. Transporting (1) *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162498, filed June 11, 1982. Applicant: PERTH ENTERPRISES, INC., 4919 Bartlett St., Greensboro, NC 27407. Representative: Paul Carrano, 4008 Shiland Drive, Greensboro, NC 27406, (919) 674–3312. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162506, filed June 11, 1982. Applicant: LEONARD F. STACER, JR. and CAROLE S. STACER, d.b.a. STACER BROKERAGE, 1100 Old Bristol Pike, Morrisville, PA 19067. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, (703) 893–4924. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP5–137

Decided: June 22, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 154629 (Sub-3), filed June 14, 1982. Applicant: GLOBAL DISTRIBUTORS, INC., P.O. Box 335—Riverside Dr., Fultonville, NY 12072. Representative: Vincent Gramuglia (same address as applicant), 518–853–3476. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 158729 (Sub-1), filed June 14, 1982. Applicant: SHIPPERS EXPRESS TRUCK LINES, INC., 2901 South Lamar, Dallas, TX 75215. Representative: Sam Hallman, 4555 First National Bank Bldg., Dallas, TX 75202, 214–741–6263. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 162128, filed May 20, 1982. Applicant: SAM HOUSTON AND MARTHA S. GRONROOS d.b.a. M.A.T.T.S. TRANSPORT, 9210 S.W. 28th Ave., Portland, OR 97202. Representative: Sam Houston and Martha S. Gronroos (same address as applicant), (503) 232–2525. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 162368, filed June 7, 1982. Applicant: HERMAN HEDIGER, JR., d.b.a. CHRISTIE MILK TRANSPORT, Route 3, Neillsville, WI 54456. Representative: Nancy J. Johnson, 103 East Washington St., Box 218, Crandon, WI 54520, (715) 478–3341. (1) Transporting *food and other edible products and byproducts intended for*

human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI), and (2) transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 162468, filed June 14, 1982. Applicant: EUGENE O. ABLES, d.b.a., GENE ABLES TRUCKING CO., 1200 Silver Lake Rd., Topeka, KS 66608. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141, 816–842–8600. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–17615 Filed 6–29–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 273]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision

Decided: June 24, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 80747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian Carrier Applicants

In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 35980 (Sub-6)X, filed March 11, 1981, previously published in **Federal Register** of March 27, 1981, certificate served May 7, 1981, republished as follows: Applicant: M–B TRANSPORT, INC., 1941 Land Rd., Jamison, PA 18929. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Broaden in lead: (1) "between points in Pennsylvania and New Jersey within 30 miles of Alpha, NJ, including Alpha" to "between points in Berks, Bucks, Carbon, Montgomery, Northampton, Philadelphia, Lehigh, Monroe, and Schuylkill Counties PA, and Hunterdon, Mercer, Morris, Somerset, Sussex, and Warren Counties, NJ," and (2) "from points in Pennsylvania within 45 miles of Alpha, NJ, other than those within 30 miles of Alpha, to Stanhope, NJ," between points in Philadelphia, Chester, Delaware, Lackawanna, Montgomery, Berks Lehigh, Schuylkill, Carbon, Monroe, and Luzerne Counties, PA, on the hand, and, on the other, points in Morris, Sussex, and Warren Counties, NJ."

MC 87103 (Sub-1)X, filed June 14, 1982. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Sub 95 (1) broaden from general commodities (with the usual exceptions) to "general commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)", and (b) delete the exception against service at Richmond, WI.

MC 112924 (Sub-9)X, filed June 7, 1982. Applicant: THREE G MOTOR LINES, INC., 2115 69th St., North Bergen, NJ 07047. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax VA 22030. Lead: (1) Delete the exception of commodities of unusual value in its general commodities authority; (2) broaden general commodities (with the usual exceptions and livestock, alcoholic beverages and tobacco) to "general commodities (except household goods, commodities in bulk and classes A & B explosives)" in Sheet Nos. 1 and 3, paragraphs a, b, and c; (3) broaden steel to "metal products"; (4) delete restrictions: (a) Limiting service to shipments moving on through bills of lading of freight forwarders; (b) limiting service to that which is auxiliary to, or supplemental of, rail service of the Central Railroad Company of New Jersey, hereafter called the railroad; (c) limiting service to stations on a rail line of the railroad; (d) limiting service to that moving under a through bill of lading covering, in addition to movement by motor vehicle, an immediately prior or immediately subsequent movement by rail; (e) requiring all contractual arrangements between carrier and the railroad, to be reported to the ICC; (5) authorize service to all intermediate points. Applicant is not a rail-affiliated carrier.

MC 134972 (Sub-1)X, filed June 11, 1982. Applicant: MICHIGAN TOWING SERVICE, INC., 307 East Grand River, Howell, MI 48843. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49684. Lead (1) broaden wrecked, disabled or repossessed motor vehicles and replacement vehicles to "transportation equipment," (2) remove the restriction (a) to truckaway service and (b) against the transportation of trailers designed to be drawn by passenger automobiles; and (3) expand port of entry at Sault Ste. Marie, MI to allow service to all ports of entry in MI.

MC 146536 (Sub-15)X, filed June 7, 1982. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. Subs 3, 4, 6, 8, 9, 10, and 11: (1) Broaden to "machinery and supplies and transportation equipment" from tractors (except truck tractors), Sub 3; iron rotary blowers and gear and speed increasing and reducing machines and parts for all the foregoing commodities, Subs 8 and 10 and tractors, tractor parts and tractor implements, Sub 11; to "lumber and wood products" from lumber, Sub 4 and from lumber and lumber products, timbers and fence posts, Sub 9; to "machinery and supplies" from air

pollution control devices, Sub 6; (2) remove (a) facilities limitation, and (b) originating at/destined to restriction in various Subs, (3) broaden Romeo, MI to Macomb County; Orangeburg, SC to Orangeburg County; Hamilton, AL to Marion County; Owosso, MI to Shiawassee County; Dearborn, MI to Wayne County; Augusta, GA to Richmond County, and (4) to radial authority.

[FR Doc. 82-17611 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-305N)]

Rail Carriers; Conrail Abandonment Between Minerva and Pekin, OH; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Minerva (milepost 2.7) and Pekin (milepost 4.5) in the County of Columbiana, OH, a total distance of 1.8 miles effective on March 11, 1982.

The net liquidation value of this line is $24,016. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17600 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-341N)]

Rail Carriers; Conrail Abandonment Between Minerva and Hopedale, OH; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Minerva (milepost 43.5) and Hopedale (milepost 77.5) in the Counties of Carroll, Jefferson and Harrison, OH, a total distance of 34 miles effective on March 11, 1982.

The net liquidation value of this line is $523,532. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17607 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-361N)]

Rail Carriers; Conrail Abandonment Between Oneida Castle and Canastota, NY; Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Oneida Castle and Canastota in the Counties of Oneida and Madison, NY, a total distance of 0.9 miles effective on March 12, 1982.

The net liquidation value of this line is $46,514. If within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17608 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 299N)]

Rail Carriers; Conrail Abaondoment in Knox, Delaware, Franklin and Licking Counties, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its (1) rail line between mileposts 89.9 and 100.1; (2) Millwood Sand Industrial track between mileposts 0.0 and 4.2; and (3) rail line between mileposts 100.8 and 141.4, a total distance of 55.0 miles, effective on March 12, 1982.

The net liquidation value of (1) the line between mileposts 89.9 and 100.1 and (2) the mile 4.2 mile Millwood Sand Industrial Track is $849,478. The net liquidation value of the line between mileposts 100.8 and 141.4 is $3,274,800. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of these lines it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17612 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-No. 442N)]

Rail Carriers; Conrail Abandonment Between Kepler's Mills and Belfast Junction, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between (1) milepost 82.8 and milepost 86.6 and (2) between milepost 87.0 and milepost 88.2 in the County of Northampton, PA, a total distance of 5.0 miles, effective on March 12, 1982. In a May 28, 1982 decision the Commission decided that the portion of the line between mileposts 86.5 and 86.6 was necessary for a proposed subsidy operation. Accordingly, that segment will not be considered in the setting of the net liquidation value.

The net liquidation value of (1) the segment between mileposts 82.8 and 86.5 is $107,483; and (2) the segment between mileposts 87.0 and 88.2 is $33,940. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of these lines, it shall sell such lines and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-17613 Filed 6-29-82; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Delegation of Authority; Africa Bureau Field Posts

[Africa Delegation of Authority No. 140, Revised (Amendment No. 1)]

Section 1. Africa Bureau Delegation of Authority No. 140, Revised, is hereby amended, as follows:

A. Sections 4,A(3) and 4,B(3) are each revised to read as follows: "(3) The authority to approve extensions of the life of a project for a cumulative period not to exceed three years, provided that the extension does not result in a total life of project (from point of initial obligation to revised PACD) of more than ten years.".

Section 2. This amendment is effective immediately.

Dated: June 21, 1982.

Alexander R. Love,

Acting Assistant Administrator for Africa.

[FR Doc. 82-17719 Filed 6-29-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-105]

Certain Coin-Operated Audiovisual Games and Components Thereof (viz., Rally-X and Pac-Man); Issuance of Temporary Exclusion Order

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has replaced the 18 temporary cease and desist orders previously issued in this investigation with a temporary exclusion order.

SUMMARY: A motion (Motion No. 105-41c) was filed with the Commission to vacate 18 temporary cease and desist orders previously issued in this investigation and replace them with an order excluding from entry into the United States all coin-operated audiovisual games and components thereof which infringe complainant Midway Manufacturing Co.'s PAC-MAN copyright or PAC-MAN trademark during the pendency of this investigation. The articles in question may enter the United States under bond in the amount of 54 percent of the entered value during the period of temporary relief.

The Commission's decision to issue temporary cease and desist orders was made in light of advice from the U.S. Customs Service to the effect that a temporary exclusion order would be unenforceable. When the Customs Service later indicated that a temporary exclusion order would be enforceable if complainant provided certain assistance, the Commission granted the motion of complainant and replaced the temporary cease and desist orders with a temporary exclusion order.

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and concerns alleged unfair trade practices in the importation into and sale in the United States of certain coin-operated audiovisual games and components thereof which allegedly infringe certain of complainant's copyrights and trademarks.

In conformity with section 211.57 of the Commission's Rules of Practice and Procedure (46 FR 17533, Mar. 18, 1981), the aforementioned motion was served on each party to the investigation. A notice was published on June 9, 1982, in the **Federal Register** (47 FR 25077) requesting comment within 7 days on the proposed modification of temporary relief. The 7-day period expired and no comment was received.

Copies of the motion in question and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Scott M. Daniels, Esq., Office of the General Counsel, telephone 202-523-0074.

By order of the Commission.

Issued: June 23, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17654 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-112]

Certain Cube Puzzles; Hearing

Notice is hereby given that the hearing in this case, which was adjourned to July 13, 1982, will resume at 9 a.m. on July 14, 1982, in the Waterfront Center, Room 201, 1010 Wisconsin Avenue NW., Washington, D.C.

The Secretary shall publish this notice in the **Federal Register.**

Issued: June 23, 1982.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 82-17655 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-116]

Certain Drill Point Screws for Drywall Construction; Amendment of Notice of Investigation To Add Two Respondents and To Correct the Name of Another Respondent

AGENCY: International Trade Commission.

ACTION: Amendment of the notice of investigation in the above-captioned case to add two new respondents and to correct the name of another respondent pursuant to §§ 210.20(d) and 210.22(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.20(d) and 210.22(a)).

SUMMARY: On June 23, 1982, the Commission determined to amend the notice of investigation in this investigation to add J. Robert Agencies, Ltd. and Yama-Fas, Inc., as party respondents, and to correct the identification of respondent Gyplok to "Kabushi Kaisha Yamashina Seikosho d/b/a Gyplok."

SUPPLEMENTARY INFORMATION: On April 16, 1982, complainant Illinois Tool Works, Inc., moved (Motion No. 116-1) for leave to file an amended complaint which adds as respondents J. Robert Agencies, Ltd. and Yama-Fas, Inc., and changes the identity of respondent "Gyplok" to "Yamashina d/b/a Gyplok". Complainant learned through discovery that "Gyplok" was not the name of a company, but was merely a trademark for screws manufactured and sold by respondent Kabushi Kaisha Yamashina Seikosho. Complainant also learned through discovery, of the existence of J. Robert Agencies, Ltd. and Yama-Fas, Inc., and complainant now alleges these two firms are engaged in unfair methods of competition and unfair acts in the importation and sale of drill point screws that infringe a U.S. patent owned by complainant.

On May 5, 1982, the administrative law judge (ALJ) issued a recommendation that the Commission amend the complaint and notice of investigation to reflect the proposed amendments (Order No. 5). After consideration of Motion No. 116-1 and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add J. Robert Agencies, Ltd., 403-873 Beatty St., Vancouver, B.C. V6B 2M6, Canada and Yama-Fas, Inc., P.O. Box 2811, South San Francisco, California 94080 as respondents and to change the idnetity of respondent Gyplok to "Kabushi Kaisha Yamashina Seikosho d/b/a Gyplok."

Copies of the Commission's Action and Order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, telephone (202) 523–0499.

By order of the Commission.

Issued: June 25, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17653 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[332-143]

Economic Impact of Foreign Export Credit Subsidies on the U.S. Commuter Aircraft Industry

AGENCY: International Trade Commission.

ACTION: Following receipt on May 27, 1982, of a request from the Committee on Finance of the U.S. Senate, the Commission instituted investigation No. 332–143 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of gathering and presenting information on the impact of export credit subsidies by foreign governments on the competitive position of U.S. producers of commuter aircraft. The study will present information on (1) the current structure of the U.S. commuter aircraft industry and that of major foreign competitors; (2) the current U.S. market for these aircraft; (3) the factors of competition in the market; (4) foreign government export credit policies relating to these aircraft and their impact on the competitive position of the U.S. industry; and (5) the likely future trends in the U.S. market.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Ladomirak or Mr. Aaron Chesser, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–523–0131 or 202–523–0353, respectively.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on September 28, 1982, to be continued on September 29, 1982, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, September 21, 1982.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than October 6, 1982. All submissions should be addressed to the Secretary at the Commission's Office in Washington, D.C.

By order of the Commission.

Issued: June 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17656 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[332-144]

Economic Impact of Foreign Export Credit Subsidies on Certain U.S. Industries

AGENCY: International Trade Commission.

ACTION: Following receipt on May 27, 1982, of a request from the United States Trade Representative, the Commission instituted investigation No. 332–144 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of gathering and presenting information on the impact of export credit subsidies by foreign governments on the competitive position of U.S. producers of civil transport aircraft, commuter size and larger; heavy electrical equipment; and self-propelled railcars. For each of the three domestic industries, the study will present information on the following: (1) current industry structure, including major foreign competitors, and the current U.S. market; (2) factors of competition in the U.S. market and foreign trade; (3) comparison of sales and terms of sale of imported and domestically produced products; and (4) assessment of the impact of actual and lost sales and foreign offers for sales resulting from foreign export credit subsidies on the competitive position of the U.S. industry.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald J. DeMarines or Mr. Aaron Chesser, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–523–0259 or 202–523–0353, respectively.

Public Hearing

A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on September 28, 1982, to be continued on September 29, 1982, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, September 21, 1982.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statements should be submitted at the earliest practicable date, but no later than October 6, 1982. All submissions should be addressed to the Secretary at the Commission's Office in Washington, D.C.

By order of the Commission.

Issued: June 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17657 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-179 through 181 (Preliminary)]

Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod from Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigations Nos. 701-TA-179 through 181 (Preliminary) to determine, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of hot-rolled stainless steel bar, provided for in item 606.9005 of the Tariff Schedules of the United States Annotated (TSUSA), cold-formed stainless steel bar, provided for in TSUSA item 606.9010, and stainless steel wire rod, provided for in TSUSA items 607.2600 and 607.4300 upon which bounties and grants are alleged to be paid.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Vastagh, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0283.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted following receipt of a petition filed on June 16, 1982, by counsel for Al Tech Specialty Steel Corp., Carpenter Technology Corp., Colt Industries, Inc., Cyclops Corp., Guterl Special Steel Corp., Joslyn Stainless Steels, and Republic Steel Corp.

The Commission must make its determinations in the investigations within 45 days after the date on which it received the petition, or by August 2, 1982 (19 CFR 207.17). The investigations will be subject to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

The record in *Hot-Rolled Stainless Steel Bar, Cold-Formed Stainless Steel Bar, and Stainless Steel Wire Rod from Spain*, Inv. Nos. 701-TA-176 through 178 (Preliminary) is hereby incorporated into the record of proceeding.

Written submissions. —Any person may submit to the Commission on or before July 16, 1982, a written statement of information pertinent to the subject matter of the investigations. A signed original and fourteen copies of such statements must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data".

All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with the investigations for 10:00 a.m., e.d.t., on July 13, 1982, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigations, Mr. John MacHatton, telephone 202-523-0439, not later than July 9, 1982, to arrange for their appearance. Parites in support of the imposition of countervailing duties inthese investigations and parties in opposition to the imposition of such duties will each be collectivley allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the invetsigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR 207 (1981), as amended by 47 FR 6190 (Feb. 10, 1982) and by 47 FR 12792 (Mar. 25, 1982)), and Part 201, subparts A through E (19 CFR 201 (1981), as amended by 47 FR 6188 (Feb. 10, 1982) and by 47 FR 13791 (Apr. 1, 1982)). Further information concerning the conduct of the conference will be provided by Mr. MacHatton.

This notice is published pursuant to § 207.12 of the Commission's Rules of Practice and Procedure (19 CFR 207.12 (1981)).

By order of the Commission.

Issued: June 23, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17059 Filed 6-29-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-170 Through 173 (Preliminary)]

Certain Steel Products From the Republic of Korea

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, [2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports of the following products which are alleged to be subsidized by the Government of the Republic of Korea:

Hot-rolled carbon steel plate [4] (investigation No. 701-TA-170 (Preliminary));

Hot-rolled carbon steel sheet [5] (investigation No. 701-TA-171 (Preliminary)); and

Galvanized carbon steel sheet [6] (investigation No. 701-TA-173 (Preliminary)); [7]

The Commission determines [2] [8] that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of cold-rolled carbon steel sheet (investigation No. 701-TA-172 (Preliminary)) [9] which are alleged to

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Chairman Alberger not participating.

[3] Vice Chairman Calhoun and Commissioner Stern determine tha there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[4] For purposes of these investigations, hot-rolled carbon steel plate is provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (TSUSA).

[5] For purposes of these investigations, hot-rolled carbon steel sheet is provided for in items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400 of the TSUSA.

[6] For purposes of these investigations, galvanized carbon steel sheet is provided for in items 608.0730 and 608.1300 of the TSUSA.

[7] Vice Chairman Calhoun and Commissioner Stern dissenting.

[8] Commission Frank dissenting.

[9] For purposes of these investigations, cold-rolled carbon steel sheet is provided for in items 607.8330 and 607.8344 of the TSUSA.

be subsidized by the government of the Republic of Korea.

Background

On May 7, 1982, petitions were filed with the Commission and the Department of Commerce by counsel for United States Steel Corp. alleging that producers, manufacturers, or exporters in the Republic of Korea of certain steel products receive bounties or grants within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671). Accordingly, effective May 7, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. 1671b(a)), instituted preliminary countervailing duty investigations to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea of the subject merchandise.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington D.C., and by publishing the notice in the **Federal Register** of May 19, 1982 (47 FR 21640). The conference was held in Washington, D.C., on June 1, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

I. Introduction

The following constitute our views on the four countervailing duty investigations involving certain carbon steel products from the Republic of Korea. We first summarize the standards for our determinations, and then define the appropriate domestic industry against which the impact of the imports under investigation is to be assessed. Finally, in each investigation, we examine the condition of the industry and evaluate the causal relationship between the allegedly subsidized imports and this condition.

Standards for Determinations

In preliminary countervailing duty investigations, the Commission must determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[10] by reason of imports of the merchandise that is the subject of the investigation.[11] "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."[12] In making determinations, the Commission must consider, among other factors, (1) the volume of imports of the merchandise which is the subject of the investigation, (2) the effect of imports of that merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.[13]

In making a determination as to whether there is a threat of material injury, the Commission considers, among other factors, (1) the rate of increase of subsidized imports into the U.S. market, (2) the capacity in the exporting country to generate exports, (3) the availability of other export markets, and (4) such information as may be presented to it by the Department of Commerce as to the nature of the subsidy provided by a foreign country and the effects likely to be caused by the subsidy.[14] Findings of a reasonable indication of threat of material injury must be based on a showing that the likelihood of harm is real and imminent, and not on mere supposition, speculation, or conjecture.[15]

Definition of the Domestic Industries

The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as "the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[16] "Like product" is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *."[17]

The four steel products that are the subjects of these investigations were among the nine products covered by the recent preliminary investigations involving certain steel products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, Spain, the United Kingdom, and West Germany.[18] For the reasons stated by the Commission in those investigations, we adopt the appropriate industry definitions used there for the products included in the scope of these investigations.[19]

Cumulation

Our determinations in these investigations have been made on a case-by-case basis, without aggregation of import data for each product category with the import data derived in earlier investigations regarding the same products imported from other countries.[20] [21] In the event that final investigations are conducted in these cases, however, we do not rule out cumulation if the record developed demonstrates it is appropriate.[22]

II. Hot-Rolled Carbon Steel Plate

With respect o hot-rolled carbon steel plate from the Republic of Dorea, we find that there is a reasonable indication of material injury to the affected

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[10] Material retardation of an industry is not an issue in these investigations.

[11] 19 U.S.C. 1671b, 1673b.

[12] 19 U.S.C. 1677(7)(A).

[13] 19 U.S.C. 1677(7)(B).

[14] 19 CFR 207.26(d).

[15] S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[16] 19 U.S.C. 1677(4)(A).

[17] 19 U.S.C. 1677(10).

[18] Investigations Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Investigations Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), and Investigations Nos. 701-TA-155 to 163 (Preliminary), USITC Pub. 1255 (1982). Specific descriptions of the products, their characteristics and uses, and methods of manufacture may be obtained by reference to the Commission's Views and the Report in those investigations.

[19] Commissioners Stern and Haggart emphasize that the definitions of the industries at this preliminary stage are based on information now available; they do not preclude the possibility of defining the domestic industries differently in any final investigation if the record developed supports a revision of the definitions of the industries. See also Commissioner Frank's additional views.

[20] See additional views of Vice Chairman Calhoun in Certain Steel Products from Spain, Invs. Nos. 701-TA-155 to 163 (Preliminary), USITC Pub. 1255 (1982).

[21] Commissioner Frank has cumulated. See his additional views and his discussion on cumulation in Certain Carbon Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, Invs. Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Invs. Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982), at 127-129.

[22] Commissioner Stern refers readers to her discussion of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Invs. Nos. 731-TA-18-24 (Preliminary), USITC Pub. 1064 (1980), at 64-67.

See also her joint views with Chairman Alberger in Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, Invs. Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Invs. Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226 (1982).

Finally, see her joint views with Chairman Alberger in Prestressed Concrete Steel Wire Strand From Brazil, France, and the United Kingdom, Invs. Nos. 701-TA-152 and 153 (Preliminary), and Inv. No. 731-TA-89, USITC Pub. 1240 (1982), at 3; Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela, Invs. Nos. 701-TA-148 to 150 (Preliminary), and Inv. No. 731-TA-88 (Preliminary), USITC Pub. 1230 (1982).

domestic industry by the subject imports.[23] We base this determination principally upon information demonstrating the depressed condition of the U.S. industry, the significant presence of Korean imports of this product, and confirmed instances of sales lost by the domestic industry to the imports.

Condition of the Domestic Industry

The information developed in this investigation regarding the condition of the domestic industry is the same as that discussed in our views in the recent investigation on hot-rolled carbon steel plate fromSpain.[24] In that case, we found that the domestic industry had suffered serious declines in production, capacity utilization, employment, and profitability in recent years.

Reasonable Indication of Material Injury by Reason of Imports From the Republic of Korea

Korean imports maintained a significant presence in the domestic market throughout the period of this investigation, while overall U.S. demand declined. Although absolute levels of imports declined in 1981 from earlier levels and further declined in the first quarter of 1982, Korean imports accounted for 1.5 percent of domestic consumption in 1979, 2.8 percent in 1980, and 1.5 percent in 1981. Korean import penetration was 1.4 percent in the first quarter of 1982.[25]

Five instances of sales lost by domestic producers to Korean imports were confirmed, accounting for aproximately 2,686 tons of plate products. In four of the five cases the lower price of the imports was given as the reason for the purchase, since the quality of the imported and domestic products was considered comparable by purchasers.[26]

Reasonable Indication of Threat of Material Injury by Reason of Imports from the Republic of Korea

Vice Chairman Calhoun and Commissioner Stern base their finding on the above factors as well as on the following information. U.S. importers' inventories of carbon steel plate are at very high levels.[27] In addition, the United States is a major export market for these Korean products and is likely to remain so because of restrictions placed on Korean imports by other countries.[28]

III. Hot-Rolled Carbon Steel Sheet

We find that there is a reasonable indication that imports of hot-rolled carbon steel sheet from the Republic of Korea have caused material injury to the domestic industry.[29] In making this determination we have relied on information regarding the condition of the industry, significant and increasing volumes of Korean imports, several confirmed instances of sales lost by the U.S. industry to imports on the basis of price, and several confirmed instances indicating that domestic prices have been lowered to meet Korean import competition.

Condition of the Domestic Industry

The information developed in this investigation regarding the condition of the domestic industry is the same as that discussed in our views in the recent investigation on hot-rolled carbon steel sheet from Spain.[30] In that case, we found that the domestic industry had experienced serious difficulties during the period under investigation, including declines in production, capacity utilization, employment, and profitability.

Reasonable Indication of Material Injury by Reason of Imports From the Republic of Korea

Imports of this product from the Republic of Korea have shown a pronounced growth in market penetration toward the end of the period studied in this investigation. Import volumes were 28,000 tons in 1979, 34,000 tons in 1980, and 72,000 tons in 1981. The sharp rise continued in the first quarter of 1982, with 41,000 tons entered as compared to only 12,000 tone in the same quarter of 1981.[31] The 1981 volume of imports accounted for a share of the U.S. market of 0.5 percent, with the share in the last quarter of the year increasing to 0.9 percent. This rise in import penetration continued in 1982, with a market share of 1.5 percent being recorded in the first quarter.[32]

The Commission was able to verify four allegations of sales of hot-rolled carbon steel sheet lost by a domestic firm to Korean imports, accounting for a significant portion of those imports during the period from 1980 to the first quarter of 1982. In all four instances lower price was cited as the primary motivation for the purchase, although in two instances the purchaser also noted that the imports were generally of better quality and that the importers offered better service and purchasing terms.[33] Five of six alleged instances involving lowering of domestic prices to meet import price competition were confirmed, resulting in significant lost revenues.[34]

Reasonable Indication of Threat of Material Injury by Reason of Imports From the Republic of Korea

Vice Chairman Calhoun and Commissioner Stern base their finding on the above factors as well as on the following information. The Republic of Korea has greatly increased its capacity in the last two years to produce these products.[35] Coincident with this increased capacity was an increase in production, total exports, and exports to the U.S. Exports to the U.S. have been at significant levels throughout 1979–81.[36] Moreover, inventories of Korean imports held by U.S. importers in the first quarter of 1982 were double the level of December 1981.[37]

IV. Cold-Rolled Carbon Steel Sheet

We find that there is no reasonable indication of material injury or threat thereof to the domestic industry producing cold-rolled carbon steel sheet by reason of imports from the Republic of Korea.[38] The reasons for our finding are the decreasing levels of Korean imports of this product, the absence of allegations of lost sales, and the lack of persuasive indications of significant price suppression or depression caused by these imports.

Condition of the Industry

The information developed in this investigation regarding the condition of the domestic industry is the same as that discussed in our views in the recent investigation on cold-rolled carbon steel sheet from Spain.[39] In that case, we

[23] Chairman Alberger did not participate. Vice Chairman Calhoun and Commissioner Stern determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[24] Investigations Nos. 701–TA–155 to 163 (Preliminary), USITC Pub. 1255 (1982).

[25] Report at A–22.

[26] *Id.* at A–37.

[27] *Id.* at A–17.

[28] *Id.* at A–18.

[29] Chairman Alberger did not participate. Vice Chairman Calhoun and Commissioner Stern determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of the subject imports.

[30] Investigations Nos. 701–TA–155 to 163 (Preliminary), USITC Pub. 1255 (1982).

[31] Report at A–21.

[32] *Id.* at A–22 and A–23.

[33] *Id.* at A–38.

[34] *Id.* at A–38 and A–39.

[35] *Id.* at A–19.

[36] *Id.*

[37] *Id.* at A–17.

[38] Chairman Alberger did not participate. Commissioner Frank dissents. See his additional views.

[39] Investigations Nos. 701–TA–155 to 163 (Preliminary), USITC Pub. 1255 (1982).

found that the performance of the domestic industry, judged by such factors as production, capacity utilization, employment, and profitability, had declined during the period under investigation.

No Reasonable Indication of Material Injury by Reason of Imports From the Republic of Korea

Imports from the Republic of Korea have fallen during the same period that the industry has experienced its difficulties. Imports dropped from 179,000 tons in 1979 to 104,000 tons in 1980 and 101,000 tons in 1981. The import decline appears to be continuing into the present year; imports in the first quarter were 16,000 tons, down from 20,000 tons in the first quarter of 1981.[40] In terms of penetration of the U.S. market, Korean imports have declined consistently from a 1 percent market share in 1979 to 0.7 percent in both 1980 and 1981. Penetration was down to 0.5 percent in the first quarter of 1982.[41]

No allegations of actual lost sales involving cold-rolled carbon steel sheet from Korea were received by the Commission.[42] Only one allegation of a domestic price reduction caused by price competition from Korean imports was confirmed, involing only a small quantity of cold-rolled carbon steel sheet.[43]

No Reasonable Indication of Threat of Material Injury by Reason of Imports From the Republic of Korea

We also find no reasonable indication that Korean imports of this product pose a threat of material injury. Capacity in the Republic of Korea to produce cold-rolled carbon steel sheet has been greatly diminished for at least the immediate future by the bankruptcy of a major Korean producer in 1981.[44] In addition, U.S. importers' end-of-period inventories of the product have been steadily declining since 1979.[45]

V. Galvanized Carbon Steel Sheet

Views of Commissioners Alfred Eckes, Eugene Frank, and Veronica Haggart

With regard to galvanized carbon steel sheet from the Republic of Korea, we find a reasonable indication that imports are a cause of material injury to the U.S. industry.[46]

[40] Report at A-21.
[41] *Id.* at A-22.
[42] *Id.* at A-38.
[43] *Id.* at A-39.
[44] *Id.* at A-19.
[45] *Id.* at A-17.
[46] See also the additional views of Commissioner Frank.

Condition of the domestic industry

The information developed in this investigation regarding the condition of the domestic industry is the same as that discussed in our views in the recent investigation on galvanized carbon steel sheet from Spain.[47] In that case, we found that the performance of the domestic industry had been in a state of decline since 1979, including declines in production, capacity utilization, employment, and profitability.

Reasonable Indication of Material Injury by Reason of Imports From the Republic of Korea

During the period covered by this investigation—with the exception of one year—imports have been at substantial levels and have been increasing during recent periods. Significantly, imports in 1981 were concentrated in the later quarters of the year. Further, the import penetration ratio reached 1.5 percent during the fourth quarter of 1981, and the penetration rate of 0.8 percent in the first quarter of 1982 indicates a continuation of this trend. The recent increases in imports coincide with the difficulties being encountered by the domestic industry.

Other information provides important data in support of a reasonable indication of material injury as well. Two instances of sales lost to Korean imports, representing a large portion of such imports during 1982, were confirmed, and lower price was cited as a factor in both cases.[48] Additionaly, confidential information provided an indication of price suppression.[49]

V. Galvanized Carbon Steel Sheet

Views of Vice Chairman Michael J. Calhoun and Commissioner Paula Stern

As our colleagues in the majority have indicated, the domestic industry producing galvanized carbon steel sheet is undergoing serious difficulties. Our review of the available information, however, demenstrates no reasonable indication that imports from the Republic of Korea are a cause of either material injury or threat of material injury to the domestic industry. In prior investigations regarding galvanized carbon steel sheet, we noted that the present state of this industry is attributable to factors other than imports, including declining domestic consumption, low labor productivity, and high labor costs.[50]

[47] Investigations Nos. 701-TS-155 to 163 (Preliminary), USITC Pub. 1255 (1982).
[48] Report at A-38.
[49] *Id.* at A-39.
[50] Investigations Nos. 701-TA-155 to 163 (Preliminary), USTTIC Pob. 1255, at 19 (1982);

Although most major indicators of the economic health of this industry have declined during the period under investigation, imports from the Republic of Korea also declined substantially from the levels of 1978. In fact, such imports fell from 0.9 percent of domestic consumption in 1978 to 0.5 percent in 1979 and a mere 0.1 percent in 1980. The increases in imports since 1980 still leave both the absolute volume of Korean imports and market penetration ratios at levels below those of 1978. There appears to be not correlation between the fluctuations in Korean imports and the rise or fall of the industry's condition. Moreover, Korean imports constitute only an insignificant portion of the total market share held by all imports. The overall four-and-a-quarter-year trend in Korean imports, viewed together with the general economic recession and depressed consumption of this product, convince us that the short-term increase in Korean imports has neither produced material injury nor foreshadowed a threat of future injury.

Additional Views of Commissioner Eugene J. Frank

I. *Introduction*

These views are to be considered in conjunction with my views with respect to the 92 carbon and alloy steel product preliminary investigations before the Commission in January 1982[51] and made an integral part of this opinion.

For these preliminary investigations, I cumulated impact of alleged unfairly traded imports of comparable articles on the domestic industry from countries whose preliminary cases have been continued (including South Africa, not a signatory to the Subsidies Code) consistent with my approach and postion or cumulation.[52] In this respect, I depart from the approach taken by some of my colleagues who have approached these preliminary investigations on a case-by-case basis.

I would reiterate here my oft-stated position that the statute and legislative history in Title VII investigations require the Commission in its preliminary investigations to exercise only a low-

Investigations Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Investigations Nos. 731-TA-53 to 86 (Preliminary), USITC Pubs. 1221 and 1226, at 54-57 (1982).
[51] Investigation Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Prel.), and Investigation Nos. 731-TA-53 to 86 (Prel.), USITC Pubs. 1221 and 1226, February 1982, *Certain Steel Products from Belgium Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany*, Views of Commissioner Eugene J. Frank, pp. 121-155.
[52] *Id.* pp. 127-129.

threshold test based upon the best information available that the facts reasonably indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[53]

Since the January 1982 preliminary steel cases referred to herein above, the condition of the U.S. steel industry has suffered further significant deterioration by all recognized indicia of economic distress, some mention of which I refer the reader to my separate views in the recent Spanish carbon and alloy steel preliminary countervailing duty investigations.[54]

Finally, although statutory considerations prescribe a like product and definition of industry approach as set forth by my colleagues for these cases, it is appropriate to reiterate my position in this regard stated in my views in the January cases where I stated therein: "I believe, in ascertaining injury to the domestic industry affected in the conduct of these investigations it is appropriate to consider as a relevant factor in all these investigations the basic, commonsense economic reality of the impact of such imports on the domestic steel industry in general." [55]

The following represent my determinations on those preliminary investigations, stating, where applicable, points of departure from my colleagues in analyses and dissent.[56]

II. *Hot-Rolled Carbon Steel Plate*

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports, and do not reach the issue of threat. While otherwise concurring in general with my colleagues, I cumulated the impact on the pertinent domestic industry of subject imports from Korea along with Belgium, The United Kingdom, West Germany, Brazil, Romania, Spain, and South Africa, which indicates a general substantial increase in aggregate levels of such imports in the period since 1979 to 1981, reaching significant market penetration with respect to domestic consumption in 1981 of 16.9 percent. Although January-March 1982 levels were down somewhat from the comparable 1981 quarter, market penetration was still significant and represented a comparative period increase from 13.6 percent to 14.1 percent in these two quarters.

III. *Hot-Rolled Carbon Steel Sheet*

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports, and do not reach the issue of threat. While otherwise concurring in general with my colleagues, I cumulated the impact on the pertinent domestic industry of subject imports from Korea along with Belgium, France, Italy, Netherlands, West Germany, and South Africa, which since 1979 indicates a general substantial increase in aggregate levels of such imports with market penetration relative to domestic consumption likewise trending upward to significant levels in excess of 10 percent for the January–March 1982 quarter compared to 2.9 percent the comparable 1981 quarter.

IV. *Cold-Rolled Carbon Steel Sheet*

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports, and do not reach the issue of threat. I therefore dissent from my colleagues in this determination and certain analyses therein. It is clear that the condition of this industry based on information developed in the Commission's recent investigation on cold-rolled carbon steel sheet from Spain,[57] incorporated in this case, had declined during the period under investigation, as my colleagues acknowledge, judged by relevant industry indicators such as production, capacity utilization, employment and profitability. However, in cumulating the impact of subject imports from Korea on the pertinent domestic industry along with imports from France, Italy, Netherlands, West Germany, Spain, and South Africa, it is apparent that such imports have increased significantly from 1980 levels, attaining an aggregate market penetration of 6.3 percent with respect to domestic consumption in 1981, increasing even more markedly the January–March 1982 quarter to 7.9 percent compared with 2.3 percent the comparable 1981 quarter. Although I am cognizant of the paucity of information relative to pricing and lost sales data for this product, I would anticipate more thorough collection and scrutiny of pricing data and lost sales information in a final investigation should the Commission be called upon to conduct one.

V. *Galvanized Carbon Steel Sheet*

I find that there is a reasonable indication of material injury to the affected domestic industry by subject imports, and do not reach the issue of threat. Although I generally concur with the observations of Commissioners Eckes and Haggart in their views on the case, I cumulated the impact on the pertinent domestic industry of subject imports from Korea with those from Spain and South Africa. While such aggregated imports declined in overall levels since 1978 to 1981, they nevertheless remained at significant levels and in fact increased markedly January–March 1982 and attained a 3.2 percent market penetration with respect to domestic comsumption that quarter compared with 0.6 percent the comparable 1981 period and 1.3 percent for 1981.

By Order of the Commission.

Issued: June 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17066 Filed 6-29-82; 8:45 am]

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[53] H.R Report No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

[54] *Certain Steel Products from Spain*, investigation Nos. 701-TA-155 through 163 (Prel.), USITC pub. 1255, June 1982, Separate Views of Commissioner Eugene J. Frank, pp. 36-42.

[55] *Certain Steel Products from Belgium* * * * Views of Commissioner Eugene J. Frank, p. 136.

[56] All data are derived from the accompanying Report and set of four tables of imports of these four products covered by these investigations circulated with the draft Staff Report, unless otherwise indicated.

[57] Investigation Nos. 701-TA-155 to 163 (Prel.), USITC pub. 1255 (1982).

[Investigation No. 337-TA-37]

Certain Skateboards and Platforms Therefor; Request for Public Comment on Possible Dissolution of Exclusion Order

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has decided to consider on its own initiative the question of whether to set aside the exclusion order issued in connection with the above-captioned investigation. In conformity with § 211.57 of the Commission's Rules of Practice and Procedure (46 FR 17533, Mar. 18, 1981), this notice will be published in the **Federal Register** and served on each former party to the investigation.

DATES: Within 30 days of the service of this notice upon each former party, such party may file written comments on the question of whether the Commission's exclusion order should be set aside. Within 30 days of the publication of this notice in the **Federal Register**, interested Government agencies, and members of the public may file written comments on the same question. All comments should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade

Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On October 9, 1980, the Commission issued an order excluding the importation into the United States of skateboards and platforms therefor which infringe claims 1, 2, 7, or 8 of U.S. Letters Patent 3,565,454 (hereinafter the '454 patent) for the remaining term of the patent except under license. That order is now in force.

On July 27, 1981, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision holding the '454 patent invalid as obvious under 35 U.S.C. 103. *Stevenson v. Grentec, Inc.*, 652 F. 2d 20 (9th Cir. 1981). On April 26, 1982, the U.S. Supreme Court denied a petition for review of the Grentec decision. *Stevenson v. Grentec, Inc.*, No. 81–1185, cert. denied April 26, 1982 (50 U.S.L.W. 3854, Apr. 27, 1982).

The Commission seeks written comments from former parties to the above-captioned investigation, interested Government agencies, and interested members of the public on the question of whether the Commission's exclusion order should be set aside in light of the invalidity within the United States of the '454 patent.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Assistant General Counsel, Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0311.

Issued: June 23, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–17660 Filed 6–29–82; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–95 (Preliminary)]

Stainless steel Sheet and Strip From France

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that a industry in the United States is materially injured or threated with material injury by reason of imports from France of stainless steel sheet and strip, provided for in items 607.7610, 607.9010, 607.9020, 608.4300, and 608.5700 of the Tariff Schedules of the United States Annotated, which are alleged to be sold, or likely to be sold, in the United States at less than fair value (LTFV).[2]

Background

On May 10, 1982, petitions were filed with the Commission and the Department of Commerce by members of the Tool and Stainless Steel Industry Committee [3] and the United Steelworkers of America alleging that imports of stainless steel sheet and strip from France are being, or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). Accordingly, effective May 10, 1982, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Act (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise from France.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of May 19, 1982 (47 FR 21642). The conference was held in Washington, D.C., on June 7, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of The Commission

Introduction

After considering the record in this investigation, we determine, pursuant to section 733(a) of the Tariff Act of 1930, that there is a resonable indication that an industry in the United States is materially injured or threatened with material injury [4] by reason of imports of stainless steel sheet and strip from France which are allegedly being sold or are likely to be sold at less than fair value. Our determination is based primarily upon the deteriorating condition of the domestic industry, the growing market share of imports of sheet and strip from France, and the preliminary indications of underselling and lost sales caused by these imports.[5]

In the following analysis, we first define the domestic industry, then examine the state of the domestic industry in terms of the relevant economic indicators. Finally, we consider the causal relationship between the state of the domestic industry and the allegedly dumped imports from France.

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[6] Section 771(10) defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with" the article under investigation.[7]

The products being imported are stainless steel[8] sheet and strip. These are flat-rolled stainless steel products produced by passing slabs or sheet bars through a series of reducing rolls on continuous or hand mills. They are principally used in applications requiring resistance to oxidation and/or corrosion and are produced with a wide range of tolerances and finishes, depending on application. Stainless sheet and strip are generally considered to be finished products.

Stainless steel sheet and strip products imported from France and domestic products of the same grades and specifications are essentially identical in metallurgical composition, sizes, and quality.[9] There are generally

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Frank and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[3] Member firms included Allegheny Ludlum Steel Corp., Armco Inc., Carpenter Technology Corp., Colt Industries, Inc. (Crucible Materials Group), Eastern Stainless Steel Co., Guteri Special Steel Corp., Jessop Steel Co., Jones & Laughlin Steel, Inc., Republic Steel Corp., Universal-Cyclops Specialty Steel Division, Cyclops Corp., and Washington Steel Corp.

[4] Commissioners Frank and Haggart, having found material injury, do not reach the issue of threat of material injury.

[5] Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping the contervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96–317, 96th Cong., 1st Sess., 52 (1979).

[6] 19 U.S.C. 1677(4)(A).

[7] 19 U.S.C. 1677(10).

[8] Stainless steel is an alloy steel containing by weight less than 1 percent of carbon and over 11.5 percent of chromium. Although the alloy mix generally includes nickel, molybdenum, and manganese, which improves its performance under chemical or temperature stress, it is primarily the addition of chromium which makes the product corrosion resistant.

[9] Respondents argue that the quality of grades 430 and 434—which constitute the bulk of imports of sheet and strip from France—is better than that

no stainless steel products that are imported from France that are not produced by domestic producers. Nor generally are there stainless steel products that are imported from France that are not produced in sufficient quantity by domestic producers to satisfy consumer demand within the United States.[10]

Stainless steel sheet is often fabricated into food processing equipment, chemcial fertilizer tanks, liquid gas storage tanks, hospital equipment, and military equipment. Stainless steel strip is used in automobiles, appliances, industrial equipment and military equipment.[11]

Sheet and strip[12] are metallurgically identical, and both are under 0.1875 of an inch in thickness. The only difference between sheet and strip is width. Sheet is 24 inches or wider, whereas strip is less than 24 inches in width.[13]

Strip is often produced by "slitting," or slicing sheet at one of the last stages in the production process. Although certain producers manufacture both sheet and strip on the same mill equipment,[14] other mills produce only strip. Many service center customers purchase sheet which they themselves slit into strip. Most of the petitioners produce both sheet and strip.[15]

Sheet and strip can be further differentiated. Both can be produced as hot-rolled or cold-rolled products. Hot-rolled sheet and strip are primarily intermediate products that are used to produce cold-rolled sheet and strip. Cold-rolled sheet or strip is hot-rolled sheet or strip that is subjected to the additional steps of pickling, high pressure rolling, and annealing to attain more uniform dimensions and a smoother surface.

Stainless steel sheet and strip are predominantly cold-rolled.[16] Hot-rolled stainless steel sheet and strip as a finished product accounts for only approximately 5 percent of total domestic production of stainless steel sheet and strip and approximately 2 percent of imports from France.[17] In addition, the information currently available to the Commission indicates that much of the hot-rolled product which is sold as a finished product is purchased for subsequent cold-rolling,[18] and that the uses for hot-rolled and cold-rolled sheet and strip overlap.[19]

Based on the data presently available, no meaningful distinctions are evident between the characteristics and uses of the finished hot-rolled product and the cold-rolled product.[20] Therefore, for the purposes of this preliminary determination, we determine that the like product is all stainless steel sheet and strip, whether hot-rolled or cold-rolled, and that the domestic industry is composed of the producers of stainless steel sheet and strip.[21]

Reasonable Indication of Material Injury

Section 733(a) of the Tariff Act of 1930 provides that the Commission shall make a determination as to whether there is a reasonable indication of material injury based on the best information available to it. Section 771(7) directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) the effect of imports of that merchandise on prices in the United States for like products, and (3) the impact of imports of such merchandise on domestic producers of like products.

Condition of the Domestic Industry [22]

The domestic stainless steel sheet and strip industry is experiencing difficulties. The industry's production, shipments, capacity utilization, and employment have declined since 1979. Financial indicators for sheet and strip production also present a negative trend. Gross profits, operating profits, net profit before taxes, the ratio of operating profits to net sales, and cash flow all declined steadily—if not precipitously—between 1979 and 1981.

Volume of Imports [23]

As the condition of the domestic industry deteriorated and its share of the U.S. market declined during the period under investigation, the volume of imports of stainless steel sheet and strip from France rose, both in absolute and relative terms. In 1981, France was the third largest foreign supplier of stainless steel sheet and strip to the U.S.

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supplied by domestic producers. The best information available at this time is inconclusive on the issue of quality. *See* Report at A–38 (Purchaser 1) and Report at A–39 (Purchaser 5). However, there are indications that price, not quality, is the key factor in purchasing decisions. Report at A–37, Report at A–39 (Purchaser 2).

[10] The respondents allege that a U.S. purchaser has not been able to obtain a sufficient domestic supply of an alleged "modified" grade 434 product. We have obtained indications to the contrary. This issue will be further explored in any final investigation if appropriate.

[11] Staff Report at A–7.

[12] Hereinafter, the terms "sheet" or "strip" refer to stainless steel sheet or strip.

[13] This is the American Iron and Steel Institute (AISI) standard. The TSUSA defines sheet as having a minimum width over 12 inches, and strip as having a maximum width under 12 inches.

[14] The term "mill" refers to one piece of equipment or series of pieces of equipment that produce a certain product. Within one stainless steel plant, there may be several mills, each producing a different product or products.

[15] Report at 1–10, Guteral Specialty Steel Corp. and Jessop Steel Co. produce sheet but not strip. Carpenter Technology Corp. produces strip but not sheet. Petition at 5–6.

[16] Report at A–7.

[17] *Id.*

[18] Petitioners' post conference brief at 2; Conference Transcript at 65. The hot-rolled product sold for this purpose is referred to in the industry as "reroller". Conference Transcript in inv. No. 731–TA–92 (West Germany) at 50.

[19] Conference Transcript in inv. No. 731–TA–92 (West Germany) at 50.

[20] In the carbon steel investigations, hot-rolled and cold-rolled sheet and strip were treated for the purposes of our preliminary determinations as two industries. (Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West Germany, inv. Nos. 701–TA–86 through 144, 146, and 147 and 731–TA–53 through 86 (Preliminary) (USITC Publications 1221 and 1226) (February 1982). For the reasons mentioned above, in this stainless steel investigation such a differentiation does not appear to be appropriate.

[21] We emphasize that the definition of the domestic industry in this preliminary investigation is based on the information now available. Based on the recorded developed in any final investigation, a different definition of the domestic industry is not precluded.

[22] Our views regarding the condition of this industry are contained in the Commission's recent opinion, Stainless Steel Sheet and Strip from West Germany, 731–TA–92 (USITC Publication 1252) (June, 1982) at 10–11.

[23] Chairman Eckes and Commissioners Stern and Haggart have found a reasonable indication of material injury or threat of material injury on the basis of imports of sheet and strip from France alone. In the event that final investigations are conducted on this case and any other cases on stainless steel sheet and strip, they do not rule out cumulation if the record developed demonstrates that it is appropriate.

Commissioner Calhoun's views on cumulation are set forth in certain Steel Products from Spain, inv. Nos. 701–TA–155 through 163 (Preliminary) (June, 1982) at 33–35.

Commissioner Frank believes that the factors and conditions of trade affecting the pertinent domestic industry would warrant cumulation of imports of stainless steel sheet and strip subject to this investigation with imports of stainless steel sheet and strip from West Germany subject to the recently concluded Commission's preliminary investigation No. 731–TA–92. However, in analyzing the data in the record developed in this investigation, he found a reasonable indication of material injury on the basis of imports of sheet and strip from France alone, and did not believe it necessary to cumulate at this time. In the event that final investigations are conducted in this case and any other cases for stainless steel sheet and strip, he does not preclude cumulation at that time of such imports if the record developed demonstrates that it is appropriate to do so. See his views on cumulation in the carbon steel investigations, Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom and West Germany, inv. Nos. 701–TA–86 through 144, 146 and 147 and 731–TA–53 through 86 (Preliminary) (USITC Publications 1221 and 1227) (February, 1982) at 127–29.

The respective views of Commissioners Calhoun, Stern and Frank on the issue of cumulation of imports subject to an investigation under section 301 of the Trade Act of 1930 are set forth in Stainless Steel Sheet and Strip from West Germany, inv. No. 731–TA–92 (Pub. No. 1252) (June, 1982) at 9–10 and 7, note 17.

market.[34] In the first quarter of 1982, it surpassed Japan to become the second largest foreign supplier after West Germany.[35]

Imports from France declined slightly from 7,676 tons in 1979 to 6,167 tons in 1980, then more than doubled to 13,805 tons in 1981.[36] Imports in January-March 1982 amounted to 6,194 tons as compared with 2,427 tons for the first quarter of 1981.[37] The ratio of imports from France to apparent U.S. consumption also rose from 0.9 percent in 1979 and in 1980 to 1.8 percent in 1981, and 3.6 percent in the first quarter of 1982, as compared with 1.2 percent in the first quarter of 1981.[38]

Effect of Imports on Prices

Although the data base is limited, there are indications that imports from France have been underselling the domestic product. The Commission investigation revealed significant margins of underselling for two product specifications of imports from France during the period under investigation. The margins for one specification ranged from 16 to 26 percent.[39] Also, contacts with purchasers indicate that the imported products undersell domestic products by 5 to 30 percent.[40]

There are also indications of sales lost by domestic producers to imports from France. It was confirmed that two sales totalling 550 tons of sheet or strip were lost to imports from France on the basis of price.[41]

Reasonable Indication of a Threat of Material Injury[42]

The issue of whether there is a reasonable indication of a threat of material injury turns on the "likelihood of a particular situation developing into actual material injury."[43] The threat must be real and the injury imminent, not a mere possibility based on supposition and conjecture.[44] In examining threat of material injury, the Commission looks for, among other factors, demonstrable trends in the following areas: (1) the rate of increase of the allegedly dumped exports to the U.S. market; (2) importers' inventories; (3) capacity in the exporting country to generate exports; and (4) the likelihood that such exports will be directed to the U.S. market taking into account the availability of other export markets.[45]

The steadily increasing rate of imports from France, both in absolute terms and in terms of the ratio of imports from France to domestic consumption, has already been noted. This is seen even more clearly in an examination of quarterly import penetration data for 1981 and 1982. In nearly every quarter, import penetration by the alleged LTFV imports has increased.[46]

Importers' inventories of stainless steel sheet and strip imported from France in December 1981 were more than double those in December, 1980.[47] In addition, inventories reported in March 1982 were significantly greater than those reported in December 1981, and more than three times greater than those reported in March 1981.[48]

Conclusion

Therefore, on the basis of the best available information, we determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury[49] by reason of imports of stainless steel sheet and strip from France, which are allegedly being sold or are likely to be sold at less than fair value.

By Order Of The Commission.

Issued: June 24, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-17602 Filed 6-29-82; 8:45 am]

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[34] Report at A-25.

[35] *Id.*

[36] *Id.* at A-27 (Table 15).

[37] *Id.*

[38] *Id.* at A-27 (Table 15).

[39] *Id.* at A-36. The exact margins of underselling on the second specification are confidential information.

[40] *Id.* at A-38 (Purchaser 1) and A-39 (Purchasers 2 and 4).

[41] *Id.* at A-38-39 (Purchasers 1 and 3).

[42] See note 1 at 3.

[43] H.R. Rep. No. 96-317, 96th Cong., 1st Sess. 47 (1979).

[44] S. Rep. No. 96-249, 96th Cong., 1st Sess. 88-89 (1979); S. Rep. No. 1298, 93d Cong., 2d Sess. 180 (1974); Alberta Gas Chemicals, Inc. v. United States, 515 F. Supp. 780, 790 (Ct. Int'l Trade 1981).

[45] Should this case return for a final investigation, we expect to obtain information concerning French capacity to generate exports and the likelihood that such exports will be directed to the United States. In particular, petitioners argue that the government of France has targeted the specialty steel sector as one from which greater export performance will be encouraged in the next few years. Petitioners further argue that an EC minimum price policy which was instituted in October, 1981, has stifled competition among EC producers within the EC, and has thereby provided a significant incentive to compete via price in non-EC markets such as the United States in order to capture greater market shares. Conference Transcript at 26-28. We do not have sufficient information to evaluate these claims at this time. However, we invite fuller discussion of these issues should this case return for a final investigation.

[46] Report at A-28.

[47] *Id.* at A-22.

[48] *Id.*

[49] See note 1 at 3.

[1] The "record" is defined in section 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[Investigations Nos. 701-TA-165 through 169 (Preliminary)]

Welded Carbon Steel Pipes and Tubes From Brazil, France, Italy, Republic of Korea, and West Germany

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of the following products which are alleged to be subsidized by the Governments of Brazil, France, Republic of Korea, and West Germany:

Small diameter carbon steel welded pipes and tubes [3] from: Brazil (investigation No. 701-TA-165 (Preliminary)),[4][5] and Republic of Korea (investigation No. 701-TA-168 (Preliminary));[4] and

Large diameter carbon steel welded pipes and tubes [6] from: France (investigation No. 701-TA-166 (Preliminary)),[5][7] and West Germany (investigation No. 701-TA-169 (Preliminary)),[5][7].

The Commission determines [2] that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of the following products which are alleged to be subsidized by the Government of Italy (investigation No. 701-TA-167 (Preliminary)): Small diameter carbon steel welded pipes and tubes,[3][8]; and Large diameter carbon steel welded pipes and tubes.[6][9]

[2] Chairman Alberger not participating.

[3] For purposes of these investigations, small diameter carbon steel welded pipes and tubes are those, other than oil country goods, provided for in items 610.3205, 610.3209, 610.3231, 610.3232, 610.3241, 610.3244, and 610.3247 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] Commissioners Eckes, Frank, and Haggart determine that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[5] Commissioner Stern dissenting.

[6] For purposes of these investigations, large diameter carbon steel welded pipes and tubes are those, other than oil country goods, provided for in items 610.3211 and 610.3251 of the TSUSA.

[7] Commissioners Eckes and Haggart determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of the subject imports.

[8] Vice Chairman Calhoun and Commissioner Frank dissenting.

[9] Commissioner Frank dissenting.

Background

On May 7, 1982, U.S. Steel Corp. filed petitions with the U.S. International Trade Commission and with the U.S. Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Brazil, France, Italy, Republic of Korea, and West Germany of welded carbon steel pipes and tubes, upon which bounties or grants are alleged to be paid. Accordingly, the Commission instituted preliminary investigations under section 701 of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of May 19, 1982 (47 FR 21643). The conference was held in Washington, D.C., on June 2, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Vice Chairman Michael J. Calhoun, Commissioners Paula Stern, Alfred E. Eckes, and Veronica A. Haggart

The Domestic Industry

In any preliminary countervailing duty investigation, the Commission must determine whether there is a reasonable indication that a domestic industry is materially injured or threatened with material injury by reason of the allegedly subsidized imports. The industry is defined by the statute as the domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.[10] Like product is defined as a product which is like or, in the absence of like, most similar in characteristics and uses with the article under investigation.[11]

In these investigations, the allegedly subsidized products being imported consist of small diameter (not over 16") standard, structural, and line welded carbon steel pipes and tubes (small diameter pipes) from the Republic of Korea (Korea), Brazil, and Italy, and large diameter (over 16") standard and line welded carbon steel pipes and tubes (large diameter pipes) from West Germany, France, and Italy.

Large diameter pipes differ from small diameter pipes principally in terms of size, use, and production process. Large diameter pipes are used almost exclusively for pipelines, while small diameter pipes are often used for other purposes as well.[12] Small diameter pipes are generally an off-the-shelf item, whereas large diameter pipes are usually sold through contract for a specific project.[13] Small and large diameter pipes are made in separate facilities. Large diameter pipes generally are made using the submerged arc or spiral weld process while small diameter pipes generally are made using the continuous weld or resistance weld process.

The petitioner, U.S. Steel Corporation, maintains that there are two industries producing products like the imported products listed above: one producing small diameter standard, structural, and line welded carbon steel pipes and tubes (the small diameter pipe industry) and one producting large diameter standard and line welded carbon steel pipes and tubes (the large diameter pipe industry). U.S. argues that any distinctions among standard, structural and line pipes and tubes are blurred in industry practice, as there is considerable substitution.[14]

Other parties allege that U.S., Steel's definitions are too narrow and that production of mechanical, pressure, or oil country pipes and tubes also should be included in the industry definition. Testimony at the conference indicated, however, that mechanical and pressure pipes and tubes are not substitutable for structural, standard, and line pipe.[15] Oil country tubular goods with "upset" ends (i.e., turned up at the ends in a way suitable for threading) are not like standard, structural, and line pipes. The oil country tubular goods with upset ends are designed specifically for use in oil well drilling and are threaded or screwed together rather than being welded. The added expense for upset ends makes it unlikely that these goods will be substituted for other standard, structural or line pipes. However, several of the respondents in these investigations have argued that line pipe is often substituted for the type of oil country pipe that does not have upset ends when drilling close to the surface or in shallow wells. If these investigations return for a final determination, we will explore more fully the question of the substitutability of mechanical, pressure, and oil country pipes and tubes with standard, structural, and line pipes and tubes.

We believe that the best information available at this time indicates that there are two like products, small diameter standard, structural, and line welded carbon steel pipes and tubes and large diameter structural and line welded carbon steel pipes and tubes. There are separate domestic industries producing each of the two like products. If these investigations return for a final determination, we may reconsider these industry definitions.

Cumulation

Our determinations in these investigations have been made on a case-by-case basis, without aggregation of import data for each product category with import data regarding the same products from other countries.[16] In the event that final investigations are conducted in these cases, however, we do not rule out cumulation if the record developed demonstrates it is appropriate.[17]

Standards for Determination

Section 771(7) of the Tariff Act of 1930 directs the Commission to consider in making its determination, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on price, and (3) the consequent impact of the imports on the domestic industry.[18] In assessing the impact on the domestic industry, we are further directed by section 771(4)(c)(iii) to evaluate all relevant economic factors

[10] 19 U.S.C. 1677(4)(A).

[11] 19 U.S.C. 1677(10).

[12] Report, p. A-4.

[13] Transcript, pp. 10-11.

[14] See, e.g., Petition for South Korea, pp. 5-6.

[15] Transcript, pp. 26-30.

[16] *See* additional views of Vice Chairman Calhoun.

[17] Commissioner Stern refers readers to her discussion of the practice of cumulation in Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Invs. Nos. 731-TA-18 through 24 (Preliminary), USITC Pub. 1064 (1980), at 64-67.

See also her joint views with Chairman Alberger in Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, Invs. Nos. 701-TA-86 to 144, 701-TA-146, and 701-TA-147 (Preliminary), and Invs. Nos. 731-TA-83 to 88 (Preliminary), USITC Pubs. 1221 and 1228 (1982).

Finally, see her joint views with Chairman Alberger in Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Invs. Nos. 701-TA-152 and 153 (Preliminary), and Inv. No. 731-TA-89, USITC Pub. 1240 (1982), at 3; Carbon Steel Wire Rod from Brazil, Belgium, France, and Venezuela, Invs. Nos. 701-TA-148 to 150 (Preliminary), and INV. No. 731-TA-86 (Preliminary), USITC Pub. 1230 (1982).

[18] 19 U.S.C. 1677(7).

which have a bearing on the state of the industry, including, but not limited to: production, sales, market share, profits, productivity, return on investments, capacity utilization, cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.[19]

In these investigations, we have been able to obtain limited data on some of the economic factors listed above. For other factors, the data collected are based on allocations that limit their utility. In particular, the information submitted to the Commission by domestic producers concerning capacity and capacity utilization of the small diameter pipe industry may not be reliable because of the reported ability of producers to shift easily from making the like product to making other small diameter pipe products on the same equipment. Similar limitations exist with respect to data concerning investment, return on investment, and employment.

The reported profit-and-loss data are limited in their use as an absolute measure of profitability.[20] In addition, with the exception of the Korean products, we were unable to obtain adequate price data from U.S. producers and importers on the sales of comparable products. For any final determination, we would hope to obtain better price data.

The Small Diameter Pipe and Tube Industry

Condition of the Industry

The small diameter standard, structural, and line welded carbon steel pipe industry is currently experiencing problems.[21] Domestic production and shipments of small diameter pipes fell in the first quarter of 1982 by 29 percent and 28 percent, respectively, from the comparable quarter in 1981.[22] The U.S. industry showed net operating losses of $13 million in 1980 compared to a slight profit of $6 million in 1979. Although there were profits of $40 million in 1981, the domestic small diameter pipe industry was only able to attain a ratio of operating profit to sales of 3.0 percent in 1981, a particularly good year for sales in the industry. Of the 23 firms reporting profit and loss data, 8 stated in their questionnaires that they were experiencing losses in 1981 compared to 5 firms in 1979.

Imports From Korea

The United States is the largest market for welded carbon steel pipes and tubes produced in Korea. Exports from Korea to the United States increased from 32 percent of Korean production in 1979 to 55 percent in 1981.[23] Imports of Korean small diameter pipes rose from 369,000 short tons in 1979 to an estimated 559,000 short tons in 1981. This is an increase from slightly over 10 percent of U.S. consumption to approximately 13 percent.[24] Imports from Korea accounted for 34 percent of all imports of small diameter pipes to the United States in 1981.

There is evidence that some Korean producers are underselling the domestic producers by 15 percent or more, and the magnitude of underselling has increased since the fourth quarter of 1981.[25] Eight firms confirmed that they purchased Korean products at prices less than those for comparable domestic items.[26] Based on the foregoing, we conclude that there is a reasonable indication that the domestic small diameter pipe industry is materially injured by reason of imports from Korea.

Imports From Brazil

U.S. imports of the Brazilian product remained relatively stable during 1979 to 1981. However, the level of imports increased from the first quarter of 1981 to the first quarter of 1982, at the same time as U.S. consumption dropped by 17 percent. Import penetration therefore, increased in the first quarter of 1982. There is some indication of underselling with regard to Brazilian imports.[27] Based on the foregoing, we conclude that there is a reasonable indication that the domestic small diameter pipe industry is materially injured by reason of imports from Brazil.

Views of Commissioner Stern on imports from Brazil—Commissioner Stern takes exception to the majority view that there is a reasonable indication that imports of small diameter pipes from Brazil have caused material injury. She notes that the import penetration as a ratio of U.S. consumption for small diameter pipes from Brazil, adjusted to exclude oil country exports, fell slightly from 1979 to 1981.[28] The first quarter of 1982 showed an increase in penetration and volume, though the level of imports was still small. No instances of sales lost to imports from Brazil were confirmed. The single instance of underselling alluded to above by the majority cannot be called representative.[29] In 1981, Brazil supplied only 4 percent of U.S. imports of the product under investigation.

Commissioner Stern finds that the increased market share in the last quarter by a relatively small foreign supplier is insufficient to indicate that imports from Brazil are causing or contributing to any material injury the domestic industry is suffering. Furthermore, the fact that the Brazilian industry is already operating at extraordinarily high capacity utilization.[30] effectively eliminates any threat imports from Brazil could pose to the U.S. industry.

Imports From Italy

In contrast to imports from Korea and Brazil, imports from Italy have shown a steady downward trend from 1979 to 1981. According to information derived from Commission questionnaires, 74,000 short tons of the total 85,000 short tons of imports from Italy entered during 1981 under the items in the Tariff Schedules of the United States Annotated (TSUSA) for small diameter pipes were actually oil country tubular goods, not subject to this investigation.[31] The import data for Italy, adjusted to exclude oil country tubular goods, show a decrease from 32,000 short tons in 1979 to 11,000 short tons in 1981. Import penetration, adjusted for oil country goods, fell from 0.4 percent of U.S. consumption in 1980 to 0.2 percent in 1981. First quarter 1982 data showed an increase in import penetration. However, this quarterly data has not been adjsuted and the product mix between oil country tubular goods and the goods subject to this investigation reportedly has not changed from 1981.[32]

There are no confirmed lost sales to imports from Italy. The Commission attempted to obtain data regarding Italian capacity, but was unable to do so.

Based on the foregoing, we conclude that there is no reasonable indication of

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[19] According to the Senate Report on the Trade Agreements Act of 1979, [n]either the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC [Commission] to decide." S. Rept. 96-249 (96th Cong., 1st Sess.) at 88.

[20] Report, p. A-19.

[21] We considered quarterly data, in addition to the yearly data, in reaching our decision. Quarterly data with regard to small diameter pipes are significant because these pipes generally have stable year-round production and shipment levels.

[22] *Id.*, p. A-10.

[23] *Id.*, p. A-11.

[24] *Id.*, p. A-26.

[25] *Id.*, p. A-36.

[26] At this preliminary stage, the impact of this underselling on domestic prices is not known.

[27] Report, p. A-34.

[28] *Id.*, p. A-26. Most data are confidential and can only be discussed in general terms.

[29] The data available to the Commission do not allow for comparisons with trends in prices reported by domestic producers. *See* Report, p. A-31.

[30] Report, p. A-10.

[31] *Id.*, p. A-24.

[32] Telephone conversation of June 14, 1982, between Abigail Eltzroth, staff investigator, and David P. Houlihan, counsel for Italian producers.

material injury or threat of material injury by reason of imports from Italy.

The Large Diameter Pipe and Tube Industry

Condition of the Industry

Although production and shipment data showed increases for the domestic industry from 1979 to 1981, production for the first quarter of 1982 was approximately the same as the first quarter production figures for 1981, and shipments declined by 19 percent.[33] Financial data for the large diameter pipe industry show heavy losses in 1979, continued losses in 1980, and a slight profit in the boom year of 1981.[34] Testimony at the Commission conference by some domestic producers indicated that they experienced losses in the first quarter of 1982.[35]

The first quarter statistics actually understate the seriousness of the situation with regard to the large diameter pipe industry. First quarter data on production, shipments, imports, profits, and other factors do not reflect the impact of imports from France and West Germany already contracted to enter the U.S. during 1982.

Views of Commissioner Stern on the condition of the industry—Commissioner Stern evaluated the information in this investigation in light of the particular bid process in the large diameter pipe industry. This bid process can result in large swings in economic indicators within short periods of time.[36] Thus, first-quarter 1982 data are not considered a reliable basis for making judgments on the industry's performance.

Further, Commissioner Stern notes that the health of the large diameter pipe industry is unclear. Although the profits reported in Commission questionnaires were modest in 1981, those figures are based on firms covering significantly less than half the industry's production. Producers who filled out other portions of the Commission's questionnaire chose not to provide profit data. Thus, the industry may very well be a good deal healthier than the partial data indicate. Commissioner Stern, however, has reached her negative determinations principally on the basis of the lack of sufficient links between the subject imports and any problems the U.S. industry may be experiencing.

Imports From France

The capacity of the three French producers of large diameter pipes increased by 7 percent, from 777,000 tons in 1979 to 832,000 tons in 1981.[37] Over 80 percent of French production of large diameter pipes was exported in 1981. French exports to the United States, as a percentage of French production, increased from zero in 1979 to 13 percent in 1981.

Imports from France increased steadily from 52 short tons in 1979 to 74,973 short tons in 1981. French imports climbed from 0.2 percent of U.S. consumption in 1980 to 4.2 percent in 1981. Based solely on imports contracted to enter the United States during 1982, imports from France will be approximately 100,000 short tons in 1982. The full impact of imports to be entered in 1982 has yet to be felt by the domestic industry.

U.S. pipeline firms awarded French producers 7 contracts in 1981. There are strong indications of underselling with regard to five of the French bids.[38] This information demonstrates the French producers' ability to underbid the domestic producers.

Based primarily on the projected import levels for 1982, the estimated decrease in U.S. consumption,[39] and the evidence of underselling, we concluded that there is a reasonable indication of threat of material injury by reason of imports from France.

Views of Commissioner Stern regarding imports from France—Commissioner Stern finds no reasonable indication that imports of French large diameter pipes have caused or threaten to cause material injury to the domestic industry, whether considered alone or in combination with imports from West Germany. Confidential information indicates that the French ability to threaten the U.S. industry in a real and imminent sense is not feasible.[40] Further, she notes that though price was a factor in some bids lost by the domestic industry, France's largest U.S. pipeline contract was for a pipeline for which U.S. firms won a predominant share of the tonnage awarded.[41]

Imports From West Germany

Production of large diameter pipes in West Germany has increased irregularly from 1.6 million tons in 1979 to 1.8 million tons in 1981. while data on West German production capacity are not available, information on the record indicates that existing capacity far exceeds production.[42] West German exports to the United States of large diameter pipes increased from 0.6 percent of West German production in 1979 to 2.1 percent in 1981.

Imports from West Germany increased irregularly from 10,312 short tons in 1979 to 16,461 short tons in 1981. Imports of large diameter pipes from West Germany varied from 1.1 percent of U.S. consumption in 1979 to 0.1 percent in 1980 and back up to 0.9 percent in 1981.[43] According to ICF, Inc., an economic consulting firm for a German producer, there are two German shipments due for delivery in the U.S. during June–December 1982. One shipment is for 123,000 tons and the other for 20,000 tons. thus, based on imports already contracted to enter the U.S. in 1982, imports from West Germany will be almost nine times greater in 1982 than in 1981. The full impact of these imports has yet to be felt by the domestic industry.

The Commission has pricing information concerning three contracts won by West German producers since 1980. Although much of the information regarding West German bids is confidential, it indicates that the German producers have underbid U.S. producers.

Based primarily on the estimated import levels for 1982, the projected decrease in U.S. consumption,[44] and the evidence of underselling, we conclude that there is a reasonable indication of threat of material injury by reason of imports from West Germany.

Views of Commissioner Stern on imports from West Germany—Commissioner Stern determines that there is no reasonable indication that imports of large diameter pipes from the Federal Republic of Germany have caused or threaten to cause material injury, whether considered alone or in combination with the French imports. The West German import penetration fell from 1.1 percent of U.S. consumption in 1979 to 0.1 percent in 1980. In 1981, it recovered to 0.9 percent. Analysis of successful West German bids indicates that factors such as ability to meet delivery schedules and specifications were extremely important.[45]

Imports From Italy

Italian producers have not won any contracts for large diameter pipes since 1980. The import penetration of large diameter pipes from Italy increased from less than 0.05 percent of U.S. consumption in 1980 to 6.1 percent in

[33] Report, p. A–10.
[34] *Id.*, p. A–21.
[35] Transcript, p. 14.
[36] Report, p. A–15.
[37] *Id.*, p. A–12.
[38] *Id.*, p. A–35.
[39] *Id.*, p. A–8.
[40] *Id.*, p. A–37.
[41] *Id.*, p. A–35.
[42] *Id.*, p. A–13.
[43] *Id.*, p. A–29.
[44] *Id.*, p. A–8.
[45] *Id.*, p. A–36.

1981 when 110,000 tons from the 1980 contracts were entered. These imports entered in a particularly good year for the U.S. industry in terms of production and shipments. Non-price factors were crucial in awarding these contracts to the Italian firms.[46] There is a strong indication that these contracts were won as a result of the U.S. industry's inability to meet delivery schedules. All Italian pipes for these contracts have entered the United States, and there is no information showing that the Italian producers have any outstanding orders to be shipped during 1982.[47]

We conclude that there is no reasonable indication that the domestic industry is materially injured or threatened with material injury by reason of imports from Italy.

Additional Views of Vice Chairman Michael J. Calhoun

Consistent with my analysis in the recent series of steel investigations[48] and in view of all the relevant economic factors before us, my view is that the requisite impact of the imports before us is most reasonably achieved through their aggregate rather than their individual presence in the domestic marketplace. I reach this conclusion based upon all factors relied upon in the majority opinion as well as two others.

With regard to the small diameter pipes, the market share held by each of the countries under investigation, with the exception of South Korea, is very low: Italy's market share was 1.9 percent in 1981 and Brazil's market share was 1.6 percent. This strongly suggests to me that, in the absence of other information, any causal link between these imports and material injury to the domestic industry likely results from their collective rather than individual impact. In the final investigation, data may well be presented that the 15 percent market share held by Korea has such a predominant impact on domestic producers that the market share impacts from any one country or in the aggregate with other countries cannot be seen as having sufficient impact to warrant inclusion in our assessment. On the other hand, information developed may establish, in fact, my view here that a reasonable indication of nexus exists sufficient to find material injury with respect to all of the imports.

In determining that small diameter pipes from Italy ought to be included in the aggregate, I note that the unadjusted import figures from Italy show that imports have increased from 32,000 short tons in 1979 to 85,000 short tons in 1981. Imports of small diameter pipes increased from 4,000 short tons in the first quarter of 1981 to 15,000 short tons in the first quarter of 1982. In terms of the ratio of imports to consumption, Italian imports increased from .9 percent in 1979 to 1.9 percent in 1981. Quarterly data show that Italian import penetration increased from .4 percent in the first quarter of 1981 to 1.7 percent in 1982.

However, I understand that question exists as to whether these import figures include oil country tubular goods. Apparently, our information that these imports were oil country goods was based on data supplied by the importer who could have based its characteristics on information from purchasers regarding the use to which the Italian pipes were put. Thus, circumstances raise two issues: First, to what extent line pipes are, in fact, coming in from Italy, and, second, to what extent there is actual substitutability between the two products.

Considering that the majority agrees that the question of substitutability ought to be preserved for the final, it is my view that the disposition of Italian imports ought to be made at that time, as well, so we can clearly say whether Italian small diameter pipes are line or oil country or are substitutable for either use.

With regard to large diameter pipes, I have found that the market share held by Italian imports of large diameter pipes has fallen from 6.1 percent in 1981 to less than .05 percent for 1982 thus far. Since no information is available showing some special nexus between Italian large diameter pipes and the current state of the domestic industry, I have eliminated imports from italy from my affirmative finding.

As in the other cases, I wish to make clear that market share analysis is not the sole basis for aggregating in this investigation. Historically, the Commission has looked at a number of factors in deciding if it were appropriate to aggregte the impact of imports from various sources. These factors include comparability, simultaneous impact, and competition between the products from various countries and the like product. Evidence of lost sales and preliminary pricing data strongly suggests to me that imports from the various countries before us interact with the domestic product in ways that are indistinguishable from the way they would impact if all the imports under investigation were from the same country, if not from the same company. In my mind, is tis the essence of the rationale for cumulation.

If imports of a particular product are adversely impacting domestic producers of the like product, then the fact of their national origin ought to be of little significance in finding material injury. By the same token, however, if the national origin of an import somehow has signficance in distinguishing its impact from that of others, then clearly that ought to be a basis for evaluating it separately.

Views of Commissioner Eugene J. Frank

Determination

I find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of small diameter (not over 16") standard, structural and line welded carbon steel pipes and tubes (hereinafter "small diameter pipes") from the Republic of Korea, Brazil, and Italy.

I find that there is a reasonable indication that an industry in the United States is materially injured by reason of allegedly subsidized imports of large diameter (over 16") standard and line welded carbon steel pipes and tubes (hereinafter "large diameter pipes") from West Germany, France, and Italy.

Discussion

I concur with my colleagues in that the best information available to the Commission at this time indicates for these preliminary investigations that there are two like products: (i) small diameter standard, structural, and line welded carbon steel pipes and tubes; and (ii) larger diameter structural and line welded carbon steel pipes and tubes. Therefore, I have determined that there are separate domestic industries producing each of the two like products for which adequate relevant economic data are available, for the purpose of these preliminary investigations to assess the condition of each industry. However, should these investigations return for a final Commission determination, industry definitions will be subject to reconsideration based on the record developed at that time.

I would reiterate my oft-stated view that the statute and legislative history of the Title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low threshold test based on the best information available that the facts reasonably indicate an

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[46] *Id.*

[47] *Id.*, p. A-36 and p. A-38.

[48] Investigations Nos. 701-TA-88 through 119, 701-TA-121, 701-TA-122 through 144, 701-TA-146, 701-TA-147, 731-TA-53 through 65, and 731-TA-67 through 86 (Preliminary), USITC Pub. No. 1221.

industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[49] This less rigorous standard, in my view, was intended by Congress to screen those petitions where it was readily apparent, notwithstanding a necessarily incomplete record compiled in a compressed 45-day time period, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record and a detailed hearing before the Commission.[50]

I have determined that the "factors and conditions of trade" affecting the pertinent industry involved in these preliminary investigations, and other relevant economic factors, compel cumulation of the articles in question.[51]

I note that there are questions surrounding the reliability of data obtained with respect to certain economic factors traditionally scrutinized by the Commission [52] in the conduct of Title VII investigations in assessing the impact of subject imports on the affected domestic industry. The nature and character of the welded carbon pipe and tube industry, both small and large diameter, require certain arbitrariness in allocation of economic data on a "like product", industry basis to comply with the statutory scheme. I believe it germane to reiterate my discussion on this important issue set forth in my views in the recently concluded preliminary investigations on Certain Seamless Steel Pipes and Tubes from Japan: [53]

Although there are inherent limitations in certain "economic" data submitted to the Commission by domestic producers and perhaps questionable reliability with regard to capacity and capacity utilization, employment, investment, etc., I believe such data cannot be dismissed and discarded in entirety inasmuch as perhaps trends can be ascertained which are germane to injury considerations under a "low threshold" standard applicable in preliminary investigations. One of the concerns I think is relevant to any application of the "like product" industry definition approach in determining injury pursuant to the statute, employed in a "universe" comprised by multi-product integrated operations, is an inherent degree of arbitrariness in allocation of economic factors *exclusively* to various product-lines. One can become mired in a quagmire of assumptions as to e.g. their reasonability and consistency of application in a narrow-focused product-line analysis, yet face the dilemma of taking into consideration extraneous and perhaps inappropriate data if an industry definition were expanded, based on necessarily available data. I would expect a final investigation if conducted, to discuss thoroughly these underlying assumptions and their application for such data.

In those views in that investigation, I also expressed my misgivings about the validity of profitability data obtained which are also applicable in these investigations in view of the lack of thorough analysis of varying cost accounting methodologies employed by U.S. producers. Obviously a compressed time-frame in analyzing the available information obtained for the record in the conduct of these preliminary investigations might preclude such a comprehensive analysis of cost allocation considerations; however, I would expect the staff to be in a position in a final investigation, should the Commission be called upon to conduct same, to obtain such data on a uniform, consistent cost allocation basis for domestic producers. Subject to the above, I concur with my colleagues in their assessment of the present condition of the small diameter pipe and tube industry, and concur with Vice Chairman Calhoun, and Commissioners Eckes and Haggart on their assessment of the present condition of the large diameter pipe and tube industry.

Finally, I would expect for any final determinations in these cases that the Commission would have the benefit of more comprehensive and representative price data from U.S. producers and importers on sales of comparable products and on lost sales. The absence of such information in these preliminary investigations from certain of the countries was not a decisive factor in my analyses in view of this expectation.

In aggregating imports of small diameter pipes from South Korea, Italy, and Brazil, it is readily apparent such imports increased markedly during the 1979–1981 period in quantity, value, and in market penetration, and remained at significant levels to the first quarter of 1982.[54] Likewise, in aggregating imports of large diameter pipes from West Germany, France, and Italy, such imports increased substantially during the 1979–1981 period in quantity, value, and in market penetration. Although such imports in the aggregate declined markedly with respect to domestic consumption in the first quarter of 1982, nonetheless their market share remained at a significant level.[55] Moreover, in 1981 such aggregate import levels represented a massive increase over prior years in large part due to Italian imports that were shipped to pipe line projects that year. The terms and conditions and comparable bidding information vis-a-vis domestic and foreign producers for these 1980 bid awards to the Italian producers were not available for their tonnage shipped in 1981, which I expect would be available in the conduct of a final investigation.

By Order of the Commission.

Issued: June 21, 1982.

Kenneth R. Mason,

Secretary.

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[49] H.R. Rep. No. 96-317, 96th Cong., 1st Sess., 52 (1979).

[50] I refer the reader to my views on the January 1982 92 carbon and alloy steel preliminary investigations in which the structural context, from which I believe the Commission should review and analyze the record developed in these preliminary Title VII investigations pursuant to this low threshold standard and render its determinations accordingly, is more fully articulated. Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, The Netherlands, Romania, The United Kingdom, and West German, Invs. Nos. 701-TA-86 to 144, 701-TA-146 and 701-TA-147 (Prel.), and Invs. Nos. 731-TA-53 to 86 (Prel.), USITC Pubs. 1221 and 1226 (1982), Views of Commissioner Eugene J. Frank, pp. 121-165.

[51] See my views on cumulation in the carbon steel cases, Certain Steel Products from Belgium pp. 127-129.

[52] See 19 U.S.C. 1677(7)(c)(iii).

[53] Inv. No. 731-TA-87 (Prel.).

[54] I would expect the question of whether such import data included oil country tubular goods, not subject to these investigations, and any resulting adjustment of data would be resolved in a final investigation on the basis of independent verification by the Commission of such data.

[55] In my analyses leading to cumulation, I considered the historical market presence of such imports in the U.S. as well as the fact that incremental participation in the market in view of the bidding process involved could have a deleterious effect on pricing patterns whether successful bidder or not. I would expect this issue of participation and potential adverse price effects on the domestic market, in view of the dearth of comprehensive pricing information of a representative and comparable nature on U.S. and imported products, to be more fully explored in a final investigation.

DEPARTMENT OF JUSTICE

Antitrust Division

Merger Guidelines

The Department of Justice has issued a new set of Merger Guidelines. Set forth below, these Guidelines replace those which were issued by the Division in 1968, and will be applied by attorneys in the Antitrust Division in deciding whether particular mergers violate Section 7 of the Clayton Act or Section 1 of the Sherman Act. It is hoped that publication of these Guidelines will assist businesses in complying with applicable laws.

Issued: June 14, 1982

William French Smith,

Attorney General.

I. Purpose and Underlying Policy Assumptions

These Guidelines state in outline form the present enforcement policy of the U.S. Department of Justice ("Department") concerning acquisitions and mergers ("mergers") subject to section 7 of the Clayton Act[1] or to section 1 of the Sherman Act.[2] They describe the general principles and specific standards normally used by the Department in analyzing mergers.[3] By staging its policy as simply and clearly as possible, the Department hopes to reduce the uncertainty associated with enforcement of the antitrust laws in this area.

Although the Guidelines should improve the predictability of the Department's merger enforcement policy, it is not possible to remove the exercise of judgment from the evaluation of mergers under the antitrust laws. Difficult factual questions arise under the standards stated below, and the Department necessarily will base its decision on the data that are practicably available in each case. Moreover, the standards represent generalizations to which some exceptions are inevitable. In appropriate cases, the Department will challenge mergers that are competitively objectionable under the general principles of the Guidelines regardless of whether they are covered by the specific standards. Finally, the Guidelines are designed primarily to indicate when the Department is likely to challenge mergers, not how it will conduct the litigation of cases that it decides to bring. Although relevant in the latter context, the factors contemplated in the standards do not exhaust the range of evidence that the Department may introduce in court.[4]

The unifying theme of the Guidelines is that mergers should not be permitted to create or enhance "market power" or to facilitate its exercise. A sole seller (a "monopolist") of a product with no good substitutes can maintain a selling price that is above the level that would prevail if the market were competitive. Where only a few firms account for most of the sales of a product, those firms can in some circumstances coordinate, explicitly or implicitly, their actions in order to approximate the performance of a monopolist. This ability of one or more firms profitably to maintain prices above competitive levels for a significant period of time is termed "market power." Sellers with market power also may eliminate rivalry on variables other than price. In either case, the result is a transfer of wealth from buyers to sellers and a misallocation of resources.[5]

Although they sometimes harm competition, mergers generally play an important role in a free enterprise economy. They can penalize ineffective management and facilitate the efficient flow of investment capital and the redeployment of existing productive assets. While challenging competitively harmful mergers, the Department seeks to avoid unecessary interference with that larger universe of mergers that are either competitively beneficial or neutral. In attempting to mediate between these dual concerns, however, the Guidelines reflect the congressional intent that merger enforcement should interdict competitive problems in their incipiency.

II. Market Definition and Measurement

Using the standards stated below, the department will define and measure the market for each product or service ("product") of each of the merging firms. A market is a group of products and an associated geographic area with certain economic characteristics that will be described in subsequent paragraphs. In theory, all the demand and supply forces relevant to the evaluation of a merger could be incorporated in the definition of a market. Under the Guidelines, however, market definition is not the exclusive analytical technique through which the Department considers those forces. For example, because the potential new entry from the construction of new facilities and from the substantial modification of existing facilities is not easily captured in conventional market statistics, the Department takes such entry into account in interpreting market statistics.[6] Taken as a whole, however, the standards in the Guidelines are designed to ensure that, whenever the Department challenges a merger, the firms in the affected market could exercise market power if they were able to coordinate their actions.

A. Product Market Definition

The first task in market definition is to determine what products to include in the market for the product of the merging firm.[7] In general, the Department seeks to identify a group of products such that a hypothetical firm[8] that was the only present and future seller of those products could raise price profitably. That is, assuming that buyers could respond to an increase in price for a tentatively identified product group only by shifting to other products, what would happen? If readily available alternatives were, in the aggregate, sufficiently attractive to enough buyers, an attempt to raise price would not prove profitable, and the "market" would prove to have been too narrowly defined.

Taking the product of the merging firm as a beginning point, the Department will establish a provisional product market. The Department will include in the provisional market those products that the merging firm's customers view as good substitutes at prevailing prices.[9] The potential weakness of such a market based solely on existing patterns of supply and demand is that those patterns might change substantially if the prices of the products included in the provisional market were to increase. For this reason, the Department will test further and, if necessary, expand the provisional market. The Department will add additional products to the market if

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[1] 15 U.S.C.A. 18 (1981). Mergers subject to section 7 are prohibited if their effect "may be substantially to lessen competition, or to tend to create a monopoly."

[2] 15 U.S.C.A. 1 (1981). Mergers subject to section 1 are prohibited if they constitute a "contract, combination . . . . or conspiracy in restraint of trade."

[3] They replace a set of Guidelines issued by the Department in 1968, and are subject to further revision in light of subsequent judicial decisions or economic studies. Although changes in enforcement policy may precede the issuance of amended Guidelines, the Department will attempt to conform the Guidelines to such changes as soon as possible.

[4] Parties seeking more specific advance guidance concerning the Department's enforcement intentions with respect to any particular merger should consider using the Business Review Procedure. 28 C.F.R. 50.6.

[5] "Market power" also encompasses the ability of a single buyer or group of buyers to depress the price paid for a product to a level that is below the competitive price. Market power by buyers has wealth transfer and resource misallocation effects analogous to those associated with market power by sellers.

[6] In contrast to the comprehensive definition suggested in this paragraph of the test, the market definition used by the Department can be stated formally as follows: "a market consists of a group of products and an associated geographic area such that (in the absence of new entry) a hypothetical, unregulated firm that made all the sales of those products in that area could increase its profits through a small but significant and non-transitory increase in price (above prevailing or likely future levels)." The standards for market definition in the text below implement this definition.

[7] The analysis that follows will be repeated for each product of each merging firm.

[8] In Sections III(A) and III(C), the Guidelines discuss factors affecting the ability of a group of sellers, by coordinating their actions, to approximate the performance of a single firm.

[9] On occasion, the Department may base this analysis on likely future prices, provided that the relevant price relationships can be projected with confidence.

a significant percentage of the buyers of products already included would be likely to shift to those other products in response to a small but significant and non-transitory increase in price. As a first approximation, the Department will hypothesize a price increase of five percent and ask how many buyers would be likely to shift to the other products within one year.[10] The Department will continue expanding the provisional market until it satisfies the general profitability standard stated above.[11]

In evaluating product substitutability,[12] the Department will consider any relevant evidence, but will give particular weight to the following factors:

(1) Evidence of buyers' perceptions that the products are or are not substitutes, particularly if those buyers have shifted purchases between the products in response to changes in relative price or other competitive variables;

(2) Similarities or differences between the products in customary usage, design, physical composition and other technical characteristics;

(3) Similarities or differences in the price movements of the products over a period of years; and

(4) Evidence of sellers' perceptions that the products are or are not substitutes, particularly if business decisions have been based on those perceptions.

The analysis of product market definition to this point has assumed that price discrimination—charging different buyers different prices for products having the same cost, for example—would not be possible after the merger. Existing buyers sometimes will differ significantly in their assessment of the adequacy of a particular substitute and the ease with which they could substitute it for the product of the merging firm. Even though a general increase in price might cause such significant substitution that it would not be profitable, sellers who can price discriminate could raise price only to groups of buyers who cannot easily substitute away.[13] If such price discrimination is possible, the Department will consider defining additional, narrower relevant product markets oriented to the buyer groups subject to the exercixe of market power.[14]

B. Identification of Firms that Produce the Relevant Product

In most cases, the Department's evaluation of a merger will focus primarily on firms that currently produce and sell the relevant product. In addition to those firms, however, the Department may include additional firms in the market in certain circumstances.[15]

1. *Production Substitution.* The same productive and distributive facilities can sometimes be used to produce and sell two or more products that buyers do not regard as good substitutes. Production substitution refers to the shift by a firm in the use of facilities from producing and selling one product to producing and selling another. Depending upon the cost and speed of that shift, production substitution may allow firms that do not currently produce the relevant product to respond effectively to an increase in the price of that product.[16]

If a firm has existing productive and distributive facilities that could easily and economically be used to produce and sell the relevant product within six months in response to a small but significant and non-transitory increase in price, the Department will include those facilities in the market.[17] As a first approximation, the Department will hypothesize a price increase of five percent and ask how many firms would be likely to change to the production and sale of the relevant product within six months.[18] Firms that must construct significant new productive or distributive facilities in order to produce and sell the relevant product will not be included in the market, although the Department will consider their competitive significance in evaluating entry conditions generally.[19]

2. *Durable Products.* Some long-lived products may continue to exert competitive influence after the time of original sale. If, under the standards stated in Section II(A), recycled or reconditioned products represent good substitutes for new products, the Department will include in the market firms which recycle or recondition those products.

3. *Internal Consumption.* Captive production and consumption of the relevant product by vertically integrated firms are part of the overall market supply and demand. Such firms are free to buy or sell in the market, and they incur an opportunity cost for units they consume rather than sell. The increase in that cost resulting from an increase in the market price may induce a change in behavior. The Department will include in the market the facilities that are used to produce the relevant product.[20]

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[10] The purpose of hypothesizing a price increase is to interject a dynamic element in the analysis as a conceptual aid in determining the outer limits of the market. Judged by the effect on rate of return on invested capital, a given percentage price increase may be much more significant in some industries than in others.

Direct evidence of the likely effect of a price increase often will not be available, particularly in the context of the Department's prelitigation evaluation of a merger. As a result, the Department often will havae to rely on inferences from the types of circumstantial evidence described in the text below. For consistency, the Department will assume that buyers and sellers immediatedly recognize the price increase and believe that it will be sustained for the foreseeable future.

[11] The Depatment normally will not expand the market beyond the point at which this standard is satisfied unless it is convinced that independent competitive concerns exist in a larger market.

[12] In constructing and expanding the provisional market, the Department will not exclude any product that is at least as good a substitute as any product included. The Department will refer to the products included in the market collectively as the "relevant product."

[13] Price discrimination requires that sellers be able to identify those buyers and that other buyers be unable profitably to purchase and resell to them.

[14] Price discrimination is discussed in the Guidelines because it is sometimes a manifestation of market power created by a merger. In the context described in the text, a price increase to one group of buyers, reducing quantities purchased by that group, will not be accompanied by a price reduction and output increase to the other group. Hence, its effects on consumer welfare are unambiguously negative. It is important to distinguish that situation from the one in which a firm already possesses market power and is likely to exercise it, whether or not it is able to practice price discrimination. In the latter situation, price discrimination often results in an expansion of output, thus reducing the resource misallocation associated with market power.

[15] The situations described in the text below are particularly subject to difficult questions of degree. In such cases, it is often useful to calculate market shares based on alternative reasonable assumptions—for example, with and then without a particular type of facility arguably capable of easy and economical production substitution. In its evaluation of such cases, the Department will take into account the closeness of the issue, whichever way it is resolved for calculation of market statistics.

[16] Under other analytical approaches, production substitution sometimes has been reflected in the description of the product market. For example, the product market for stamped metal products such as automobile hub caps might be described as "light metal stamping," a production process rather than a product. The Department believes that the approach described in the text provides a more clearly focused method of incorporating this factor in merger analysis. If production substitution among a group of products is nearly universal among the firms selling one or more of those products, however, the Department may use an aggregate description of those markets as a matter of convenience.

[17] The amount of sales or capacity to be included in the market is a separate question discussed in Section II(D), below.

[18] See note 10, above.

[19] See Section III(B), below.

[20] See note 17, above. In evaluating the competitive significance of internally consumed production, the Department will consider whether the vertically integrated firm, either through sales of the relevant product or through sales of the products in which the relevant product is embodied, could frustrate an effort by the sellers of the relevant product to exercise market power.

C. Identification of Firms That Produce the Relevant Product at Relevant Locations (Geographic Market Definition)

For each product market of each merging firm, the Department will determine the geographic market(s) in which that firm sells. The purpose of geographic market definition is to establish a geographic boundary that roughly separates firms that are important factors in the competitive analysis of a merger from those that are not. Depending on the nature of the product, the geographic market may be as small as a part of a city or as large as the entire world. Moreover, a single firm may operate in a number of economically discrete geographic markets.

In general, the Department seeks to identify a geographic area such that a hypothetical firm that was the only present or future producer of the relevant product in that area could profitably raise price. That is, assuming that buyers could respond to a price increase within a tentatively identified area only by shifting to firms located outside the area, what would happen? If firms located elsewhere readily could provide the relevant product to the hypothetical firm's buyers in sufficient quantity at a comparable price, an attempt to raise price would not prove profitable, and the "market" would prove to have been too narrowly defined.

Taking the location of the merging firm (or each plant, for multi-plant firms) as a beginning point, the Department will establish a provisional geographic market based upon the shipment pattens of that firm and its closest competitors.[21] The potential weakness of such a market boundary based on existing patterns of supply and demand is that those patterns might change substantially if the price within the provisional market were to increase. For this reason, the Department will test further and, if necessary, expand the provisional market. The Department will expand the provisional market boundaries to include the locations of firms (or plants) that could make significant sales to customers of firms previously included in the provisional market in response to a small but significant and non-transitory increase in price. As a first approximation, the Department will hypothesize a price increase of five percent and ask how many sellers could sell the product to such customers within one year.[22] The Department will continue expanding the provisional market until it satisfies the general profitability standard stated above.[23]

In evaluating geographic substitutability,[24] the Department will consider any relevant evidence, but will give particular weight to the following factors:

(1) Evidence of buyers actually having shifted their purchases among sellers at different geographic locations, especially if the shifts corresponded to changes in relative price or other competitive variables;

(2) Similarities or differences in the price movements of the relative product in different geographic areas over a period of years;

(3) Transportation costs;

(4) Costs of local distribution; and

(5) Excess capacity by firms outside the provisional market.

The analysis of geographic market definition to this point has assumed that geographic price discrimination—charging different prices net of transportation costs for the same product to buyers in different locations, for example—would not be possible after the merger. As in the case of product market definition, however, where price discrimination is possible,[25] the Department will consider defining additional, narrower geographic markets oriented to those buyer groups subject to the exercise of market power.

In general, the standards stated above will govern geographic market definition, whether domestic or international. The Department, however, will be somewhat more cautious, both in expanding market boundaries beyond the United States and in assessing the likely supply response of specific foreign firms. Although firms located outside the United States may exert an important competitive influence on domestic prices, they may be subject to additional constraints not present in the purely-domestic context. For example, changes in exchange rates, tariffs, and general political conditions may limit the ability of such firms to respond to domestic price increases.

D. Calculating Market Shares

The Department normally will include in the market the total sales or capacity[26] of all firms (or plants) that are identified as being in the market in Sections II(B) and II(C). In some cases, however, total sales or capacity may overstate the competitive significance of a firm. With respect to firms included in the market under Sections II(B)(1) (production substitution) and II(B)(3) (internal consumption), for example, the Department will include only those sales likely to be made or capacity likely to be used in the geographic market in response to a small but significant and non-transitory increase in price. As a first approximation, the Department will hypothesize a price increase of five percent and ask what the likely response of the firms would be within one year.[27] Similarly, a firm's capacity may be so committed elsewhere that it would not be available to respond to an increase in price in the market. In such cases, the Department also may include a smaller part of the firm's sales or capacity.

III. Horizontal Mergers

Where the merging firms are in the same product and associated geographic market, the merger is horizontal. In such cases, the Department will focus first on the post-merger concentration of the market and the market shares of the merging firms. In some cases with low post-merger market concentration and/or market shares, the Department will be able to determine without a detailed examination of other factors that the merger poses no significant threat to

[21] Because the definition of geographic markets in the Guidelines is an area derived from the location of sellers' facilities, the area may not always exhibit characteristics associated with traditional geographic market definitions that are based, in whole or part, on buyer locations. Nevertheless, as a rule of thumb, the merging firm should make a significant percentage of its sales in the provisional market and firms located outside it collectively should account for a small percentage of total sales there. It is possible that a geographic market could include only one firm.

[22] See note 10, above. In some cases, a general expansion of the market boundaries may overstate the likely supply response. If a specific firm has a particular ability to sell in the provisional market that is not shared by other firms in that firm's area, the Department will treat that firm alone as being in the market.

[23] See note 11, above.

[24] In constructing and expanding the provisional market, the Department will not exclude any area if production there is at least as good a substitute as production that is included.

[25] See notes 13–14, above. Geographic price discrimination against a group of buyers is more likely when other buyers cannot easily purchase and resell the relevant product to them. Such arbitrage is particularly difficult where the product is sold on a delivered basis and where transportation costs are a significant percentage of the final cost.

[26] Market shares can be expressed in terms of dollar sales, physical unit sales, physical capacity, or (in natural resource industries) physical reserves. The availability of data often will determine the measurement base. Where a choice is possible, the Department will use the measurement base that is the best indicator or the likely effect of the merger on market power.

[27] See note 10, above. It follows that some firms included in the market might have little or no sales or capacity attributed to them. Conversely, the present sales or capacity of a firm may understate its competitive significance. This effect of most likely in the acquisition of new or as-yet-unexploited patent rights.

competition. In other cases, however, the Department will proceed to examine a variety of other factors relevant to that question.

A. Concentration and Market Share

Market concentration is a function of the number of firms in a market and their respectative market shares. [28] Other things being equal, concentration affects the likelihood that one firm, or a small group of firms, could successfully exercise market power. The smaller the percentage of total supply that a firm controls, the more severely it must restrict its own output in order to produce a given price increase, and the less likely it is that an output restriction will be profitable. Where collective action is necessary, an additional constraint applies. As the number of firms necessary to control a given percentage of total supply increases to control a given percentage of total supply increases, the difficulties and costs of reaching and enforcing consensus with respect to the control of that supply also increase.

As an aid to the interpretation of market data, the Department will use the Herfindahl-Hirschman Index ("HHI") of market concentration. The HHI is calculated by summing the squares of the individual market shares of all the firms included in the market under the standards in Section II. [29] Unlike the traditional four-firm concentration ratio, the HHI reflects both the distribution of the market shares of the top four firms and the composition of the market outside the top four firms. It also gives proportionately greater weight to the market shares of the larger firms, which probably accords with their relative importance in any collusive interaction.

The Department divides the spectrum of market concentration as measured by the HHI into three regions that can be broadly characterized as unconcentrated (HHI below 1000), moderately concentrated (HHI between 1000 and 1800) and highly concentrated (HHI above 1800). An empirical study by the Department of the size dispersion of firms within markets indicated that the critical HHI thresholds atr 1000 and 1800 correspond roughly to four-firm concentration ratios of 50 percent and 70 percent, respectively. Although the resulting regions provide a useful format for merger analysis, the numerical divisions suggest greater precision than is possible with the available economic tools and information. Other things being equal, cases falling just above and just below a threshold present comparable competitive concerns.

1. *General Standards.* In evaluating horizontal mergers, the Department will consider both the post-merger market concentration and the increase in concentration resulting from the merger.[30] The link between concentration and market power is explained above. The increase in concentration is relevant to several key issues. Although mergers among small firms increase concentration, they are less likely to have anticompetitive consequences. Moreover, even in concentrated markets, it is desirable to allow firms some scope for merger activity in order to achieve economies of scale and to permit exit from the market.

The general standards for horizontal mergers are as follows:

(a) *Post-Merger HHI Below 1000.* Markets in this region generally would be considered to be unconcentrated, having the equivalent of at least 10 equally sized firms. Because implicit coordination among firms is likely to be difficult and because the prohibitions of section 1 of the Sherman Act are usually an adequate response to any explicit collusion that might occur, the Department is unlikely to challenge mergers falling in this region.

(b) *Post-Merger HHI Between 1000 and 1800.* Because this region extends from the point at which the competitive concerns associated with concentration become significant to the point at which they become quite serious, generalization is particularly difficult. The Department, however, is unlikely to challenge mergers producing an increase in the HHI of less than 100 points.[31] The Department is more likely than not to challenge mergers in this region that produce an increase in the HHI of more than 100 points. In making that decision, however, the Department will take into account the post-merger concentration of the market, the size of the resulting increase in concentration, and the presence or absence of the other factors discussed in Sections III(B) and III(C).

(c) *Post-Merger HHI Above 1800.* Markets in this region generally are considered to be highly concentrated, having the equivalent of no more than approximately six equally sized firms. Additional concentration resulting from mergers is a matter of significant competitive concern, and the Department will resolve close questions in favor of challenging the merger. The Department is unlikely, however, to challenger mergers producing an increase in the HHI of less than 50 points.[32] For mergers producing an increase in the HHI of from 50 to 100 points, the Department will base its decision whether to challenge the merger on the post-merger concentration of the market, the size of the resulting increase in concentration, and the presence or absence of the factors discussed in Sections III(B) and III(C). The Department is likely to challenge mergers in this region that produce an increase in the HHI of 100 points or more.[33]

2. *Leading Firm Proviso.* In some cases, typically where one of the merging firms is small, mergers that may create or enhance the market power of a single dominant firm could pass scrutiny under the standards stated in Section III(A)(1). Notwithstanding those standards, the Department is likely to challenger the merger of any firm with a market share of at least 1 percent with the leading firm in the market, provided that the leading firm has a market share that is at least 35 percent and is approximately twice as large as that of the second largest firm in the market.

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[28] Markets can range from atomistic, where very large numbers of firms that are small relative to the overall size of the market compete with one another, to monopolistic, where one firm controls the entire market. Far more common, and more difficult analytically, is the large middle range of instances where a relatively small number of firms account for most of the sales in the market.

[29] For example, a market consisting of four firms with market shares of 30 percent, 30 percent, 20 percent and 20 percent has an HHI of 2800 ($30^2 + 30^2 + 20^2 + 20^2 = 2800$). The HHI ranges from 10,000 (in the case of a pure monopoly) to a number approaching zero (in the case of an atomistic market). Although it is desirable to include all firms in the calculation, lack of information about small fringe firms is not critical because such firms do not affect the HHI significantly.

[30] The increase in concentration as measured by the HHI can be calculated independently of the overall market concentration by doubling the product of the market shares of the merging firms. For examle, the merger of firms with shares of 5 percent and 10 percent of the market would increase the HHI by 100 ($5 \times 10 \times 2 = 100$). [The explanation for this technique is as follows: In calculating the HHI before the merger, the market shares of the merging firms are squared individually. Thus: $(a)^2 + (b)^2$. After the merger, the sum of those shares would be squared. Thus: $(a + b)^2$, which equals $a^2 + 2ab + b^2$. The increase in the HHI therefore is represented by 2ab.]

[31] Mergers producing increases in concentration close to the 100 point threshold include those between firms with market shares of 25 percent and 2 percent, 16 percent and 3 percent, 12 percent and 4 percent, 10 percent and 5 percent, 8 percent and 6 percent, and 7 percent and 7 percent.

[32] Mergers producing increases in concentration close to the 50 point threshold include those between firms with market shares of 12 percent and 2 percent, 8 percent and 3 percent, 6 percent and 4 percent, and 5 percent and 5 percent.

[33] There is some economic evidence that, where one or two firms dominate a market, the creation of a strong third firm enhances competition. The Department has considered this evidence but is not presently prepared to balance this possible gain against the certainty of substantially increased concentration in the market.

Because the ease and profitability of collusion are of little relevance to the ability of a single dominant firm to exercise market power, the Department will not consider the factors discussed in Section III(C) in this context. Under this standard, an ample market for small acquisitions typically will remain, and it is unlikely that any relevant economies will be limited to mergers involving the largest firm in the market.

B. Ease of Entry

If entry into a market is so easy that existing competitors could not succeed in raising price for any significant period of time, the Department is unlikely to challenge mergers in that market. Under the standards in Section II(B)(1), firms that do not presently sell the relevant product, but that could easily and economically sell it using existing facilities, are included in the market and are assigned a market share. This section considers the additional competitive effects of (1) production substitution where the necessary modifications are more substantial, and (2) entry through the construction of new facilities.

In assessing ease of entry to a market, the Department will consider the likelihood and probable magnitude of entry in response to a small but significant and non-transitory increase in price.[34] As a first approximation, the Department will hypothesize a price increase of five percent and ask how much new entry would be likely to occur within two years.[35] In most cases in which significant entry is unlikely, the Department will not attempt to differentiate further the degrees of difficulty of entry. In cases where entry is unusually difficult, however, the Department is more likely to challenge a merger.

[34] See note 10, above. In general, entry is more likely when the additional assets necessary to produce the relevant product are short-lived or widely used outside the particular market. Conversely, entry is less likely when those assets are long-lived and highly specialized to the particular application. Entry is generally facilitated by the growth of the market and hindered by its stagnation or decline. Entry also is hindered by the need for scarce special skills or resources and the need to achieve a substantial market share in order to realize important economies of scale. See also Section IV(B)(1)(b), below.

[35] Although this type of supply response will take longer to materialize than those previously considered, its prospect may have a greater deterrent effect on the exercise of market power by present sellers. Where new entry involves the dedication of long-lived assets to a market, the resulting capacity and its adverse effects on profitability will be present in the market until those assets are depreciated.

C. Other Factors

A variety of factors other than concentration, market shares, and ease of entry affect the likelihood that a merger will create, enhance or facilitate the exercise of market power. In evaluating mergers, the Department will consider the following factors as they relate to the ease and profitability of collusion. Where relevant, the factors are most likely to be important where the Department's decision whether to challenge a merger is otherwise close.

1. *Nature of the Product and Terms of Sale.*—(a) *Homogeneity-Heterogeneity of the Relevant Product Generally.* In a market with a homogeneous and undifferentiated product, a cartel need establish only a single price—a circumstance that facilities reaching consensus and detecting deviation. As the products which constitute the relevant product become more numerous, heterogeneous, or differentiated, however, the problems facing a cartel become more complex. Instead of a single price, it may be necessary to establish and enforce a complex schedule of prices corresponding to gradations in actual or perceived quality attributes among the competing products.[36]

Product variation is arguably relevant in all cases, but practical considerations dictate a more limited use of the factor. There is neither an objective index of product variation nor an empirical basis for its use in drawing fine distinctions among cases. As a result, this factor will be taken into account only in relatively extreme cases where both identification and effect are more certain. For example, when the relevant product is completely homogeneous and undifferentiated, the Department is more likely to challenge the merger. Conversely, when the relevant product is very heterogeneous or sold subject to complex configuration options or customized production, the Department is less likely to challenge the merger.[37] Over a significant middle range of the spectrum of product variation, this factor is less likely to affect the Department's analysis.

(b) *Degree of Difference Between the Products and Locations in the Market and the Next-Best-Substitutes.* The market definition standards stated in section II require drawing relatively bright lines in order to determine the products and sellers to be considered in evaluating a merger. For example, in defining the relevant product, all "good substitutes" in demand are included. The profitability of any collusion that might occur will depend in part, however, on the quality of the next-best substitute. That is, it matters whether the next-best substitute is only slightly or significantly inferior to the last product included in the relevant product. Similarly, it matters whether the next-most-distant seller is only slightly or significantly farther away than the last seller included in the geographic market. The larger the "gap" at the edge of the product and geographic markets, the more likely the Department is to challenge the merger.

(c) *Similarities and Differences in the Products and Locations of the Merging Firms.* There also may be relevant comparisons among the products or sellers included in the market. Where products in a relevant market are differentiated or sellers are spatially dispersed, individual sellers usually compete more directly with some rivals than with others. In markets with highly differentiated products, the Department will consider the extent to which consumers perceive the products of the merging firms to be relatively better or worse substitutes for one another than for other products in the market. In markets with spatially dispersed sellers and significant transportation costs, the Department will consider the relative proximity of the merging firms. If the products or plants of the merging firms are particularly good substitutes for one another, the Department is more likely to challenge the merger.

2. *Information About Specific Transactions and Buyer Market Characteristics.* Collusive agreements are more likely to persist if participating firms can quickly detect and retaliate against deviations from the agreed prices or other conditions. Such deviations are easiest to detect, and therefore least likely to occur, in markets where detailed information about specific transactions or individual price or output levels is readily available to competitors. The Department is more likely to challenge a merger if such detailed information is available to competitors, whether the information comes from an exchange among sellers, public disclosure by buyers, reporting by the press or a government agency, or some other source.

Certain buyer market characteristics also may facilitate detection of

[36] A similar situation may exist where there is rapid technological change or where supply arrangements consist of many complicated terms in addition to price.

[37] This conclusion would not apply, however, where the significance of heterogeneity is substantially reduced through detailed specifications that are provided by the buyer and that form the basis for all firms' bids.

deviation from collusive agreements. If orders for the relevant product are frequent, regular and small relative to the total output of a typical firm in the market, collusion is more likely to succeed because the benefits of departing from the collusive agreement in any single transaction are likely to be small relative to the potential costs. In order to increase its sales significantly in such circumstances, a seller would have to depart from the collusive agreement on a large number of orders. Each such sale takes customers away from other parties to the agreement, a fact that is particularly evident when demand is stable or declining. As a result, the chances of detection and effective response by other sellers increase with the number of such sales. The Department is more likely to challenge a merger where such buyer market characteristics exist.

3. *Conduct of Firms in the Market.* The Department is more likely to challenge a merger in the following circumstances:

(a) Firms in the market previously have been found to have engaged in horizontal collusion regarding price, territories, or customers, and the characteristics of the market have not changed appreciably since the most recent finding. The additional concentration resulting from the merger could make explicit collusion more difficult to detect or tacit collusion more feasible.

(b) One or more of the following types of practices are adopted by substantially all of the firms in the market: (i) mandatory delivered pricing; (ii) exchange of price or output information in a form that could assist firms in setting or enforcing an agreed price; (iii) collective standardization of product variables on which the firms could compete; and (iv) price protection clauses. Although not objectionable under all circumstances, these types of practices tend to make collusion easier, and their widespread adoption by the firms in the market raises some concern that collusion may already exist.

(c) The firm to be acquired has been an unusually disruptive and competitive influence in the market. Before invoking this factor, the Department will determine whether the market is one in which performance might plausibly deteriorate because of the elimination of one disruptive firm.

4. *Market Performance.* When the market in which the proposed merger would occur is currently performing non-competitively, the Department is more likely to challenge the merger. Non-competitive performance suggests that the firms in the market already have succeeded in overcoming, at least to some extent, the obstacles to effective collusion. Additional concentration of such a market through merger could further facilitate the collusion that already exists. When the market in which the proposed merger would occur is currently performing competitively, however, the Department will apply its ordinary standards of review. The fact that the market is currently competitive casts little light on the likely effect of the merger.

In evaluating the performance of a market, the Department will consider any relevant evidence, but will give particular weight to the following evidence of possible non-competitive performance when the factors are found in conjunction:

(a) Stable relative market shares of the leading firms in recent years;

(b) Declining combined market share of the leading firms in recent years;[38] and

(c) Profitability of the leading firms over substantial periods of time that significantly exceeds that of firms of industries comparable in capital intensity and risk.

IV. Horizontal Effect From Non-Horizontal Mergers

By definition, non-horizontal mergers involve firms that do not operate in the same market. It necessarily follows that such mergers produce no immediate change in the level of concentration in any relevant market as defined in Section II. Although non-horizontal mergers are less likely than horizontal mergers to create competitive problems, they are not invariably innocuous. This Section describes the principal theories under which the Department is likely to challenge non-horizontal mergers.

A. Elimination of Specific Potential Entrants

1. *The Theory of Potential Competition.* In some circumstances, the non-horizontal merger [39] of a firm already in a market (the "acquired firm") with a potential entrant to that market (the "acquiring firm") [40] may adversely affect competition in the market. If the merger effectively removes the acquiring firm from the edge of the market, it could have either of the following effects:

(a) *Harm to "Perceived Potential Competition".* By eliminating a significant present competitive threat that constrains the behavior of the firms already in the market, the merger could result in an immediate deterioration in market performance. The economic theory of limit pricing suggests that monopolists and groups of colluding firms may find it profitable to restrain their pricing in order to deter new entry that is likely to push prices even lower by adding capacity to the market. If the acquiring firm had unique advantages in entering the market, the firms in the market might be able to set a new and higher price after the threat of entry by the acquiring firm was eliminated by the merger.

(b) *Harm to "Actual Potential Competition".* By eliminating the possibility of entry by the acquiring firm in a more pro-competitive manner, the merger could result in a lost opportunity for improvement in market performance resulting from the addition of a significant competitor. The more pro-competitive alternatives include both new entry and entry through a "toehold" acquisition of a present small competitor.

2. *Relation Between Perceived and Actual Potential Competition.* If it were always profit-maximizing for incumbent firms to set price in such a way that all entry was deterred and if information and coordination were sufficient to implement this strategy, harm to perceived potential competition would be the only competitive problem to address. In practice, however, actual potential competition has independent importance. Firms already in the market may not find it optimal to set price low enough to deter all entry; moreover, those firms may misjudge the entry advantages of a particular firm and, therefore, the price necessary to deter its entry. [41]

3. *Enforcement Standards.* Because of the close relationship between perceived potential competition and actual potential competition, the Department will evaluate mergers that raise either type of potential competition concern under a single structural analysis analogous to that applied to horizontal mergers. The Department first will consider a set of objective factors

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[38] The exercise of market power often results in a gradual loss of market share. Fringe firms find it possible and profitable to expand their sales, and new entry may occur.

[39] Under traditional usage, such a merger could be characterized as either "vertical" or "conglomerate," but the label adds nothing to the analysis.

[40] The terms "acquired" and "acquiring" refer to the relationship of the firms to the market of interest, not to the way the particular transaction is formally structured.

[41] When collusion is only tacit, the problem of arriving at and enforcing the correct limit price is likely to be particularly difficult.

designed to identify cases in which harmful effects are plausible. In such cases, the Department then wil conduct a more focused inquiry to determine whether the likelihood and magnitude of the possible harm justify a challenge to the merger. In this context, the Department will consider any specific evidence presented by the merging parties to show that the inferences of competitive harm drawn from the objective factors are unreliable.

The factors that the Department will consider are as follows:

(a) *Market Concentration.* Barriers to entry are unlikely to affect market performance if the structure of the market is otherwise not conducive to monopolization or collusion. Adverse competitive effects are likely only if overall concentration, or the largest firm's market share, is high. The Department is unlikely to challenge a potential competition merger unless overall concentration of the acquired firm's market is above 1800 HHI (a somewhat lower concentration will suffice if one or more of the factors discussed in Section III(C) indicate the effective collusion in the market is particularly likely). Other things being equal, the Department is increasingly likely to challenge a merger as this threshold is exceeded.

(b) *Conditions of Entry Generally.* If entry to the market is generally easy, the fact that entry is marginally easier for one or more firms is unlikely to affect the behavior of the firms in the market. The Department is unlikely to challenge a potential competition merger when new entry into the acquired firm's market can be accomplished by firms without any specific entry advantages under the conditions stated in Section III(B). Other things being equal, the Department is increasingly likely to challenge a merger as the difficulty of entry increases above that threshold.

(c) *The Acquiring Firm's Entry Advantage.* If more than a few firms have the same or a comparable advantage in entering the acquired firm's market, the elimination of one firm is unlikely to have any adverse competitive effect. The other similarly situated firm(s) would continue to exert a present restraining influence, or, if entry would be profitable, would recognize the opportunity and enter. The Department is unlikely to challenge a potential competition merger if the entry advantage ascribed to the acquiring firm (or another advantage of comparable importance) is also possessed by three or more other firms. Other things being equal, the Department is increasingly likely to challenge a merger as the number of other similarly situated firms decreases below three and as the extent of the entry advantage over non-advantaged firms increases.

If the evidence of likely actual entry by the acquiring firm is particularly strong,[42] however, the Department may challenge a potential competition merger, notwithstanding the presence of three or more firms that are objectively similarly situated. In such cases, the Department will determine the likely scale of entry, using either the firm's own documents or the minimum efficient scale in the industry. The Department will then evaluate the merger much as it would a horizontal merger between a firm the size of the likely scale of entry and the acquired firm.

(d) The Market Share of the Acquired Firm. Entry through the acquisition of a relatively small firm in the market may have a competitive effect comparable to new entry. Small firms frequently play peripheral roles in collusive interactions, and the particular advantages of the acquiring firm may convert a fringe firm into a significant factor in the market.[43] The Department is unlikely to challenge a potential competition merger when the acquired firm has a market share of five percent or less. Other things being equal, the Department is increasingly likely to challenge a merger as the market share of the acquired firm increases above that threshold. The Department is likely to challenge any merger satisfying the other conditions in which the acquired firm has a market share of 20 percent or more.

B. Competitive Problems from Vertical Mergers

1. *Barriers to Entry from Vertical Mergers.* In certain circumstances, the vertical integration resulting from vertical mergers could create competitively objectionable barriers to entry. Slated generally, three conditions are necessary (but not sufficient) for this problem to exist. First, the degree of vertical integration between the two markets must be so extensive that entrants to one market (the "primary market") also would have to enter the other market (the "secondary market").[44] simultaneously. Second, the requirement of entry at the secondary level must make entry at the primary level significantly more difficult and less likely to occur. Finally, the structure and other characteristics of the primary market must be otherwise so conducive to non-competitive performance that the increased difficulty of entry is likely to affect its performance. The following standards state the criteria by which the Department will determine whether these conditions are satisfied.

a. *Need for Two-Level Entry.* If there is sufficient unintegrated capacity[45] in the secondary market, new entrants to the primary market would not have to enter both markets simultaneously. The Department is unlikely to challenge a merger on this ground where post-merger sales (purchases) by unintegrated firms in the secondary market would be sufficient to service two minimum-efficient-scale plants in the primary market. When the other conditions are satisfied, the Department is increasingly likely to challenge a merger as the unintegrated capacity declines below this level.

b. *Increased Dificulty of Simultaneous Entry to Both Markets.* The relevant question is whether the need for simultaneous entry to the secondary market gives rise to a substantial incremental difficulty as compared to entry into the primary market alone. If entry at the secondary level is easy in absolute terms, the requirement of simultaneous entry to that market is unlikely adversely to affect entry to the primary market. Whatever the difficulties of entry into the primary market may be, the Department is unlikely to challenge a merger on this ground if new entry into the secondary market can be accomplished under the conditions stated in Section III(B).[46]

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[42] For example, the firm already may have moved beyond the stage of consideration and have made significant investments demonstrating an actual decision to enter.

[43] Although a similar effect is possible with the acquisition of larger firms, there is an increased danger that the acquiring firm will choose to acquiesce in monopolization or collusion because of the enhanced profits that would result from its own disappearance from the edge of the market.

[44] This competitive problem could result from either upstream or downstream integration, and could affect competition in either the upstream market or the downstream market. In the text, the term "primary market" refers to the market in which the competitive concerns are being considered, and the term "secondary market" refers to the adjacent market.

[45] Ownership integration does not necessarily mandate two-level entry by new entrants to the primary market. Such entry is most likely to be necessary where the primary and secondary markets are completely integrated by ownership *and* each firm in the primary market *uses* all of the capacity of its associated firm in the secondary market. In many cases of ownership integration, however, the functional fit between vertically integrated firms is not perfect, and an outside market exists for the sales (purchases) of the firms in the secondary market. If that market is sufficiently large and diverse, new entrants to the primary market may be able to participate without simultaneous entry to the secondary market. In considering the adequacy of this alternative, the Department will consider the likelihood of predatory price or supply "squeezes" by the integrated firms against their unintegrated rivals.

[46] Entry into the secondary market may be greatly facilitated in that an assured supplier (customer) is provided by the primary market entry.

When entry is not possible under those conditions, the Department is increasingly concerned about vertical mergers as the difficulty of entering the secondary market increases. The Department, however, will invoke this theory only where the need for secondary market entry significantly increases the costs may take the form of risk) of primary market entry.

(i) *Increased Cost of Capital as a Barrier to Entry.* More capital is necessary to enter two markets than to enter one. Standing alone, however, this additional capital requirement does not constitute a barrier to entry to the primary market. If the necessary funds were available at a cost commensurate with the level of risk in the secondary market, there would be no adverse effect. In some cases, however, lenders may doubt that would-be entrants to the primary market have the necessary skills knowledge to succeed in the secondary market and, therefore, in the primary market. In order to compensate for this risk of failure, lenders might charge a higher rate for the necessary capital. This problem becomes increasingly significant as a higher percentage of the capital assets in the secondary market are long-lived and specialized to the market and, therefore, difficult to recover in the event of failure. In evaluating the likelihood of increased barriers to entry resulting from increased cost of capital, therefore, the Department will consider both the degree of similarity in the essential skills in the primary and secondary markets and the degree of specialization of the capital assets in the secondary market.

(ii) *Economies of Scale as a Barrier to Entry.* Economies of scale in the secondary market may constitute an additional barrier to entry to the primary market in some situations requiring two-level entry. The problem could arise if the capacities of minimum-efficient-scale plants in the primary and secondary markets differ significantly. For example, if the capacity of a minimum-efficient-scale plant in the secondary market were significantly greater than the needs of a minimum-efficient-scale plant in the primary market, entrants would have to choose between inefficient operation at the secondary level (because of operating an efficient plant at an inefficient output or because of operating an inefficiently small plant) or a larger than necessary scale at the primary level. Either of these effects could cause a significant increase in the operating costs of the entering firm.[47]

c. *Structure and Performance of the Primary Market.* Barriers to entry are unlikely to affect performance if the structure of the primary market is otherwise not conducive to monopolization or collusion.[48] The Department is unlikely to challenge a merger on this ground unless overall concentration of the primary market is above 1800 HHI (a somewhat lower concentration will suffice if one or more of the factors discussed in Section III(C) indicate that effective collusion is particularly likely). Above that threshold, the Department is increasingly likely to challenge a merger that meets the other criteria set forth above as the concentration increases.[49]

2. *Facilitating Collusion Through Vertical Mergers.*—a. *Vertical Integration to the Retail Level.* A high level of vertical integration by upstream firms into the associated retail market may facilitate collusion in the upstream market by making it easier to monitor price. Retail prices are generally more visible than prices in upstream markets, and vertical mergers may increase the level of vertical integration to the point at which the monitoring effects becomes significant. Adverse competitive consequences are unlikely unless the upstream market is generally conducive to collusion and a large percentage of the products produced there are sold through vertically integrated retail outlets.

The Department is unlikely to to challenge a merger on this ground unless i) overall concentration of the upstream market is above 1800 HHI (a somewhat lower concentration will suffice if one or more of the factors discussed in Section III(C) above indicate that effective collusion is particularly likely), and ii) a large percentage of the upstream product would be sold through vertically-integrated retail outlets after the merger. Where the stated thresholds are met or exceeded, the Department's decision whether to challenge a merger on this ground will depend upon an individual evaluation of its likely competitive effects.[50]

b. *Elimination of a Disruptive Buyer.* The elimination by vertical merger of a particularly disruptive buyer in a dopwnstream market may facilitate collusion in the upstream market. If upstream firms view sales to a particular buyer as sufficiently important, they may deviate from the terms of a collusive agreement in an effort to secure that business, thereby disrupting the operation of the agreement. The merger of such a buyer with an upstream firm may eliminate that rivalry, making it easier for the upstream firms to collude effectively. Adverse competitive consequences are unlikely unless the upstream market is generally conducive to collusion and the disruptive firm is significantly more attractive to sellers than the other firms in its market.

The Department is unlikely to challenge a merger on this ground unless (i) overall concentration of the upstream market is 1800 HHI or above (a somewhat lower concentration will suffice if one or more of the factors discussed in III(C) above indicate that effective collusion is particularly likely), and (ii) the allegedly disruptive firm differs substantially in volume of purchases or other relevant characteristics from the other firms in its market. Where the stated thresholds are met or exceeded, the Department's decision whether to challenge a merger on this ground will depend upon an individual evaluation of its likely competitive effect.

3. *Evasion of Rate Regulation.* Non-horizontal mergers may be used by monopoly public utilities subject to rate regulation as a tool for circumventing that regulation. The clearest example is the acquisition by a regulated utility of a supplier of its fixed or variable inputs. After the merger, the utility would be selling to itself and might be able arbitrarily to inflate the prices of internal transactions. Regulators may have great difficulty in policing these practices, particularly if there is no independent market for the product (or service) purchased from the affiliate.[51]

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[47] It is important to note, however, that this problem would not exist if a significant outside market exists at the secondary level. In that case, entrants could enter with the appropriately scaled plants at both levels, and sell or buy in the market as necessary.

[48] For example, a market with 100 firms of equal size would perform competitively despite a significant increase in entry barriers.

[49] Even if all the conditions above are satisfied, the Department may not challenge a particular merger. The likelihood of significant competitive harm is lower than it is for horizontal mergers identified as competitively objectionable under the standards in Section III, and the extensive pattern of use integration, which is a necessary condition to the competitive problem under discussion, may constitute evidence that substantial economies are afforded by vertical integration. When such economies are present, it might be economically perverse and inequitable to the remaining independent firms to deny them the ability to integrate through merger.

[50] See note 49, above.

[51] A less severe, but nevertheless serious, problem can arise when a regulated utility acquires a firm that is not vertically related. The use of common facilities and managers may create an insoluble cost allocation problem and provide the opportunity to charge utility customers for non-

As a result, inflated prices could be passed along to consumers as "legitimate" costs. In extreme cases, the regulated firm may effectively preempt the adjacent market, perhaps for the purpose of suppressing observable market transactions, and may distort resource allocation in that adjacent market as well as in the regulated market. In such cases, however, the department recognizes that genuine economies of integration may be involved. The Department will consider challneging mergers that create substantial opportunities for such abuses.[52]

V. Defenses

A. Efficiencies

In the overwhelming majority of cases, the Guidelines will allow firms to achieve available efficencies through mergers without interference from the Department. Except in extraordinary cases, the Department will not consider a claim of specific efficencies as a mitigating factor for a merger that would otherwise be challenged.[53] Plausible efficiencies are far easier to allege than to prove. Moreover, even if the existence of efficencies were clear, their magnitudes would be extremely difficult to determine.

B. Failing Firm

The "failing firm defense" is a long-established, but ambiguous,[54] doctrine under which an anticompetitive merger may be allowed because one of the merging firms is "failing." Because the defense can immunize significantly anticompetitive mergers, the Department will construe its elements strictly.

The Department is unlikely to challenge an anticompetitive merger in which one of the merging firms is allegedly failing when: (1) the allegedly failing firm probably would be unable to meet its financial obligations in the near future, and (2) it probably would not be able to reorganize successfully under Chapter 11 of the Bankruptcy Act,[55] and (3) it has made unsuccessful good faith efforts to elicit reasonable alternative offers of acquisition of the failing firm [56] that would both keep it in the market and pose a less severe danger to competition than does the proposed merger. Although these standards are more difficult to apply when the allegedly failing firm is an unincorporated part of a larger parent firm, the Department will recognize the defense in appropriate cases of that type.[57]

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utility costs, consequently distorting resource allocation in the adjacent as well as the regulated market.

[52] Where a regulatory agency has the responsibility for approving such mergers, the Department will express its concerns to that agency in its role as competition advocate.

[53] At a minimum, the Department will require clear and convincing evidence that the merger will produce substantial cost savings resulting from the realization of scale economies, integration of production facilities, or multi-plant operations which are already enjoyed by one or more firms in the industry and that equivalent results could not be achieved within a comparable period of time through internal expansion or through a merger that threatened less competitive harm. In any event, the Department will consider such efficiencies only in resolving otherwise close cases.

[54] Although its original basis is open to question, the defense is sometimes explained as a balancing of competitive and non-competitive concerns. Under that view, when the elements of the defense are satisfied, there is a conclusive presumption that the anticompetitive dangers associated with the merger are outweighed by the income losses to creditors, stockholders, and communities associated with the failure of the firm. As a general matter, the Department views the incorporation of non-competitive concerns into antitrust analysis as inconsistent with the mandate contained in the antitrust laws. To the extent that the financial health of the firm is relevant to the competitive analysis, the Department, of course, will consider it in that context.

[55] 11 U.S.C.A. 1101 *et seq.* (1979).

[56] The fact that an offer is less than the proposed transaction does not make it unreasonable.

[57] The Department is unlikely to challenge an otherwise anticompetitive merger in which one of the merging firms is a financially healthy subdivision of an allegedly failing parent firm when: (1) the parent firm satisfies the above conditions, and (2) the competitive harm from the disappearance of the parent firm from its market would substantially outweigh the competitive harm threatened by the merger, (3) the proposed transaction probably would enable the parent firm to avoid bankruptcy or to reorganize successfully, (4) the third condition stated in the text also has been satisfied with respect to the healthy subdivision, and (5) the merging firm is not capable of independent existence as a business entity. Where the merging firm is capable of independent existence, the Division may insist that the parent company attempt to transfer common stock in it to the parent company's creditors.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-36)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight.

DATE AND TIME: July 22, 1982, 8:30 a.m. to 5 p.m.

ADDRESS: NASA Headquarters, Room 6004, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Carl R. Praktish, Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755-8380).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council Informal Task Force for the Study of Issues in Selecting Private Citizens for Space Shuttle Flight was established under the NASA Advisory Council to conduct a study of the relevent issues and to report its findings and recommendations to the Council. The Task Force is comprised of its Chairman, Dr. John E. Naugle, and five other members of the Council.

This meeting will be closed to the public from 1 p.m. to 5 p.m. for a discussion of candidates being considered for (a) appointment as associate members of or (b) sources of advice to the Task Force. During this session, the qualifications of those individuals will be candidly discussed and appraised. Because this session will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public.

For the remainder of the meeting, visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Partially Closed.

Agenda

July 22, 1982

8:30 a.m.—Introduction
9 a.m.—Review of NASA Background: Mission Opportunities; Space Act; Legal, Physical and Training Considerations
1 p.m.—Task Force Planning for Conduct of Study and Candidates for Participation: Members, Advisors. (Closed)
5 p.m.—Adjourn

Walter B. Olstad,

Associate Administrator for Management.

June 22, 1982.

[FR Doc. 82-17589 Filed 6-29-82; 8:45 am]
BILLING CODE 7510-01-M

[Notice (82-37)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: July 21, 1982, 8:30 a.m. to 5 p.m.

ADDRESS: NASA Headquarters, Room 7002, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB–4, National Aeronautics and Space Administration, Washington, DC 20546 (202/755–8383).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-four members. Standing committees containing additional members report to the Council and provide advice in the substantive areas of aeronautics, life sciences, space applications, space and earth science, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Agenda

July 21, 1982

8:30 a.m.—Introduction.
8:50 a.m.—NASA Planning Overview.
9:30 a.m.—FY'1984 Program Plans.
4:15 p.m.—Status of Council Studies.
4:45 p.m.—New Candidates for Council Study.
5 p.m.—Adjourn.

Walter B. Olstad,

Associate Administrator for Management.

June 22, 1982.

[FR Doc. 82–17590 Filed 6–29–82; 8:45 am]
BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–364]

Alabama Power Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. NPF–8 issued to Alabama Power Company (the licensee), which revised Technical Specifications for operation of the Joseph M. Farley Nuclear Plan, Unit No. 2, (the facility) located in Houston, Alabama. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specification to enlarge the capacity of the spent fuel pool from 675 fuel assemblies to 1,407 assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on February 4, 1982 (47 FR 5371). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because the proposed action will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated December 18, 1981, as modified by letters dated February 1, March 18, April 5, and April 21, 1982 (2) Amendment No. 14 to License No. NPF–8, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 23 day of June, 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82–17701 Filed 6–29–82; 8:45 am]
BILLING CODE 7590–01–M

OFFICE OF THE FEDERAL REGISTER

Incorporation by Reference

AGENCY: Office of the Federal Register.

ACTION: Publication of incorporation by reference approvals.

SUMMARY: The Office of the Federal Register has published lists of materials approved for incorporation by reference in both the **Federal Register** on a quarterly basis and in the affected Code of Federal Regulations (CFR) volumes annually. The Office will no longer publish these lists in the **Federal Register**, but will continue to print the lists in the Finding Aids section of the appropriate CFR volume. This action is taken because the inventories of incorporation by reference material have been completed and vary only slightly from year to year. The information will continue to be available where it is most useful in the individual CFR volumes.

DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Anne Laweson, (202) 523–4534.

SUPPLEMENTARY INFORMATION: The Freedom of Information Act (5 U.S.C. 552) allows Federal agencies to incorporate by reference publications into the **Federal Register**. The incorporation by reference device may be used validly only with the approval of the Director of the Federal Register. The material approved for incorporation by reference has the same force and effect as if it had been published full text in the **Federal Register**.

Since June 30, 1980, the Office of the Federal Register (OFR) has published lists of approved material in the **Federal Register** and in the Code of Federal Regulations volumes. The **Federal Register** list served as an inventory of materials incorporated by reference. While this information will continue to be available at the OFR, this document gives notice to the public that the Office will no longer publish the lists in the **Federal Register**. The Office has determined that the lists change little from year to year and the information is most useful in the appropriate CFR volumes.

To ensure that the public stays informed, the Office will maintain these lists in each of the affected CFR volumes. These lists will be updated annually, consistent with the revision date of the particular volume. For example, the lists for Title 28–41 of the Code of Federal Regulations will be updated as of July 1 every year. The public should look to the CFR lists for notice of material validly incorporated

by the revision date of the CFR volume. Later approvals of material incorporated by reference should be noted in the applicable Federal agency's final rulemaking document published in the **Federal Register.** Information on approvals is also available from the Special Projects Unit, OFR, Washington, DC 20408, (202) 523–4534.

Dated: June 28, 1982.

Martha B. Girard,

Acting Director of the Federal Register.

[FR DOC. 82-17725 Filed 6-29-82; 8:45am]

BILLING CODE 1505-02-M

PEACE CORPS

Proposed Incorporation of Form; Paperwork Reduction Act of 1980

AGENCY: Peace Corps, Action.

ACTION: Notice of proposed incorporation of forms.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C Chapter 35) the Peace Corps has submitted to the Office of Management and Budget a request to modify the Peace Corps Volunteer Application Form to incorporate the Peace Corps form, "Request for Racial and Ethnic Data" under the existing OMB approval and identification number for the Volunteer Application Form. The Request for Racial and Ethnic Data form is currently the last page of the Volunteer application form but has a separate OMB approval and identification number. The OMB approval and identification number for the Request for Racial and Ethnic Data form expires on 6/30/82. Rather than request approval for extension of it under a separate identification number, the Peace Corps requests that it be incorporated under the OMB approval and identification number for the Volunteer Application Form.

The Racial and Ethnic Data page (form) is used solely for the purpose of determining compliance with federal civil rights laws. Information provided by Peace Corps Volunteer applicants to Peace Corps on this page assists the Peace Corps in assuring that the program is administered in a non-discriminatory manner. A copy of the form may be obtained from Mr. Edward F. Carey, Peace Corps, Planning and Management Studies Division by telephoning area code 202–254–7528.

Information about the proposed collection:

Agency Address: Peace Corps, 806 Connecticut Ave., NW., Washington, D.C. 20526.

Title of Form: Peace Corps Volunteer Application.

Type of Request: Incorporation of forms-revision.

Frequency of Collection: recurring-voluntary.

General Description of Respondents: Individuals applying for Peace Corps volunteer service.

Estimated Number of Responses: 15,600 Annually.

Estimated Hours for Respondents to Complete Form: 15,600.

Respondent's obligation to reply: voluntary.

Comments: Telephone comments on this proposal should be directed to David S. Reed, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget on area code 202–395–7231. Comments should be received on or before July 7, 1982. This is not a collection proposal to which 44 U.S.C. 3504(h) applies.

This notice is issued in Washington, D.C. on June 28, 1982.

Dominick Onorato,

Associate Director for Management.

[FR Doc. 82-17619 Filed 6-29-82; 8:45 am]

BILLING CODE 5051-01-M

POSTAL SERVICE

Phased Postage Rates; Effective Date of Certain Changes in Rates

AGENCY: Postal Service.

ACTION: Notice of Step Increases in Preferred Postage Rates.

SUMMARY: Notice is given that, effective 12:01 a.m. on July 6, 1982, the fourteenth step of phased postage rate increases goes into effect for within-county rate second-class mail and for library rate fourth-class mail. This action represents the next step of scheduled rate adjustments for the designated classifications of mail to be phased in. The new rates are contained in the Appendix to this notice.

EFFECTIVE DATE: 12:01 a.m., July 6, 1982.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, (202) 245–4749.

SUPPLEMENTARY INFORMATION: On January 10, 1982, the Postal Service adjusted preferred rates pursuant to Public Law 97–92 so that the rates for all preferred-rate categories except second-class within-county and fourth-class library rate were increased to the full step 16 (unphased) level (46 FR 63159–60). At the same time second-class within-county rates and fourth-class library rates were adjusted to the step 13 level of the 16-year phasing schedule established pursuant to 39 U.S.C. 3626(a). The rates for second-class within-county and fourth-class library rate mail are now adjusted to the step 14 level on the phasing schedule which calls for an annual increase to the next step effective on July 6 of each year.

(39 U.S.C. 401, 403, 404, 2401(c), 3626).

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

APPENDIX

	In cents
Schedule 1	
Second-class rates: In-county:	
Per pound	4.1
Per piece:	
Presorted to carrier route	2.1
Other	2.6
Schedule 2	
Fourth-class rates: Library:	
1st pound	35.0
Each additional pound thru 7 pounds	12.0
Each additional pound	7.0

[FR Doc. 82-17645 Filed 6-29-82; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 24, 1982.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Prentice-Hall, Inc.
Common Stock, $.33⅓ Par Value (File No. 1–6246)

This security is registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 16, 1982 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17970 Filed 6-29-82; 9:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22543; 70-5892]

Central and South West Corp.; Proposal To Issue and Sell Common Stock Pursuant to Employee Share Ownership Plan

June 21, 1982.

Central and South West Corporation ("CSW"), One Main Place, Dallas, Texas 75250, a registered holding company, has filed with this Commission a post-effective amendment to its application-declaration, previously filed and amended in this matter pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 50 thereunder.

By orders dated October 8, 1976, August 18, 1978 and May 7, 1980 (HCAR Nos. 19710, 20675 and 21555), CSW was authorized to issue and sell up to 4,000,000 shares of its authorized and unissued common stock, par value $3.50 per share, through its employee share ownership plan ("Plan"). The Plan was established for the benefit of CSW and its direct and indirect subsidiaries; Central Power and Light Company, Central and South West Services, Inc., Public Service Company of Oklahoma, Transok Pipe Line Company, Southwestern Electric Power Company and West Texas Utilities Company. As of December 31, 1981 740,011 shares remain unsold.

CSW requests authorization to issue and sell up to 3,500,000 additional shares ("Additional Shares") of its authorized and unissued common stock, par value $3.50 per share, in addition to the 4,000,000 shares previously authorized pursuant to the Plan. The Additional Shares are estimated to be sufficient to account for the total CSW and employee contributions to be made for the 1981 through 1985 tax years and also for purchases to be made through December 31, 1986 in respect of the reinvestment of dividends on shares held in the trust pursuant to the Plan.

For tax years beginning after 1982, the Internal Revenue Code ("Code") as amended by the Economic Recovery Tax Act of 1981, provides that the present investment-based tax credit for contributions to a tax credit employee stock ownership plan will be replaced by a payroll-based tax credit. CSW intends to amend the Plan to conform with the new provisions of the Code. CSW proposes to amend the Plan to provide: (a) in accordance with currently effective requirements of the Code, that for tax years 1981 and thereafter if shares are contributed by CSW in respect of its basic contribution and its matching contribution, such shares will be valued on the basis of the average of the closing prices of CSW's Common Stock reported in the listing of New York Stock Exchange—Composite Transactions for the twenty consecutive trading days immediately preceding the date the contribution is made (presently, the Plan provides that such shares will be valued on the basis of such average of closing prices for the twenty consecutive trading days immediately preceding the date of filing of CSW's consolidated federal income tax return for the applicable tax year); (b) that for the purposes of determining which shares of CSW Common Stock credited to a participant's account may be distributed prior to termination of employment, all shares acquired with reinvested dividends, including shares purchased with dividends on shares acquired through reinvested dividends, may be distributed at the time the share to which such dividends are attributed to the participiant (presently, any share so purchased with reinvested dividends may not be distributed prior to termination of employment until such share has been credited to the participant's account for at least 85 months); and (c) for contributions based on payroll-based credits (rather than investment tax credits). The amendments described in (a) and (b) will be made effective as of January 1, 1981 and the amendment described in (c) will be made effective as of January 1, 1983.

The exact number of shares of CSW Common Stock (including the Additional Shares) to be issued pursuant to the Plan will depend on the amount of additional tax credits available, the price at which such shares are issued and the amount of dividends on shares held in the trust under the Trust Agreement established prusuant to the Plan. Based on the CSW's estimated qualified investment for 1981 and 1982, its estimated total qualifying payroll for 1983, 1984 and 1985, and assuming maximum participation by the participants for 1981 and 1982, CSW estimates that the additional tax credits for the five years would aggregate approximately $23,400,000. In addition, it is estimated that dividends applicable to shares of CSW Common Stock held under the Trust Agreement established pursuant to the Plan will aggregate $37,300,000 through December 31, 1986. Using these estimates, an aggregate of $80,700,000 of CSW Common Stock would be issued pursuant to the Plan in respect to tax years 1981–1985 and reinvested dividends through December 31, 1986.

The price at which shares of the CSW Common Stock will be issued will be determined in accordance with the applicable provisions of the Code and will be based upon the market prices of CSW's Common Stock or averages thereof at the time, or for a specified period preceding the date on which, such shares are issued. Assuming an average price for the CSW Common Stock at $14.50 per share, a total of approximately 4,186,000 additional shares would be issued pursuant to the Plan in respect of such tax years and such reinvested dividends. Assuming the issuance of 4,186,000 additional shares, the total number of shares of CSW Common Stock issued pursuant to the Plan would be 7,445,989 (4,186,000 plus 3,259,989 issued through December 31, 1981.) In view of the possibility that the average price at which shares may be issued may be less than the average price assumed above and that tax credits may be greater than the amounts estimated, CSW requests authority to issue pursuant to the Plan the 3,500,000 Additional Shares, making a total authorization of not to exceed 7,500,000 shares.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 15, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17872 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 22544; 70-6710]

Central Vermont Public Service Co., Inc.; Proposal of Exempt Holding Company to Indirectly Acquire the Capital Stock of a New Subsidiary Transmission Company

June 21, 1982.

Central Vermont Public Service Company, Inc. ("Central Vermont"), 77 Grove Street, Rutland, Vermont 05701, an exempt holding company, has filed an application and amendments thereto pursuant to sections 9(a)(2) and 10 of the Public Utility Holding Company Act of 1935 ("Act").

Central Vermont and Vermont Electric Power Company, Inc. ("VELCO"), a transmission subsidiary of Central Vermont, are exempt from all provisions of the Act, except section 9(a)(2), pursuant to section 3(a)(2) of the Act and Rule 2(a)(2) promulgated thereunder. VELCO is not required to file under section 9(a)(2) to acquire the capital stock of Vermont Electric Transmission Company, Inc. ("VEPCO"), a proposed new transmission subsidiary, because VELCO will not as a result of the acquisition of VETCO's securities become an "affiliate" under section 2(a)(11)(A) (by owning 5% or more of the outstanding voting securities) of more than one public utility or holding company. Central Vermont's indirect acquisition through VELCO of VETCO's capital stock is subject to sections 9(a)(2) and 10 because after the proposed transaction Central Vermont will be an "affiliate" under section 2(a)(11)(A) of VETCO and of other public utility companies, including VELCO.

Central Vermont proposes to form and acquire the capital stock of VETCO indirectly through VELCO. VETCO would construct, own and operate the Vermont portion of a proposed interconnection ("Interconnection") between the Hydro-Quebec system and NEPOOL, a power pool in which a number of New England utilities, including VELCO, are members.

The benefits to New England of the Interconnection include access to surplus hydro-electric energy from the Hydro-Quebec system, which is expected to be available during the 1990's at a cost significantly below that of replacement fuel of NEPOOL members. This access will serve the dual purpose of lowering the energy costs to New England consumers and reducing New England's dependence on foreign oil. Other benefits include energy banking, under which the New England utilities will transmit relatively inexpensive energy to Hydro-Quebec during off peak periods and receive equal amounts of energy (adjusted for losses) during on-peak periods when replacement costs are much higher. The Interconnection will also improve reliability of the Hydro-Quebec and NEPOOL systems by providing for emergency transfers and mutual backup. The Interconnection will also facilitate future purchases of hydroelectric capacity from Hydro-Quebec.

The initial stage of the Interconnection, Phase I, is to consist of a ± 450kV DC transmission line from the proposed Des Cantons Substation on the Hydro-Quebec system near Sherbrooke, Quebec, to a proposed terminal having an approximate rating of 690MW at the Comerford Generating station on the Connecticut River. It is currently contemplated that a subsequent stage of construction, Phase II, may augment the Phase I interconnection by expanding its capability to approximately 2000MW through construction of a transmission line to the Sandy Pond Substation in Massachusetts or another suitable location to be determined at a future date and construction of a terminal facility.

The Canadian portion of Phase I will be built by Hydro-Quebec. The United States portion from the Canadian border to a new terminal in Comerford, New Hampshire will be built by one or more New England companies (the "constructing companies") and may be located in Vermont or New Hampshire. If the transmission line is located primarily in Vermont, that portion will be constructed and operated by VETCO. The total cost of Phase I is estimated to be $140–180 million, of which $50 million relates to the VETCO portion. If the line is located primarily in New Hampshire, that line and, in any event, the terminal facility will be constructed by a subsidiary of the New England Electric System as authorized by a Commission order dated November 10, 1981 (HCAR No. 22268).

It is anticipated that Interconnection will commence operation in November 1986. The Interconnection will be financed on the strength of the underlying credit of the participating New England utilities (the "Participants"), whose percentages of participation will be determined on the basis of their 1980 kilowatt hour loads, the route chosen for Phase I and the number of Participants. The constructing companies will enter into contractual arrangements with the Participants providing for the support of the capital and operating costs of the Interconnection and the sharing of the benefits to be derived therefrom. In general, the support agreements provide for each Participant to pay its proportionate share of all costs, including a return on equity of the constructing company computed in accordance with the formula set forth in the agreement. Such costs would be payable during the life of the Interconnection. But, if the constructing company or the parties determine upon an earlier abandonment of the project, costs would be payable upon such termination, subject only to the right of Participants to cancel in the event of total destruction of the Interconnection or taking by eminent domain. The support agreements also provide for automatic adjustments of each Participant's share, up to a maximum increase of 50%, in the event other Participants fail to obtain necessary approvals for participation or otherwise withdraw from the project. VETCO will enter into such agreement, the Phase I Vermont Transmission Line Support Agreement, with each participating New England utility, including VELCO acting on behalf of the electric distribution utilities in Vermont. If the Vermont route is not selected, that agreement will automatically terminate. The Use Agreement among all Participants provides that each Participant has the right to use its proportionate share of the Interconnection for transactions of its choice and, to the extent not so utilized for its individual needs, to share in any savings generated by NEPOOL transactions.

VELCO proposes to acquire all of the intially issued capital stock of VETCO and to enter into a capital funds agreement whereby it agrees to provide further equity funds, as needed, up to a maximum of 25% of VETCO's capital requirements but not to exceed $12,500,000. The initial equity will consist of 10 shares of stock, $100 par value. Further equity will be provided as the project progresses subject to the jurisdiction of the Vermont Public Service Board. Such additional equity may take the form of additional common stock, capital contributions or subordinated securities. VETCO's total capital requirements are estimated at a maximum of $50,000,000; however, it is anticipated the debt financing will be the major source of such capital.

VELCO will cause VETCO to be incorporated and from time to time, as required, will subscribe for and purchase capital stock or subordinated securities of VETCO and/or make capital contributions to VETCO. The initial officers of VETCO will consist of certain existing VELCO managerial personnel and the initial board of directors is expected to consist of VELCO senior executives. It is not anticipated that VETCO will have any significant permanent staff. Rather it will rely upon VELCO engineering and planning services, to be obtained under at cost service contracts, or upon the services of outside consultants. VELCO will also provide all necessary financial, accounting and internal audit functions for VETCO, utilizing appropriate accounting systems. The accounts of VETCO will also be subject to audit by VELCO's independent accountants. VETCO is expected to utilize the office facilities already in use by VELCO. VETCO is not expected to have any fixed assets other than the Vermont portion of the Interconnection.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by July 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17073 Filed 6-29-82; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 12502; 812-5189]

Cortez Capital Corp.; Filing of Application

June 23, 1982.

Notice is hereby given that Cortez Capital Corporation 100 West Tenth Street, Wilmington, DE, a Delaware Corporation ("Applicant"), filed an application on May 13, 1982, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the Representations contained therein, which are summarized below.

Applicant states that its only securities presently outstanding are shares of its capital stock, all of which are owned by Cortez Pipeline Company (the "Partnership"), a general partnership formed under the laws of Texas. The three general partners of the Partnership ("Partners") are Shell Cortez Pipeline Company, ("Shell Cortez"), a wholly-owned subsidiary of Shell Oil Company ("Shell"); Mobil Cortez Pipeline Inc., ("Mobil Cortez"), a wholly-owned subsidiary of Mobil Producing Texas and New Mexico Inc., ("Mobil Producing"), which in turn is a wholly-owned subsidiary of Mobil Oil Corporation, ("Mobil Oil"); and Continental Cortez Pipeline Company, ("Continental Cortez"), an indirect wholly-owned subsidiary of The Continental Group, Inc., ("Continental"). Shell and Mobil Oil are integrated petroleum companies engaged in the exploration production, transportation, refining and marketing of crude oil and its products. Shell is approximately 69% owned by the Royal Dutch-Shell group of companies. Mobil Oil is wholly-owned by Mobil Corporation. Continental is a diversified company with substantial interests in packaging, forest products, insurance and energy.

According to the application, the Partnership was established by direct or indirect wholly-owned subsidaries of Shell, Mobil Producing and Continental to build, own and operate a common carrier pipeline system of approximately 500 miles in length (hereinafter called the "Pipeline") to transport carbon dioxide from the vicinity of Cortez, Colorado, to the Wasson Oil field in Yoakum and Gaines Counties, Texas, where it will be used for tertiary recovery operations. The current projected cost of the Pipeline is approximately $720,000,000, including interest during construction. The Partnership anticipates that the Pipeline will be operational during 1984.

Applicant states that its sole purpose is to assist the Partnership in the financing of the Pipeline through the issuance of debt securities. Proceeds of the issuance of each series of securities will be used by Applicant to purchase notes or other evidences of indebtedness issued by the Partnership ("Partnership Notes"), the principal of and premium (if any) and interest on which will be equal to the principal of and premium (if any) and interest on the corresponding series of Applicant's debt securities. All expenses of Applicant will be reimbursed to it by the Partnership.

Applicant further states that each series of securities issued by it will be secured by a related series of Partnership Notes. The Partnership Notes will be secured by the several obligations of Shell, Mobil Producing and Continental Cortez (together hereinafter called the "Throughput Obligors") under an Initial Facility Throughput and Deficiency Agreement (hereinafter called the "Throughput Agreement"). Each of Mobil Oil and Continental is guaranteeing the performance by its direct or indirect subsidiary of its obligations under the Throughput Agreement. Under the Throughput Agreement, if for any reason, whether before or after completion of construction of the Pipeline, the Partnership has a cash deficiency on the date that any payment is due with respect to debt service obligations of the Partnership designated as "Initial Facility Debt" (Partnership Notes issued to Applicant in exchange for the proceeds of the sale of Applicant's debt securities will be so designated), each Throughput Obligor will be severally and unconditionally obligated to advance in cash its percentage share of such cash deficiency as an advance payment of future costs for transportation through the Pipeline. The percentage share of such cash deficiency payments of each Throughput Obligor is as follows: Shell—50 percent; Mobil Producing—37 percent; and Continental Cortez—13 percent. These cash deficiency percentages, which are subject to adjustment provided they always total 100 percent, are the same as the interests in the Partnership of Shell Cortez, Mobil Cortez and Continental Cortez, respectively.

Applicant represents that the initial series of its debt securities will be short-term notes (with a maturity not to exceed 270 days) issued under a Trust Agreement between it and Bankers Trust Company, a banking corporation organized and existing under the laws of the State of New York, as trustee (hereinafter called the Trustee). These short-term notes will be issued in denominations of not less than $100,000, with the average denomination expected to be significantly larger, will not be advertised for sale to the general public and will be sold in the commercial paper market only to institutional investors

and other entities who normally purchase commercial paper in large denominations. These notes will not contain any provisions for payment on demand or for automatic "roll over." It is expected that the notes will be accorded the highest commercial paper rating by two nationally recognized rating agencies.

The Partnership, with the assistance of Applicant as an external funding source, also intends to issue intermediate and, preferably, long-term debt securities, as market conditions permit or dictate, through a variety of issues corresponding to issues of Applicant in the institutional private placement markets and in the public markets.

Applicant further states that as security for the initial series of its debt securities, a related Partnership Note will be pledged to the Trustee and rights and proceeds of the Partnership under the Throughput Agreement and the performance guaranties of Mobil Oil and Continental to the extent required to honor the initial series of Applicant's debt securities and the Partnership's expense reimbursement obligation to Applicant will be assigned to the Trustee. Future similar pledges of Partnership Notes issued with respect to other debt securities of Applicant and assignment of rights and proceeds under the Throughput Agreement and guaranties to secure such debt securities will be made on a *pari passu* basis without restriction and, as to assignments, without priority by reason of time of assignment or perfection.

Applicant further states that at completion of construction of the Pipeline, the Partnership expects to have a capitalization of approximately 90 percent debt and 10 percent equity. In addition to equity funds obtained from capital contributions by the Partners, the Partnership will raise the debt funds required for construction and, following completion, for short-term working capital through direct bank borrowings and borrowings from Applicant (or a similar wholly-owned corporate entity in the case of borrowings in foreign monetary markets). Applicant states that it intends to raise funds to purchase Partnership Notes in various debt capital markets.

Applicant states that it may be deemed to be an "investment company" as defined in the Act (i) by reason of its proposed acquisition and holding of the Partnership Notes, which will constitute substantially all its assets, and (ii) because its outstanding securities may be deemed to be beneficially owned by more than 100 persons as a result of its capital stock being held by a partnership of direct or indirect subsidiaries of publicly held companies, and because securities it intends to offer may be held by more than 100 persons.

Section 6(c) of the Act provides, however, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that an order pursuant to section 6(c) of the Act exempting it from all provisions of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the following reasons.

The sole purpose and only business of Applicant is to serve as a vehicle to facilitate debt financing for the Partnership on favorable terms. The only significant assets of Applicant will be Partnership Notes. Such Partnership Notes will be pledged as security for the benefit of the holders of the corresponding debt securities of Applicant or their representatives. All payments on Partnership Notes will be applied to the payment of principal, premium (if any), and interest on Applicant's corresponding debt securities. Applicant will not deal with the Partnership Notes after they have been pledged as security for the benefit of the holders of Applicant's debt securities. Applicant will not itself make any investment decisions on behalf of the holders of its debt securities. Applicant will not hold shares of capital stock of any other corporation. The Partnership will maintain sole ownership of all the shares of Applicant's capital stock. Since Applicant's securities will be secured by the pledge of the related Partnership Notes, which will in turn have the benefit of or be secured by the assignment of the Partnership's rights under the Throughput Agreement and the related several guaranties of Mobil Oil and Continental, purchase of Applicant's debt securities will be substantially the equivalent of a purchase of direct obligations of the Throughput Obligors, severally guaranteed by Mobil Oil and Continental as to the respective direct or indirect subsidiaries of each.

Applicant agrees, in the event the Commission grants the application, to the following conditions:

(1) Applicant will file with the Commission within 120 days after the close of its first fiscal year (a) information with respect to persons in a control relationship with it (except with respect to persons under common control with it), persons and number of persons owning equity securities of Applicant and directors, officers, employees and legal counsel required by Items 11 and 12 of Form N–2 under the Act, and (b) a statement of financial position as of the close of such fiscal year, including a statement of income, paid-in surplus and retained earnings, and a schedule of investments as of the close of such fiscal year, and thereafter will notify the Commission promptly of any material change in such information or statement.

(2) Applicant will file with the Commission within 120 days of the close of its first fiscal year a schedule of the number of holders of its short-term or other bearer securities and of its securities in registered form as of the close of such fiscal year and the number of transfers of such registered securities during such fiscal year, and thereafter will notify the Commission promptly of any material change in such schedule; and

(3) Applicant will not sell any equity securities other than to the Partnership or sell any debt securities other than debt securities (a) which are to be held by the Partnership, the Partners, the Throughput Obligors, Mobil Oil or Continental, or (b) which (i) are secured by a pledge of corresponding debt securities or other obligations of the Partnership which in turn are secured by an assignment of rights and proceeds under the Throughput and Deficiency Agreement and the guaranties hereinabove referred to and (ii) are (a) offered and sold in transactions not involving any public offering to institutions, located in the United States and elsewhere, which are not "underwriters" of the securities within the meaning of the Securities Act of 1933, (b) sold in offerings outside the United States pursuant to agreements and procedures reasonably designed to prevent such debt securities from coming into the hands of the United States national or resident, or (c) notes which arise out of current transactions or the proceeds of which have been or are to be used for current transactions, and which have a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, unless Applicant shall have first given written notice to the Commission describing the proposed issuance of such additional debt securities (including notice of a proposed filing of a registration statement under the Securities Act of

1933, as amended, pursuant to Commission Rule 415) not less than 60 days prior to the date of such proposed issuance, subject, however, to the right of the Commission, upon request of Applicant, to decrease such number of days. Applicant further agrees that if the Commission shall, after receipt of said written notice, determine that a substantial question exists as to whether or not the exemption granted by the order hereby requested should continue and the Commission shall, within 30 days after receipt by the Commission of such written notice from Applicant, mail or otherwise give notice to that effect to Applicant, in care of The Corporation Trust Company, 100 West Tenth Street, Wilmington, Delaware with a copy to Shell Pipeline Corporation, P.O. Box 2648, Houston, Texas 77001, Applicant will not issue such additional debt securities unless, after receipt by Applicant of such notice from the Commission and not less than 30 days prior to the issuance of such additional debt securities, Applicant shall mail or otherwise give written notice to the Commission stating its intention to issue such additional debt securities, and upon the giving of such notice by Applicant the order hereby requested shall be deemed to have terminated as of the date Applicant shall have mailed or otherwise given such notice to the Commission.

Notice is further given that any interested person may, not later than July 19, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulagated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17871 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12497; 812-5190]

Current Interest, Inc; Filing of Application

June 21, 1982.

Notice is hereby given that Current Interest, Inc. ("Applicant"), 333 Clay Street, Suite 4300, Houston, TX 77002, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 18, 1982, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the net asset value of Applicant's shares of Class A common stock and shares of any series of its Class B common stock, which may in the future be issued, to be calculated and the assets of such classes and series to be valued pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is incorporated under the laws of Texas and that it is authorized to issue to the public two classes of its common stock, Class A and Class B. Currently, only shares of Class A common stock are outstanding. Applicant's investment adviser is The Advisory Group, Inc. ("Adviser"). All of the outstanding voting stock of Adviser is held by Funds, Inc.

Applicant represents that it is a money market fund which seeks as its investment objective to obtain maximum current income consistent with the preservation of capital and maintenance of liquidity. Consistent with that objective, Applicant states that it invests primarily in obligations of the United States Government and its agencies or instrumentalities and repurchase agreements for the foregoing, bankers' acceptances, certificates of deposit of banks and financial institutions have total assets in excess of $1 billion and whose deposits are insured by the Federal Deposit Insurance Corporation, and high grade commercial paper and corporate debt obligations. All securities must have a maturity date of within one year from the date of purchase.

Applicant states that it does not presently make commitments to purchase securities on a when issued or delayed delivery basis, enter into reverse repurchase agreements, or lend its portfolio securities. It represents that if in the future it engages in these investment techniques, it will comply with applicable Commission rules and interpretation, including Investment Company Act Release No. 10666 (April 18, 1979). Applicant also states that it does not presently purchase variable rate or floating rate obligations, however, if it should do so in the future, the maturities of such obligations will be determined in accordance with the procedures set forth in proposed Rule 2a–7 or, if the rule should ultimately be adopted, in accordance with procedures set forth in the rule as adopted.

Applicant states that its shares of Class A common stock represent interests in its present portfolio of investments which is invested in accordance with the policies described above. According to the application, Applicant intend to establish additional portfolios of investments if its shareholders approve certain amendments to its Articles of Incorporation which would authorize Applicant to issue shares of its Class B common stock in a number of series. Shares of each such series, if and when issued, would represent interests in separate portfolios of investments that Applicant would acquire. Applicant states that the investment return and net asset value of shares of each of these series would be determined separately from other series and from shares of Class A common stock, and would be based upon the investment results of a series' separate portfolio. Applicants present portfolio would continue to be managed in accordance with the objectives, policies and restrictions now in effect. Each portfolio represented by shares of Class A common stock or shares of a series of Class B common stock is hereinafter referred to as a "Portfolio," or collectively as the "Porfolios." If new Portfolios are created, the investment policies of such Portfolios, which will be set by the board of directors of the Fund, may differ from those of the Fund's present Portfolio.

Applicant determines the values of its portfolio securities in compliance with the views of the Commission as set forth in Investment Company Act Release No.

9786 (May 31, 1977). In accordance with procedures adopted by the board of directors, Applicant uses a matrix to determine the market value of bank certificates of deposit, bankers' acceptances and commercial paper. The market value of United Stated Government and agency obligations and other investments is determined in accordance with market quotations obtained from dealers. Amortized cost valuation is generally used to value those portfolio securities have remaining maturities of 60 days or less, absent unusual circumstances.

On May 1, 1979, the Commission issued an order (Investment Company Act Release No. 10677) granting Applicant an exemption to permit the use of "penny rounding" in determining the price at which shares of Applicant are sold to the public. Accordingly, Applicant's net asset value per share is computed by dividing the value of the net assets of Applicant, determined in accordance with the procedures described above, by the total number of shares outstanding and adjusting the result of such computation to the nearest full cent per share. In accordance with the conditions set forth in the Commission's exemptive order, Applicant uses its best efforts to maintain a constant $1.00 net asset value per share. Unrealized gains or losses on portfolio securities are reflected in Applicant's net asset value and could, if they result in a change of more than $.005 per share, result in a change in the price at which shares of Applicant are sold and redeemed.

As here pertinent, section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

In view of the foregoing, Applicant requests an order of the Commission pursuant to section 6(c) of the Act exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the calculation of net asset value of Applicant's shares of Class A common stock and shares of any series of its Class B common stock which may in the future be issued, to be calculated and the assets of such classes and series to be valued pursuant to the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In reaching a determination to adopt the use of amortized cost valuation, Applicant states that its board of directors reviewed valuation and pricing practices of money market funds which utilize amortized cost valuation pursuant to exemptive orders issued by the Commission, and concluded that Applicant could better serve the needs of its shareholders and prospective investors if it adopted the amortized cost method of valuation for its present Portfolio and for any other Portfolio that may be created which invests in short-term money market instruments.

Applicant submits that the features of stability of principal and steady flow of investment income, which are favored by investors, can most effectively be obtained through use of amortized cost valuation subject to the conditions hereinafter set forth. Applicant believes that under those conditions, the use of amortized cost valuation would enhance the ability of the Fund to maintain a stable net asset value per share by providing a variety of options to maintain stability which are not available to a money market fund using "Penny rounding." Applicant further believes that with respect to securities maturing in 120 days or less there is normally a negligible discrepancy between market values and amortized cost values. Applicant represents that its board of directors has determined in good faith that, with respect to the Portfolios which would utilize amortized cost valuation pursuant to the conditions hereinafter set forth, such valuation method would be appropriate and would reflect the fair value of the investments of those Portfolios, absent unusual circumstances.

Applicant agrees that the following conditions may be imposed by the Commission upon each of its Portfolios utilizing amortized cost valuation and relying upon any exemptive order granting the exemption requested:

1. In supervising the operations of each Portfolio and in delegating special responsibilities involving management of that Portfolio to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and the investment objectives of the Portfolio, to stabilize the net asset value per share of the Portolio, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions to determine the extent of deviation, if any, of the net asset value per share of the portfolio as determined by using available market quotations, from that Portfolio's $1.00 amortized cost price per share and the maintenance of records of such review.[1]

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the

(b) In the event such deviation from the $1.00 amortized cost price per share of a Portfolio exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of deviation from the $1.00 amortized cost price per share of a Portfolio may result in material dilution or other unfair results to investors or existing shareholders of that Portfolio it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of the Portfolio; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Each Portfolio will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' consideration and actions taken in connection with discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Each Portfolio will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will file a quarterly report on form N–1Q if any action pursuant to paragraph 2(c) above was taken during the preceding calendar quarter and in an attachment thereto will describe the nature and circumstances of such action.

Applicant submits that under its proposed use of amortized cost valuation subject to the conditions set forth above, there would be a negligible discrepancy between the prices obtained by use of amortized cost and those obtained through a market valuation method. In this regard, it asserts that those conditions also insure that it will have proper procedures to control and to monitor its use of amortized cost valuation. Applicant states that the Commission's issuance of numerous orders, similar to the one it request, upon the application of other money market funds evidences a finding by the Commission that use of amortized cost valuation under specified conditions is appropriate and consistent with the interests of investors. Under the circumstances, Applicant submits that the granting of the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 16, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, in any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82–17674 Filed 6–29–82; 8:45 am]

BILLING CODE 8010–01–M

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board of directors in the exercise of its discretion to be appropriate indicators of value which may include, inter alia, (1) quotations or estimates of market value for individual portfolio securities, or (2) values obtained from yield data relating to classes of securities published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, the Portfolio will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity of 120 days or less as soon as reasonably practicable.

[File No. 1–7117]

General Housewares Corp.; Application To Withdraw From Listing and Registration

June 24, 1982.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of General Housewares Corp. ("Company") is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8–A which became effective on June 16, 1982, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before July 16, 1982 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the

Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17069 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 12496; 811-2621]

Investment Pool For U.S. Government Guaranteed Securities; Filing of Application

June 21, 1982.

Notice is hereby given that Investment Pool for U.S. Government Guaranteed Securities ("Applicant"), 201 Shipyard Way, #E, Newport Beach, CA 92663, registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management investment company, filed an application on March 29, 1982, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On April 19, 1976, Applicant filed a registration statement pursuant to section 8(b) of the Act. Applicant represents that it has never made a public offering of its securities, has not more than 100 security-holders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind.

Applicant represents that it has no debts or other outstanding liabilities; it has no securityholders, and it is not a party to any litigation or administrative proceeding. Applicant states that within the last 18 months it has not for any reason transferred any of its assets to a separate trust.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than July 16, 1982, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders, a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17075 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18823]

Midwest Clearing Corp. (File No. SR-MCC-82-8) and Midwest Securities Trust Co. (File No. SR-MSTC-82-11); Filing of Proposed Rule Changes and Order Approving Proposed Rule Changes

June 21, 1982.

Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) notice is hereby given that on June 4, 1982, Midwest Clearing Corporation ("MCC") and Midwest Securities Trust Company ("MSTC") (collectively "Midwest") filed with the Commission proposed temporary rule changes that would revise the MCC and MSTC fee structures. The proposed fee schedules will expire on December 31, 1982. Concurrent with the filing of the proposed rule changes, Midwest submitted a letter containing financial data and comments relating to issues raised by the Commission staff in previous discussions with Midwest concerning its fee schedules.[1] Midwest also requested accelerated approval of its proposed rule changes pursuant to section 19(b)(2) of the Act.

Pursuant to the provisions of sections 19(b)(2) of the Act, the Commission has determined, subject to the requirements contained in this order, to approve the proposed rule changes on an accelerated basis. In part because the proposed rule changes, by their terms, will remain in effect only until the end of this year, the Commission is requesting comments on the issues raised by the proposed rule changes and discussed in this approval order. It is the intention of the Commission to consider, at the termination of the period of effectiveness of the proposed rule changes, any comments received in the interim. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Reference should be made to File Nos. SR-MCC-82-8 and SR-MSTC-82-11.

Copies of the submission, with accompanying exhibits, and all written comments, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organizations.

Background

Prior to filing SR-MCC-82-8 and SR-MSTC-82-11, MCC, on February 17, 1982, and MSTC, on February 18, 1982, submitted proposed fee schedules under section 19(b)(3)(A) of the Act.[2] Those

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[1] Letter dated June 3, 1982 from A. M. Anderson, President, Midwest Clearing Corporation and Midwest Securities Trust Company to George Fitzsimmons, Secretary, Securities and Exchange Commission. Midwest has requested confidential treatment pursuant to the Freedom of Information Act, 5 U.S.C. 552(b)(4)(1966), for that portion of the letter containing detailed financial data.

[2] Notice of the proposed rule changes, together with the terms of substance of the proposed rule changes, was given by publication in Securities Exchange Act Release Nos. 18550 (SR-MCC-82-3) and 18549 (SR-MSTC-82-2) and by publication in the Federal Register on March 15, 1982 (47 FR 11135 and 47 FR 11136, respectively). Under section 19(b)(3)(A) of the Act, the proposed fee schedules became effective on filing.

initial fee schedules provided volume discounts on MCC trade recording services and MSTC interactivity movement services for one account settlement ("OAS") participants.[3] In addition, the filings generally adjusted fees for monthly fixed services and several labor intensive services to correlate more accurately the particular expenses associated with providing the particular services. Midwest maintained its existing trade recording and interactivity movement fees, without discount, for non-OAS participants.

Because those initial fee schedules imposed different prices on different participants for use of the same services, the Commission carefully reviewed the fee changes in light of the provisions of section 17A of the Act requiring that the rules of a registered clearing agency: (i) provide for the equitable allocation of reasonable dues, fees and other charges among participants; [4] (ii) not discriminate among participants in the use of the clearing agency; [5] and (iii) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[6] Among other things, the Commission reviewed whether providing volume discounts on trade recording fees only to OAS participants created an "interface charge" to non-OAS participants.[7] Specifically, under the fee schedules, any participant that settled trades in volume primarily outside of Midwest paid Midwest more for trade recording than did OAS participants. Moreover, under the fee schedules, non-OAS participants paid the higher fee for trade recording, even if they settled some trades at Midwest.[8]

In connection with the initial fee changes, the Commission received one comment letter.[9] That commenter argued that giving discounts only to OAS participants unjustifiably discriminated against non-OAS participants by requiring participants that designate another clearing agency as their primary settlement facility to pay higher fees for the same service than participants that designate MCC/MSTC as their primary settlement facility. That commenter noted, among other things, that the fee schedules imposed an interface fee, in effect, by denying a discount to participants that use an interface to settle transactons at another clearing agency.

Thereafter, on April 9, 1982, Midwest filed an amended set of fee schedules under section 19(b)(3)(A) of the Act.[10] In filing the new fee schedules, MCC and MSTC indicated their belief that those schedules were designed to offer "discounts" compatible with the provisions of Section 17A of the Act and the Commission's prohibition against interface fees. Concurrent with the filing of the revised fee schedules, Midwest requested Commission consent to withdraw the original fee schedules submitted in February.[11]

The amended fee schedules contained the pricing formulae that are the subject of this Order. The Commission continued its review of issues raised by the fee discounts and requested certain financial information from Midwest useful in determining whether the filings were consistent with Section 17A of the Act. Ultimately, to provide an opportunity for focused public comment and for review of Midwest's financial data by an independent public accountant, the Commission requested that Midwest refile the fee schedules on a temporary basis together with the supporting financial data under Section 19(b)(2) of the Act. Accordingly, on June 4, 1982, Midwest submitted the subject proposed rule changes. Although the amended fee schedules filed in April remain in effect, Midwest has requested that the Commission grant withdrawal of those filings at the time the Commission acts on the proposed rule changes.

Description of the Proposed Rule Changes

Midwest designed the proposed fee schedules to better enable Midwest to offer its volume participants fees that it believes are competitive with other clearing agencies. Because those larger participants substantially support the full spectrum of Midwest's clearance and settlement services, MCC believes that it is important to retain those participants.

Specifically, MCC's proposed fee schedule provides a discount, in the form of a credit, against a participant's total monthly bill, providing the participant settles trades in volume at MCC. Any such participant would receive certain credits per trade along a graduated scale based upon the individual participant's volume of trades settling in the MCC/MSTC system.[12] To eliminate the discriminatory effects on non-OAS participants that settle some of their trades, in volume, at Midwest, MCC made the discount available to both OAS and non-OAS participants. In addition, to avoid any alleged effect on the interface, MCC introduced a credit on a participant's total MCC bill in lieu of a discount specifically on trade recording. Further, in support of its argument that the credit did not create a disincentive to using the interface, MCC provided financial data to the Commission indicating that the MCC fee discount is properly associated only with revenues from MCC services other

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[3] An "OAS participant" is a participant that settles all its trades at Midwest regardless of where the trade took place or where it was initially recorded and compared.

[4] Section 17 A (b)(3)(D) of the Act.

[5] Section 17 A (b)(3)(F) of the Act.

[6] Section 17 A (b)(3)(I) of the Act.

[7] In the past the Commission has identified various types of fees that operate "as interface fees". *See e.g.*, Securities Exchange Act Release Nos. 13163 (January 13, 1977) pp. 79–86 and 17343 (November 26, 1980) pp. 40–50. The Commission consistently has prohibited clearing agencies from charging interface fees or fees having the effect of interface fees. The Commission has considered interface fees inappropriate primarily because, if set at high enough levels, they may discourage the use of interfaces and can even influence the willingness of brokers to transact with other broker-dealers that are not members of the same clearing corporation. The Commission generally has required that the interface costs incurred by each interfaced clearing agency that participates in the national system be absorbed by that interfacing clearing agency and mutualized across its own participant base. *See e.g.*, Securities Exchange Act Release No. 17347 (November 26, 1980) pp. 40–50.

Under both the initial and amended MCC fee schedules, the specific type of interface fee of concern to the Commission would involve a special service charge to participants that ship trades through the automated interface to another clearing agency for settlement. Such an additional charge to interfacing participants, whether imposed directly for shipping a trade through the interface or hidden in an inflated charge for trade recording, would constitute an interface fee. *See* discussion, *infra*, at 10–11.

[8] Because MCC records substantially all trades executed on the floor of the Midwest Stock Exchange ("MSE"), the effect of any interface charge under MCC's fee schedule would be aggravated. MCC participants that wish to clear and settle MSE trades at clearing agencies other than Midwest must pay MCC's trade recording fee.

[9] Letter to the Commission staff dated April 2, 1982 from Robert J. Woldow, Vice President and General Counsel, National Securities Clearing Corporation.

[10] The Commission published notice of the fee changes and requested comment thereon by publication in Securities Exchange Act Release Nos. 18670 (SR–MCC–82–5) and 18671 (SR–MSTC–82–9) and by publication in the **Federal Register** (47 FR 19259 (May 4, 1982) and 47 FR 18207 (April 28, 1982), respectively.) In connection with the amended fee schedules, the Commission staff received one letter of comment dated May 17, 1982 from Robert J. Woldow, Vice President and General Counsel, National Securities Clearing Corporation. NSCC's comments are discussed *infra* at p. 7–8.

[11] The Commission granted withdrawal of the proposed rule changes by publication of a notice in Securities Exchange Act Release No. 18687 and by publication in the **Federal Register** on April 30, 1982 (47 FR 18697).

[12] For example, under the proposed fee schedule, MCC participants would not receive a settling trade volume credit for its first 2,000 settling sides per month. Any participant with fewer than 2,000 sides per month would pay $.52 a side. After passing the 2,000 sides per month threshold, participants would receive a $.12 discount on trades, up to 3,000 sides per month; a $.22 discount on trades between 3,001 and 3,500 sides per month; a $.32 discount on trades between 3,501 and 3,750 sides per month; and a $.42 discount on all trades beyond 3,750 sides per month.

than trade recording and stated in its letter supporting the proposed rule changes that if, in the future, there are excess revenues attributable to trade recording, those revenues would be rebated pro rata to all participants using that service.

MSTC's proposed fee schedule provides volume discounts on charges for interactivity movements to all participants that generate such movements, except participants that use primarily the automatic stock loan service.[13] MSTC has indicated that the volume discount on interactivity movement fees reflects economies that it believes emanate from the book-entry settlement process. MSTC will not extend the discount to participants that establish accounts primarily to use the automatic stock loan program because those participants generally do not have settling trades at MCC/MSTC and as a result do not support the full spectrum of MSTC services and do not generate the need for automated stock loans.

Discussion

The proposed rule changes, as amended, raise two principal issues: (i) whether tying the MCC credit to trade settlement at MCC/MSTC creates an interface charge and (ii) whether the differential pricing schedules are consistent with the provisions of the Act that require equitable allocation of clearing agency fees. In this regard, the Commission received a comment letter from NSCC concerning issues it believes are raised by the proposed rule changes. Because NSCC's comments are lengthy, they are summarized below, together with Midwest's response.

Summary of NSCC's Comment Letter

In its letter, National Securities Clearing Corporation ("NSCC") expressed five basic concerns related to the pricing policies underlying the revised set of fee schedules filed by Midwest.

First, NSCC argued that, although the revised filing corrects the original filings' most serious flaw (i.e., discounting trade recording and interactivity movement fees for OAS participants only), the new MCC rate filing continues to impose in effect a different fee for trade recording depending upon whether the participant settles trades in volume at MSTC or at another clearing agency. NSCC asserts that Midwest achieves that pricing differential by granting credits only to participants that settle trades in volume in the MCC/MSTC system. NSCC argues that granting credits only to such participants has the same effect as charging interface participants a separate fee for shipping their trades elsewhere for settlement. NSCC continues that what was previously labeled a trade recording volume discount is now labeled a "settling trade volume credit", with the amount of the credit equalling the previously proposed discount. NSCC concludes that higher trade recording fees for interfacing participants constitute special fees for those participants and amount to "hidden interface fees".

Second, NSCC argues that labeling the new MCC discount a credit for settling trades is illogical because MCC does not charge for "settlement services". Instead, the costs of these services are recovered from MSTC's fees for MSTC book-entry services. NSCC continues that, if MCC's settling trade credit relates to economies realized in the book-entry settlement process at MSTC, NSCC believes that such a credit is appropriate only for MSTC, not for MCC. Additionally, NSCC argues that even if MCC incurs costs in netting trades, trade netting is an activity with distinct cost streams and potential revenues that should be segregated from cost and revenue streams associated with trade recording. NSCC adds that, to the extent trade recording revenues have subsidized trade netting costs incurred at MCC, while at the same time trade netting economies are properly attributed to the book-entry settlement process at MSTC, MCC's and MSTC's cost and revenue allocations for these separate services depart from the concept of cost-based pricing. NSCC views such an alleged departure to be improper. Finally, NSCC argues that the amended fee schedules would aggravate the "subsidy" by returning rebatable revenues properly associated with trade recording only to participants that settle at MCC. Because those participants' settlement activities generate the otherwise unrecovered costs associated with trade netting at MCC, NSCC argues, the trade settlement credit would create a "double subsidy", flowing from participants using only MCC trade recording services to participants using the full spectrum of MCC/MSTC services. Again, NSCC states, the result amounts to a "charge" for using the interface to settle outside of Midwest.

Third, NSCC asserts that even if the MSTC volume discount on interactivity movements reflects economies inherent in the book-entry settlement process, all participants that have interactivity movements, including stock lenders, contribute to those economies and should be eligible for the volume discount. As a corollary, NSCC reasons, all book-entry services should have discounted fee structures to the extent that general economies associated with book-entries exist.

Fourth, NSCC argues that both the MCC settling trade credit and MSTC's volume discounts on interactivity movement fees are out of proportion to any economies likely associated with either discount. To illustrate this point, NSCC provides hypothetical examples of discounted bills for trade recording and interactivity movement fees that would produce a negative MCC/MSTC bill, assuming no other service charges were incurred.

Finally, NSCC argues that Midwest's discounts disfavor smaller firms because these firms do not generally have sufficient volume to take advantage of the discount. NSCC adds that the detrimental effect on smaller firms hinders those firms' participation in the national clearance and settlement system—participation which Congress intended to encourage.

Summary of Midwest's Response

As a general matter, Midwest believes that its pricing policies are both appropriate and consistent with the requirements of the Act. In addition, Midwest argues that the proposed fee schedules, by enabling Midwest to offer more competitive fees, will promote competition among clearing agencies.

In response to NSCC, Midwest argues that, under MCC's proposal, fees would be equitably distributed among its participants. Midwest also contends that the proposed pricing schedules would not impose fees having the effect of an "interface fee". In support of its position, Midwest asserts that MCC participants with large volumes of settling trades at Midwest are directly and substantially responsible for excess revenues. Those participants use the full spectrum of Midwest services and generate the need for the CNS and automatic stock loan services. As a result, MCC argues that its settling trade credit is both equitable and consistent with the requirements of the Act because it returns excess revenue to those participants whose activities generate it.

[13] For example, under the proposed fee schedule, MSTC participants would not receive a discount for interactivity movements for the first 1,000 items per month. Any participant with fewer than 1,001 items per month would pay $.82 per item. After passing the 1,000 items per month threshold, participants would receive a $.30 discount on interactivity movements up to 2,000 items per month; a $.50 discount on each item between 2,001 and 3,000 items per month; a $.60 discount on each item between 3,001 and 4,000 items per month; and $.70 discount on all items in excess of 4,000 items per month.

Determinations Regarding the Proposed Rule Changes

The following discussion is divided into several sections. First, the Commission discusses the scope of its determinations. Second, the Commission considers, and makes determinations regarding, the issues raised by the proposed rule changes. Third, the Commission considers whether the proposed rule changes should be approved. Fourth, the Commission discusses the conditions related to its approval of the MCC proposal.

Scope of the Commission's Determinations

Under section 19(b)(2) of the Act, the Commission must approve Midwest's proposed rule changes if the Commission finds that they are consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. If the Commission is unable to make that finding, it must institute proceedings to determine whether to disapprove the proposed rule changes.

The principal provisions of the Act applicable to clearing agencies are contained in section 17A of the Act. Paragraph (b)(3) of that section requires that the rules of a clearing agency, among other things: (i) "provide for the equitable allocation of reasonable dues, fees and other charges among its participants"; (ii) be "designed to promote the prompt and accurate clearance and settlement of securities transactions"; (iii) be "designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest"; (iv) "are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency"; and (v) "do not impose any burden on competition not necessary or appropriate in the furtherance of the purposes of this title."

In addition the Commission's determinations regarding MCC's and MSTC's proposed fee schedules also must be made in the context of the Commission's statutory responsibility to facilitate the establishment of a national clearance and settlement system.[17]

[17] Section 17A(a) of the Act directs the Commission to use its authority under the Act "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities (other than exempt securities) in accordance with [certain Congressional findings and objectives.]"

Interface Fee Issue

The Commission has considered whether the MCC fee schedule, by tying the volume credit to settlement at MCC, would establish an interface fee or a fee having the effect of an interface fee. Certainly, discounts available only to participants settling trades at MCC could create a disincentive to settle MCC-recorded trades outside the MCC/MSTC system. To the extent such a disincentive exists it would "burden" the interface by forcing interfacing participants either to settle their trades at Midwest reluctantly or to pay non-discounted fees and thereby subsidize those participants receiving the discount.

The Commission has determined that MCC's proposed fee schedule will not create an interface fee for two basic reasons. First, contrary to NSCC's argument, the settling trade volume credit is not simply a discount on trade recording fees in disguise. Instead, the credit operates as a discount against a participant's total monthly bill for all MCC services, not just trade recording. Thus, to the extent the discounting program produces differential pricing, the price differences cannot be connected economically to trade recording alone.

Second, Midwest has indicated that the "discount", in the aggregate, is structured to replace in part the MCC year-end rebate of excess revenues not retained by MCC. The financial data MCC submitted to the Commission in connection with the amended fee filings demonstrate that MCC's excess revenues are attributable predominantly to interest income and income from the automatic stock loan program. The data further indicates that trade recording revenues during 1981 marginally exceeded trade recording expenses, and only a small percentage of MCC's 1981 excess revenues were attributable to trade recording. Based upon that data, the Commission concludes that the MCC "rebate" will be allocated to participants whose activity generates the excess revenues and, in contrast to NSCC's suspicion, will not be "redistributed", in effect, from interfacing participants to MCC settling participants.

Finally, the close correlation between trade recording revenues and expenses for 1981 depended in part on 1981 trade volume. Accordingly, Midwest has undertaken in the future to rebate separately any excess revenues attributable to trade recording to all participants using that service.[18]

Equitable Allocation of Fees

The Commission has determined that both the MCC and MSTC proposed rule changes provide for an equitable allocation of fees.

(i) MCC's Proposed Fee Schedule

Although the MCC discount, as a practical matter, will be available only to approximately 20 participants, primarily large regional broker-dealers, it is those firms that use the full spectrum of MCC services and supply MCC with substantial revenues for both trade recording and ancillary settlement services in volume. Specifically, a significant portion of both interest income resulting from float in Midwest's Continuous Net Settlement System and revenue from automated stock loan activity can be attributed to participants with large volumes of settling activity in the MCC/MSTC system. In addition, such participants' settling activity creates in substantial measure both the need for automated stock loans and the opportunity for MCC to garner CNS-related interest income. The Commission therefore believes that "rebating" excess revenues, through the settling trade credit, to participants whose volume use of settlement-related services produces the rebatable revenues represents an equitable allocation of fees.[19] Moreover, the Commission recognizes a small clearing agency's competitive interest in offering a volume discount to participants that provide volume financial support through volume usage.

(ii) MSTC's Proposed Fee Schedule

In determining that the MSTC proposed fee schedule provides for an equitable allocation of fees, the Commission rejects NSCC's contention that any fee discounts associated with book-entry efficiencies must be

[18] *See* letter from Albert M. Anderson, *supra* note 2 at 2.

[19] Conceivably, the appeal of such a pricing formula may explain the absence of comment from MCC participants. Unlike MCC's initial fee schedule, the amended fee schedule makes the settling trade credit available to all participants settling trades at MCC in volume, including non-OAS participants. thus, the amended fee schedule does not inappropriately favor OAS firms over other firms that settle a like number of trades at Midwest. Moreover, smaller MCC users arguably benefit from the substantial support provided to Midwest by volume users. That support helps make an independent full-service clearing facility available to all users at Midwest. Nonetheless, the Commission specifically solicits MCC participants' views on the proposed fee schedules and the Commission's determination during the comment period.

extended to all participants having interactivity movements, including participants that establish an account primarily for automatic stock lending purposes. Such participants do not have settling trades in the Midwest System and thus do not generate the need for automatic stock loans. Also, such participants do not support the full spectrum of MSTC services, the provision of which is important to MSTC's revenue base and to ensure its meaningful participation in the national clearance and settlement system. Accordingly, the Commission believes that the differential prices attributable to MSTC's decision to limit the volume discount to full-service participants are not inappropriate.

Depth of Volume Discounts

The Commission appreciates NSCC's argument that the MCC settling trade credit and the MSTC volume discount on interactivity movement service fees provide sizable discounts to volume participants. The Commission believes however, that NSCC's hypothetical MCC/MSTC bill that would result in a net credit is not a representative hypothetical. It is based upon the unrealistic assumption that a full-service participant's gross bill for clearance and settlement services would be no greater than its bill for trade recording and interactivity movement fees. To the contrary, Midwest has indicated to the Commission that all participants will have total MCC/MSTC bils substantially in excess of their discounts under the proposed fee schedules.

Moreover, the Commission has determined that a rigorous demonstration of specific cost-related bases for the specific volume break points and discount levels in either schedule is not warranted.[20] As discussed previously, Midwest's discount philosophy appears to be rationally based. The discounts will amount to rebates of interest income and excess stock loan revenues attributable primarily to settling trade volume, and those discounts will flow to all participants that settle in volume at MCC/MSTC. Further, Midwest calculates that its discount program will program competitive rates for its volume participants. Therefore, the Commission believes that Midwest's discount policy appears to further the purposes of the Act, including the enhancement of competition among clearing agencies and the promotion of a national clearance and settlement system comprised of linked clearing agencies[21] and a national market system comprised of linked market centers.[22] In addition, because MCC and MSTC, in general, process a small segment of clearance and settlement business, their pricing determinations with respect to the specific volume break points and discount levels are unlikely to result in any adverse impact on clearing agency competition. In any event, Midwest has represented that, under the amended fee schedules, no service will be provided at less than cost and all participants will contribute significant revenues, notwithstanding the discounts. Accordingly, based upon Midwest's financial data and representations, the Commission believes that it would impose an inappropriate and unnecessary burden on Midwest to require Midwest to provide more detailed cost justifications for the specific volume break points and discount levels.

The Proposed Rule Changes Are Approved on an Accelerated Basis

The Commission has considered the issues raised by the proposed rule changes. In addition, the Commission has reviewed and considered the comments offered by NSCC and, based in part on those comments, has requested certain representations and financial information from Midwest that, in the Commission's view, support approval of the temporary rule changes. As a result, the Commission has determined to approve the temporary MCC fee schedule subject to certain conditions discussed below, and to approve the temporary MSTC fee schedule. In addition, the Commission has determined to grant Midwest's request for withdrawal of SR–MCC–82–5 and SR–MSTC–82–9.

For reasons discussed above, the Commission believes that the proposed rule changes (i) provide for the equitable allocation of reasonable fees, (ii) do not permit unfair discrimination among participants in the use of the clearing agency and (iii) do not impose any inappropriate burden on competition. In addition, the Commission believes that the proposed rule changes promote a safe and efficient national clearance and settlement system.

The Commission finds good cause for approving both proposed rule changes prior to the thirtieth day after the date of publication of the filing.[23] Because the proposed rule changes were originally filed in February, and again in April, under section 19(b)(3)(A) of the Act, the Commission has analyzed extensively the policy and other issues related to the proposed rule changes and does not believe that any regulatory purpose would be served by delayed implementation. Also, prior publication of the amended fee schedules provided the public with a meaningful opportunity to comment on the pricing policies discussed by the Commission in this Order. Moreover, under this Order the fee schedules will be implemented on a temporary basis, and, as a result, the public will have yet an additional opportunity, during the temporary period, to comment on the issues and the Commission's determinations.

Approval of MCC's Proposed Rule Change is Conditioned on MCC Obtaining an Opinion From its Independent Auditors Regarding the Financial Data MCC Submitted in Support of its Proposal

MCC provides financial data to the Commission regarding revenues and costs associated with various services provided by MCC. The Commission relied on that data in reaching the determination that (i) the MCC fee schedule does not impose an interface fee and (ii) the fees are equitably allocated among MCC participants. Because that financial data is important to the approval of the MCC proposed rule change, the Commission will require MCC by year-end 1982 to obtain an opinion from its independent auditors regarding the acceptability from an accounting standpoint of MCC's allocations of costs to revenue sources. MCC's authority to continue to offer the settling trade volume credit after December 31, 1982 (the termination date of the temporary filing), will depend, in

[20] The Commission specifically solicits public comment concerning this determination.

[21] *See* sections 17A(a)(1)(D) and 17A(a)(2) of the Act.

[22] *See* sections 17A(b)(3)(F) and 11A(a)(2) of the Act.

[23] With respect to the MSTC filing, however, under section 19(b)(2)(B) of the Act, the Commission may approve a proposed rule change prior to the thirtieth day after the date of publication of notice of the filing if the Commission finds good cause for so doing. Section 19(b)(4)(B) of the Act provides that:

> The Commission shall not approve any such proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof unless the appropriate regulatory agency for such clearing agency has notified the Commission of such appropriate regulatory agency's determination that the proposed rule change is consistent with the safeguarding of securities and funds in the custody or control of such clearing agency or for which it is responsible.

The Board of Governors of the Federal Reserve System ("BOG"), the appropriate regulatory agency for MSTC as defined by section 3(a)(34) of the Act, has consented to the accelerated approval of MSTC's proposed rule change. *See* letter dated June 17, 1982, from Mr. William W. Wiles, Secretary, BOG, to George Fitzsimmons, Secretary, Securities and Exchange Commission.

part, upon the independent auditor's favorable opinion.

Conditions and Directives

In accordance with the provisions of section 19(b)(2) of the Act, the Commission has determined that, subject to the terms contained in this Order, MCC's and MSTC's proposed rule changes are consistent with the requirements of the Act and the rules and regulations applicable to registered clearing agencies, and in particular: (i) Provide for the equitable allocation of reasonable dues, fees and other charges among its participants; (ii) are designed to promote the safe and efficient clearance and settlement of securities transactions; (iii) are designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions; (iv) are not designed to permit unfair discrimination among participants in the use of the clearing agency; and (v) do not impose any burden on competition not necessary or appropriate in the furtherance of the purposes of the Act.

It therefore is ordered that SR–MCC–82–8 and that SR–MSTC–82–11 are approved subject to the requirement that MCC shall obtain and submit to the Commission by December 31, 1982, an opinion from its independent public accountants regarding the accuracy of the financial data and the adequacy of the financial data and the adequacy of that data as the basis for the related conclusions and representations contained in Midwest's June 3, 1982 letter to the Commission supporting SR–MCC–82–8. The opinion should cover the accuracy of costs and revenues allocated to each service by Midwest. The opinion should also state whether MCC's criteria and methodology of allocating costs and revenues to services are not inconsistent with generally accepted accounting principles and whether MCC correctly applied that criteria and methodology in preparing the financial data submitted with SR–MCC–82–8. Further, in connection with the independent public accountant's review, Midwest shall provide the accountants with data and schedules of expense categories, such as personnel, data processing, occupancy and management costs, used by Midwest in preparing its letter to the Commission concerning the costs attributable to particular services.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17078 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18831; SR–MSRB–82–7]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

June 22, 1982.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, submitted April 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b–4 thereunder, to make MSRB Rule G–33, which sets forth formulas for calculating accrued interest, yield, return on investment, and dollar price, effective on August 1, 1982 instead of June 7, 1982, as previously ordered by issuance of a Commission release (Securities Exchange Act Release No. 18213, December 7, 1981) and by publication in the Federal Register (46 FR 60706, December 11, 1981). The MSRB has requested the additional delay in the effective date in order to give dealers adequate time to fully comply with two proposed amendments to MSRB Rule G–33 contained in companion filings SR–MSRB–82–5 and SR–MSRB–82–6.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18723, May 10, 1982) and by publication in the Federal Register (47 FR 20895, May 14, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17005 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18829; SR–MSRB–81–10]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

June 22, 1982.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue NW., Washington, D.C. 20036, submitted on May 3, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b–4 thereunder to broaden the provisions of proposed paragraph (a)(i) of MSRB Rule G–12 on uniform practice to cover all transactions which are settled or cleared through the facilities of a registered clearing agency, regardless of the actual means of delivery.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18745, May 17, 1982) and by publication in the Federal Register (47 FR 22439, May 24, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17007 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 18832; SR-MSRB-82-5]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

June 22, 1982.

The Municipal Securities Rulemaking Board ("MSRB"), 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on April 27, 1982, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b–4 thereunder, to clarify the application of certain of the day counting provisions set forth in MSRB Rule G–33 on calculations, and to correct an error in the statement of assumptions regarding securities dated or paying interest on the 31st of a month.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18722, May 10, 1982) and by publication in the **Federal Register** (47 FR 21658, May 19, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved

For the Commission, by the Division of Market Regulation, pursuant ot delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17699 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 18830; SR-MSR-82-6]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

June 22, 1982.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, submitted on april 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), and Rule 19b–4 thereunder, to make technical modifications to MSRB Rule G–33, on calculations, to clarify or permit the use of formulas for the purposes of computing dollar prices or yields to a premium or call or par option feature. In addition, the proposed rule changes slightly revise certain of the formulas to eliminate an extraneous variable and make other clarifying changes to certain of the references in the rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 18724, May 10, 1982) and by publication in the **Federal Register** (47 FR 21659, May 19, 1982). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 82-17702 Filed 6-29-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/02-0215]

All State Venture Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an Application has been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the SBA regulations governing small business investment companies for the transfer of control of All State Venture Capital Corporation, 830 Post Road East, Westport, Connecticut 06880 (Licensee) (13 CFR 107.701(1982)),a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.).

The Licensee is registered with the Securities and Exchange Commission as a regulated investment company under the Investment Company Act of 1940 and has approximately 115 shareholders.

The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

In order to affect the transfer of control the Licensee would create a subsidiary corporation and transfer the license, its portfolio and all obligations to the subsidiary.

The applicant, Investors Technology Capital Corporation (ITCC), 314 Flanders Rd., East Lyme, Connecticut 06333 would then purchase the stock of the aforementioned subsidiary corporation. All State would then become a subsidiary of ITCC. At the present time the known principal stockholders of ITCC are:

Mr. Richard D. McHugh, 15 Southgate Lane, North Haven, Connecticut, 30%

Mr. Gary C. Granai, 202 Grassy Hill Road, East Lyme, Connecticut, 30%

ITCC has further agreed to increase the paid-in capital and surplus of its newly acquired subsidiary to $500,000.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new management, and the probability of a successful operation under their control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before July 15, 1982, submit to SBA, in writing, comments on the transfer of control. Any such communication should be addressed to the Acting Deputy Associate Administrator for Investment, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of the Notice shall be published in a newspaper of general circulation in the Westport and East Lyme, Connecticut areas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 22, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17428 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0308]

City Ventures, Inc.; Issuance of a License To Operate as a Small Business Investment Company

On March 18, 1982, a notice was published in the **Federal Register** (47 FR 12005), stating that City Ventures, Inc., located at 404 North Roxbury Drive, Beverly Hills, California 90210, has filed an application with the Small Business

Administration pursuant to 13 CFR 107.102 (1982), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on April 5, 1982, and one comment was received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 09/09-0308 to City Ventures, Inc.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: June 22, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17688 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Richmond, Virginia, will hold a public meeting at 1:00 p.m., Thursday, July 22, 1982 through Noon, on Friday, July 23, 1982, at the Holiday Inn (Airport), Roanoke, Virginia by members and the staff of the Small Business Administration or others attending.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration, P.O. Box 10126, Richmond, Virginia 23240, (804) 771-2741.

Dated: June 23, 1982.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

[FR Doc. 82-17429 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-5309]

Allied Business Investors, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR Section 107.102), under the name of Allied Business Investors, Inc., 626 West 15th Street, Los Angeles, California 90010, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The Officers, directors, and shareholders are as follows:

Teddy T. Su, President, Director and 8.3% Shareholder, 6825 Millwood Road, Bethesda, MD. 20817

Lindy H. Huang, Vice President, Secretary Director and 4.1% Shareholder, 1439 Wembley Road, San Marino, CA 91108

James C. Huang, Chief Financial Officer, Director and 16.7% Shareholder, 1605 Waverly Road, San Marino, CA 91108

Joseph S. Huang, Director and 16.7% Shareholder, 1439 Wembley Road, San Marino, CA 91108

George Ko, Director and 16.7% Shareholder, 394 Minsheng W. Road, 6F, Taipei, Taiwan

Bill M. Lin, Investor and 25.0% Shareholder, 401 Minsheng W. Road, Taipei, Taiwan

Jerry C. Huang, Investor and 12.5% Shareholder, 163 Section 2 Cheng-Tai Rd., Wu-KuShang, Taipei, Taiwan

The Applicant, a California corporation, will begin operations with $600,000 paid-in capital and paid-in surplus. The Applicant will conduct its activities principally in the State of California.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the mobility of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before July 15, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice should be published once in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: June 16, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17708 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0305]

Enterprise Venture Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102), under the name of Enterprise Venture Capital Corporation, 1922 The Alameda, Suite 305, San Jose, California 95126, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholders of the applicant are as follows:

Ernest de la Ossa, President, Chief Financial Officer, Director and 21.45% Shareholder, 440 Davis, No. 721, San Francisco, CA 94111

Carl E. Wood, Secretary and Director, Bayview Plaza, Suite 515, 2121, El Camino Road, San Mateo, CA 94403

George Larsen, Director and 17.86% Shareholder, 16485 Blackberry Hill Road, Los Gatos, CA 95030

Benjamin Ichinose, Director and 35.71% Shareholder, 30 Fagon Drive, Hillsborough, CA 94010

Joseph A. Cohen, Director and 25.00% Shareholder, 184 Recora Way, Portola Valley, CA 94021

The Applicant, a California Corporation, will begin operations with $750,000 paid-in capital and paid-in surplus. The Applicant will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operations of the new company in accordance with the Act and Regulations.

Notice is hereby given that any person may, July 15, 1982, submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in San Jose, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 18, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17707 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 08/08-0056]

FMA Capital Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by FMA Capital Corporation, 2060 East 2100 South, Salt Lake City, Utah, 84109 (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders of the applicant are as follows:

John H. Firmage, Jr., Director, President, 941 South 2300 East, Salt Lake City, Utah 84108
Richard C. Emery, Director, Treasurer, 8709 Oak Valley Drive, Sandy, Utah 84902
Gean M. Thorpe, Director, Secretary, 5758 Park Place East, Salt Lake City, Utah 82121
FMA Financial Corporation, Sole shareholder, 2060 East 2100 South, Salt Lake City, Utah 84109

The applicant, a Utah Corporation, with its principal place of business at 2060 East 2100 South, Salt Lake City, Utah 84109, will begin operations with $510,000 paid-in capital and paid-in surplus. Those individuals owning 10 or more percent of FMA Financial Corporation:

John H. Firmage, Jr., 941 South 2300 East, Salt Lake City, Utah 84108
Dan D. Firmage, 1536 Maule Drive, Ogden, Utah 84403
Gerald O. Cannon, 29 South State Street, Salt Lake City, Utah 84110
Thomas F. Ralphs, 245 North Vine Street, Salt Lake City, Utah 84103

The applicant will conduct its activities principally in the State of Utah.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, on or before July 15, 1982, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Salt Lake City, Utah.

(Catalog of Federl Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 18, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17709 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is fourteen and three-fourths (14¾) percent for the fiscal quarter beginning July 1, 1982.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the July-September quarter of 1982, this rate will be thirteen and seven-eighths (13⅞) percent.

Dated: June 22, 1982.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 82-17712 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06/10-0096]

Walnut Street Capital Co.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1982)), by Walnut Street Capital Company (the Applicant), 618 Baronne Street, New Orleans, Louisiana 70113, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder. The formation and licensing of a limited partnership SBIC is subject to the provisions of § 107.4 of the Regulations.

The initial investors and their percent of ownership of the Applicant are as follows:

William D. Humphries, Managing General Partner, 6.00 percent, 618 Baronne Street, New Orleans, Louisiana 70113
Bryan Bell, General Partner, 14.00 percent, 1331 Third Street, New Orleans, Louisiana 70130
Delta Associates, Inc., Limited Partner, 25.18 percent, 122 Cherokee Road, Charlotte, North Carolina 28207
Memorial Drive Trust, Limited Partner, 47.00 percent, 20 Acorn Park, Cambridge, Massachusetts 02140

The purpose of the Applicant is to acquire substantially all of the assets and liabilities of Royal Street Investment Corporation (RSIC), a Louisiana Corporation and a Federal licensee under the Act, and to continue the operations of RSIC as a Federal licensee under the Act and the SBA Rules and Regulations. The Applicant will commence operations with an initial private capital of approximately $1.5 million.

Matters involved in SBA's consideration of the application include the general business reputation and character of the two general partners and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, on or before July 15, 1982, submit written comments on the proposed SBIC to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. A copy of this Notice will be published in a newspaper of general circulation in New Orleans, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 21, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17711 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-5150]

Washington Finance and Investment Corp.; Issuance of License To Operate as a Small Business Investment Company

On March 10, 1982, a notice was published in the **Federal Register** (FR 10339), stating that Washington Finance and Investment Corporation, located at 600 New Hampshire Avenue, NW., Suite 818, Washington, D.C. 20037, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business March 25, 1982, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 03/03-5150 to Washington Finance and Investment Corporation on June 3, 1982, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 21, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-17710 Filed 6-29-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

Advisory Committee on the Law of the Sea; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 Section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in open and closed sessions on July 14, and 15, 1982. The open session of the meeting will convene July 15 at 9:30 a.m. in Room 1912, U.S. Department of State, 21st and C Streets, NW., Washington, D.C.

The purpose of the closed meeting is to consider the Draft Law of the Sea Convention, the U.S. review process and its outcome and the U.S. approach to the Law of the Sea issues. During the closed sessions, documents classified under the provisions of Executive Order 12065 will be discussed.

These documents relate to the issues which the United States has reviewed and has negotiated at the Third U.N. Conference on Law of the Sea. Accordingly it has been determined that is in the public interest to close these meetings pursuant to 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9).

The issues cover such subjects as the review, freedom of navigation on the high seas and in straits used for international navigation, the deep seabed mining regime, the continental margin, the economic zone, fisheries, marine pollution, scientific research, dispute settlement, and other topics involving U.S. national security and foreign relations matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize United States law of the sea interests.

The open session of the Advisory Committee meeting will discuss all principal Law of the Sea issues, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines, and other public groups. As such, it will comprehensively review the proposals which have come and will come before the Conference.

At the open session, beginning at 9:30 a.m., July 15, the general public attending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Robert Watkins and provide their name and affiliation to facilitate their attendance. His telephone number is (202) 632-8234.

Otho E. Eskin,

Director, Office of Ocean Law and Policy.

June 21, 1982.

[FR Doc. 82-17704 Filed 6-29-82; 8:45 am]

BILLING CODE 4710-08-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Notice of Meeting

The Veterans Administration gives notice under the provisions of Public Law 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C. on August 31, 1982, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. until 12 noon to discuss research and other agency activities relative to the herbicide issue. A closed session will be held from 1:00 p.m. to 5:00 p.m. to permit the Committee to review the portions of the proposed epidemiological study of exposure to herbicides in Vietnam which are not available to the public, specifically the data collection instruments. Premature disclosure of this information would be likely to significantly frustrate implementation of a proposed agency action, namely conduct of the epidemiological study mandated by Public Law 96-151, amended by Public Law 97-72. Thus, the closing is in accordance with the provisions set forth in section 552b, subsection (c)(9)(B), Title 5, United States Code and the determination of the Administrator of Veterans Affairs pursuant to section 10(d) of Public Law 92-463.

Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the open proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Office of the Special Assistant to the Chief Medical Director for Environmental Medicine (102), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, D.C. 20420, Telephone: (202) 389-5411.

Dated: June 23, 1982.

By direction of the Administrator.

Larry R. Moen,

Deputy Assistant Administrator, Office of Public and Consumer Affairs.

[FR Doc. 82-17636 Filed Filed 6-29-82; 8:45 am]

BILLING CODE 8320-01-M

Scientific Review and Evaluation Board for Rehabilitative Engineering Research and Development; Notice of Meeting

In accordance with Public Law 92-463 the Veterans Administration gives notice of a meeting of the Scientific

Review and Evaluation Board for Rehabilitative Engineering Research and Development. This meeting will convene at the Annapolis Hilton Inn, Compromise at St. Marys Street, Annapolis, Maryland on July 27 and 28, 1982, beginning at 9 a.m. on Tuesday, and 9 a.m. on Wednesday. The purpose of the meeting is to review rehabilitative engineering research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitative Engineering Research and Development (RER&D) Service regarding their funding.

The meeting will be open to the public (to the seating capacity of the room) at the start of the July 27th session for approximately one hour to cover administrative matters and to discuss the general status of the program. During the closed session, the Board will be reviewing research and development applications relating to the delivery and organization of rehabilitative research. This review involves oral review and discussions of site visits, staff and consultant critiques of research protocols, and similar documents that necessitate the consideration of personnel qualifications and the performance and competence of individual investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Proprietary data from contractors and private firms will also be presented and this information should not be disclosed in a public session. Premature disclosure of Board recommendations would be likely to significantly frustrate implementation of final proposed actions. Thus, the closing is in accordance with section 552b, subsections (c)(4), (c)(6), and (c)(9)(b), Title 5, United States Code and the determination of the Administrator of Veterans Affairs pursuant to section 10(d) of the Federal Advisory Committee Act, Title 5, U.S.C., Appendix I.

Due to the limited seating capacity of the room those who plan to attend the open session should contact Mr. Robert Fleming, Administrative Officer, Rehabilitative Engineering Research and Development Service, Veterans Administration Central Office, 810 Vermont Avenue, N.W., Washington, DC 20420 (Phone: (202) 389–5177) at least 5 days before the meeting.

Dated: June 23, 1982.

By direction of the Administrator.

Larry R. Moen,

Deputy Assistant Deputy Administrator, Office of Public and Consumer Affairs.

[FR Doc. 82-17635 Filed 6-29-82; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Proposed Amendment of Systems Notice: Additional Routine Use Statement

Notice is hereby given that the Veterans Administration is considering adding two new routine use statements to the following system of VA records set forth on page 671 of the Federal Register publication, "Privacy Act Issuances, 1980 Compilation, Volume V".

24VA136 Patient Medical Records—VA

The Veterans Administration's Office of the Inspector General, in coordination with other Federal agencies, plans to conduct a series of computer matches as part of VA's participation in the President's Council on Integrity and Efficiency Project entitled "Federal Employees Receiving Government Assistance". The goal of these matches is to reduce the amount of outstanding debt owed to the VA by individuals as a result of their participation in a VA benefits program. Two new routine use statements must be added in order to use information generated by the matches and permit initiation of appropriate collection actions and/or follow-up on previously initiated actions. The routine uses will permit the disclosure of information to any third party in connection with the collection process. The VA has determined that release of information for this purpose is a necessary and proper use of information in this system of records and that specific routine uses for transfer of this information are appropriate.

Interested persons are invited to submit comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before July 30, 1982 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays), until August 13, 1982. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in Room 132. Visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

If no public comment is received during the thirty-day review period allowed for public comment or unless otherwise published in the Federal Register by the Veterans Administration, the new routine use statements included herein are effective July 30, 1982.

Approved: June 23, 1982.

Robert P. Nimmo,

Administrator.

Notice of System of Records

In the system identified as 24JA 136, "Patient Medical Record-VA," the two new routine use statements are added to read as follows:

24VA 136

SYSTEM NAME

Patient Medical Record—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

21. Any information in this system of records, including personal information obtained from other Federal agencies through computer matching programs, may be disclosed for the purposes identified below to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veterans Administration. Information may be disclosed under this routine use only to the extent that it is reasonably necessary for the following purposes: (a) to assist the VA in collection of title 38 overpayments, overdue indebtedness, and/or costs of services provided individuals not entitled to such services; and (b) to initiate civil or criminal legal actions for collecting amounts owed to the United States and/or for prosecuting individuals who willfully or fraudulently obtain title 38 benefits without entitlement. This disclosure is consistent with 38 U.S.C. 3301(b)(6).

22. The name and address of a veteran, other information as is reasonably necessary to identify such veteran, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the veteran's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the VA may be disclosed to a consumer reporting agency for purposes of assisting in the collection of such indebtedness,

provided that the provisions of 38 U.S.C. 3301(g)(4) have been met.

* * * * *

[FR Doc. 82-17049 Filed 6-29-82; 8:45 am]
BILLING CODE 8320-01-M

Privacy Act of 1974; New System of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requiries that all agencies publish in the **Federal Register** a notice of the existence and character of their system of records. Accordingly, the Veterans Administration published and adopted a notice of its inventory of personal records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is adding a new system of records entitled "VA Employee Counseling Services Program Records" (68VA05). This system is authorized under 5 U.S.C. 7901, 21 U.S.C. 1101, 42 U.S.C. 4541 and 4561, 44 U.S.C. 3101.

The purpose of this new system of records is to document the nature of an employee's problem, progress, and actions taken by the Veterans Administration to resolve the problem, or when appropriate to refer individuals to governmental, community, or private resources for treatment or rehabilitation. The system contains records relating to the counseling and treatment of VA employees or employee family members who obtain counseling from a VA Employee Alcoholism and Drug Abuse Program (Employee Counseling Program) Coordinator or Counselor. These records, indentifiable by employee name, or family member name, contain documentation of visits to employee counselors, and information related to diagnosis, treatment, and notes of discussions held by the conselor with the employee, employee's family members, supervisor, physician or therapist.

This system contains routine uses as defined by the Privacy Act of 1974 (5 U.S.C. 552a(a)(7)). The Veterans Administration has determined that the release of data and information, as provided for in the listed routine uses statements, is a necessary and proper use of the data in this system of records.

Interested persons are invited to submit written comments, suggestions, or objections regarding the system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before July 30, 1982 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 13, 1982. Any person visiting the above address for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the system of records is effective July 30, 1982.

Approved: June 23, 1982.

Robert P. Nimmo,

Administrator.

68 VA05

SYSTEM NAME:

VA Employee Counseling Services Program Records.

SYSTEM LOCATION:

These records are located at VA facilities (See Appendix 1) and at other Federal, State, or local government or private sector agencies or institutions which have agreements with the VA to provide counseling to VA employees or family members with alcohol, drug or emotional or personal health problems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals who may be covered by the system include current or former VA employees or immediate family members of VA employees who have been counseled or otherwise treated regarding alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records (or information contained in records) may include records and documents related to employee visits to counselors, diagnosis, recommended treatment, prognosis, results of treatment, and other notes or records of discussions held by a program counselor with the employee, employee's family members or supervisors. Records in this system may also contain documentation of treatment at a Federal, State, local government, private agencies, or institutions which have agreements with the VA to provide counseling to VA employees or family members with alcohol, drug or personal or emotional health problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, 21 U.S.C. 1101, 42 U.S.C. 4541 and 4561 and 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Any information in this system may be disclosed to approved third parties for the purpose of conducting scientific research, management audits, financial audits, or program evaluations; however, such third parties may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit or evaluation, or otherwise disclose patient or subject identities in any manner.

2. Any information in this system may be disclosed to the Department of Justice, or, when appropriate, to other Federal agencies, in order for the VA or another Federal agency to defend any claims against the United States arising from the treatment or counseling of an employee or family member with alcohol, drug, emotional or personal health problems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on paper documents in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access limited to the program Counselor or Coordinator.

RETENTION AND DISPOSAL:

Records are maintained for three years after the employee's last contact with the Counselor, or for three years after the employee's separation or transfer, whichever comes first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Administrator for Personnel & Labor Relations (05), 810 Vermont Avenue, NW., Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

VA employees or family members wishing to inquire whether this system of records contains information about them should contact the VA Employee Alcoholism and Drug Abuse or Counseling Services Program Counselor or Coordinator who arranged for counseling or treatment. Individuals must furnish their name and date of birth for their records to be located and identified.

RECORD ACCESS PROCEDURES:

VA employees or family members wishing to request access to records pertaining to them should contact the VA Employee Alcoholism and Drug Abuse or Counseling Services Program Counselor or Coordinator who arranged for counseling or treatment. Individuals must furnish their name and date of birth for their records to be located and identified.

An individual must also follow the VA's Privacy Act regulations and procedures regarding verification of identity and amendment of records.

CONTESTING RECORDS PROCEDURES:

VA employees or family members wishing to request amendment to these records should contact the Program Counselor or Coordinator who arranged for counseling or treatment. Individuals must furnish their name and date of birth for their records to be located and identified.

An individual must also follow the VA's Privacy Act regulations and procedures regarding verification of identity and amendment of records.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the employee, if the employee was referred by a supervisor for counseling, the Program Counselors or Coordinators who recorded counseling sessions, and therapists or institutions providing treatment.

[FR Doc. 82-17650 Filed 6-29-82; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 128
Wednesday, June 30, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Home Loan Bank Board	2
International Trade Commission	3
Occupational Safety and Health Review Commission	4-6
Parole Commission	7, 8

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, July 16, 1982.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

* * * * *

TIME AND DATE: 10 a.m., Wednesday, July 7, 1982.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Minimum Financial and Related Reporting Requirements for Futures Commission Merchants

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-956-82 Filed 6-28-82; 11:42 am]

BILLING CODE 6351-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 28004, Monday, June 28, 1982.

PLACE: Board room, sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled Thursday, July 1, 1982.

Net Worth Amendment

Liquidity Amendments

[No. 45, June 28, 1982]

[S-903-82 Filed 6-28-82; 3:44 pm]

BILLING CODE 6720-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-82-24]

TIME AND DATE: 2:30 p.m., Wednesday, July 7, 1982.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Electrostatic copiers (Docket No. 836).
5. Investigation 731-TA-50 (Final) (Stainless Steel Clad Plate from Japan)—vote.
6. Investigation 701-TA-174/175 (Preliminary) (Commuter Aircraft from France and Italy)—vote.

Portions closed to the public:

5. Investigation 731-TA-50 (Final) (Stainless Steel Clad Plate from Japan)—briefing.
6. Investigations 701-TA-174/175 (Preliminary) (Commuter Aircraft from France and Italy)—briefing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-957-82 Filed 6-28-82; 12:03 pm]

BILLING CODE 7020-02-M

4

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., on July 8, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell, (202) 634-4015.

Dated: June 28, 1982.

[S-960-82 Filed 6-28-82; 3:18 pm]

BILLING CODE 7600-01-M

5

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on July 15, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: June 28, 1982.

[S-961-82 Filed 6-28-82; 3:18 pm]

BILLING CODE 7600-01-M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on July 22, 1982.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: June 28, 1982.

[S-962-82 Filed 6-28-82; 3:18 pm]

BILLING CODE 7600-01-M

7

PAROLE COMMISSION

[2P0401]

TIME AND DATE: 9 a.m. to 5:30 p.m., Friday, July 23, 1982.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 12 cases decided by the National Commissioners pursuant to a reference

under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S-058-82 Filed 6-28-82; 2:09 pm]

BILLING CODE 4410-01-M

8

PAROLE COMMISSION

[2P0401]

TIME AND DATE:

9 a.m.–5:30 p.m., Wednesday, July 21, 1982.

9 a.m.–5:30 p.m., Thursday, July 22, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Meeting of April 15 and 16, 1982.
2. Reports from the Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, and Case Operations.
3. Report on SENTRY Development.
4. Proposed Modification of 28 CFR 2.27 and related rules.
5. Proposed Modification of 28 CFR 2.37.
6. Proposed Clarification of 28 CFR 2.21.
7. Proposed Clarification of 28 CFR 2.10(c).
8. Proposed Modification of 28 CFR 2.28—2.30.
9. Search and Seizure.
10. Credit for Street Time.
11. Remand of Cases by the National Appeals Board.
12. Severity Rating of Probation Violators Where Probation Is Not Revoked.
13. Preliminary Report on the Ten-Year Reconsideration Issue.
14. Review of Special Parole Terms for Termination.

CONSENT AGENDA: The following consent agenda items, only if previously requested to be opened for discussion at the meeting on or before July 16, 1982:

15. A provision at § 2.33–01 of the Procedures Manual that the Commission has final authority to determine the district of supervision.
16. A provision at §§ 2.13–02(c) and at 2.50–07 of the Procedures Manual that representatives and probation officers respectively may be present throughout hearings.
17. A provision at § 2.40–12 of the Procedures Manual that probation officers require persons under supervision to comply with local registration ordinances.
18. Proposed modification of 28 CFR 2.32(a)(2) concerning parole to detainers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Peter B. Hoffman, Director of Research, United States Parole Commission (301) 492–5980.

[S-059-82 Filed 6-28-82; 2:09 am]

BILLING CODE 4410-01-M

federal register

Wednesday
June 30, 1982

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Formula Grants for Juvenile Justice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Confirmation of effective date in part and stay of effective date in part.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is giving notice that its final rule, published in the **Federal Register** of May 17, 1982, will be effective July 1, 1982, with the exception of a portion of § 31.303(i)(3)(iv)(B), which is stayed pending additional comments. OJJDP is requesting further comments on this specific clause of the regulation. The regulation implements the Valid Court Order amendment to section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, establishing a basic framework within which State law or procedure may permit noncriminal juvenile offenders who violate valid court orders to be placed in secure facilities.

DATES: All comments on § 31.303(i)(3)(iv)(B) (first clause) of the regulation are due on or before July 30, 1982. Unless comments on this clause result in its modification through further notice in the **Federal Register** by August 16, 1982, then the reserved clause of the final rule, as published in the **Federal Register** of May 17, 1982, shall become effective on August 16, 1982.

ADDRESS: Send all comments to David D. West, Director, Formula Grants and Technical Assistance Division, OJJDP, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Frank M. Porpotage, II, Formula Grants and Technical Assistance Division, OJJDP, 633 Indiana Ave., NW., Washington, D.C. 20531 Telephone: (202) 724–5911.

SUPPLEMENTARY INFORMATION: On May 17, 1982, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published in the **Federal Register** a "Notice of Final Rule with Request for Comments" (47 FR 21228). OJJDP requested comment on its regulation to implement the Valid Court Order amendment to section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The regulation is § 31.303(i)(3) of 28 CFR Part 31 (Appendix A), which implements the formula grant program established by the Act.

In its May 17, 1982 **Federal Register** publication, OJJDP stated that unless final comments raised major issues not already considered by OJJDP which resulted in modification of the regulation, it would become effective on July 1, 1982.

During the comment period, such an issue was raised by the National Council of Juvenile and Family Court Judges, by individual members of the Council, and by other judges and judicial system representatives. This issue involves the clause of § 31.303(i)(3)(iv)(B) which establishes the conditions under which a juvenile accused of violating a valid court order may be held in secure detention after a judicial determination has been made, based on a hearing, that there is probable cause to believe the youth violated the court order. In such case, the first clause of § 31.303(i)(3)(iv)(B) provides the following two circumstances under which detention pending a violation hearing would be sanctioned:

"(B) the juvenile has a demonstrable recent record of willful failure to appear at family court proceedings *or* a demonstrable recent record of violent conduct resulting in physical injury to self or others."

The commentators raised the following issues related to this clause:

(1) The proposed limitation on judicial authority to place a status offender charged with a violation of a valid court order in secure detention is inconsistent with the plain language of section 223(a)(12)(A), which places no limit on this authority;

(2) The proposed limitation fails to provide States with the ability to authorize detention where needed to comply with the State's responsibility to detain and return runaway children under the Interstate Compact on Juveniles;

(3) The proposed limitation fails to provide States with the ability to authorize detention for other protective purposes such as when a parent, guardian, or custodian cannot be found for the juvenile, when a juvenile requests that he or she be held in secure detention, or when the juvenile is a chronic or habitual runaway; and

(4) The requirement for a "demonstrable recent record" in the proposed regulation provides interpretation problems in the matter of quantum of proof required, particularly in view of the 24 hour limitation on secure custody prior to a probable cause hearing.

The cited clause of § 31.303(i)(3)(iv)(B) of the regulation, limiting pre-violation hearing detention to the two circumstances, was the subject of commentary under Paragraph 2 of the *Explanation of Changes* section of the May 17, 1982 **Federal Register** announcement. Commentators should also review Paragraph 15 of the *Discussion of Other Comments* section of the May 17, 1982 **Federal Register** which discusses the out-of-State runaway issue. These paragraphs are set forth at Appendix B.

No other comments received in response to the May 17, 1982 **Federal Register** announcement are considered by OJJDP to have raised major issues not already considered by OJJDP. Therefore, as provided in that announcement, 28 CFR 31.303(i)(3), as printed in the **Federal Register** of May 17, 1982, is effective July 1, 1982 with the exception of the portion of § 31.303(i)(3)(iv)(B) set forth below, which is stayed until further notice pending additional comment:

(B) *The juvenile has a demonstrable recent record of willful failure to appear at family court proceedings or a demonstrable recent record of violent conduct resulting in physical injury to self or others.*

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

Appendix A to Preamble

For the convenience of the user, we are reprinting the final rule promulgated on May 17, 1982 (47 FR 21230).

PART 31—FORMULA GRANTS

§ 31.303 Substantive requirements.

* * * * *

(i) * * *

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of compentent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile *and to his attorney and/or to his legal guardian* in writing *and* be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent

jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, only if: (A) There has been a judicial determination based on a hearing *during the 24-hour grace period,* that there is probable cause to believe the juvenile violated the court order; *and* (B) *the juvenile has a demonstrable recent record of willful failure to appear at family court proceedings or a demonstrable recent record of violent conduct resulting in physical injury to self or others.* In such case the juvenile may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed *72 hours exclusive of nonjudicial days.* A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses:

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine *on the record* that all the elements of a valid court order (paragraphs (i)(3), (i), (ii), (iii) of this section) and the applicable due process rights (paragraph (i)(3), (v) of this section) were afforded the juvenile *and the judge must determine on the record that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.*

(vii) *A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.*

Appendix B to Preamble

For the convenience of the user, we are reprinting pro portions of the preamble to the final rule promulgated May 17, 1982 (47 FR 21226). The following excerpt reviews the rationale for the clause we are staying (§ 31.303(i)(3)(iv)(B)):

OJJDP's position, strongly supported by the comment and testimony, is that status offenders, including those accused or found to have violated a valid court order, will seldom need to be detained in secure detension or correctional facilities. Such juveniles should, whenever possible, be released to a parent or legal guardian or be placed in a foster home or shelter facility pending an adjudicatory violation or dispositional hearing or as a dispositional alternative.

The legislative history of the "valid court order" amendment reflects the fact that this exception was intended by the Congress to give the juvenile or family court judge the ability to enforce valid court orders by authorizing secure incarceration of those status offenders who "continually flout the will of the court," who "chronically refuse voluntary treatment," or who are considered "chronic offenders" as the result of a pattern of continued violations of the court's orders. The legislative history also states that the judicial discretion to securely detain a status offender for violating a valid court order "would be rarely used as far as a juvenile judge would go." Thus, consistent with NAC Standard 3.152, Criteria for Detension in Secure Facilities, and the legislative history, the regulation was modified.

The regulation now provides that, where it has been judicially determined that there is probable cause to believe a status offender violated a valid court order, secure detention pending the violation hearing may be authorized if the juvenile has a demonstrable recent record of willful failure to appear in court *or* a demonstrable recent record of violent conduct resulting in physical injury to self or others. This provision of the regulation is consistent with the basic principles regarding the use of short-term secure settings pending adjudication or disposition. Secure detention prior to a violation hearing should only be used when it is needed to assure appearance in court or for protective purposes and should not be used as a punitive measure. If a juvenile accused of violating a valid court order has no recent history of failing to appear in court, then there is no need to securely hold the juvenile to assure court appearance. Similarly, if the juvenile has no recent record of violent conduct resulting in physical harm to self or others, there is no need to securely detain the juvenile for protective purposes. The term "demonstrable record" is not intended to require introduction of a certified copy of a prior adjudication order or certified documents that the juvenile has recently and willfully failed to appear at family court proceeding, but should include more than mere allegations of prior failure to appear or violent conduct.

* * * * *

The following excerpt reviews the rationale for the clause we are staying today (28 CFR 31.303(i)(3)(iv)(B)):

15. *Recommendation:* The OJJDP regulations should address the time limits on secure detention of out-of-state runaways.

OJJDP Response: This issue is beyond the scope of the valid court order provision. The experience of the States has shown that there are few instances where the out-of-state runaway needs to be held beyond the 24-hour grace period. For those instances when it is necessary, the criteria for de minimis exceptions to full compliance with Section 223(a)(12)(A) (See 46 FR 2568–2569) has a provision to consider the holding of out-of-state runaways as an exceptional circumstance when such holding meets specified criteria.

[FR Doc. 82–17605 Filed 6–29–82; 8:45 am]

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federal register

Wednesday
June 30, 1982

Part III

Department of the Interior

Bureau of Land Management

Minerals Management and Oil and Gas Leasing; Oil and Gas Leasing on Federal Lands

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000, 3040, 3100, 3110, 3120, 3140 and 3150

Minerals Management and Oil and Gas Leasing; Amendments to the Regulations Covering Oil and Gas Leasing on Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The amendments made by this proposed rulemakfng rewrite the provisions of the existing regulations in Groups 3000 and 3100 to reduce the regulatory burden imposed on the public, to provide access to public lands in Alaska for oil and gas exploration and development and to achieve a number of miscellaneous purposes under the authority granted the Secretary of the Interior.

DATE: Comments by August 30, 1982.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles E. Weller (202) 343–7753; or
Robert C. Bruce (202) 343–8735

SUPPLEMENTARY INFORMATION: This proposed rulemaking completely revises Parts 3000 and 3100 of Title 43 of the Code of Federal Regulations. The elimination of counter-productive and obsolete provisions from the existing regulations would reduce the total volume of the regulations relating to onshore oil and gas leasing on Federal lands by 17 per cent. The remaining provisions of the existing regulations would be rewritten and reorganized to make them easier to read and understand. In addition, a number of substantive changes would be made to provide access to public lands in Alaska for oil and gas exploration and development, to reduce the regulatory impact on the public and for other miscellaneous purposes. These substantive changes, by catagory, would be:

Access to Public Lands in Alaska for Oil and Gas Exploration and Development

1. The proposed rulemaking would formalize the geophysical exploration permitting system for all public lands in Alaska, except those within the Central Arctic Management Area or the Arctic National Wildlife Refuge Coastal Plain (Subpart 3045).

2. The proposed rulemaking would specifically describe the leasing program authorized by the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) for non-North Slope Alaska. All lands within favorable geologic provinces will be leased competitively. All other lands will be leased noncompetitively. The regulations which govern competitive and noncompetitive leasing in the lower-48 states would apply except: (a) The maximum size of a competitive lease would be 2,560 acreas; and (b) several thousand parcels which would be available for simultaneous leasing under existing regulations would be subject to over-the-counter leasing.

3. The proposed rulemaking would reflect that National Wildlife Refuge System lands within Alaska, except the Arctic National Wildlife Refuge, are subject to leasing if such leasing is not incompatible with the purposes for which the unit was created. Leases shall be issued subject to stipulations prescribed by the U.S. Fish and Wildlife Service (Section 3101.5).

Reduction of Regulatory Burden

1. The proposed rulemaking incorporates changes issued in the **Federal Register** of February 26, 1982 (47 FR 8544), as an interim final rulemaking amending provisions of Group 3100 of Title 43 of the Code of Federal Relgulations. The changes include the elimination of: (a) The requirement that simultaneous oil and gas lease application filing fees be paid by guaranteed remittance; (b) the mandatory use of pre-numbered assignment forms for the transfer of oil and gas leases; and (c) the requirement to submit documents related to qualifications prior to lease acquisition. All comments received as a result of the issuance of the interim final rulemaking and this proposed rulemaking on these subjects will be reviewed and considered at the time of decisionmaking on issuance of a final rulemaking on this proposed rulemaking.

2. Under the provisions of the Mineral Lands Leasing Act of 1920, as amended, leases are terminated automatically by operation of law if the rental payment is not received by the proper Bureau of Land Management office on or before the anniversary date. Such terminated leases may be reinstated provided: (1) The rental is received within 20 days after the due date, (2) the lessee petitions for reinstatement, and (3) the lessee proves that the late payment was either justified, or was not due to a lack of reasonable diligence. Each year, leases terminated under this procedure are the subject of numerous appeals and private bills are introduced in the Congress seeking reinstatement. This proposed rulemaking would provide that there has been reasonable diligence if the rental payment is postmarked on or before the due date (Section 3108.2).

3. The proposed rulemaking would eliminate the requirement that requests for the approval of assignments of oil and gas leases be filed with the Bureau of Land Management within 90 days after execution.

4. Exisitng regulations require record title holders or operators under approved operating agreements to post a bond to cover any difficulties which may result from planned operations. The proposed rulemaking would allow a designated operator to post a bond in lieu of the record title holder or the operator under an approved operating agreement (Section 3106.6).

5. Existing regulations require separate Statewide bonds of $25,000 be maintained for leases on public domain lands and leases on acquired lands. The proposed rulemaking would allow one $25,000 bond to cover all Federal lands within a State (Section 3104.3).

6. The proposed rulemaking would exclude the acreage covered by a lease offer or an overriding royalty interest in computing the total acreage charged to a lessee.

7. Under existing regulations, the issuance of a lease to one who, upon issuance would control less than 50 percent of the operating rights in the lands covered by the lease, is not ordinarily regarded as being in the public interest. This amendment would eliminate this policy in order to prevent an uncooperative holder of a fractional interest in the lands from tying up the resource. The issuance of a lease by the United States for it interest will allow the lessee to actively seek the remaining interest to permit development of the resource.

Miscellaneous Changes

1. The proposed rulemaking sets forth the procedure for issuance of Federal oil and gas leases for lands under the jurisdiction of a Federal agency outside the Department of the Interior. The proposed rulemaking would formalize existing practice in accordance with the decision in *Mountain States Legal Foundation* v. *Andrus*, (499 F. Suppl. 383). Even though this proposal applies only to leasing of oil and gas, the public is asked to comment on the possibility of applying it to other minerals (Section 3101.7).

2. The proposed rulemaking would establish all filing fees required for oil and gas leasing, except the noncompetitive lease application filing fee, at $25.

3. The proposed rulemaking would provide for only one application being selected in a simultaneous oil and gas lease drawing, rather than the three applications currently drawn. Applicants drawn with second or third priority have frequently filed protests against the drawing winner, protests that were often found to be without merit. Detection of fatal defects through protests by the second and third priority holders has been minimal. The change in the proposed rulemaking will allow leases to issue more promptly (Section 3112.3–1).

4. The proposed rulemaking would provide that simultaneous oil and gas lease applications may not be withdrawn (Section 3110.2).

5. The proposed rulemaking would delete the prohibition on the leasing of public domain lands within one mile of a naval or national petroleum or helium reserve.

6. The proposed rulemaking would give the Secretary of the Interior authority to suspend overriding royalty interests for gas production which are in excess of 17½ percent when aggregated with the royalty interest retained by the United States. The Secretary would order such a suspension upon a determination that the excess constitutes a burden on lease operations to the extent that it will retard proper and timely development, or impair continued operation of the lease or cause premature abandonment of the wells. This suspension authority already exists for oil production (Section 3103.3–3).

7. This proposed rulemaking would allow equitable principals to be used to retroactively approve communitization agreements. The purpose of such retroactive approval would be to allow lease extension and vacate lease expiration. The public is asked to comment on the advisability of including a provision of probable limited applicability in the final rulemaking.

8. Under the existing regulations, aliens may hold leases or interests therein only through stock ownerships, holding or control, only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries which have been determined to provide "similar or like" privileges has been maintained. The proposed rulemaking will provide, instead, for a list of nations which do not accord like or similar privileges.

The regulations on leasing within certain parts of the National Park System that have been issued by the National Park Service will be integrated into the final rulemaking on Group 3100.

The principal author of this proposed rulemaking is Charles E. Weller, Division of Oil and Gas, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96–354).

The information collection requirements contained in 43 CFR Parts 3000 and 3100 have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3507. The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Under the authority of the Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), it is proposed to amend Groups 3000 and 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

List of Subjects

43 CFR Part 3000

Public lands—classification, Public lands—mineral resources.

43 CFR Part 3040

Oil and gas exploration, Public lands—mineral resouces.

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral reources, Surety bonds.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3120

Adminstrative practice and procedure, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3150

Administrative practice and procedure, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

A. Group 3000 is revised as follows:

GROUP 3000—MINERALS MANAGEMENT

PART 3000—MINERALS MANAGEMENT; GENERAL

Subpart 3000—General

Sec.

3000.0–5 Definitions.
3000.1 Nondiscrimination.
3000.2 False statements.
3000.3 Unlawful interests.
3000.4 Limit on time to institute suit.
3000.5 Filing of documents.
3000.6 Multiple development.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3000—General

§ 3000.0–5 Definitions.

As used in Groups 3000 and 3100 of this title, the term:

(a) "Gas" means any fluid, either combustible or nonconbustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state at ordinary temperatures and pressure conditions.

(b) "Oil" means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing processes.

(c) "Secretary" means the Secretary of the Interior.

(d) "Director" means the Director of the Bureau of Land Management.

(e) "Authorized officer" means any employee of the Bureau of Land Management authorized to perform the duties described in Group 3000 and 3100.

(f) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in which the term is used in Group 3000 and 3100, except that all oil and gas lease applications and assignments for lands in Alaska shall be filed in the Alaska State Office, Anchorage, Alaska. (See § 1821.2–1 of this title for office location and area of jurisdiction of Bureau of Land Management offices)

(g) "Public domain lands" means lands which never left the ownership of the United States, lands which were obtained by the United States in exchange and lands which have reverted to the ownership of the United States through operation of the public land laws.

(h) "Acquired lands" means lands which the United States obtained by deed through purchase or gift, or through condemnation proceedings, including lands previously disposed of under the public land laws including the mining laws.

(i) "Anniversary date" means the same day and month in succeeding years as that on which the lease became effective.

(j) "Act" means the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

(k) "Party in interest" means a party who is or will be vested with any legal or equitable rights under the lease. No one is a sole party in interest with respect to an application, offer or lease in which any other party has any of the interests hereinafter described. An interest in the lease includes, but is not limited to, record title interests, overriding royalty interests, working interests, operating rights, options or any aggreements covering such interests. Any claim or any prospective future claim to an advantage or benefit from a lease, and any participation or any defined or undefined share in any increments, issues or profits which may be derived, or which may accrue, in any manner from the lease based upon, or pursuant to any agreement or understanding existing at the time when the application or offer is filed, constitutes an interest in such lease.

(l) "Surface managing agency" means any Federal agency outside of the Department of the Interior with jurisdiction over the surface overlying Federally-owned minerals.

(m) "Service" means the Minerals Management Service.

§ 3000.1 Nondiscrimination.

Any person acquiring a lease under this chapter shall comply fully with the equal opportunity provisions of Executive Order 11246 of September 24, 1965, as amended, and the rules, regulations and relevant orders of the Secretary of Labor (41 CFR Part 60 and 43 CFR Part 17).

§ 3000.2 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

§ 3000.3 Unlawful interests.

No member of, or delegate to, Congress, or Resident Commissioner, and no employee of the Department of the Interior, except as provided in 43 CFR Part 20, shall be entitled to acquire or hold any Federal lease, or interest therein. (Officer, agent or employee of the Department—See 43 CFR Part 20; Member of Congress—See R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431—433).

§ 3000.4 Limitations on time to institute suit to contest a decision of the Secretary.

No action contesting a decision of the Secretary involving any oil or gas lease, offer or application shall be maintained unless such action is commenced or taken within 90 days after the final decision of the Secretary relating to such matter.

§ 3000.5 Filing of Documents.

All necessary documents shall be filed in the proper BLM office. A document shall be considered filed when it is received in the proper BLM office during regular business hours (See § 1821.2 of this title).

§ 3000.6 Multiple development.

The granting of a permit or lease for the prospecting, development or production of deposits of any 1 mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation, nor the allowance of applicable entries, locations or selections of leased lands with a reservation of the mineral deposits to the United States.

PART 3040—EXPLORATION ACTIVITY

Subpart 3045—Geophysical Exploration (Oil and Gas)

Sec.
3045.0–1 Purpose.
3045.0–2 Policy.
3045.0–3 Authority.
3045.0–5 Definitions.
3045.1 Suspension, revocation or cancellation.
3045.2 Exploration outside of Alaska.
3045.2–1 Notice of intent to conduct oil and gas operations.
3045.2–2 Notice of completion of operations.
3045.3 Exploration in Alaska.
3045.3–1 Application for oil and gas exploration permit.
3045.3–2 Action on application.
3045.3–3 Renewal of exploration permit.
3045.3–4 Relinquishment of exploration permit.
3045.3–5 Modification of exploration permit.
3045.3–6 Collection and submission of data.
3045.3–7 Completion of operations.
3045.4 Bond requirements.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3045—Geophysical Exploration (Oil and Gas)

§ 3045.0–1 Purpose.

The purpose of this subpart is to establish procedures for conducting oil and gas exploration operations on the public lands. These procedures are not applicable to exploration operations conducted pursuant to oil and gas leases except in Alaska where a geophysical exploration permit is required on or off

leased Federal lands. The provisions of this subpart do not apply to section 1002 of the Alaska National Interest Land Conservation Act or to the Arctic National Wildlife Refuge Coastal Plain.

§ 3045.0-2 Policy.

A notice of intent to conduct oil and gas exploration operations shall be accepted for oil and gas exploration activities in all States where public lands are open to oil and gas exploration, with the exception of Alaska. In Alaska, oil and gas exploration activities shall not be conducted on the public lands without the issuance of a permit.

§ 3045.0-3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148(b)(B)) and the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514).

§ 3045.0-5 Definitions.

As used in this subpart, the term:

(a) "Oil and gas exploration" means any activity on the public lands, the surface of which is administered by the Bureau of Land Management, relating to the search for evidence of oil and gas which requires physical presence upon the lands and which may result in damage to the public lands or the resources located thereon. It includes, but is not limited to, geophysical operations, construction of roads and trails and cross-country transit of vehicles over such lands. It does not include core drilling for subsurface geologic information or drilling for oil and gas; these activities shall only be authorized by the issuance of an oil and gas lease and the approval of an application for a permit to drill. The regulations in this subpart, however, are not intended to prevent drilling operations necessary for placing explosive charges, where permissible, for seismic exploration, nor do they affect the exclusive right to drill for oil and gas by a lessee upon the lease premises.

(b) "Public lands" means any lands and interest in lands owned by the United States within the several States and administered by the Secretary through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) Lands located on the Outer Continental Shelf; and

(2) Lands held for the benefit of Indians, Aleuts and Eskimos.

(c) "Casual use" means activities that involve practices which do not ordinarily lead to any appreciable disturbance or damage to lands, resources and improvements. For example, activities which do not involve use of heavy equipment or explosives and which do not involve vehicle movement except over established roads and trails are casual use.

§ 3045.1 Suspension, revocation or cancellation.

All notices and permits shall contain a provision authorizing revocation or suspension, after notice and hearing, and upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations issued under Acts applicable to the public lands and applicable State air and water quality standards or implementation plan. The Secretary may order an immediate temporary suspension of activities authorized under a permit or other use authorization prior to a hearing or final administrative finding if he/she determines that such a suspension is necessary to protect health or safety or the environment. Further, where other applicable law contains specific provisions for suspension, revocation or cancellaion of a permit or other authorization to use, occupy or develop the public lands, the specific provisions of such law shall prevail.

§ 3045.2 Exploration outside of Alaska.

§ 3045.2-1 Notice of intent to conduct oil and gas operations.

Any person desiring to conduct oil and gas exploration operations on public lands outside the State of Alaska shall, prior to entry upon the public lands, file a Notice of Intent to Conduct Oil and Gas Exploration Operations, referred to herein as a notice of intent. The notice of intent shall be filed with the District Manager of the proper BLM office on a form approved by the Director. The completion of and signing of the form by the operator and his/her agents or employees signifies agreement comply with the terms and conditions contained therein and in this subpart.

§ 3045.2-2 Notice of completion of operations.

Upon completion of exploration, there shall be filed with the District Manager a Notice of Completion of Oil and Gas Exploration Operations. Within 90 days after this filing, the authorized officer shall notify the party who conducted the operations whether all of the terms and conditions set out by the regulations in this subpart and in the notice of intent have been met, or whether additional action shall be required to rehabilitate the lands, specifying the nature and extent of the required action.

§ 3045.3 Exploration in Alaska.

§ 3045.3-1 Application for oil and gas exploration permit.

Any person wishing to conduct oil and gas exploration operations on public lands in Alaska, including the National Petroleum Reserve—Alaska, shall complete an application for an oil and gas geophysical exploration permit on a form approved by the Director. The application shall be submitted, along with a non-refundable fee of $25 and a plan for conducting the exploration operations, to the District Manager of the proper BLM office.

§ 3045.3-2 Action on application.

(a) The authorized officer shall review each application and approve or disapprove it within 90 calender days, unless compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.) delays this action. The applicant shall be notified in writing of any such delay.

(b) The authorized officer shall include in each geophysical exploration permit special terms and conditions needed to protect the natural land surface, other mineral resources and non-mineral resources. Geophysical permits within the National Pertroleum Reserve—Alaska shall contain such conditions, restrictions and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonable adverse effects upon the surface resources of the Reserve and to satisfy the requirement of section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504). (See Part 3130 of this title for special stipulations relating to the National Petroleum Reserve—Alaska).

(c) An exploration permit shall become effective on the date specified by the authorized officer and shall expire 1 year thereafter.

(d) The exploration plan approved by the Service shall be attached to and made a part of each exploration permit.

(e) For lands subject to section 1008 of the Alaska National Interest Lands Conservation Act, exploration shall be authorized only upon a determination that such activities can be conducted in a manner which is consistent with the purposes for which the affected area is managed under applicable law.

§ 3045.3–3 Renewal of exploration permit.

An exploration permit may be renewed by the authorized officer, upon application, for a period not to exceed 1 year.

§ 3045.3–4 Relinquishment of exploration permit.

Subject to the continued obligations of the permittee and the surety to comply with the terms and conditions of the exploration permit, the exploration plan and the regulations, the permittee may relinquish an exploration permit for all or any portion of the lands covered by it. Such relinquishment shall be filed with the District Manager of the proper BLM office.

§ 3045.3–5 Modification of exploration plan.

(a) A permittee may request, and the Service may, with the concurrence of the authorized officer, approve a modification of an exploration plan.

(b) The Serivce may, with the concurrence of the authorized officer, require modifications it deems necessary to the exploration plan.

§ 3045.3–6 Collection and submission of data.

(a) The permittee shall submit to the Service all data and information obtained in carrying out the exploration plan.

(b) The Service shall make such data and information available to the public, except that any processed, analyzed and interpreted material shall be held confidential until the lands from which the information was obtained is leased or until 5 years following the submission of the data, whichever occurs first.

§ 3045.3–7 Completion of operations.

(a) The permittee shall submit to the authorized officer a completion report within 30 days of completion of all operations under the permit. The completion report shall contain the following:

(1) A description of all work performed;

(2) Charts, maps or plats depicting the areas and blocks in which the exploration was conducted and specifically indentifying the lines of geophysical traverses and any roads constructed;

(3) The dates on which the actual exploration was conducted;

(4) Such other information about the exploration operations as may be specified by the authorized officer in the permit; and

(5) A statement that all terms and conditions have been complied with or that corrective measures shall be taken to rehabilitate the lands or other resources.

(b) Within 90 days after the authorized officer receives a completion report from the permittee that exploration has been completed or after the expiration of the permit, whichever occurs first, the authorized officer shall notify the permittee of the specific nature and extent of any additional measures required to rectify any damage to the lands or resources.

§ 3045.4 Bond requirements.

(a) For each planned exploration, the party or parties filing the notice of intent or application for a permit shall simultaneously file with the authorized officer a bond, as described in § 3104.1 of this title, in the amount of $5,000, conditioned upon full and faithful compliance with all of the terms and conditions of the regulations of this subpart, the notice of intent and permit. In lieu thereof, the party or parties may file a statewide bond in the amount of $25,000 covering all oil and gas exploration operations in the same State or a nationwide bond in the amount of $50,000 covering all oil and gas exploration operations in the nation. Holders of statewide, nationwide or National Petroleum Reserve—Alaska oil and gas lease bonds shall be permitted to amend those bonds to extend coverage to oil and gas exploration operations.

(b) The authorized officer shall not consent to the cancellation of the bond or to the termination of liability unless and until all of the terms and conditions of the notice of intent or permit have been met. Should the authorized officer fail to notify the party within 90 days of the filing of the notice of completion that all terms and conditions have been met or that additional action shall be required to rehabilitate the lands, liability for that particular exploration operation shall automatically terminate on the 91st day.

(c) The authorized officer, on his/her own motion or upon the recommendations of the Service, may increase the amount of any bond to be issued or any outstanding bond when additional coverage is deemed appropriate.

B. Group 3100 is amended as follows:

GROUP 3100—OIL AND GAS LEASING

1. Part 3100 is revised to read as follows:

PART 3100—OIL AND GAS LEASING

Subpart 3100—Oil and Gas Leasing—General

Sec.
3100.03 Authority.
3100.0–5 Definitions.
3100.1 Helium.
3100.2 Drainage.
3100.2–1 Compensation for drainage.
3100.2–2 Drilling and production or payment of compensatory royalty.
3100.3 Competitive and noncompetitive leasing areas.
3100.3–1 Determination of service.
3100.3–2 Date determinative of rights.
3100.4 Options.
3100.4–1 Enforceability.
3100.4–2 Effect of option on acreage.
3100.4–3 Option statements.

Subpart 3101—Issuance of Leases

Sec.
3101.1 Lease terms and conditions.
3101.1–1 Standard terms.
3101.1–2 Special stipulations.
3101.1–3 Statutes.
3101.1–4 Regulations.
3101.2 Acreage limitations.
3101.2–1 Public domain.
3101.2–2 Acquired lands.
3101.2–3 Excepted acreage.
3101.2–4 Excess acreage.
3101.2–5 Computation.
3101.2–6 Showing required.
3101.3 Leases within unit areas.
3101.3–1 Joinder evidence required.
3101.3–2 Separate leases to issue.
3101.4 Lands covered by application to close lands to mineral leasing.
3101.5 National Wildlife Refuge System lands.
3101.6 Recreation and public purposes lands.
3101.7 Federal lands administered by an agency outside the Department of the Interior.
3101.7–2 Submittal to surface managing agency.
3101.7–3 Review by surface managing agency.
3101.7–4 Action by the Bureau of Land Management.
3101.7–5 Appeals.
3101.8 State's or charitable organization's ownership of surface overlying Federal minerals.

Subpart 3102—Qualifications of Lessees

Sec.
3102.1 Who may hold leases.
3102.2 Aliens.
3102.3 Minors.
3102.4 Signatures.
3102.5 Evidence.

Subpart 3103—Fees, Rentals and Royalty

Sec.
3103.1 Payments.
3103.1–1 Form of remittance.
3103.1–2 Where submitted.
3103.2 Rentals.
3103.2–1 Rental requirement.
3103.2–2 Advance rental payments.
3103.3 Royalties.

Sec.
3103.3–1 Royalty on production.
3103.3–2 Minimum royalties.
3103.3–3 Limitation on overriding royalties.
3103.4 Promotion of development.
3103.4–1 Waiver, suspension or reduction of rental, royalty or minimum royalty.
3103.4–2 Suspension of operations and production.

Subpart 3104—Bonds

Sec.
3104.1 Bond obligations.
3104.2 Types of coverage.
3104.3 Statewide and nationwide bonds.
3104.4 Unit operator's bond.
3104.5 Increased amount of bonds.
3104.6 Where filed and number of copies.
3104.7 Default.
3104.8 Termination of period of liability.
3104.9 Protection of surface owners.

Subpart 3105—Cooperative Conservation Provisions

Sec.
3105.1 Cooperative or unit agreements.
3105.1–1 Where filed.
3105.1–2 Purpose.
3105.1–3 Adoption and operation under a unit plan.
3105.2 Communitization of drilling agreements.
3105.2–1 Where filed.
3105.2–2 Purpose.
3105.2–3 Requirements.
3105.3 Operating, drilling or development contracts.
3105.3–1 Where filed.
3105.3–2 Purpose.
3105.3–3 Requirements.
3105.4 Combination for joint operations or for transportation of oil.
3105.4–1 Where filed.
3105.4–2 Purpose.
3105.4–3 Requirements.
3105.4–4 Rights-of-way.
3105.5 Subsurface storage of oil and gas.
3105.5–1 Where filed.
3105.5–2 Purpose.
3105.5–3 Requirements.
3105.5–4 Extension of lease term.

Subpart 3106—Assignments and Other Transfers

Sec.
3106.1 Assignments, general.
3106.2 Qualifications of assignees.
3106.3 Filing fees.
3106.4 Forms.
3106.4–1 Record title and operating rights.
3106.4–2 Royalty interests and production payments.
3106.5 Description of lands.
3106.6 Bonds.
3106.6–1 Lessee's general lease bond.
3106.6–2 Operator's bond.
3106.6–3 Statewide/nationwide bond.
3106.7 Approval of assignment.
3106.7–1 Failure to qualify.
3106.7–2 Continuing responsibility.
3106.7–3 Lease account status.
3106.7–4 Effective date of assignment.
3106.7–5 Effect of assignment.
3106.8 Other types of transfer.
3106.8–1 Heirs and devisees.
3106.8–2 Change of name.
3106.8–3 Corporate merger.

Subpart 3107—Continuation, Extension or Renewal

Sec.
3107.1 Continuation by drilling.
3107.2 Continuation by production.
3107.2–1 Production.
3107.2–2 Cessation of production.
3107.2–3 Nonproduction from lease capable of production.
3107.3 Extension for terms of cooperative or unit plan.
3107.3–1 Leases committed to plan.
3107.3–2 Segregation of leases committed in part.
3107.3–3 20-year lease or any renewal thereof.
3107.4 Extension by elimination.
3107.5 Extension of leases segregated by assignment.
3107.5–1 Extension after discovery on other segregated portions.
3107.5–2 Undeveloped parts of leases in their extended term.
3107.5–3 Undeveloped parts of producing leases.
3107.6 Exchange leases—20-year term.
3107.7 Renewal leases.
3107.7–1 Requirements.
3107.7–2 Terms.
3107.7–3 Approval.
3107.8 Other types—payment of compensatory royalty.

Subpart 3108—Relinquishment, Termination, Cancellation

Sec.
3108.1 Relinquishments.
3108.2 Termination by operation of law.
3108.2–1 Automatic terminations and reinstatement.
3108.3 Cancellation.
3108.4 Bona fide purchaser.

Subpart 3109—Leasing Under Special Acts

Sec.
3109.1 Rights-of-way.
3109.1–1 Application.
3109.1–2 Notice.
3109.1–3 Award of lease or compensatory royalty agreement.
3109.1–4 Compensatory royalty agreement or lease.
3109.2 Lake Mead Recreation Area.
3109.2–1 Authority to lease.
3109.2–2 Area subject to lease.
3109.3 Wilderness lands.
3109.4 Whiskey-Shasta-Trinity National Recreation Area.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3100—Onshore Oil and Gas Leasing; General

§ 3100.0–3 Authority.

(a) Public domain:

(1) Oil and gas in public domain lands and lands returned to the public domain under section 2370 of this title are subject to lease under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

(2) *Exceptions.*

(i) National parks and monuments;

(ii) Indian reservations;

(iii) Incorporated cities, towns and villages; and

(iv) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska.

(b) *Acquired lands.* (1) Oil and gas in acquired lands are subject to lease under the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C 351–359).

(2) *Exceptions.* (i) National parks and monuments;

(ii) Incorporated cities, towns and villages;

(iii) Naval petroleum and oil shale reserves and the National Petroleum Reserve—Alaska;

(iv) Tidelands or submerged coastal lands within the continental shelf adjacent or littoral to lands within the jurisdiction of the United States;

(v) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except oil, gas and other minerals subject to leasing under the Act;

(vi) Lands reported surplus under the Surplus Property Act of 1944 or the Federal Property and Administrative Services Act of 1949; and

(vii) Lands acquired by the United States by foreclosure or otherwise for resale.

(c) National Petroleum Reserve—Alaska is subject to lease under the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514).

(d) Other lands in Alaska:

(1) Federal lands in Alaska are subject to lease under the Alaska National Interest Lands Conservations Act (16 U.S.C. 3101 et seq.);

(2) Exceptions:

(i) National Petroleum Reserve—Alaska;

(ii) Lands north of 68 degrees north latitude and east of the western boundry of the National Petroleum Reserve—Alaska; and

(iii) Conservation system units established by the Alaska National Interest Lands Conservation Act.

(e) Where oil is being drained from lands otherwise unavailable for leasing, there is implied authority in the agency having jurisdiction of those lands to grant authority to the Bureau of Land Management to lease such lands (See 43 U.S.C. 1457; also Attorney General's Opinion of April 2, 1941 (Vol. 40 Ap. Atty. Gen. 41)).

(f) Where lands previously withdrawn or reserved from the public domain are no longer needed by the agency for which the lands were withdrawn or reserved and such lands are retained by the General Services Administration, or where acquired lands are declared surplus to the General Services Administration, authority to lease such lands may be transferred to the Department for leasing in accordance with the Federal Property and Administrative Services Act of 1949.

(g) The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes the leasing of oil and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or any assignee.

§ 3100.0–5 Definitions.

As used in this part, the term:

(a) "Operator" means the person who has control or management of operations on the lease or a portion thereof. The operator may be the lessee, designated operator, holder of rights under an approved operating agreement or designated agent of such holders.

(b) "Unit operator" means the person authorized under the agreement approved by the Department of the Interior to conduct operations within the unit or holder of an operating right.

(c) "Record title" means a lessee's interest in a lease which includes the obligation to pay rent, and the rights to assign and relinquish the lease. Overriding royalty and operating rights are severable from record title interests.

(d) "Operating right" (working interest) means the interest created out of a lease authorizing the holder thereof to enter upon the leased lands to conduct drilling and related operations, including production of oil or gas from such lands in accordance with the term of the lease. Operating rights may or may not be transferred through an operating agreement.

(e) "Assignor" means the party assigning or transferring to another an interest.

(f) "Assignee" means the party to whom a lease or an interest therein is being assigned or transferred.

(g) "Royalty interest" means a share of gross production.

(h) "Designated operator" means the party designated by the lessee or holder of operating rights under an operating agreement, who is authorized to conduct operations on the lease or a portion thereof.

(i) "Actual drilling operations" includes not only the physical drilling of a well, but the testing, completing or equipping of such well for production.

(j)(1) "Primary term" of lease subject to section 4(d) of the Act prior to the revision of 1960 (30 U.S.C. 226–1(d)) means all periods of the life of the lease prior to its extension by reason of production of oil and gas in paying quantities; and

(2) "Primary term" of all other leases means the initial term of the lease. For competitive leases, except those within the National Petroleum Reserve—Alaska, this means 5 years and for noncompetitive leases this means 10 years. The primary term of leases within the National Petroleum Reserve—Alaska shall not exceed 10 years.

§ 3100.1 Helium.

The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the Act have been reserved to the United States.

§ 3100.2 Drainage.

§ 3100.2–1 Compensation for drainage.

Upon a determination by the Service that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer may execute agreements with the owners of adjacent lands whereby the United States and its lessees shall be compensated for such drainage. Such agreements shall be made with the consent of any lessee affected by an agreement. Such lands may also be offered for lease in accordance with Part 3120 of this title.

§ 3100.2–2 Drilling and production or payment of compensatory royalty.

Where lands in any leases are being drained of their oil or gas content by wells either on a Federal lease issued at a lower rate of royalty or on non-Federal lands, the lessee shall both drill and produce all wells necessary to protect the leased lands from drainge. In lieu of drilling necessary wells, the lessee may, with the consent of the Service, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

§ 3100.3 Competitive and noncompetitive leasing areas.

§ 3100.3–1 Determination by Minerals Management Service.

The Service shall determine the boundaries of known geologic structures of producing oil or gas fields outside of Alaska and favorable petroleum geologic provinces in Alaska. All lands within such boundaries shall only be leased to the highest responsible qualified bidder. All other lands shall be leased, if at all, to the first qualified applicant.

§ 3100.3–2 Date determinative of rights.

If the producing character of a structure or the favorable nature of a geologic province in Alaska is actually known prior to the date of the official pronouncement of the Service on that subject, the date that the information becomes known and not the date of the determination establishes whether the lands shall be leased competitively.

§ 3100.4 Options.

§ 3100.4–1 Enforceability.

(a) No option to acquire any interest in a lease shall be enforceable if entered into for a period of more than 3 years (including any renewal period that may be provided for in the option) without the approval of the Secretary.

(b) No option or renewal thereof shall be enforceable until a signed copy or notice or option has been filed in the proper BLM office. Each such signed copy or notice shall include:

(1) The names and addresses of the parties thereto;

(2) The serial number of the lease to which the option is applicable;

(3) A statement of the number of acres covered by the option and of the interests and obligations of the parties to the option; and

(4) The interest to be conveyed and retained in exercise of the option. Such notice shall be signed by all parties to the option or their duly authorized agents. The signed copy of notice of option required by this paragraph shall contain or be accompanied by a signed statement by the holder of the option that he/she is the sole party in interest in the option; if not, he/she shall set forth the names and provide a description of the interest therein of the other interested parties, and provide a description of the agreement between them, if oral, and a copy of such agreement, if written.

§ 3100.4–2 Effect of option on acreage.

The acreage to which the option is applicable shall be charged both to the

grantor of the option and the option holder. The acreage covered by an unexercised option remains charged during its term until notice of its relinquishment or surrender has been filed in the proper BLM office.

§ 3100.4–3 Option statements.

Each option holder shall file in the proper BLM office within 90 days after June 30 and December 31 of each year duplicate statements showing as of the prior June 30 and December 31, respectively:

(a) His/her name and address and the name and address of each grantor of an option held by him/her, the serial number of every lease subject to option;

(b) Date and expiration date of each option;

(c) Number of acres covered by each option;

(d) Aggregate number of options held in each State, and the total acreage thereof; and

(e) A statement of his/her interest and obligation under each option; provided, that the statement of his/her interest and obligation with respect to any option shall not be required where such interests and obligations have been set forth in the notice required under § 3100.4–1(b) of this title and there have been no changes in such interests and obligations since such filing.

Subpart 3101—Issuance of Leases

§ 3101.1 Lease terms and conditions.

§ 3101.1–1 Standard forms.

All leases shall be issued on the appropriate form approved by the Director and shall be subject to the terms and conditions printed in the form.

§ 3101.1–2 Special stipulation.

The authorized officer may require stipulations in addition to those contained in the lease form as conditions to leasing. These stipulations and stipulations required by an agency other than the Bureau shall be part of the lease and shall supersede any inconsistent provisions printed in the lease form.

§ 3101.1–3 Statutes.

All leases shall be subject to the provisions of the statute under which they are issued.

§ 3101.1–4 Regulations.

All reasonable regulations of the Secretary in force at the time of lease issuance or later enacted are incorporated into all leases when not inconsistent with any express and specific provision of a particular lease. This includes among others, the regulations in this group, in 30 CFR Parts 221, 223, 225 and 226 and regulations issued under section 302 (b) and (c) of the Department of Energy Organization Act (42 U.S.C. 7152 (b) and (c)).

§ 3101.2 Acreage limitations.

§ 3101.2–1 Public domain.

(a) No person or entity shall take, hold, own or control more than 246,080 acres of Federal oil and gas leases in any one State at any one time. No more than 200,000 acres of such acres may be held under option.

(b) In Alaska, the acreage that can be taken, held, owned or controlled is limited to 300,000 acres in the northern leasing district and 300,000 acres in the southern leasing district, of which no more than 200,000 acres may be held under option in each of the 2 leasing districts. The boundary between the 2 leasing districts in Alaska is the left limit of the Tanana Rivers from the boundary between the United States and Canada to the confluence of the Tanana Rivers and Yukon River and the left limit of the Yukon River from said confluence to its principal southern mouth.

§ 3101.2–2 Acquired lands.

An acreage limitation separate from, but equal to the acreage limitation for public domain lands described in § 3101.2–1 of this title, applies to acquired lands. Where the United States owns only a fractional interest in the mineral resources of the lands involved in a lease, only that part owned by the United States shall be charged as acreage holdings. The acreage embraced in a future interest lease shall not be charged as acreage holdings until the lease for the future interest becomes effective.

§ 3101.2–3 Excepted acreage.

Leases committed to any unit or cooperative plan approved or prescribed by the Secretary and leases subject to an operating, drilling or development contact approved by the Secretary, other than communization agreements, shall not be included in computing accountable acreage.

§ 3101.2–4 Excess acreage.

(a) Where, as the result of the termination or contraction of a unit or cooperative plan, or the elimination of a lease from an operating, drilling or development contract, a party holds or controls excess accountable acreage, said party shall have 90 days from the date of such termination, contraction or elimination to reduce the holdings to the prescribed limitation and to file proof of the reduction in the proper BLM office.

(b) If any person or entity is found to hold accountable acreage in violation of the provisions of these regulations, lease(s) or interests therein shall be subject to cancellation or forfeiture in their entirety, until sufficient acreage has been eliminated to bring the lessee within the acreage limitation.

§ 3101.2–5 Computation.

The accountable acreage of a party owning an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. The accountable acreage of a party who is the beneficial owner of more than 10 percent of the stock of a corporation which holds Federal oil and gas leases shall be the party's proportionate part of the corporation's accountable acreage. Parties to a contract for development of leased lands and co-licenses shall be charged with their proportionate interests in the lease. No holding of acreage in common by the same persons in excess of the maximum acreage specified in the laws for any one lessee shall be permitted.

§ 3101.2–6 Showing required.

At any time the authorized officer may require any lessee or operator to file with the Bureau of Land Management a statement showing as of specified date the serial number and the date of each lease in which he/she has any interest, in the particular State, setting forth the acreage covered thereby.

§ 3101.3 Leases within unit areas.

3101.3–1 Joinder evidence required.

Before issuance of a lease for lands within an approved unit, the lease offeror shall file evidence of having joined in the unit agreement and unit operating agreement with the unit operator for the development and operation of the lands pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the lessee shall be permitted to operate independently but shall be required to conform to the terms and provisions of the unit agreement with respect to such operations.

§ 3101.3–2 Separate leases to issue.

A noncompetitive lease offer for lands partly within and partly without the boundary of a unit shall result in separate leases, one for the lands within

the unit, and one for the lands outside the unit.

§ 3101.4 Lands covered by application to close lands to mineral leasing.

Offers filed on lands within a pending application to close lands to mineral leasing shall be suspended until the segregative effect of the application is terminated.

§ 3101.5 National Wildlife Refuge System lands.

(a) Lands within the contiguous 48 States that are in the National Wildlife Refuge System are not available for leasing, except where it is determined by the Service that any of the lands are subject to drainage or that the lands are needed for unitization under State unitization and/or spacing requirements. Lands subject to drainage shall be leased in accordance with Part 3120 of this title. Lands not in a known geologic structure needed for unitization or to comply with well spacing requirements shall be leased in accordance with Subpart 3111 of this title subject to a no surface occupancy stipulation. Directional drilling from lands outside the refuge system may be permitted.

(b) Lands within the National Wildlife System in Alaska, except the Arctic National Wildlife Refuge are subject to leasing.

(c) Leases shall be issued subject to stipulations prescribed by the Fish and Wildlife Service.

(d) Leases shall be issued only upon a determination by the Fish and wildlife Service that leasing is compatible with the major purposes for which the unit was established.

§ 3101.6 Recreation and public purposes lands.

Under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), all lands within Recreation and Public Purposes leases and patents are subject to lease under the provisions of this part, subject to such conditions as the Secretary deems appropriate.

§ 3101.7 Federal lands administered by an agency outside of the Department of the Interior.

§ 3101.7-1 General requirements.

(a) Acquired lands shall only be leased with the consent of the surface managing agency.

(b) Public domain lands shall only be leased after the Bureau of Land Management has consulted with the surface managing agency, unless consent is required by law.

§ 3101.7-2 Submittal to surface managing agency.

Upon receipt of a noncompetitive lease offer under subpart 3111 of this title or upon the availability of lands under subpart 3112 or 3120 of this title, the surface of which is not under the jurisdiction of the Bureau of Land Management, the authorized officer shall submit a description of the lands involved to the appropriate office of the surface managing agency for review.

§ 3101.7-3 Review by surface managing agency.

The surface managing agency shall report to the authorized officer as follows:

(a) As to lands on which consent of the surface managing agency is required, that it consents to leasing with special stipulations, if any, or that it withholds its consent;

(b) As to lands on which consultation with the surface managing agency is required, that it concurs in or recommends leasing with special stipulations, if any, or recommends against leasing.

§ 3101.7-4 Action by the Bureau of Land Management.

(a) The Secretary has the final authority and discretion to decide whether to issue a lease.

(b) Where the surface managing agency has consented to leasing with required stipulations, and the Secretary decides to issue a lease, the authorized officer shall incorporate the stipulations into any lease which it may issue. The authorized officer may add additional stipulations.

(c) The authorized officer shall not issue a lease and shall reject any lease offer on lands for which the surface managing agency withholds consent required by statute.

(d) The authorized officer shall review all recommendations and shall accept all reasonable recommendations of the surface managing agency.

§ 3101.7-5 Appeals.

(a) The decision of the authorized officer to reject an offer to lease or to issue a lease with special stipulations recommended by the surface managing agency may be appealed to the Interior Board of Land Appeals under part 4 of this title.

(b) Where the surface managing agency has required that special stiuplations be included in a lease or has refused to consent to leasing, an affected lease offeror may pursue the administrative remedies provided by the particular surface managing agency. Such appeal shall not suspend the effect of any decision by the authorized officer unless the affected offeror notifies the authorized officer of the pendency of such appeal within 30 days of service of the authorized officer's decision.

§ 3101.8 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of the lands containing oil and gas to any State or political subdivision, agency or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, such party shall be given written notification of the offer to lease by certified mail and shall be given a reasonable time within which to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations and also to file any objections it may have to the issuance of the lease. Where a party controlling the surface opposes the issuance of a lease, the facts submitted in support of the opposition shall be given consideration and each case decided on its merits. The opposition to lease expressed by the party controlling the surface affords no legal basis or authority to refuse to issue the lease for the reserved minerals in the lands; in such case, the final determination whether to issue the lease depends upon whether the interests of the United States would best be served by the issuance of the lease.

Subpart 3102—Qualifications of Lessees

§ 3102.1 Who may hold leases.

Leases may be acquired and held only by citizens of the United States; associations (including partnerships) of such citizens; corporations organized under the laws of the United States or of any State or Territory thereof; and municipalities.

§ 3102.2 Aliens.

Leases or interests therein may be acquired and held by aliens only through stock ownership, holding or control; and only if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries which do not provide "similar or like" privileges is available from any Bureau of Land Management office.

§ 3102.3 Minors.

Leases shall not be acquired or held by one considered a minor under the laws of the State in which the lands are located, but leases may be acquired and held by legal guardians or trustees of minors in their behalf.

§ 3102.4 Signatures.

All applications, offers and requests for approval of an assignment shall be holographically (manually) signed in ink by the potential lessee or by anyone authorized to sign on behalf of the potential lessee. Documents signed by anyone other than the potential lessee shall be rendered in a manner to reveal the name of the potential lessee, the name of the signatory and their relationship. (Example: John Smith, agent for May Jones; or ABC Corporation, agent for Mary Jones by John Smith). Machine or rubber stamped signatures shall not be used.

§ 3102.5 Evidence.

Submission of a lease application, offer or request for approval of an assignment constitutes certification of compliance with the regulations of this group and the act. Compliance means that the potential lessee, all other parties who hold an interest (as defined in § 3100.0–3(k) of this title) in the application, offer, assignment or lease or all parties who hold or control more than 10 percent interest in a lessee which is a corporation or association are: (a) Citizens of the United States or qualified stockholders in a domestic corporation (see § 3102.2 of this title); (b) in compliance with the Federal acreage limitations (see §§ 3101.1–5 and 3101.2–4 of this title); (c) not minors (see § 3102.3 of this title); and (d) not participants in any agreement, scheme, plan or arrangement prohibited in relation to simultaneous oil and gas leasing (see § 3112.6–1(a) of this title). Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group and the act.

Subpart 3103—Fees, Rentals and Royalty

§ 3103.1 Payments.

§ 3103.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency. Remittances returned unpaid shall be assessed a $10 service charge. Applications shall be barred from acquiring leases until the returned remittances is redeemed and the service charge paid.

§ 3103.1–2 Where submitted.

(a) All filing fees for lease applications, offers or for applications for approval of an instrument of transfer, and all rentals on nonproducing and nonunitized leases shall be paid to the proper BLM office. All remittances shall be made payable to the Bureau of Land Management.

(b) All rentals and royalties on producing leases, communitized leases in producing well units, unitized leases in producing unit areas, leases on which compensatory royalty is payable and all payments under subsurface storage agreements and easements for directional drilling are to be paid to the Service.

§ 3103.2 Rentals.

§ 3103.2–1 Rental requirements.

(a) Each offer shall be accompanied by full payment of the first year's rental based on the total acreage, if known, and, if not known, on the basis of 40 acres for each smallest legal subdivision. An offer deficient in the first year's rental by not more than 10 percent or $200, whichever is less, may be accepted by the authorized officer provided all other requirements are met. The additional rental shall be paid within 30 days from notice of the deficiency under penalty of rejection of the offer.

(b) Rental shall not be prorated for any lands in which the United States owns an undivided fractional interest but shall be payable for the full acreage in such lands.

§ 3103.2–2 Advance rental payments.

Rentals shall be paid on or before the anniversary date of the lease. A full year's rental shall be required even if less than a full year remains in the lease term. Failure to make timely payment shall cause a lease to terminate automatically by operation of law. If the proper BLM office is not open on the anniversary date, payment received on the next day the proper BLM office is open to the public shall be deemed to be timely filed. Rental shall be payable at the following rates:

(a) On lease issued under subpart 3112 of this title, an annual rental of $1 per acre or fraction thereof for each of the first 5 lease years and an annual rental of $3 per acre or fraction thereof for each remaining lease year;

(b) On leases issued under subpart 3111 of this title, an annual rental of $1 per acre or fraction thereof;

(c) On competitive leases, an annual rental of $2 per acre or fraction thereof;

(d) On lands within a lease issued under subpart 3111 of this title, after the effective date of this regulation which is later determined to be within a known geologic structure outside of Alaska or a favorable geologic province in Alaska, the annual rental shall be $2 per acre or fraction thereof beginning with the first lease year after the expiration of 30-days notice to the lessee. During the first 5 years of the lease term, the same rental increase is applicable to leases issued under subpart 3112 of this title.

(e) On exchange or renewal issued after the effective date of this regulation, the annual rental shall be $2 per acre or fraction thereof;

(f) Rental shall not be due on acreage for which royalty is being paid:

(g) The annual rental for leases issued prior to the effective date of this regulation is as established in the lease.

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas, when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(b) The average production per well per day for oil and gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only with the approval of the Secretary.

(d) The Secretary may establish reasonable values for purposes of computing royalty rates on any or all oil, gas, natural gasoline and other liquid products obtained from gas, due

consideration being given to the highest price paid for part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases, this will be done after notice to the parties and opportunity to be heard.

§ 3103.3-2 Minimum royalties.

(a) On leases issued on or after August 8, 1946, and on those issued prior thereto, if the lessee files an election under section 15 of the Act of August 8, 1946, a minimum royalty of $2 per acre in lieu of rental shall be payable at the expiration of each lease year after a discovery has been made on the leased lands commencing with the lease year, beginning on or after the date of such discovery; except that on unitized leases, the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $2 per acre, the lessee shall pay the difference at the expiration of the lease year.

(b) Minimum royalties shall not be prorated for any lands in which the United States owns a fractional interest but shall be payable on the full acreage of the lease.

§ 3103.3-3 Limitation on overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil and gas which, when added to overriding royalties or payments out of production previously created and to the royalty payable to the United States, aggregate in excess 17½ percent may be declared null and void by the Secretary at any time upon a determination that the excess constitutes a burden on lease operations to the extent that proper and timely development may be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused. The limitations in this section shall apply separately to any zone or portion of a lease segregated for computing royalty due the United States.

§ 3103.4 Promotion of development.

§ 3103.4-1 Waiver, suspension or reduction of rental, royalty or minimum royalty.

(a) In order to encourage the greatest ultimate recovery of oil or gas and in the interest of conservation, the Secretary, upon a determination that is necessary to promote development or that the leases cannot be successfully operated under the terms provided therein, may waive, suspend or reduce the rental minimum royalty or reduce the royalty on an entire leasehold, or any portion thereof.

(b)(1) An application for the above benefits shall be filed in tripicate in the proper office of the Service. It shall contain the serial number of the leases, the proper BLM office name, the name of the record title holder and operator or sub-lessee, the description of the lands by legal subdivision and a description of the relief requested.

(2) Each application shall show the number, location and status of each well drilled, a tabulated statement for each month covering a period of not less than 6 months prior to the date of filing the application of the aggregate amount of oil or gas subject to royalty, the number of wells counted as producing each month and the average production per well per day.

(c) Every application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any production and all facts tending to show whether the wells can be successfully operated upon the fixed royalty or rental. Where the application is for a reduction in royalty, full information shall be furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid and efforts made to reduce them. The applicant shall also file agreements of the holders to a reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the royalties due the United States.

§ 3103.4-2 Suspension of operations and production.

(a) Applications for relief from production requirements or from operating requirements shall be filed in triplicate in the proper office of the Service. No suspension of operations and production shall be granted in the absence of a well capable of production on the leasehold, except where the Service directs a suspension in the interest of conservation. Complete information shall be furnished showing the necessity of such relief.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the Service.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Service. Rental and minimum royalty payments shall be suspended during any period of suspension of all operations and production directed or assented to by the Service beginning with the first day of the lease month on which the suspension of operations or production becomes effective or if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which the operations or production is resumed.

(d) No lease shall be deemed to expire during a suspension of either operations or production.

(e) If there is a well capable of producing on the lease and all operations and production are suspended, the commencement of drilling operations shall be regarded as terminating the suspension of operations but not the suspension of production, and as terminating the period to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section.

(f) The relief authorized under this section may also be obtained for any lease included within an approved unit or cooperative plan of development and operation.

Subpart 3104—Bonds

§ 3103.4-1 Bond obligations.

(a) Prior to the commencement of drilling operations, the lessee or operator shall submit a surety or personal bond as described in this subpart.

(b) Surety bonds shall be issued by qualified surety companies approved by the Department of the Treasury (See Department of the Treasury Circular No. 570).

(c) Personal bonds shall be accompanied by a deposit as security therefor or negotiable Treasury bonds by the United States or cash or guaranteed remittance of a value equal to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of the lease.

§ 3104.2 Types of coverage.

(a) A leessee's general lease and drilling bond shall be in an amount of not less than $10,000 conditioned upon compliance with all the terms and conditions of the lease.

(b) An operator's bond in an amount of not less than $10,000 conditioned upon compliance with all of the terms

and conditions of the lease, may be furnished in lieu of a general lease and drilling bond, if the operator owns all of the operating rights in the tract(s), the formation or the lease covered by the operating agreement. Where 2 or more operators have interests in different formations or portions of the lease, each operator may file an operator's bond in his/her own name as principal on the bond in lieu of the general lease land drilling bond. Every operator shall be covered by either a general lease and drilling bond or an operator's bond.

§ 3104.3 Statewide and nationwide bonds.

(a) In lieu of general lease and drilling bonds or operator's bonds, lessees or operators may furnish a bond in an amount of not less than $25,000 covering all leases and operations in any one State.

(b) In lieu of general lease and drilling bonds, operator's bonds or statewide bonds, lessees or operators may furnish a bond in an amount of not less than $150,000 covering all leases or operations nationwide.

§3104.4 Unit operator's bond.

The approved unit operator may furnish and maintain a unit operator bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms and conditions of every lease subject thereto in lieu of a separate general lease and drilling bond or operator's bond for each lease committed to the unit agreement. All unit operator's bonds shall be furnished upon request and in the amount recommended by the Service.

§ 3104.5 Increased amount of bonds.

The authorized officer, on his/her own motion or upon the recommendation of the Service, may elect to increase the amount of any bond to be issued or any outstanding bond when additional coverage is determined appropriate.

§3104.6 Where filed and number of copies.

All bonds shall be filed in the proper BLM office on a form approved by the Director. A single copy executed by the principal and, in the case of surety bonds, by both the principal and an acceptable surety is sufficient.

3104.7 Default.

(a) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond or personal bonds and the surety's liability thereunder shall be reduced by the amount of such payment.

(b) After default, upon penalty of cancellation of all of the leases covered by such bond, that principal shall either post a new bond or increase the existing bond to the amount previously held by the United States, within 6 months after notice, or within such shorter period as may be fixed by the authorized officer. In lieu thereof, the principal may within that time file separate or substitute bonds for each lease or operating agreement.

§3104.8 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable alternative bond has been filed or until all the terms and condition of the lease have been met.

§3105.1 Cooperative or unit agreement.

§3105.1–1 Where filed.

All applications for cooperative or unit agreements shall be filed in the proper office of the Service. The procedure for obtaining approval of such an agreement is contained in 30 CFR Part 226.

§3105.1–2 Purpose.

The agreement shall be for the purpose of properly conserving the natural resources of any oil or gas pool, field or area covered by the agreement and shall be determined and certified by the Service to be in the public interest.

§3105.1–3 Adoption and operation under a unit plan.

Lessees and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any oil or gas pool, field or like area, or any part thereof (whether or not any part of such pool, field or like area is then subject to any cooperative or unite plan of development or operation).

§3105.2 Communitization or drilling agreements.

§3105.2–1 Where filed.

(a) Preliminary request to communitize separate tracts shall be filed, in triplicate, with the proper office of the Service.

(b) Executed agreements shall be submitted in sufficient number to permit retention of 5 copies by the Department after approval.

§3105.2–2 Purpose.

When a lease or a portion thereof cannot be independently developed and operated in conformity with an established well-spacing or well-development program, the Service may approve communitization or drilling agreements for such lands with other lands, whether or not owned by the United States, upon a determination that it is in the public interest. Operations or production under such an agreement shall be deemed to be operations or production as to each lease committed thereto.

§3105.2–3 Requirements.

The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of the United States. The agreement shall be signed by or on behalf of all necessary parties and shall be effective only after approval by the Service. Generally, no communitization agreement shall be given an effective date that is prior to the date of its filing with the Service. However, under circumstances of good faith, mistake or error by lessee or operator, and in the absence of intervening third party rights, the effective date of a communitization agreement may be fixed as far back as the date of execution of the agreement between the lessees or operators. No retroactive approval of a communitization agreement may be made where the lease expired prior to execution of the agreement. The agreement need not be in a form required for approval by the Service to qualify for this equitable relief, but may be any agreement between lessees and operators, such as an operating agreement, evidencing the intent of the parties to combine, and having the effect of combining, their leases or interests for operational purposes. If the agreement that combined such leases or interests is other then a formal communitization agreement acceptable for filing and approval as such, the Service may require the parties to submit such an agreement in proper form, which, if submitted and approved, shall be deemed effective as of the date the earlier agreement between the parties that combined their leases or interests.

§3105.3 Operating, drilling or development contracts.

§3105.3–1 Where filed.

A contract submitted for approval under this section shall be filled with the proper BLM office, together with enough copies to permit retention of 5 copies by the Department after approval.

§3105.3-2 Purpose.

Approval of operating, drilling or development contracts ordinarily shall be granted only to permit operations or pipeline companies to enter into contracts with a number of lessees sufficient to justify operations on a scale large enough to justify the discovery, development, production or transportation of oil or gas and to finance the same.

§3105.3-3 Requirements

The contract shall be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan for development and operation of the field. All the contracts held by the same contractor in the area or field shall be submitted for approval at the same time and full disclosure of the projects made.

§3105.4 Combination for joint operations or for transportation of oil.

§3105.4-1 Where filed.

An application under this section together with sufficient copies to permit retention of 5 copies by the Department after approval shall be filed with the Director.

§3105.4-2 Purpose.

Upon obtaining approval of the authorized officer, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing as a common carrier a pipeline or lines or railroads to be operated and used by them jointly in the transportation of oil or gas from their wells or from the wells of other lessees.

§3105.4-3 Requirements.

The application shall show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of law.

§ 3105.4-4 Rights-of-way.

Rights-of-way for pipelines may be granted as provided in part 2880 of this title.

§ 3105.5 Subsurface storage of oil and gas.

§ 3105.5-1 Where filed.

(a) Applications for subsurface storage shall be filed in the proper office of the Service.

(b) Enough copies of the final agreement signed by all the parties in interest shall be submitted to permit the retention of 5 copies by the Department after approval.

§ 3105.5-2 Purpose.

In order to avoid waste and to promote conservation of natural resources, the Secretary, upon application by the interested parties, may authorize the subsurface storage of oil and gas, whether or not produced from lands owned by the United States. Such authorization shall provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced.

§ 3105.5-3 Requirements.

The final agreement shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental or royalty offered to be paid for such storage and all essential information showing the necessity for such project.

§ 3105.5-4 Extension of lease term.

Any lease used for the storage of oil or gas shall be extended for the period of storage under an approved agreement. The obligation to pay rent continues during the extended period.

Subpart 3106—Assignments and other transfers

§ 3106.1 Assignments, general.

(a) Leases may be assigned as to all or part of the acreage in the lease or as to either a divided or undivided interest therein. Lease applications and offers shall not be assigned. An assignment of a separate zone or deposit or of part of a legal subdivision shall be disapproved unless the necessity of the assignment is established and it is determined that such assignment is in the best interest of the United States. The rights of the assignee to a lease or an interest therein shall not be recognized by the Department until the assignment has been approved by the authorized officer. A designation of operator, assignment of production payments or overriding royalty assignment shall not require approval (See Operating Regulations, 30 CFR Part 221).

(b) No lease or interest therein may be assigned prior to the issuance of the lease. No agreement or option to assign a simultaneous oil and gas lease or interest therein shall be made or given prior to the effective date of the lease or 60 days from the date of selection, whichever comes first. The existance of such a prior agreement or option shall result in disapproval of the subsequent assignment.

§ 3106.2 Qualifications of assignees.

Assignees shall comply with the provisions of subpart 3102 of this title and post any bond that may be required.

§ 3106.3 Filing fees.

In order to be accepted for filing, each instrument of assignment of record title, operating rights, royalty interest or payment out of production shall be accompanied by a nonrefundable filing fee of $25. Any instrument not accompanied by the required $25 filing fee shall not be accepted.

§ 3106.4 Forms.

§ 3106.4-1 Record title and operating rights.

Assignments of record title or operating rights shall be filed in triplicate with the proper BLM office on a form approved by the Director or reproductions thereof. A separate instrument of assignment shall be used for each lease out of which an assignment is made.

§ 3106.4-2 Royalty interest and production payments.

(a) If any royalty interest or payment out of production is created or reserved under the assignment which is not shown in the instrument of transfer, a statement describing the interest shall accompany the assignment when filed.

(b) A single signed copy of assignments of royalty interest shall be filed with the proper BLM office. No official form is required. The assignment shall include the assignee's signed statement as to his/her qualifications under subpart 3102 of this title and a suspension provision in accordance with § 3103.3-3 of this title.

§ 3106.5 Description of lands.

(a) Each instrument of assignment or transfer shall describe the lands involved in the same manner as the lands were described in the lease or in the manner required by § 3111.2 of this title.

(b) An assignment of record title to a separate zone or a part of a legal subdivision shall not be approved unless the necessity therefor is established by clear and convincing evidence.

§ 3106.6 Bonds.

§ 3106.6-1 Lessee's general lease bond.

Where a general lease or drilling bond is required to be maintained by the lessee in connection with a particular lease, the assignee of a record title interest in such lease shall furnish a replacement bond, except that an assignee of an undivided interest in the lease may furnish appropriate consent

of the surety under the existing bond to become co-principal on such bond if the assignor's bond does not expressly contain such consent.

§ 3106.6-2 Operator's bond.

Where operating rights are assigned and coverage was provided under an operator's bond, the assignee/operator shall furnish an appropriate replacement bond.

§ 3106.3 Statewide/nationwide bond.

If the assignee is maintaining a statewide or nationwide bond, no individual bond shall be required.

§ 3106.7 Approval of assignment.

§ 3106.7-1 Failure to qualify.

No assignment shall be approved if the assignee and other parties in interest are not qualified to hold the assigned interest, or if the bond, should one be required, is insufficient.

§ 3106.7-2 Continuing responsibility.

Until the assignment is approved, the assignor and surety shall continue to be responsible for the performance of all obligations under the lease. If the assignment is not approved, their obligations to the United States shall continue as though no such assignment had been filed for approval. After approval, the assignee and surety shall be responsible for the performance of all lease obligations notwithstanding any terms in the assignment to the contrary.

§3106.7-3 Lease account status.

An assignment of an interest in a producing lease shall not be approved unless the lease account is in good standing; except that the assignment may be approved subject to the continued obligation of the assignor and surety to remain bound under the existing bond until the lease account is placed in good standing.

§3107.7-4 Effective date of assignment.

The signature of the authorized officer on the official form shall constitute approval of the assignment, which shall take effect as of the first day of the lease month following the date of filing in the proper BLM office of all documents and statements required by this subpart and an appropriate bond, if one is required.

§3106.7-5 Effect of assignment.

An assignment of record title to 100 percent of a portion of the lease segregates the assigned portion and the retained portion into separate leases. Each resulting lease retains the anniversary date and the terms and conditions of the original lease. An assignment of an undivided record title interest of an operating right shall not segregate the assigned and retained portions into separate leases.

§3106.8 Other types of transfer.

§3106.8-1 Heirs and devisees.

If an offeror, applicant, assignee or lessee dies, his/her rights shall be transferred to the heirs, devisees, executor or administrator of the estate, as appropriate, upon the filing of a statement that all parties are qualified to hold a lease in accordance with subpart 3102 of this title. No filing fee is required.

§3106.8-2 Change of name.

A change of name of a lessee shall be reported to the proper BLM office. No filing fee is required. The notice of name change shall be submitted in writing and be accompanied by a list of the serial numbers of the leases affected by the name change. If bonds have been furnished, change of name may be made a rider to the original bond or by a replacement bond.

§3106.8-3 Corporate merger.

Where a corporate merger affects leases situated in a State where the transfer of property of the dissolving corporation to the surviving corporation is accomplished by operation of law, no assignment of any affected lease is required. A notification of the merger shall be furnished with a list, by serial number, of all leases affected.

Subpart 3107—Continuation, Extension or Renewal

§3107.1 Continuation by drilling.

Any lease on which actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at the end of the primary term or any lease which is part of an approved cooperative or unit plan of development or operation upon which such drilling takes place, shall be extended for 2 years subject to the rental being timely paid on or before the anniversary date. Actual drilling operations shall be conducted in the manner in which someone seriously looking for oil or gas could be expected to proceed in that particular area, given existing knowledge or geologic and other pertinent facts.

§3107.2 Continuation by production.

§3107.2-1 Production.

Lease shall be extended so long as oil and gas is being produced in paying quantities.

§3107.2-2 Cessation of production.

A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

§3107.2-3 Nonproduction from leases capable of production.

No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lease fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice to do so by registered mail from the Service. Such production shall be continued unless and until suspension of production is granted by the Service.

§3107.3 Extension for terms of cooperative or unit plan.

§3107.3-1 Leases committed to plan.

Any lease or portion of a lease, except as described in § 3107.3-3 of this title, committed to a cooperative or unit plan that contains a general provision for allocation shall continue in effect so long as the lease or portion thereof remains subject to the plan; *Provided,* That there is production of oil or gas in paying quantities under the plan prior to the expiration date of such lease.

§3107.3-2 Segregation of leases committed in part.

Any lease committed after July 29, 1954, to any cooperative or unit plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan, the other lands not committed to the plan. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term of the lease but for not less than 2 years from the date of segregation.

§3107.3-3 20-year lease or any renewal thereof.

Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease

was so committed prior to August 8, 1946.

§ 3107.4 Extension by elimination.

Any lease eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the act and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease or for 2 years after its elimination from the plan or agreement of the termination of the plan or agreement, whichever is longer.

§ 3107.5 Extension of leases segregated by assignment.

§ 3107.5-1 Extension after discovery on other segregated portions.

Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for 2 years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

§ 3107.5-2 Undeveloped parts of leases in their extended term.

Undeveloped parts of leases retained or assigned out of leases which are int their extended term shall continue in effect for 2 years after the effective date of assignment, provided the parent lease was issued prior to September 2, 1960.

§ 3107.5-3 Undeveloped parts of producing leases.

Undeveloped parts of leases retained or assigned out of leases which are extended by production, actual or suspended, or the payment of compensatory royalty shall continue in effect for 2 years after the effective date of assignment.

§ 3107.6 Exchange leases—20-year term.

Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease shall be issued for a primary term or 5 years. An application to exchange a lease for a new lease shall be filed, in triplicate, by the lessee at the proper BLM office, shall show full compliance by the applicant with the terms of the lease and applicable regulations and shall be accompanied by a nonrefundable filing fee of $25.

§ 3107.7 Renewal leases

§ 3107.7-1 Requirements.

(a) Twenty year leases and renewals thereof may be renewed for successive terms of 10 years. Any application for renewal of a lease shall be made by the lessee and may be joined in or consented to by the operator of record. The application shall show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the applicable regulations.

(b) The applicant or his/her operator shall furnish, in triplicate, with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existance as of the date of its expiration.

§ 3107.7-2 Terms.

An application to renew shall be filed, in triplicate, in the proper BLM office at least 90 days, but not more than 6 months, prior to the expiration of its terms and shall be accompanied by a nonrefundable filing fee of $25.

§ 3107.7-3 Approval.

Copies of the renewal lease, in triplicate, dated the first day of the month in which the original lease terminated, shall be forwarded to the lessee for execution. If, upon receipt of the executed lease forms and a satisfactory lease bond, the lease is executed by the authorized officer, 1 copy of the lease shall be delivered to the lessee.

§ 3107.8 Other types—payment of compensatory royalty.

The payment of compensatory royalty shall extend the term of any lease for the period during which such compensatory royalty is paid and for a period of 1 year from the discontinuance of such payments.

Subpart 3108—Relinquishments, Termination, Cancellation

§ 3108.1 Relinquishments.

A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, in the proper BLM office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and surety to make payments of all accrued rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease. A statement shall be furnished that all monies due and payable to workers employed on the lease premises have been paid.

§ 3108.2 Termination by operation of law.

§ 3108.2-1 Automatic termination and reinstatement.

(a) Except as provided in paragraph (d) of this section, any lease on which there is no well capable of producing oil or gas in paying quantities, shall automatically terminate by operation of law (30 U.S.C. 188) if the lessee fails to pay the rental at the proper BLM office on or before the anniversary date of such lease. However, if the proper BLM office is closed on the anniversary date, payment received on the next day the office is open to the public shall be deemed timely filed.

(b) If the rental payment due under a lease is paid on or before its anniversary date but the amount of the payment is deficient and the deficiency is nominal as defined in this section, or the amount of payment made was determined in accordance with the rental or acreage figure stated in a bill or decision rendered by the authorized officer and such figure is found to be in error resulting in a deficiency, such lease shall not have automatically terminated unless the lessee fails to pay the deficiency within the period prescribed in the Notice of Deficiency provided for in this section. A deficiency shall be considered nominal if it is not more than $25 or more than 5 percent of the total payment due, whichever is greater. The authorized officer shall send a Notice of Deficiency to the lessee on a form approved by the Director. The Notice shall be sent by certified mail, return receipt requested, and shall allow the lessee 15 days from the date of receipt or until the due date, whichever is later, to submit the full balance due to the proper BLM office. If the payment required by the Notice is not paid within the time allowed, the lease shall have terminated by operation of law as of its anniversary date.

(c)(1) Except as hereinafter provided, the authorized officer may reinstate a lease which is terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(i) Such rental was paid or tendered within 20 days after the anniversary date; and

(ii) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(iii) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including any back rental which has accrued from

the date of the termination of the lease, is filed with the proper BLM office within 15 days after receipt of Note of Termination of Lease due to late payment of rental. The Notice of Termination shall be sent only if the rental is actually paid.

(2) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee. However, a remittance which is postmarked on or before the lease anniversary date and is received in the proper BLM office no later than 20 days after such anniversary date shall be accepted as meeting the showing of reasonable diligence required in paragraph (c)(1)(ii) of this section.

(3) Under no condition shall a terminated lease be reinstated if:

(i) A valid oil and gas lease has been issued prior to the filing of a petition of reinstatement affecting any of the lands covered by that terminates lease; or

(ii) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(4) The authorized officer shall not issue a lease for lands covered by a lease which terminates automatically until 90 days after the date of termination.

(d) Where a reinstatement of a terminated lease is granted under this section and the authorized officer finds that the reinstatement will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of such lease for a period sufficient to give the lessee such an opportunity. Any extension shall be subject to the following conditions:

(1) No extension shall exceed a period equivalent to the time (i) beginning when the lessee knew or should have known of the termination and (ii) ending on the date which the authorized officer grants such petition.

(2) No extension shall exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination.

(3) When the reinstatement occurs after the expiration of the term or extension thereof, the lease may be extended from the date the authorized officer grants the petition.

§ 3108.3 Cancellation.

(a) Whenever the lessee fails to comply with any of the provisions of the law, the regulations issued thereunder or the lease, the lease may be cancelled by the Secretary, if the lands covered by the lease are not known to contain valuable deposits of oil or gas. The lease may be cancelled only after notice to the lessee in accordance with section 31 of the act and only if default continues for the period prescribed in that section after service of notice of failure to comply.

(b) Leases shall be cancelled if improperly issued.

(c) Leases for lands known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

§ 3108.4. Bona fide purchasers.

A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers are on notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease. Prompt action shall be taken to dismiss as a party to any proceedings with respect to a violation of any provisions of the act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the act. No hearing shall be necessary upon such showing unless prima facie evidence is presented to indicate a possible violation on the part of the alleged bona fide purchaser. If, during any such proceeding, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments or rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver of the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

Subpart 3109—Leasing Under Special Acts

§3109.1 Rights-of-way.

The Act of May 21, 1930 (30 U.S.C. 301–306), authorizes either the leasing of oil and gas deposits under railroad and other rights-of-way to the owner of the right-of-way or the entering of a compensatory royalty agreement with adjoining landowners. This authority shall be exercised only where a right or access was not reserved to the United States in the right-of-way grant. In all other cases, such lands shall be subject to lease under Parts 3110 and 3120 of this title.

§ 3109.1–1 Application.

No particular form of application for lease of lands in a right-of-way is required. Applications shall be filed in the proper BLM office. Such applications shall be filed by the owner of the right-of-way or by his/her assignee and be accompanied by a nonrefundable filing fee of $25, and if filed by an assignee, by a duly executed assignment of the right to lease. The application shall detail the facts as to the ownership of the right-of-way, and of the assignment if the application if filed by an assignee; the development of oil and gas in adjacent or nearby lands, the location and depth of the wells, the production and the probability of drainage of the deposits in the right-of-way. A description by metes and bounds of the right-of-way is not required but each legal subdivision through which the portion of the right-of-way desired to be leased extends shall be described.

§ 3109.1–2 Notice.

After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on its own motion, the authorized officer shall serve notice on the owner or lessee of the adjoining lands. The adjoining land owner or lessee shall be allowed a reasonable time, as provided in the notice, within which to submit a bid for the extraction of the oil and gas underlying the right-of-way through wells on such adjoining lands. The owner of the right-of-way shall be given the same time period to submit a bid for the lease.

§ 3109.1–3 Award of lease or compensatory royalty agreement.

Award of lease to the owner of the right-of-way, or a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands shall be made to the bidder whose offer is determined by the authorized officer to be to the best advantage of the United States, considering the amount of royalty to be received and the better development under the respective means of production and operation.

§ 3109.1–4 Compensatory royalty agreement or lease.

(a) The lease or compensatory royalty agreement shall be on a form approved by the Director.

(b) The royalty to be charged shall be fixed by the Bureau of Land Mangement, but shall not be less than 16⅔ percent.

(c) The term of the lease shall be for a period of not more than 20 years.

§ 3109.2 Lake Mead Recreation Area.

§ 3109.2-1 Authority to lease.

The Act of October 8, 1964 (16 U.S.C. 460n), provides for mineral leasing within the Lake Mead Recreation Area, subject to such limitations, conditions or regulations as the Secretary may prescribe, and to such extent as will not be inconsistent with either the recreational use or the primary use of that portion of the area heretofore withdrawn for reclamation purposes.

§ 3109.2-2 Area subject to lease.

The area subject to lease under this section is that area which is shown on a certain map identified as "boundary map, RA-LM-7060-B, revised July 17, 1963," which is on file and which is available for public inspection in the office of the Director, National Park Service, and in the headquarters office of the Superintendent, Lake Mead National Recreation Area. The area subject to these regulations may be revised by the Secretary as authorized in the Act of October 8, 1964.

§ 3109.3 Wilderness lands.

All laws pertaining to mineral leasing and the regulations of this chapter extend to lands subject to the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.) until midnight December 31, 1983, unless otherwise provided by law. After that date, the wilderness areas are withdraw from leasing, subject to valid existing rights, under section 4(d)(3) of the Wilderness Act.

§ 3109.4 Whiskeytown-Shasta-Trinity National Recreation Area.

Section 6 of the Act of November 8, 1965 (Pub. L. 89-336), authorizes the Secretary to permit the removal of oil and gas from lands within the Whiskeytown-Shasta-Trinity National Recreation Area in accordance with the act or the Acquired Lands Mineral Leasing Act of 1947.

2. Part 3110 is revised to read as follows:

PART 3110—NONCOMPETITIVE LEASES

Subpart 3110—Noncompetitive Leases; General

Sec.
3110.1 Leases terms.
3110.1-1 Duration of lease.
3110.1-2 Dating of lease.
3110.1-3 Lease size.
3110.2 Withdrawal of offer or application.
3110.3 Action on offer.

Subpart 3111—Over-the-Counter Offers

Sec.
3111.1 Requirements.
3111.1-1 General.
3111.2 Description of lands in offer.
3111.2-1 Public domain.
3111.2-2 Acquired lands.
3111.2-3 Accreted lands.
3111.2-4 Conflicting descriptions.
3111.3 Future interest offers.
3111.3-1 Application.
3111.3-2 Form of Application.
3111.3-3 Effective date of lease.
3111.3-4 Supplemental agreement.
3111.3-5 Approval.

Subpart 3112—Simultaneous Filings

Sec.
3112.0-5 Definitions.
3112.1 Parcels.
3112.1-1 Availability of lands.
3112.1-2 Parcel list.
3112.1-3 Posting of notice.
3112.2 How to file an application.
3112.2-1 Simultaneous oil and gas lease applications.
3112.2-2 Filing fees.
3112.2-3 Qualifications.
3112.2-4 Filing assistance.
3112.3 First qualified applicant.
3112.3-1 Selection procedure.
3112.3-2 Reselection process.
3112-4 Lease issuance.
3112.4-1 Lease offer and payment of the first year's rental.
3112.4-2 Acceptance of lease offer.
3112.4-3 Restriction on transfer.
3112.5 Unacceptable filings.
3112.6 Adjudication.
3112.6-1 Rejection of an application.
3112.6-2 Rejection of an offer.
3112.6-3 Cancellation of leases.
3112.7 Availability of unleased lands.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351-359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301-306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96-514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3110—Noncompetitive Leases, General

§ 3110.1 Lease terms.

§ 3110.1-1 Duration of lease.

All noncompetitive leases shall be for a primary term of 10 years.

§ 3110.1-2 Dating of leases.

All noncompetitive leases shall be considered issued when signed by the authorized officer. Leases shall be effective as of the first day of the month following the date the leases are issued except that where prior written request is made, a lease may be effective the first of the month within which it is issued.

§ 3110.1-3 Lease size.

(a) No offer may be made for less than 640 acres except where the offer described all of the available lands in a surveyed or protracted section, and all contiguous lands are unavailable.

(b) An offer to lease public domain or acquired lands may not include more than 10,240 acres. The lands in an offer shall be entirely within an area of 6 miles square or within an area not exceeding 6 surveyed sections in length or width measured in cardinal directions. An offer to lease acquired lands may exceed the 6 mile square limit if:

(1) The lands are not surveyed under the rectangular survey system of public land surveys and are not within the area of the public land surveys; and

(2) The tract desired is described by the acquisition tract number assigned by the acquiring agency and less than 50 percent of the tract lies outside the 6 mile square area.

§ 3110.2 Withdrawal of offer or application.

An offer under subpart 3111 or 3112 of this title may be withdrawn, either in whole or in part, before the lease issues. An application under subpart 3112 of this title may not be withdrawn.

§ 3110.3 Action on offer.

(a) If, prior to the time a noncompetitive lease is issued, all or part of the lands in the offer are found to be within a known geologic structure or a producing oil or gas field or a favorable petroleum geologic province in Alaska, the offer shall be rejected in whole or in part, as appropriate.

(b) No lease shall be issued before final action has been taken on any prior offer to lease the lands or any extension or petition for reinstatement of an existing or former lease on the lands. If a lease is issued before final action, it shall be cancelled, after due notice to the lessee, if the offeror is qualified to receive a lease or the petitioner is entitled to reinstatement of a former lease.

Subpart 3111—Over-the-Counter Offers

§ 3111.1 Requirements.

§ 3111.1-1 General.

(a) Except as provided in subpart 3112 of this title, a noncompetitive offer to lease shall be made on a form approved by the Director, "Offer to Lease and Lease for Oil and Gas" (for leasing

public domain lands) or "Offer to Lease and Lease for Oil and Gas; Noncompeitive Acquired Lands," (for leasing acquired lands) or on unofficial copies of that form in current use. Copies shall be exact reproductions on 1 page of both sides of the official approved form without additions, omissions or other changes or advertising. Each offer shall be filled in by typewriter or printed plainly in ink and signed by the offeror or offeror's agent and shall be accompanied by a nonrefundable filing fee of $75 and the first year's rental. Five copies of the official form, or valid reproductions, for each offer to lease public domain lands and 7 copies for each offer to lease acquired lands shall be filed in the proper BLM office.

(b) Priority of an offer filed over-the-counter shall be determined as of the time and date the offer is filed in the proper BLM office. Offers to lease which are recieved in the same mail or over-the-counter at the same time, shall be considered as having been filed simultaneously. Priority of the offers as to the extent of the conflicts between them shall be determined by random selection.

(c) No offer may include both public domain and acquired lands.

(d) Compliance with subpart 3102 shall be required.

(e) The United States shall indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease, by the signature of the authorized officer on the lease form. A signed copy of the lease shall be mailed to the offeror.

(f) Except as herein provided, an offer which is not filed in accordance with the regulations in this part shall be rejected. An offer to lease containing any of the following deficiencies shall be approved by the authorized officer, provided all other requirements are met:

(1) An offer on a lease form not currently in use;

(2) An offer on a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect on the date of filing; or

(3) An offer exceeding the 10,240-acre maximum by not more than 160 acres. The offeror shall be granted 30 days from notice of the excess to withdraw the excess acreage from the offer, failing which, the offer shall be rejected to the extent of the excess acreage.

(g) All offers for leases should name, if practicable, the United States agency from which consent to the issuance of a lease shall be obtained, or the agency that may have title records covering the ownership for the mineral interest involved, and identify the project, if any, of which the lands covered by the offer are a part. Leases for which such consent is necessary shall not be issued until the offeror executes any stipulations that may be required by the consenting agency.

§ 3111.2 Description of lands in offer.

§ 3111.2-1 Public domain.

(a) If the lands have been surveyed under the public land rectangular system, each offer shall describe the lands by legal subdivision, section, township and range.

(b) If the lands have not been surveyed under the public land rectangular system, each offer shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form and connected by courses and distances to an official corner of the public land surveys.

(c)(1) When protracted surveys have been approved and the effective date thereof published in the **Federal Register**, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, shall, except as provided below, include only entire sections described according to the section, township and range shown on the approved protraction surveys.

(2) An offer may include less than an entire protracted section when only a portion of such a section is available for lease. In such case, the offer shall describe all the available lands by subdivisional parts in same manner as provided in paragraph (a) of this section for officially surveyed lands. If this is not feasible, as e.g., in the case of an irregular section, the offer shall be deemed to include all of the lands in the described section which are available for lease.

(d)(1) Where offers are pending for unsurveyed lands which are subsequently surveyed or protracted prior to the lease issuance, the description in the lease shall be conformed to the subdivisions of the approved protracted survey or the public land survey, whichever is appropriate.

(2) The description of lands in an existing lease shall be conformed to a subsequent resurvey or amended protraction survey, whichever is appropriate.

§ 3111.2-2 Acquired lands.

(a) If the lands have been surveyed under the rectangular system of public land surveys, the lands shall be described by legal subdivision, section, township and range.

(b) If the lands have not been surveyed under the rectangular system of public land surveys, they shall be described as in the deed or other document by which the United States acquired title to the lands or minerals. If the desired lands constitute less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary tying by course and distance into the description in the deed or other document by which the United States acquired title to the lands. In addition, if the description in the deed or other document by which the United States acquired title to the lands does not include such courses and distances between the suceessive angle points on the boundaries of the desired tract, the description in the offer shall be expanded to include such courses and distances.

(c) In those instances where the acquiring agency has assigned an acquisition number to the tract applied for, a description by such tract number shall be required in lieu of the description otherwise required by paragraphs (a) and (b) of this section.

(d) Each offer submitted under paragraphs (b) and (c) of this section shall be accompanied by 7 copies of a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part.

§ 3111.2-3 Accreted lands.

Where an offer includes any accreted lands, the accreted lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the tract to which the accretions appertain.

§ 3111.2-4 Conflicting descriptions.

If there is any variation in the land description among the required copies of the official forms, the copy showing the date and time of receipt in the proper BLM office shall control.

§ 3111.3 Future interest offers.

A lease for future interest in lands believed, but not known, to contain mineral deposits may be issued whenever the public interest will best be served by the lease issuance.

§ 3111.3-1 Application.

(a) A noncompetitive future interest lease shall be issued only to an offeror

who owns all of substantially all of the present operating rights in the lands, either as an operator holding such rights, or as mineral fee owner or as lessee.

(b) An offer for the future interest lease filed less than 1 year prior to the date of vesting in the United States of the present interest in the minerals shall be rejected. Upon the vesting in the United States of the present possessory interest in the minerals, all offers for future interest leases pending at the time shall automatically lapse and thereafter only offers for a present interest shall be considered.

§ 3111.3–2 Form of application.

There is no required form for an offer to lease a future interest. The offer shall, to the extent applicable, conform to and include the terms of the noncompetitive lease forms currently in use and shall also be accompanied by a copy of such lease or contract. In lieu of an abstract, a certification of title may be furnished. A future interest offer may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought.

§ 3111.3–3 Effective date of lease.

Future interest leases shall become effective on the date when the United States becomes vested with the mineral rights as stated in the lease. Where the effective dates of the vesting of the United States' title to the minerals are different for different tracts, separate leases covering each of the different tracts shall be issued.

§ 3111.3–4 Supplemental agreement.

(a) As part of the consideration for the issuance of a future interest lease and as supplemental thereto, the offeror shall execute, in triplicate, an agreement for approval by the Director. The agreement shall provide for the payment of annual rental in advance at the rate of $1, or a minimum royalty of $2 after a discovery has been made, for each acre covered by the offer until the future interest therein becomes possessory and the lease becomes effective. The agreement shall be effective as of the date the lease issues and shall govern the relationship of the offeror and the United States between its effective date and the date when the lease becomes effective. Where the United States owns both a fractional interest and fractional future interest in the minerals in the same tract, the supplemental agreement shall cover only the fractional future interest in that tract. The lease, when issued, shall cover both the present and future interests in the lands and shall be effective for the present interest held by the United States as of the date on which the lease issues.

(b) The agreement shall provide that the rental shall be $2 per acre per year for any lands determined to be within a known geologic structure, or a favorable petroleum geologic province in Alaska.

(c) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay a royalty of not less than $2 per acre per year, at the particular rate that is applicable as described below. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years	10 percent
From 4 years to 8 years	8 percent
From 8 years to 12 years	6 percent

(d) Upon vesting of the rights to the lands in the United States, the royalty rate which shall attach to the lease shall be 12½ percent for those lands which are not within a known geologic structure or a producing oil or gas field or a favorable petroleum province in Alaska, and as set forth in § 3103.3–1(a)(2) of this title, for those lands which are within such areas.

§ 3111.3–5 Approval.

Leases for future interest shall be issued on a form approved by the Director. The lease shall be sent to the offeror for signature and return to the proper BLM office for signature by the authorized officer.

Subpart 3112—Simultaneous Filing

§ 3112.0–5 Definitions.

As used in this subpart, the term "person or entity in the business of providing assistance to the participants in the Federal simultaneous oil and gas leasing program" means those enterprises, commonly known as filing services, which sign, formulate, prepare or otherwise complete or file applications for oil and gas leases for consideration. All other services such as general secretarial assistance or general geologic advice whether or not it is specifically related to Federal lease parcels or leasing, are excluded from this definition.

§ 3112.1 Parcels.

§ 3112.1–1 Availability of lands.

(a) Except as provided in paragraph (b) of this section and § 3120.1 of this title, all lands which are not within a known geologic structure of a producing oil or gas field, or a favorable petroleum geologic province in Alaska, and were covered Federal oil and gas leases which have been cancelled terminated or expired are subject to leasing only under this subpart.

(b) Lands in Alaska which are not included in a pending application or offer filed under this subpart and which are available for posting for simultaneous oil and gas leasing on the effective date of this rulemaking shall be subject to leasing under the provisions of subpart 3111 of this title when such lands become available for leasing. Subsequent leasing shall be in accordance with this subpart.

§ 3112.1–2 Parcel list.

The lands available for leasing shall be described in leasing units identified by parcel numbers. The lands shall also be described by subdivision, section, township and acreage if the lands are surveyed or officially protracted, or if unsurveyed, by metes and bounds, or by acquisition tract number. The list shall include a statement as to, and a copy of, stipulations applicable to each parcel.

§ 3112.1–3 Posting of notice.

At the start of business on the first working day of January, March, May, July, September and November, a list of the lands for which applications shall be received shall be posted in the proper BLM office. The list shall include a notice stating that the lands listed are subject to the filing of lease applications from the time of posting until the close of business on the 15th working day of that month. Copies of the posted notice may be purchased from the proper BLM office.

§ 3112.2 How to file an application.

§ 3112.2–1 Simultaneous oil and gas lease applications.

(a) An application to lease under this subpart consists of a simultaneous oil and gas lease application on a form approved by the Director, completed, signed and filed pursuant to the regulations in this subpart. The first applicant for a lease, as determined under the regulations in this subpart, who is qualified to hold a lease under the Act and the regulations in this title shall be given the opportunity to complete an offer to lease as described in § 3112.4–1 of this title.

(b) The application shall include the applicant's personal or business address. All communications relating to leasing shall be sent to that address and it shall constitute the applicant's address of record for the purposes provided in § 3112.4–1 of this title. The address of any other person or entity which is in the business of providing assistance to those participating in the

simultaneous oil and gas leasing system shall not be used.

(c) The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period.

(d) The parcel applied for shall be identified by the proper parcel number, including State prefix, as shown on the posted notice.

(e) Applicants participating in the simultaneous oil and gas leasing program in Bureau of Land Management State offices which use automated processing shall enter their social security number on the lease application. Corporations and other entities shall use their Internal Revenue Service number or taxpayer number. If an applicant has no social security number or does not wish to disclose such a number, the Bureau shall, upon application, assign an applicant number which shall be used for all future filings.

(f) No person or entity shall hold, own or control an interest in more than 1 application for a particular parcel.

(g) The properly completed and signed lease application shall be filed in the proper BLM office.

§ 3112.2-2 Filing fees.

Each filing shall be accompanied by a nonrefundable filing fee of $75. Failure to submit sufficient fees to cover all filings in a group shall render unacceptable the entire group of filings submitted with that remittance, except that a filing fee deficiency of not more than 1 percent of the total filing fee shall be deemed a curable defect. An uncollectible remittance covering the filing fee(s) shall result in disqualification of all filings covered by it. Any uncollectable remittance or deficiency shall constitute a debt due to the United States which shall be paid before the applicant shall be permitted to participate in any future selection.

§ 3112.2-3 Qualifications.

Compliance with subpart 3102 of this title is required. The applicant shall set forth on the lease application, or on a separate accompanying sheet, the names of all other parties who hold an interest (as defined in § 3100.0-3(k) of this title) in the application, or the lease, if issued.

§ 3112.2-4 Filing assistance.

Any applicant receiving the assistance of any person or entity which is in the business of providing assistance to participants is the Federal simultaneous oil and gas leasing program shall indicate on the lease application the name of the party or filing service that provided assistance.

§ 3112.3 First qualified applicant.

§ 3112.3-1 Selection procedure.

(a) One applicant shall be considered for each numbered parcel. If more than 1 lease application is filed for a parcel, the successful applicant shall be determined by random selection.

(b) The results of the selection process shall be posted in the proper BLM office.

(c) All unsuccessful applicants shall be notified in writing or by return of their applications.

(d) Successful applicants shall be notified in accordance with § 3112.4-1 of this title.

§ 3112.3-2 Reselection process.

If a properly filed application is omitted from the selection process, a new selection shall be held. An omitted application may not be withdrawn by the applicant. The new selection shall consist of the omitted application(s) and the number of blank applications equal to the number of applications which were included in the first selection. The new selection shall be conducted in the same manner as the original selection. If the omitted application is not selected, the result of the original selection shall stand. However, if an omitted application is selected, it shall displace the application selected in the original selection.

§ 3112.4 Lease issuance.

§ 3112.4-1 Lease offer and payment of the first year's rental.

(a) The lease agreement, consisting of a lease form approved by the Director, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental. Only the personal handwritten signature, in ink, of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, shall be accepted. The signed lease agreement and rental payment shall be filed in the proper BLM office within 30 days from the date of receipt of the notice, and shall constitute the applicant's offer to lease.

(b) An attorney-in-fact may sign the lease offer and pay the first year's rental only if:

(1) The power of attorney prohibits the attorney-in-fact from filing offers on behalf of any other participant;

(2) The power of attorney specificaly authorizes the attorney-in-fact to execute on behalf of the participant all offers, statements or interest and of holding and other statements required by the regulations; and

(3) The power of attorney binds the participant to representations made on his/her behalf by the attorney-in-fact under the power of attorney. An attorney-in-fact signing a lease offer on behalf of the prospective lessee shall file, together with the offer, a copy of his/her power of attorney over the personal handwritten signature, in ink, of the prospective lessee. Evidence of the applicant's physical handicap which precludes an ability to sign may be submitted in lieu of the applicant's signature on the power of attorney.

§ 3112.4-2 Acceptance of lease offer.

The signature of the authorized officer on the lease shall constitute the acceptance of the lease offer and the issuance of the lease by the United States.

§ 3112.4-3 Restriction on transfer.

For restrictions on transfers, see § 3106.1(b) of this title.

§ 3112.5 Unacceptable filings.

(a) Applications shall be examined prior to selection and the application or written notice, together with the filing fee, shall be returned to the applicant or remitter for any filing which is:

(1) Received prior to the beginning of the simultaneous filing period;

(2) Received after the closing of the filing period;

(3) Accompanied by an unacceptable remittance or insufficient filing fees;

(4) Filed in the wrong office;

(5) Filed without a parcel number or with a parcel number which is not on the current posted notice;

(6) Filed for a parcel which is withdrawn by the Bureau of Land Management;

(7) Received in a condition which the authorized officer determines will prevent automated processing; or

(8) Filed on the wrong form.

(b) Failure to identify a filing as unacceptable prior to selection does not bar rejection after selection for the reasons listed in this section or any reason set forth in §§ 3112.6-1 through 3112.6-3 of this title.

§ 3112.6 Adjudication.

§ 3112.6-1 Rejection of an application.

(a) Rejection is an adjudication process which follows selection. Filing fees for rejected filings are the property of the United States and shall not be returned.

(b) Any application which is not filed in accordance with § 3112.2 of this title or any application which is unacceptable, as set forth in § 3112.5 of this title, shall be rejected.

Misplacement of name and address or incomplete address on the face of form 3112–1 shall not be a basis for rejection until 30 days from posting the list of priority or return of the documents described in § 3112.1–4 of this title as undeliverable, whichever is later.

(c) Any agreement, scheme, plan or arrangement entered into prior to selection, which gives any party or parties more than a single opportunity of successfully obtaining a lease or interest therein is prohibited. Any application made in accordance with such agreement, scheme, plan or arrangement shall be rejected: Specifically:

(1) Any agreement, scheme, plan or arrangement which obligates the applicant to transfer any interest in the lease, if issued, to a third party; or which gives the third party a right of first refusal for the lease, if issued; or which obligates the applicant to use the services of the third party when assigning or transferring any interest in the lease, if issued, is prohibited if such agreement, scheme, plan or arrangement exists between the third party and 2 or more applicants for the same parcel or if the third party files for the same parcel as the applicant;

(2) Any agreement, scheme, plan or arrangement between any person or entity in the business of providing assistance to participants in the Federal simultaneous oil and gas leasing program and any potential assignee whereby such person or entity will seek to induce an assignment of any lease is prohibited;

(3) Filings by members of an association, including a partnership, or officers of a corporation, under any agreement, scheme, plan or arrangement whereby the association or corporation has an interest in more than a single filing for a single parcel are prohibited; or

(4) Separate filings by a trustee or guardian in its own behalf and on behalf of 1 or more beneficiaries on the same parcel or, separate filings by a trustee or guardian on behalf of 2 or more beneficiaries on the same parcel or, separate filing by the grantor or person with the power of revocation of a revocable trust and the trust are prohibited.

(d) The application of the first qualified applicant shall be rejected if an offer is not filed in accordance with § 3112.4–1 of this title.

(e) The authorized officer shall reject all filings which are made in accordance with any illegal agreement, scheme, plan or arrangement and shall take other appropriate actions including investigations for prosecution under 18 U.S.C. 1001.

§ 3112.6–2 Rejection of an offer.

An offer shall be rejected if the application upon which it is based should have been properly rejected under § 3112.6–1 of this title.

§ 3112.6–3 Cancellation of leases.

In the event a lease has been issued on the basis of an application or offer which properly should have been rejected or, if any interest in any lease is owned or controlled directly or indirectly in violation of any of the provisions of the act or regulations in this title, action shall be taken to cancel the interest or lease unless the rights of a bona fide purchaser, as provided in § 3108.3(c) of this title, intervene. The United States may take action to cancel regardless of whether information showing the application or offer was rejectable is obtained or was available before or after the lease was issued.

§ 3112.7 Availability of unleased lands.

The State Director of the proper BLM office may make available for leasing under subpart 3111 of this title any parcel which has been made available for leasing under this subpart upon a determination the parcel is not favorable for the production of oil and gas and that little or no interest in leasing such parcel exists. Such parcels shall become available for leasing under subpart 3111 of this title upon notation of such fact to the public land records.

Part 3120 is revised to read as follows:

PART 3120—COMPETITIVE LEASES

Subpart 3120—Competitive Leases

Sec.

3120.1 General.
3120.2 Lease terms.
3120.2–1 Duration of lease.
3120.2–2 Dating of lease.
3120.2–3 Lease size.
3120.2–4 Qualification.
3120.3 Initiation of offer.
3120.4 Notice of lease sale.
3120.4–1 Contents of notice.
3120.4–2 Detailed statement.
3120.4–3 Publication of the notice.
3120.5 Award of lease.
3120.6 Rejection of bid.
3120.7 Consideration of next highest bidder.
3120.8 Future or fractional interest.
3120.8–1 Applications.
3120.8–2 Supplemental agreement.
3120.8–3 Compensatory royalty agreements.

Authority: Mineral Lands Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

Subpart 3120—Competitive Leases

§ 3120.1 General.

Lands which shall be leased by competitive bidding under this subpart include:

(a) Lands within any known geologic structure of a producing oil or gas field, as determined by the Service.

(b) Lands for which authority to lease has been delegated to the General Services Administration.

(c) Lands in Alaska within a favorable petroleum geologic province, as determined by the Service.

(d) If, in proceeding to cancel a lease, interest in a lease, option to acquire a lease or an interest therein, acquired in violation of any of the provisions of the act, an underlying lease, interest or option in the lease is cancelled or forfeited to the United States and there are valid interests therein which are not subject to cancellation, forfeiture or compulsory disposition, such underlying lease, interest or option shall be sold to the highest responsible, qualified bidder by competitive bidding in a manner similar to that provided in the offering of leases by competitive bidding subject to all outstanding valid interests therein and valid options pertaining thereto. However, if less than the whole interest in the lease, interest or option is cancelled or forfeited, such partial interest shall likewise be sold by competitive bidding. If no satisfactory offer is obtained as a result of the competitive offering of such whole or partial interests, such interests may be sold by such other methods as the authorized officer deems appropriate, but on terms no less favorable to the United States than those of the best competitive bid received.

(e) Lands which are otherwise unavailable for leasing but which are subject to drainage (protective leasing).

§ 3120.2 Lease terms.

§ 3120.2–1 Duration of lease.

Competitive leases shall have a primary term of 5 years.

§ 3120.2–2 Dating of lease.

All competitive leases shall be effective as of the first day of the month following the date the leases are signed on behalf of the United States except where prior written request is made, a lease may be made effective on the first of the month within which it is signed.

§ 3120.2–3 Lease size.

(a) Lands outside of Alaska which are within a known geologic structure of a producing oil or gas field shall be divided into leasing blocks or tracts in units of not more than 640 acres each, which shall be as nearly compact in form as possible.

(b) Lands in Alaska which are within a favorable petroleum geologic province shall be divided into leasing blocks or not more than 2,560 acres, which shall be as compact in form as possible.

(c) If 2 or more blocks are awarded to any bidder, the blocks where the total combined acreage does not exceed the maximum allowable lease size may be included in a single lease if circumstances warrant.

(d) Leases for lands in which the United States owns a future interest shall be subject to the same acreage limitations as set forth in paragraphs (a) and (b) of this section.

§ 3120.2–4 Qualifications.

(a) Each bidder shall submit with the bid a statement over the bidder's own signature with respect to compliance with subpart 3102 of this title.

(b) The successful bidder at a sale by public auction shall on the day of the sale deposit with the authorized officer, and each bidder, if the sale is by sealed bids, shall submit with the bid one-fifth the amount bid.

§ 3120.3 Initiation of offer.

A request or nomination of a tract(s) for competitive sale shall be submitted to writing to the proper BLM office. The Bureau of Land Management may also on its own motion offer lands through competitive bidding.

§ 3120.4 Notice of lease sale.

§ 3120.4–1 Contents of notice.

The notice of lease sale shall state the time, date and place of the sale including a general description of the lands offered for sale, and information on where the detailed statement of the precise description and terms and conditions of the lease(s), including rental and royalty rates, as well as where bid forms may be obtained.

§ 3120.4–2 Detailed statement.

The detailed statement shall contain information on when and where to submit bids, bidding requirements, payments required, lease terms and stipulations, the description of the leasing unite being offered and any other information that may be helpful to the prospective bidder.

3120.4–3 Publication of the notice.

The notice of lease sale shall be published one a week for 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated or in such other publication as the authorized officer may determine.

§ 3120.5 Award of lease.

(a) All bids shall be opened at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after that time shall not be considered. The right to reject any and all bids is reserved.

(b) The lease shall be awarded to the highest responsible qualified bidder. Three copies of the lease on a form approved by the Director shall be sent to the successful bidder who shall within 15 days of receipt of notice, sign the lease forms, pay the balance on the bonus bid and the first year's rental and file a bond as required under subpart 3104 of this title.

§ 3120.6 Rejection of bid.

If the high bid is rejected for failure of the successful bidder to execute the lease forms and pay the balance of the bonus bid, or otherwise to comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited.

§ 3120.7 Consideration of next highest bid.

The Department reserves the right to offer the lease to the next highest bidder if the highest bid is rejected. In no event shall an offer be made to the next highest bidder if the difference between his/her bid and that of the successful bidder is greater than the one-fifth bonus forfeited by the successful bidder.

§ 3120.8 Future or fractional interest.

§ 3120.8–1 Application.

Applications and requests to have leases offered competitively for future or fractional interests in lands shall, to the extent possible, conform to and include the information requested in §§ 3101.3–2, 3111.2(a) and this subpart. The competitive lease sale for such interests shall be conducted in the same manner as provided under this subpart.

§ 3120.8–2 Supplemental agreement.

(a) The high bidder for a competitive future or fractional interest shall be required to execute a supplemental agreement as provided under § 3111.3–4 of this title except that the annual rental or minimum royalty shall be $2 per acre.

(b) The agreement shall provide that if the lands covered by the lease become producing, the lessee shall pay a royalty of not less than $2 per acre per year, at the particular rate that is applicable as described below. When the interval from the date that production is obtained to the date when title shall vest in the United States is:

Not more than 4 years 10 percent
From 4 years to 8 years 8 percent
From 8 years to 12 years 6 percent
More than 12 years 4 percent

(c) Upon the vesting of the rights to the lands in the United States, the royalty shall be as described in § 3103.3–1 of this title.

§ 3120.8–3 Compensatory royalty agreements.

The terms and conditions of compensatory royalty agreements involving acquired lands in which the United States owns a future or fractional interest shall be established on an individual case basis. Such agreements may be considered in lieu of leasing where the interest of the United States in the oil and gas deposit includes both a present and a future fractional interest in the same tract containing a producing well.

PART 3140—COMBINED HYDROCARBON LISTING

4. Section 3142.4 is revised to read:

§ 3142.4 Qualifications.

Submission of a lease bid constitutes certification of compliance with the regulations in this group. Anyone seeking to acquire, or anyone holding, a Federal oil and gas lease or interest therein may be required to submit additional information to show compliance with the regulations in this group.

PART 3150 [REMOVED]

5. Part 3150 is removed in its entirety.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

March 5, 1982.

[FR Doc. 82–17640 Filed 6–29–82; 8:45 am]
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June 30, 1982

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Revision of the Abandoned Mine Land Reclamation Program Rules

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 870, 872, 874, 875, 877, 879, 882, 884, 886, and 888

Revision of the Abandoned Mine Land Reclamation Program Rules

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining (OSM) has revised the abandoned mine land reclamation rules in response to the Administration's request for regulatory review. These revised rules concern the establishment and administration of the Abandoned Mine Land Reclamation (AMLR) Program by the States, Tribes, and Federal Government as required by the Surface Mining Control and Reclamation Act of 1977, (the Act). The revised rules clarify the relationships and responsibilities of the States, Indian tribes, and Federal Government in implementing a coordinated AMLR Program.

EFFECTIVE DATE: June 30, 1982.

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, 1951 Constitution Ave., NW., Washington, D.C. (202) 343-7951.

SUPPLEMENTARY INFORMATION: The Abandoned Mine Land Reclamation Program was established by the Surface Mining Control and Reclamation Act of 1977 (the Act, Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*) in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Reclamation Fund derives its financing from Title IV of the Act which establishes a fee on coal production for the purpose of financing specified Federal, State, and Indian reclamation programs. Programs funded by congressional appropriation include grants to States and Indian tribes to plan and carry out reclamation programs and projects, Federal reclamation projects carried out by the Secretary of the Interior through OSM and other Interior agencies, and the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Service. On October 25, 1978, OSM published final rules (43 FR 49932-49952) implementing an abandoned mine land reclamation program incorporating the provisions of Title IV of the SMCRA.

These rules established procedures and requirements for the preparation and implementation of State and Indian reclamation programs, consisting of reclamation plans, submission of annual projects, and applications for annual grants. Additional parts included provisions for Federal, State, and Indian Abandoned Mine Reclamation Funds, general reclamation objectives, rights-of-entry, liens, emergency reclamation procedures, acquisition and disposition of lands and waters, reclamation on private lands, and Indian reclamation programs.

Rules relating to the amount and collection of fees were promulgated in 30 CFR Part 837 on December 31, 1977 (42 FR 62713). This Part has since been redesignated as Part 870.

Information Collection and Recordkeeping Requirements

The information collection requirements in the existing AMLR rules were approved by OMB under 44 U.S.C. 3507. Those approvals were identified in "notes" at the introductions to 30 CFR Parts 870, 872, 877, 879, 882, 884 and 886. OSM has deleted those "notes" and codified the OMB approvals under new §§870.10, 872.10, 877.10, 879.10, 882.10, and 886.10. These approvals are described below under the preamble discussions for each Part having information collection and recordkeeping requirements. Since the information collection requirements contained in § 884.13 and §884.15 have fewer than 10 respondents per year, they are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by the Office of Management and Budget.

The required information is being collected to insure the adequate implementation of approved reclamation programs and to enforce the fee provisions of the Act. OSM, States, and Indian tribes will use the information, and it will benefit the States and Indian tribes by enabling OSM to effectively allocate grant funds for administration and implementation of State/Indian reclamation plans and construction projects.

Introduction To Final Rule Revisions

Pursuant to Executive Order 12291, every Federal agency is required, within applicable statutory constraints, to choose regulatory goals that maximize benefits to society and to select the most efficient and effective means to achieve these goals. In addition, one of the Secretary's goals is to eliminate rules which are excessive, burdensome or counterproductive. To accomplish this deregulation and regulatory reform and to assure that the Executive Order is carried out, OSM with the assistance of the Secretary's Regulatory Reform Task Force, has reviewed its existing rules concerning the implementation of the abandoned mine land reclamation program and is promulgating final revisions to 30 CFR Chapter VII, Subchapter R. OSM has sought to provide early and meaningful public participation during its regulatory review. To this end, OSM has met with and received comments and recommendations from the representatives of coal mining States. A public comment period was held (46 FR 60778 and 47 FR 967) and a public hearing was conducted on January 8, 1982.

Numerous comments from the public and representatives of the States, industry, and environmental organizations were received and considered in the rulemaking process. All substantive comments received are addressed in the following preamble.

All comments received as well as summaries of meetings held and the record of the public hearing are available for inspection in the Administrative Record, Room 5315, 1100 L St., NW., Washington, D.C.

Organization

The regulatory revisions are intended to implement the requirements of the Act consistent with the purposes stated in Section 102(h), its legislative history, and the Secretary's commitment to avoid excessive and burdensome rules. The material is organized into parts which comprise Subchapter R.

Part 870—Abandoned Mine Reclamation Fund—Fee Collection And Coal Production Reporting

Title IV of the Surface Mining Control and Reclamation Act of 1977 (the Act) directed the Secretary of the Interior to collect per-ton reclamation fees from coal mine operators to support the reclamation and other activities listed under this title. OSM developed a reclamation fee collection program and published rules in the **Federal Register** to assist mine operators in meeting their fee obligations, to specify management activities for fee collection, and to define a range of compliance activities that include compliance investigations, audits, debt collection, and litigation procedures.

The major components of the fee collection program are the fee collection system, the fee compliance system, and the litigation system.

Fee collection system: The United States Bureau of Mines' (BOM) Finance Branch in Denver, Colo., is currently

OSM's agent for the collection of fund revenues. BOM, through a reimbursable agreement with OSM, is responsible for providing accounting and data processing services to implement and maintain a reclamation fee collection system. These services include (1) collecting and depositing reclamation fees into the Federal depository, (2) providing an automated information system for fee payments, delinquencies, and program management, and (3) reconciling procedures to make annual allocations of collections for appropriation and use by States and Indian tribes under approved reclamation programs.

Fee compliance system: Fee compliance officers are located in the coal producing regions to insure that fees are collected through appropriate investigation, audits, and collection activities.

Litigation system: The Associate Solicitor, Division of Surface Mining, is responsible for litigation associated with the collection of delinquent fees. The Division takes enforcement action to collect delinquent fees and provides legal assistance on fee-related issues.

On December 13, 1977, OSM published final rules as Part 837 (42 FR 62713) setting forth procedures for payment of reclamation fees and recordkeeping requirements. On May 15, 1978, OSM published an amendment to these rules (43 FR 20793) to establish the interest rate on late payments. These rules were later renumbered in the Code of Federal Regulations as Part 870. Although the existing rules have been adequate for initial implementation of OSM's fee collection program, this revision clarifies those rules regarding the individual responsible for the fee payment; the point of initial sales, transfer of ownership, or use; the method by which the fee liability is calculated; and OSM's authority to examine sales records relevant to determination and verification of fee liability.

Section 870.1 (Scope). The existing section has not been changed. One commenter recommended that the entire fee collection program be turned over to the States. OSM's response is that Section 405(d) of the Act, which addresses State reclamation programs, excludes fee collection activities. Fees are paid to the Secretary of the Interior; they are then deposited in a United States Treasury Trust Fund and subsequently appropriated from this fund by Congress to carry out reclamation projects. Accordingly, even if some administrative collection activities could be transferred to the States, the monies collected could not be retained by the States due to the statutory provisions. OSM has elected, therefore, to retain all collection work.

Two commenters also proposed that Part 870 include detailed procedures for collection and enforcement actions against delinquent operators and provide for regular program reports to each State on delinquencies, collections, litigation, etc. OSM does not believe that internal procedures and program reports belong in these rules. Part 870 establishes procedures to assist operators in voluntarily complying with the fee reporting and payment provisions of the Act and to assist agency employees in administering the fee collection program.

Section 870.2 (Objectives). This section has been deleted. OSM considers this section unnecessary because the objectives are clearly defined in the Act.

Section 870.3 (Responsibility). This section has been deleted for the same reason as § 870.2.

Section 870.5 (Definitions). All definitions used in Parts 870 through 888 have been moved to this section for clarity and ease of reference. Amended or new definitions are set forth below, along with a discussion of the comments received. Throughout Subchapter R, the term "Office" has been changed to "OSM" to avoid possible confusion with other offices. There is no change in meaning, and "OSM" has been added to the list of definitions in § 870.5.

Abandoned Mine Reclamation Fund. In the existing rules and Section 401 of the Act, this "fund" is described as a "trust fund." This caused certain States to inquire whether trust fund moneys are deposited in interest-bearing accounts. Consequently, the word, "trust" was replaced by the word, "special," in the proposed regulations to avoid confusion in the definition. Five commenters opposed the use of the term "special fund" based on the view that the intent of Section 401(a) of the Act was to establish an interest-bearing "trust fund." The Treasury does not pay interest on moneys in special accounts unless Congress specially provides for interest to be paid and makes appropriations for that purpose. Congress has not provided for interest payments in Title IV of the Act nor appropriated moneys for that purpose. The use of the term "special fund" is, therefore, retained as proposed.

One commenter urged that, when the Act comes up for amendment, the 50-percent share allocated to the States be placed in an interest-bearing account. This comment is outside the scope of this rulemaking activity.

Anthracite, bituminous, and subbituminous coal. In the existing rules, this definition is included to distinguish all other coals from lignite. Such a distinction is necessary because Section 402(a) of the Act establishes a separate tonnage fee for lignite coal.

Two commenters suggested that the definition of anthracite, bituminous, and subbituminous coal be revised to exclude excess moisture; that is, including the natural inherent or bed moisture of the coal, but not water adhering to the surface of the coal. Both commenters asserted that such a change would make this definition "consistent with the exclusion of excess moisture in the existing definition of lignite coal." This change excludes "excess moisture" from the calculation of weight for determining fee liability. The excess moisture issue and related comments are addressed in § 870.12, below. However, it should be noted that all references to moisture in the definition of lignite coal relate to the accepted technical definition (Parr's formula). This definition is for categorizing coal as lignite and has no relevance to the excess moisture issue. Once coal is determined to be lignite, moisture (or other impurities) will not be excluded from the gross weight of the lignite unless physically removed prior to sale, transfer of ownership, or use. Therefore, no revision is being made to the definition of anthracite, bituminous, and subbituminous coal.

Eligible lands and water. This term has been included to clarify what lands and water qualify for reclamation expenditures under Section 404 of the Act. One commenter requested OSM to "petition" Congress to remove the requirement that AMLR funds be used for "pre-Act scars only". This commenter wanted the States to have discretion to select reclamation projects regardless of when they originated. OSM plans to consider this request if and when amendments to the Act are considered by Congress. For the present, however, both the Act and Congressional intent are clear that lands which were mined and abandoned or inadequately reclaimed after August 3, 1977, are not eligible for expenditures under Title IV of the Act. Congress, intended the States to administer regulatory programs that require adequate reclamation of surface mined land after August 3, 1977.

Expended. This term has been revised to provide that "expended" means that moneys have been obligated, encumbered, or committed for work to be accomplished or services to be rendered. The definition formerly used

was the strict interpretation of Black's Law Dictionary: "to pay out or distribute". One commenter supported the change because it provides greater flexibility to the States. Another commenter opposed the change because the revised definition results in expanding "the language of the Act beyond that intended, which was actual expenditure." This commenter further contends that the effect of the revised definition will be to allow "hasty, unplanned commitments of funds" to avoid having these funds subject to withdrawal by the Director since, under § 872.11(b), funds not expended by the States within 3 years of the date of their allocation may be withdrawn and used for other reclamation. This commenter further requested that, if the revised definition is not withdrawn, then it should be amended to include funds obligated, encumbered, or committed "in a planned manner pursuant to established priorities and criteria for reclamation." The purpose of this suggested amendment is, according to the commenter, "to insure that the commitments are made in a rational fashion."

OSM finds no basis for the commenter's assertion that the Act limits the word "expended" to mean only "actual expenditure" of funds. OSM has the responsibility to interpret the Congressional language in keeping with the Act and legislative intent. The revised definition of "expended" provides greater clarity and should encourage participation in the AMLR Program by providing the States with more flexibility in the management of AMLR funds. Congress intended the States to have primacy in the administration of their abandoned mine land reclamation programs and the revised definition advances this legislative mandate. Moreover, OSM believes that there are sufficiently stringent financial control procedures required by OMB Circular A–102 to prevent misuse of funds.

Left or abandoned in either an unreclaimed or inadequately reclaimed condition. This definition was modified to eliminate the confusion between the findings of "eligibility" and those related to "abandonment" and "inadequate reclamation". One commenter pointed out that in the preamble discussion of the proposed revision (46 FR 60780) the impression was given that OSM makes the findings for eligibility for reclamation under Title IV of the Act for the Rural Abandoned Mine Program (RAMP). In order to clarify any possible misimpression, OSM's position is that the agency responsible for conducting the reclamation (State, Indian tribe, Department of Agriculture, or OSM) is also responsible for determining reclamation project eligibility under Title IV of the Act. This position does not, however, lessen OSM's responsibility for monitoring and oversight of reclamation programs required by Section 405 of the Act.

The revised definition provides sufficient latitude for the Federal agency or State/Indian tribe to exercise discretion on a case-by-case basis in its determination of eligibility for reclamation expenditures under Title IV. The following are examples of different applications of the revised definition:

Example 1—OSM considers lands and water eligible, if the following conditions are met: (1) All conditions in Section 404 of the Act are met; (2) All mining processes have ceased but a permit did exist as of August 3, 1977; and (3) The permit has since lapsed and has not been renewed or superseded by a new permit as of the date of the request for reclamation assistance.

Example 2—Where a permit has lapsed prior to August 3, 1977, but subsequent reclamation attempts were made after that date to satisfy State regulatory or bond requirements, the area would still be eligible.

Example 3—(One commenter suggested that a third example should be given). OSM considers lands and water eligible if the following conditions are met: (1) Mining ceased prior to August 3, 1977. (2) No mining activity occurred or will occur after August 3, 1977; (3) A permit or bond exists as of August 3, 1977, and this permit or bond is released after all conditions are met; and (4) The land was inadequately reclaimed due to State requirements in existence at the time. These three examples illustrate the complexity of the factual situations faced by the reclamation authorities and the need to consider each project on a case-by-case basis.

Lignite coal. The comma after the word, "moist," has been deleted from the definition in the existing rules to correspond with the sentence structure in Title VII, Section 701(30). In addition, two commenters noted in the proposed definition that the word "Fund" should be replaced by "pound," that is, "less than 8,300 British thermal units per *pound*." [Emphasis added]. That editorial revision has been made in the definition. One commenter recommended adding a sentence to the definition saying "this term does not include anthracite, bituminous, and subbituminous coal." Such language is both unnecessary and redundant. The definition of lignite is based on "Parr's formula" and is reprinted verbatim to avoid possible confusion or the need to further cross-reference. Moreover, anthracite, bituminous, and subbituminous coals are defined as "all coals other than lignite coal."

Operator. OSM is withdrawing this definition from the final rules and will be proposing a new definition in the near future. Until a new definition is finalized, OSM expects to follow its past policy of an expansive interpretation of the term "operator" when necessary to recover reclamation fees. See, 42 FR 62713 (December 13, 1977), comment No. 2.

Permanent facility. This is a new definition requested by the States in comments on the draft proposed rules. The definition clarifies and provides a more flexible way to define "facility" as it relates to structures and any modification of the surface designed to remain after reclamation.

Project. This is a new definition which should provide the States and Indian tribes the opportunity to define the scope of their projects in concert with their individual abandoned mine land problems and planning efforts. A project may be limited to a single construction site to remedy a single problem, such as filling an open shaft, or it may include more than one construction site such as mine openings, high walls, or denuded areas requiring revegetation. All these situations might be contained in a single watershed, soil conservation district, or county planning area. Since a State assumes exclusive responsibility for implementing its approved reclamation program, OSM has attempted to define this term to give the States and Indian tribes the greatest flexibility in designing individual reclamation projects.

One commenter supported the new definition because it uses, by way of example, a "conservation district" as a geographically defined area for purposes of project planning. Another commenter supported the new definition except for its reference to "political subdivision of a State". This commenter feels that planning and resource expenditures should be "based on planning designed in natural terms (e.g., watershed), and not artificial political parameters" like political subdivisions of a State. OSM disagrees with this commenter's suggestion to delete "political subdivision" of a State from the definition and deal only with natural boundaries, because a political subdivision (e.g., a conservation district) is a definable area that can be and is used for planning of programs and

projects in the administration of the AMLR Program.

Reclaimed coal. The definition of reclaimed coal in the existing rules has been modified to reinforce OSM's position that such operations are subject to the reclamation fee requirements. The authority of OSM to regulate operators involved in the mining or processing of refuse coal has been upheld by the U.S. District Court for the District of Columbia. See *In re: Permanent Surface Mining Regulation Litigation,* No. 79-1144 (May 16, 1980). Since Section 402(a) of the Act requires "all operators of coal mining operations subject to . . . the Act" to pay reclamation fees and since the mining of coal from silt banks and refuse piles is considered a surface coal mining operation, the collection of the reclamation fee from these operations is proper.

One commenter objected to the inclusion of anthracite silt in the definition of reclaimed coal. This commenter asserted that: (1) Anthracite silt is not coal and (2) the removal or recovery of such silt from refuse piles does not constitute a surface coal mining operation subject to reclamation fee payments. OSM is currently involved in litigation on these issues and will continue to assert authority and coverage over anthracite silt recovery as a surface coal mining operation until the issue is finally decided by the courts.

One commenter proposed that, for purposes of clarification, the final sentence in the definition of reclaimed coal be modified as follows: "Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes." OSM has incorporated this clarification in the revised definition.

Reclamation activity. One commenter recommended that the word "restoration" be deleted from the existing definition. OSM agrees that, in context, "restoration" gives the definition a meaning contrary to what was intended. Moreover, "reclamation" is sufficiently descriptive to convey the intent of that particular provision.

Section 870.10 (Information collection). The information required by Part 870 is being collected to meet the mandate of Sections 401 and 402 of the Act, which requires the Secretary to establish an Abandoned Mine Reclamation Fund and a reclamation fee on coal mining operations. The obligation to respond is mandatory. The information collection requirements contained in §§ 870.12(c), 870.15 (b) and (c), and 870.16 (a) and (d) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029-0063.

Section 870.11 (Applicability). Three revisions were made to § 870.11. In § 870.11(b), the term: "surface mining" has been changed to "surface coal mining operations" to clarify that both surface and underground operations are affected. In § 870.11(d), OSM established a definite timeframe for "extraction of coal incidental to the extraction of other minerals." Two commenters questioned OSM's authority to add the phrase, "in any twelve consecutive calendar months," since Section 701(28) of the Act does not include a specific timeframe. However, OSM believes that the proposed language is necessary and proper and within the Secretary's authority to "* * * do all things necessary or expedient, including promulgation of rules and regulations, to implement the provisions of this title." (Section 412(a) of the Act). If no timeframe is specified, incidental production would be subject to quarterly determinations of applicability, because production reports and fee payments are due quarterly, even though the extraction of coal over a longer period (e.g., 1 year or the life of the project) did not exceed 16⅔ percent of the mineral tonnage removed. Moreover, the twelve consecutive calendar months is consistent with the 250-ton limitation included in the statutory definition of operator in Section 701(13) of the Act. Therefore, the twelve-month timeframe in § 870.11(d) is retained in the final regulation.

The third change to § 870.11 is the addition of § 870.11(e), which incorporates in the rules of Part 870 the statutory exemption from fee liability contained in Section 701(13) of the Act (definition of "operator"). One commenter suggested that this new paragraph specify extraction by a "person, partnership, or corporation." OSM believes that such an addition is unnecessary since identical language is included in the § 870.5 definition of operator. The exceptions listed in § 870.11 relate to "operations" and not individuals, partnerships, or corporations.

In addition, six commenters recommended other revisions to existing § 870.11. One commenter suggested two editorial changes to clarify the introductory language, both of which have been incorporated in the final rules. The word "part" has been substituted for "chapter," and the lead sentence in § 870.11 has been revised to read: "The regulations in this part apply to all surface and underground coal mining operations except * * *" to clarify that Part 870 applies to underground as well as surface coal mining operations.

Two commenters proposed a new § 870.11(f) that would exempt reclamation operations from fee liability. OSM cannot accept the proposal for the same reasons outlined in the above discussion of comments relating to the definitions of "operator" and "reclaimed coal." Two commenters recommended that language be added to § 870.11(c) to specifically exempt government-financed abandoned mine land projects from fee liability. Both commenters maintained that all proceeds from the sale of coal recovered as part of an approved reclamation project should be used to partially offset project costs. As discussed in the preamble of the proposed rules, application of fee liability to individual projects "* * * may or may not be appropriate." The determination of applicability of Part 870 to an individual project will be made in light of existing or revised rules for Part 707. These Title V rules are mandated by Section 528(3) of the Act. Pending clarification of Part 707, OSM retains the current language in § 870.11(c).

One commenter recommended that the word "or" be substituted for the word "and" at the end of § 870.11(d) to make clear that any of the five conditions in § 870.11 would exempt affected operations from fee liability. However, the word "and" is properly used since the introductory language clearly indicates that separate and distinct exceptions, not interrelated conditions, are listed.

Section 870.12 (Reclamation fee). In order to clarify the point in time of fee determination, as well as the value and weight parameters for calculating reclamation fees, OSM added § 870.12(b)(1), (2), and (3). This new language restates OSM policy in effect since initial implementation of the fee collection program in December, 1977. Section 870.12(a) has been deleted, since it applies only to the fourth quarter of 1977. Four commenters objected to § 870.12(b)(3) which prohibits the deduction of impurities, including water, from the weight of the coal unless physically removed prior to sale, transfer of ownership, or use. These commenters argued that the clarifying language should allow deductions for moisture content in excess of "inherent bed moisture." Two of these commenters proposed two alternative approaches for implementing their recommendation. One approach was the proposed revision to the definition of "anthracite, bituminous, and subbituminous coal," discussed above.

The second alternmative proposed was preamble language stating that "only inherent or natural bed moisture need be included in establishing the weight of the coal." Such language is contrary to established policy and the intent of the clarifying rule. Both the existing and proposed rules require that fees be paid on the actual weight of the coal sold. No fees are paid on impurities if these impurities are physically removed prior to sale. If moisture deductions were allowed, audit of operator records would be further complicated and laboratory analyses required to document moisture content. Moreover, such deductions could reduce fee collections by many millions of dollars over the 15-year life of the Fund. A third approach recommended by one of the above commenters was to allow moisture deductions by operators in those States where similar deductions are allowed for State coal severance tax purposes. At present, only the State of Alabama allows such a deduction and only when accompanied by laboratory analysis. OSM believes that acceptance of this approach would be inconsistent with requirements for uniform application of Part 870 and equitable treatment of all operators. Furthermore, given the wide variety of State severance tax structures and the lack of any legal relationship between State taxes and Federal reclamation fees, OSM believes this approach could result in considerable competition among States and encourage similar proposals for other deductions inconsistent with the objectives of the Abandoned Mine Reclamation Fund.

Based on the lack of clear policy and rules concerning the deduction of excess moisture, OSM has included the clarifying language as proposed in § 870.12(b)(1), (2), and (3) in the final rules.

Section 870.13 (Fee computations). The examples in existing § 870.13 (a), (b), (c), and (d) were proposed to be moved from the regulations to the **Federal Register** preamble to these rules. One commenter objected to moving these examples and technical calculations from the main body of the rules to the preamble. The commenter maintained that shifting this explanatory material fragments what is "currently a coherent, compact regulatory package." However, OSM believes this change simplifies the rules and properly separates the actual rules from examples and technical information. Since no substantive changes are being made to § 870.13 and the most frequently used computations can be simply expressed, this material is being included here, in the supplementary information section.

Under § 870.13(a) on surface mining fees, if the value of a ton of coal is equal to or greater than $3.50 per ton, multiply the number of tons produced in the calendar quarter by $0.35. For example, if the tonnage is 1,000, then 1,000 tons × $0.35 = $350, which is the fee. If the value of a ton of coal is less than $3.50 per ton, multiply the value of a ton of coal by the total number of tons produced in the calendar quarter by 0.1 (or 10 percent). For example, if the value of a ton of coal is $2 and the tonnage is 1,000, then $2 × 1,000 tons × 0.1 = $200, which is the fee.

Under § 870.13(b) on underground mining fees, if the value of a ton of coal is equal to or greater than $1.50 per ton, multiply the number of tons produced in the calendar quarter by $0.15.

For example, if the tonnage is 1,000, then 1,000 tons × $0.15 = $150, which is the fee. If the value of a ton of coal is less than $1.50 per ton, multiply the value of a ton of coal by the total number of tons produced in the calendar quarter by 0.1 (or 10 percent). For example, if the value of a ton of coal is $1 and the tonnage is 1,000, then $1 × 1,000 tons × 0.1 = $100, which is the fee.

Under § 870.13(c) on surface underground mining fees for lignite coal, if the value of a ton of lignite is equal to or greater than $5 per ton, multiply the number of tons produced in a calendar quarter by $0.10. For example, if the tonnage is 1,000, then 1,000 tons × $0.10 = $100, which is the fee. If the value of a ton of lignite is less than $5 per ton, multiply the value of a ton of lignite by the total number of tons produced in the calendar quarter by 0.02 (or 2 percent). For example, if the value of a ton a lignite is $4 and the tonnage is 1,000, then $4 × 1,000 tons × 0.02 = $80, which is the fee.

Under § 870.13(d), in situ coal mining fees, if the Btu value of the in situ coal is determined to be 23 million Btu's per ton, then for every 23 million Btu's of gas produced at the wellhead, one ton of coal will be deemed produced for the purposes of this part. The Btu value of a ton of in-place coal shall be determined by analyses, certified by an independent laboratory, of the coal seam that is affected for potential Btu value of a ton of in-place coal. For anthracite, bituminous, and subbituminous coal the fee shall be computed as follows:

F = (G/C) × V1. For lignite coal the fee shall be computed as follows: F = (G/L) × V2. Where:

F = Reclamation fee.

C = Million Btu's per ton of coal in place.

L = Million Btu's per ton of lignite in place.

G = Gas produced at the wellhead in million Btu's.

V1 = $0.15/ton equivalent; or if the value of a ton of coal equivalent is less than $1.50, multiply the value by 0.1 and substitute the result for V1, in the appropriate formula.

V2 = $0.10/ton equivalent, or if the value of a ton of lignite equivalent is less than $5.00, multiply the value by 0.02 and substitute the result for V2 in the appropriate formula.

Section 870.15 (Reclamation fee payment). This section was changed to delete existing § 870.15(b) which dealt with the fourth quarter of 1977. Existing § 870.15(c) was redesignated § 870.15(b) in the final rules and revised to reflect new form numbers in current use (OSM–1 and OSM–1A).

OSM had proposed revising in proposed § 870.15 the interest rate on delinquent payments to equal the adjusted prime rate (as determined by the Federal Reserve) for the month of September. According to the proposed formula, the current rate would be increased from 12 percent to 20 percent from the effective date of these rules until February 1, 1983. Four commenters objected to the higher interest rates and two commenters questioned OSM's authority to exceed the current Treasury rate. Although OSM had planned to seek Treasury approval for the higher rate, recent discussions with Treasury Departmental officials indicate that their policy no longer includes exceptions to the government-wide rate established for overdue accounts. Therefore, OSM has withdrawn the planned increase and will retain the 12 percent interest rate specified in the existing rules.

A new § 870.15(e) was proposed to require operators to submit "negative" reports for calendar quarters where no fee liability exists. Two commenters objected to this reporting requirement and questioned OSM's authority to require reports by operators with no fee liability. Section 412(a) of the Act authorizes the Secretary to "do all things necessary or expedient, including the promulgation of rules and regulations, to implement and administer the provisions of this title." Section 402(c) of the Act makes it mandatory for all coal mine operators to submit a statement of the amount and type of coal produced and the method of coal removal, together with the reclamation fees payable to the Secretary for each calendar quarter. The statutory definition of "operator" (Section 701(13)) refers to "any person, partnership, or corporation * * * who

removes or intends to remove more than two hundred and fifty tons of coal from the earth * * * within twelve consecutive calendar months in any one location." A reasonable interpretation of the reporting requirement (which extends to those who merely "intend" to remove) would encompass production possibilities from zero tonnage upward. It should be noted the Section 402(d) of the Act provides for criminal penalties for failure to file and fraudulent reporting by operators.

With respect to the reporting burden imposed, it should be noted that, at the end of each calendar quarter, OSM mails to each operator (believed to be actively producing) a preprinted Form OSM–1. Of approximately 8,000 forms mailed, as many as one-half are not returned. OSM must currently verify nonproduction of these operators. While followup compliance checks verify zero production in most cases, approximately one-fourth of the "nonrespondents" are active operators and should have reported and paid fees on tonnage produced. Positive reporting, or affirmative reports of nonproduction, will reduce the need for followup compliance investigations and serve as the basis for collection and enforcement actions, when necessary. In order to further clarify the intent of this change, § 870.15(e) has been deleted and the language added to § 870.15(b) to require operators who receive Forms OSM–1 or 1A to report production, including zero tons.

Section 870.16 (Production records). No changes were proposed to this section. However, three commenters objected to the § 870.16(d) requirement that operators "maintain books and records for a period of 6 years from the end of the calendar quarter in which the fee was due." Actual truck receipts or weight tickets need not be kept for the full term, but normal business records, which include the information required by § 870.16(a)(1)–(4), must be retained for six years in conformity with the Federal statute of limitations applicable to enforcement actions.

Section 870.17 (Compliance authority). This new section was added in the proposed rules to provide authority for examination of buyers' records of any first sale or transfer of ownership between operators or to other purchasers of coal. One commenter supported this change and one commenter objected. The commenter who opposed this section argued that OSM has no statutory authority to examine records of a "second party" involved in the sale of coal. OSM maintains that Section 412(a) of the Act provides the Secretary with sufficient authority to promulgate rules "necessary and expedient" to administer the provisions of Title IV. Since sales records maintained by the operator serve as the primary basis for production reports and determination of fee liability, purchasers, records represent an important secondary source of verification of the number and amounts of coal-sale transactions. Since virtually all coal sold is subject to the reclamation fee, lack of authority to review purchasers' records (including those maintained by coal tipples) would greatly impede compliance investigations and audit activities of fee compliance officers. Accordingly, this requirement remains unchanged in the final rules.

Part 872—Abandoned Mine Reclamation Funds

The U.S. Department of the Treasury established an account on its books in accordance with Section 401(a) of the Act and Treasury's rules for a fund of this type.

Moneys from the fund are available for the purposes of Title IV only when appropriated therefore and such appropriations are to be made without fiscal year limitations.

One commenter suggested that less restrictive use of Title IV mine reclamation funds in the Commonwealth of Pennsylvania would bring about the use of idle forfeited bond account moneys. It was suggested that these funds could be used to perform reclamation where it would otherwise not be undertaken because of insufficient funds. OSM's response is that Section 404 of the Act states clearly that lands and water eligible for reclamation are those abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing responsibility under State or other Federal Laws. Accordingly, no changes have been made. For further discussion on eligibility, the reader is referred to the preamble discussion in § 870.5 on the definition of "left or abandoned in either an unreclaimed or inadequately reclaimed condition."

One commenter suggested that the Abandoned Mine Reclamation Fund should be administered as a "trust fund" in accordance with applicable standards regarding the recovery of delinquent payments and the earning of interest on unspent portions of the fund. OSM's response is that a determination has been made by the Department of Treasury that the Abandoned Mine Reclamation Fund is a special fund under Treasury rules. The Department of Treasury does not pay interest on special accounts unless specific legislation requires it. OSM has retained the proposed language unchanged in the final rule.

The following explanation of the fund management process is included to aid understanding to the purpose of Part 870. The U.S. Bureau of Mines' (BOM) Finance Branch in Denver, Colo., is currently OSM's agent for the collection of fund revenues. BOM, through a reimbursable agreement with OSM, is responsible for providing accounting and automatic data processing services to implement and maintain a reclamation fee collecting system. These services include (1) collecting and depositing reclamation fees into a depository, (2) providing an automated information system for fee payments, delinquencies, and program management, and (3) reconciling procedures to make annual allocations of collections for appropriation and use by States and Indian tribes under approved reclamation programs.

Fund revenues are derived from reclamation fees on each ton of coal produced and from late payment interest charges, sales of acquired lands, and donations. The fees and interest charges are paid by coal mine operators and submitted with production and reclamation fee reports for payment identification and credit to OSM's Fee Collection and Assessment Unit.

Funds collected are contolled by deposit tickets (prepared by the collection officer), debit vouchers issued by the Federal depository for uncollected checks, and refund schedules for overpayment (prepared by the Bureau of Mines Finance Branch). These transactions are identified by mine operators as well as by mine and geographic location. Data from OSM approved forms OSM 1 or 1–A submitted by mine operators with their payment are coded and stored in OSM's ADP system for compliance and disbursement purposes. Net collections (per deposit tickets, debit vouchers, and refund schedules) are reconciled on a monthly basis with the amounts reported by mine operators on OSM's approved forms.

All accounts are closed at the end of business each September 30, the final day of the Federal fiscal year (FY). The System is reconciled and collections are identified by State and Indian lands. Fifty percent of the FY collection is reserved for use by States and Indian tribes to carry out approved reclamation programs. The remainder may be expended by the Secretary of the Interior through the Director, OSM, to

meet the objectives of Title IV. Any errors found in prior year allocations are corrected in current allocations. This financial information provides one of the bases for budget requests to support Title IV progams.

One commenter sugested a revision in proposed Part 872 to clarify to the public that abandoned mine reclamation funds may also be expended through RAMP by the Secretary of Agriculture. OSM considered this revision unnecessary on the basis that Section 401 of the Act clearly defines the transfer of funds by the Secretary of the Interior to the Secretary of Agriculture.

The part has been considerably shortened by deleting in their entirety § 872.2 (Objectives) and § 872.4 (Responsibilities), moving § 872.5 (Definitions) to Part 870 of this chapter, and combining §§ 872.12 and 872.13 (State and Indian Abandoned Mine Reclamation Funds) into one section. A major change to the existing rules is a new § 872.11(b)(2)(ii) that provides States with a commitment by OSM that will afford States every opportunity to use allocated moneys.

Section 872.1 (Scope). This section has been changed to reflect the deletions of unnecessary language.

Section 872.2 (Objectives). This section has been deleted in the final rules since the Act provides an overview of the Abandoned Mine Land Reclamation Program, and the detailed procedures relative to management of program funds are covered in the final rules.

Section 872.4 (Responsibilities). This section has been deleted in the final rule due to OSM's reorganization. Three commenters suggested that OSM publish information on functions and responsibilities as part of the final rules. OSM will consider amending rules in the future if there is a need for the information.

Section 872.5 (Definitions). Definitions were moved to Part 870 of this chapter in the July 17, 1981, draft of the proposed rules to provide easy reference for all definitions of Subchapter R of this chapter. The definitions remain in Part 870 in the final rules.

Section 872.10 (Information Collection). The information required by Part 872 is being collected to meet the mandate of Sections 401 and 402 of the Act, which requires the Secretary to establish an Abandoned Mine Reclamation Fund and a reclamation fee on coal mining operations. The obligation to respond is mandatory. The information collection requirements contained in § 872.11 (b)(2) and (b)(3) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029–0054.

Section 872.11 (Abandoned Mine Reclamation Fund). Two commenters suggested that OSM seek congressional action to have the Abandoned Mine Reclamation Fund placed in an interest-bearing account or fund rather than a "special account." OSM will take this suggestion under advisement. Except for the deletion of the reference to Part 882 of this chapter, § 872.11 (a) and (b)(1) remain the same in the final rules.

Section 872.11(b)(1) remains the same. A new paragraph (ii) has been added to existing § 872.11(b) (2) and (3). This addition is the result of the following activities:

The Interstate Mining Compact Commission (IMCC), on behalf of member States, petitioned the Director, Office of Surface Mining (OSM) to initiate rulemaking procedures that would amend § 872.11(b) to preserve States' 1978 and 1979 reclamation fee allocations for an additional 3 years. This amendment would prevent the Director, OSM, from using these funds during this period, while guaranteeing their availability for States' use under approved reclamation programs. The existing rule allows the Directors to use States' allocations if they have not been granted within 3 years after allocation. OSM believes that the proposed amendment might contravene the intent of Congress as set forth in section 402(g)(2) of the Act. This section provides the Secretary with discretionary authority to utilize in any section of the country funds allocated to the States but not expended within 3 years. Recognizing the merits of the petition, however, OSM modified the draft of the proposed rules to satisfy the States' concerns without jeopardizing the Secretary's authority by adding a new paragraph (ii) under § 872.11(b) (2) and (3) to provide that funds not expended in three years will not be withdrawn from the State/Tribe if the State/Tribe has made reasonable efforts to expend the funds but was unable to do so because of unavoidable delays in program approval.

Twelve commenters requested that OSM modify the proposed rules to insure that the States are able to obtain allocated State funds when there have been unavoidable program delays and grants have not been made for the full amount of funds allocated to the States. OSM's response is that it cannot through the rulemaking process change the statutory authority provided to the Secretary in Section 402(g)(2) of the Act. Therefore, the substance of § 872.11(b)(2) of the proposed rules is retained unchanged in the final rules. It should be emphasized, however, that the Secretary may choose not to exercise this authority.

One commenter stated that the language proposed in § 872.11(b)(2)(ii) was unnecessary, burdensome, and duplicative and recommended that the following clause be added:

"[ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities; provided that unavoidable delays in program approval shall not be considered avoidable delay."

OSM's response is that it has retained the substance of the proposed language in the final rules on the basis that this language clearly defines the conditions under which OSM will not withdraw granted funds and does so without jeopardizing the Secretary's authority.

Section 872.11(b)(3). The term "Indian lands" was changed in error to "Indian reservation" in earlier drafts. This error was corrected in these rules. One commenter suggested that use of "Indian lands" instead of "Indian reservation" is not accurate. See the preamble to Part 888 for a discussion of use of "Indian lands" as opposed to "Indian reservations". OSM has decided to continue to use the term "Indian lands" since Congress has not decided the question of the jurisdictional status of Indian lands outside the exterior boundaries of the Indian reservations, and because section 710 of the Act uses the term "Indian lands" in discussing the jurisdictional question.

Section 872.11(b)(5). Paragraph (b)(5) has been changed in the proposed rules to reference the applicable statutory provisions rather than cite specific uses. One commenter requested revision of the rules to clearly specify how the "Federal share" funds are to be used and to maintain complete disclosure and accountability for such expenditures. OSM's response is that it recognizes that the changing character of the AMLR program resulting from State assumption of AMLR responsibilities, together with Congressionally requested reductions in the number of AMLR delivery mechanisms, has resulted in a need to clarify policy. These policies and procedures which provide for the use of "Federal share" moneys will be developed. OSM anticipates developing and publishing new policy statements before the end of 1982. Accordingly, no change has been made in the final rule.

One commenter suggested that the language used in proposed § 872.11(b)(5) would allow the Director to recommit funds withdrawn from the State back to that State to expend under Section 401(c)(8) of the Act and that this is

clearly not the intent of Section 402(g)(2). This commenter suggested that the language should be amended to avoid potentially endless cycling of funds back into State allocations. OSM has retained unchanged the language of the proposed rule in the final rules because, in OSM's view Section 402(g)(3) of the Act allows the Secretary to expend discretionary moneys on specific reclamation projects which are considered the best means of accomplishing the objectives of the Act. The Secretary could decide on a case-by-case basis, regarding the propriety of disbursements to a particular State to accomplish the purposes of the Act. No endless cycling of funds would occur.

One commenter stated that the best means for reclaiming land in the State of Illinois is through the State program and that this significant determination should be published for public comment. OSM's response is that this determination will be considered by the Secretary in making decisions regarding where and how discretionary funds can be best utilized.

One commenter suggested that proposed § 872.11(b)(2)(ii) leaves too much discretion because "reasonable effort" and "unavoidable delay" are left open for interpretation. OSM's response is that the broad range of possible efforts and possible delays which may be experienced among the States and Indian tribes requires individual analysis by OSM based on a careful review of the facts. For this reason, the proposed language has been retained unchanged in the final rule.

Section 872.11(c). One commenter suggested that the use of fund moneys should be clearly defined in the rules as follows: "(c) Moneys deposited in the State Fund shall be used to carry out the reclamation plan approved under 30 CFR Part 884." OSM agrees and has made the suggested change for clarification. OSM has expressed the intent of the suggested language as follows in the final rule: "(c) Money deposited in State or Indian Abandoned Mine Reclamation Funds shall be used to carry out the reclamation plan approved under 30 CFR Part 884 and projects approved under Part 886."

Sections 872.12 and 872.13 (State and Indian Abandoned Mine Funds). These sections were combined in the proposed rules into § 872.12 to eliminate duplication. Also, extraneous language was deleted. No changes have been made in the final rule.

One commenter suggested deleting the requirement in proposed § 872.12(a) to manage funds in accordance with OMB Circular A–102. OSM's response is that the Circular A–102 was required by the Intergovernmental Cooperation Act of 1968 (82 Stat. 1101) and has therefore been retained in the final rules.

Part 874—General Reclamation Requirements

Part 874 sets forth requirements relating to project eligibility and reclamation objectives and standards that are applicable to the federal government's direct reclamation activities. All references to State and Indian reclamation programs have been deleted from Part 874 in the final rules because Title IV of the Act clearly sets forth the reclamation requirements binding on these programs.

Section 874.1 (Scope). One commenter noted that proposed § 874.1 incorrectly indicates that Part 874 establishes requirements for project selection and evaluation standards which the proposed rules deleted. OSM agrees that it inadvertently retained the reference to project selection and evaluation standards in the proposed rules. Section 874.1 has accordingly been modified in the final rules to indicate that the scope of Part 874 is establishing land and water eligibility requirements and reclamation objectives and priorities.

Section 874.11 (Applicability) was modified in the proposed rules to limit Part 874 to those programs administered by OSM or as part of the Rural Abandoned Mine Program (RAMP). One commenter found the language of proposed § 874.11 to be "somewhat confusing" and requested that a statement be added that specifically excludes the States from the purview of Part 874. OSM does not agree since all of the parts that constitute Subchapter R and their respective preambles have applicability sections that indicate what programs are specifically covered by each part.

Two commenters opposed the deletion of the State/Indian AMLR programs for proposed § 874.11 for different reasons. The first commenter indicated that Part 874 must apply to the States because the eligibility restrictions set out in existing § 874.12 apply to State and Indian programs since they arise under Section 404 of the Act." The Secretary is charged by Section 201 (c)(2) of the Act with promulgating regulations to carry out the provisions of the Act and "the State program eligibility regulations must be consistent with those in Section 404 in order to be approvable under Section 405(d)." This commenter contends that it is "insufficient response by OSM to state that since the Act requires it, OSM need not repeat it in regulations." This commenter additionally believes that the Secretary has a "responsibility to interpret the congressional mandate, to implement rather than echo, and to enforce the Act, including establishing criteria for State programs." This commenter concluded by requesting that it should be specified in this rule that the State programs must restrict lands and water eligible "consistent with § 874.12 and Section 404 of the Act. OSM disagrees that the State/Indian programs must be included in Part 874 because Section 404 of the Act is a clear mandate that does not need interpretation or repetition. One of the main objectives of this revision to Subchapter R is to eliminate duplication.

It is unnecessary to include the language of the Act in these rules. It is clear that State/Indian reclamation programs and grants cannot be approved by OSM unless AMLR projects meet the eligibility requirements of Section 404 of the Act.

The second commenter opposed the deletion of the State/Indian AMLR programs from proposed Part 874 because the "purpose of Part 874 was to provide uniform reclamation standards and objectives." The result of the deletion will be "a Federal standard and 29 State standards with a wide range in quality of completed reclamation." This commenter also believes that, if States and Indian tribes are allowed to develop their own standards, an area reclaimed under one program could be eligible for reclamation under a program with higher standards.

OSM does not agree with the commenter because it must implement the intent of Congress which requires that the State/Indian tribes that meet and maintain the standards of Title IV of the Act be given primary responsibility in administering the abandoned mine land reclamation program for their jurisdiction. OSM, under Section 405(i) of the Act, is charged with monitoring the progress and quality of the State/Indian reclamation programs and will ensure, through its oversight policy, that the State/Indian reclamation programs meet the objectives and standards of Title IV of the Act. Although the reclamation standards in existing Part 874 were deleted in the final rules and OSM recognizes that the quality of reclamation programs may now vary somewhat, OSM believes that giving the States primacy is consistent with the intent of Congress and will still result in an orderly reclamation effort of abandoned mine lands without duplicaton of effort. The States will have primary authority for establishing priorities and Federal projects will only be undertaken after consideration of

those priorities and negotiations with the States. Based on such factors, OSM believes that there will be no overlap of programs or duplication of effort.

This commenter also requested that, if the recommendation to not delete the States/Tribes from the purview of Part 874 is rejected, OSM delete the RAMP program from proposed Part 874. The reason given is that Section 406 of the Act has "considerably more detailed requirements for the RAMP program than are listed in Part 874," and, as stated in Section 406 of the Act and existing § 872.1(c), the "regulations for implementation of the Rural Lands Reclamation Program are the responsibility of the Secretary of Agriculture." Moreover, this commenter contends that everything contained in proposed Part 874 is already incorporated in the RAMP rules and program and, therefore, if the States/Tribes are deleted, Part 874 is only needed for OSM's reclamation program.

OSM disagrees with the commenter because it considers Part 874 to be applicable to RAMP since Section 406 of the Act does not exclude RAMP from the provisions of Title IV or these rules. Accordingly, no change has been made in the final rules. Moreover, RAMP is a Federal reclamation program and cannot be excluded from the requirements of Part 874 like the States/Tribes to which the Secretary can give primacy under Section 405 of the Act.

OSM also believes that there should be a common standard for the Federal reclamation programs and centralization of program priorities to avoid duplication of effort and waste of limited funds.

RAMP has several features that set it apart from other Title IV reclamation programs, such as cost sharing formulas, acreage limitations, contractual land use convenants, Federal lands exclusion, and low priority projects. These features make RAMP more exclusive and less widely applicable than the other Title IV reclamation programs.

To the extent that priority one and two projects are identified by RAMP officials, OSM believes that such projects should be referred to the States for ranking and selection among all other eligible projects of the same priority for annual AMLR grants. This will ensure that the limited AMLR funds are utilized in the most cost efficient and timely manner, and it will avoid duplication of effort between State and Federal programs. In addition, it is consistent with this Administration's efforts to provide the States with primary responsibility for implementing and administering this type of program. Finally, it will allow RAMP to focus its attention on accomplishing the environmental projects (i.e. erosion control and conservation and development of soil and water resources) set out in Section 406 of the Act.

Existing § 874.12 (Eligible lands and water) has been modified in the proposed rules to apply only to eligible coal land and water. Two commenters requested that, for the sake of increased clarity, the title and first phrase of the section should have the word "coal" inserted to clearly distinguish this section from noncoal requirements. OSM agrees and has inserted the word "coal" into § 874.12 of the final rules.

One commenter requested that proposed § 874.12 be amended to make clear the "broad scope of eligibility specified in Section 404 of the Act, including consideration of fund money for facilities necessary to maintain an acceptable level of reclamation." Since the language and intent of Section 404 are clear and OSM wants to avoid duplication of the words of the Act in these rules, it has decided not to amend this section in the final rules.

Section 874.13 (Reclamation objectives and priorities) was modified in the proposed rules to exclude State and Indian reclamation programs. One commenter requested that the reference to the "Final Guidelines for Reclamation Programs and Projects," be deleted because the States should be permitted to establish their own criteria for reclamation project accomplishments. OSM's response is that Part 874 does not apply to the State/Tribal reclamation programs and therefore it is not necessary to delete the reference to the "Final Guidelines."

One commenter recommended that proposed § 874.13 be amended to include the following: "That one of the highest priorities of the coal States be to utilize every method available to recover incidental coal and, in every case possible, to include Priority III highwalls which are in close proximity to Priority I and II sites in the project parameters, using Extended Depth Secondary Recovery techniques to maximize coal recovery and minimize surface disturbance." OSM cannot accept this request since it would amount to an endorsement of a specific method of incidental coal recovery. Such an endorsement is beyond the OSM's responsibility.

Section 874.14 (Reclamation project evaluation) was deleted in the proposed rules because the State primacy provisions of Section 101(f) and Section 405(d) of the Act give States responsibility for project evaluation under approved reclamations programs. One commenter opposed this deletion because the Secretary has the responsibility for assuring that State programs are in compliance with Section 405(a) of the Act. The Secretary is obligated to monitor the State programs under Section 405 of the Act and to do this he must be sure that the States have criteria for prioritizing reclamation projects consistent with Section 403 of the Act. This commenter contends that "monitoring after the fact" is not acceptable under Title IV of SMCRA. It is OSM's position that the State primacy provisions, Section 101(b) and Section 405(d) of the Act, give States the responsibility for project evaluation under approved State reclamation programs. All State programs must, therefore, contain provisions for project evaluation. The Secretary is only responsible for monitoring, under Section 405(i) of the Act, the progress and quality of the State programs and is, therefore, not bound to promulgate rules governing project evaluation for the States. The Secretary approves State standards for project evaluation under § 884.13. If the States/Tribes do not meet their approved project evaluation standards, then the Secretary can, under Section 405 of the Act, withdraw his approval of the State/Tribal reclamation program. Accordingly, no change was made in the final rule.

Part 875—Noncoal Reclamation

Existing § 874.12(b) has been redesignated as Part 875 in the proposed rules to clarify requirements for noncoal mined lands. Part 875 establishes requirements for reclamation of noncoal mined lands and water conducted under Title IV by State and Indian Reclamation Programs.

Section 875.1 establishes the scope of Part 875 as the land and water eligibility requirements for noncoal reclamation.

One commenter suggested there is a need for definition of "noncoal reclamation" and "noncoal lands" because it is unclear whether this part refers to lands affected by coal mining, but not actually mined, or to lands mined for minerals other than coal. OSM meant proposed Part 875 to apply to lands mined for minerals other than coal since Part 874 applies to lands mined or affected by coal mining activities. For clarity, OSM has decided to include new § 875.11 (Applicability) in the final rules.

Proposed § 875.12 establishes the eligibility requirements for noncoal mined lands and water. OSM reviewed the legislative history of Section 409 and concluded that Congress intended that

the eligibility requirements for noncoal reclamation be consistent with the statutory eligibility requirements contained in Section 404 of the Act (30 U.S.C. 1234) for coal mined lands and waters. Since the source of funds for all reclamation conducted under Title IV of the Act comes from a fee collected from coal mine operators, less stringent requirements for noncoal reclamation cannot be logically justified in fairness to the coal mine operators. Moreover, there is no basis in the legislative history of Section 409 (30 U.S.C. 1239) to justify a conclusion that Congress intended to allow funding for reclamation on noncoal mined lands and water abandoned after August 3, 1977.

Proposed § 875.12(c) was necessary to clarify the meaning of the words "continuing responsibility" in Section 404 (30 U.S.C. 1234) of the Act. Continuing responsibility will be determined by State statutes and not by common law. In addition, the language was broadened in the proposed rules to allow lands to remain eligible if a forfeited bond is insufficient to conduct adequate reclamation. This is consistent with the interpretation of "continuing responsibility" as applied to coal mined lands.

One commenter suggested that proposed § 875.12 be amended by requiring a finding, before a noncoal reclamation project is approved, that the land or water condition endangers life and property, constitutes a hazard to public health and safety, or degrades the environment. The suggested amendment would ensure that the primary goal of Title IV to reclaim abandoned coal mined lands is met. OSM does not consider the suggested amendment to be necessary because proposed § 875.13 (Requirements for noncoal reclamation) requires that the provisions of Section 409 of the Act be met before a noncoal project is eligible for reclamation. Section 409 of the Act clearly requires a finding that a noncoal project must constitute a condition that endangers life and property, is a hazard to public health and safety, or degrades the environment before it is eligible for reclamation assistance under Title IV of SMCRA. Since Section 409 is clear and incorporated by reference into § 875.13 of the final rules, it is not necessary to repeat its mandate in the body of the regulation.

Two commenters suggested that proposed § 875.12 be revised to provide for funding of noncoal projects only when there is both a necessity to protect the public health and safety and when all coal mine reclamation is accomplished. The commenters feel that since the reclamation fee which finances the AMLR program is collected from coal mine operators, it is "only fair" that coal mine reclamation be completed before any noncoal mine reclamation is undertaken. OSM cannot accept this suggestion because it is clearly contrary to the explicit wording and intent of Section 409 of the Act. As indicated in the previous paragraph, Section 409 and Part 875 set forth the conditions under which lands mined for minerals other than coal can be reclaimed under the provisions of Title IV of SMCRA.

Proposed § 875.13 is included to clarify that the requirements for noncoal reclamation are limited to those contained in Section 409 (30 U.S.C. 1239) of SMCRA. No change has been made in the final rules.

Part 877—Rights of Entry

Part 877 establishes procedures for OSM to obtain entry on private lands for purposes of carrying out reclamation activities. The rules state a policy preference for entry under a written consent from the owner rather than under the police powers provided in Sections 407 (a) and (b) and 410(b) of the Act. Nonconsensual entry will be undertaken only after reasonable efforts have been made to obtain written consent.

Section 877.1 (Scope). The final rules reinstate the reference to States or Indian tribes in the existing rules under an approved reclamation program because this requirement is included in section 407 of the Act. The proposed rules had deleted the requirement for States and Indian tribes to effect police power entry on private land for reclamation.

Four comments were received and are discussed as follows:

- One commenter supported the emphasis on a closer working relationship with landowners in obtaining entry on private lands for reclamation.

Three other commenters pointed out that Section 405(d) of the Act provides that States are required to adopt provisions in accord with Title IV and in the specific case of entry under Section 407, States should be able to enter upon private lands by invoking the State's police power to protect the public health and safety. These commenters pointed out that the deletion of the States and Indian tribes from this section of the proposed rules was improper.

Under the circumstances, OSM agrees that the requirements of Part 877 apply to the States and Indian tribes as well as to OSM. Consequently, § 877.1 (Scope) was changed in the final rules to include States and Indian tribes under an approved reclamation program. However, final rule § 877.14 concerning emergency reclamation applies exclusively to OSM, its agents, employees and contractors.

The broad use of police powers for entry on private lands, authorized in the Act, is not controverted by stating a preference for landowners' consent for entry on private lands. OSM has taken a judicious approach to the use of police power entry on private lands. The States or Tribes are free to invoke the use of police powers to effect nonconsensual entry consistent with the conditions that threaten the public health or safety and the provisions of the State's statutes for use of police powers.

Section 877.10 (Information Collection). The information required by Part 877 is being collected to meet the mandate of Section 407 of the Act, which provides for use of the police power, if necessary, to effect entry upon private lands to conduct reclamation activities or exploratory studies if the landowner's consent is refused or the landowner is not available. This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to conduct reclamation activities on private lands. The obligation to respond is mandatory. The information collection requirements contained in § 877.11 and § 877.13(b) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029–0055.

Section 877.11 (Written Consent for Entry). One commenter recommended that the wording of the second paragraph of § 877.11 be changed to be consistent with the wording in proposed § 879.12(c). This would provide for reasonable efforts to get landowner consent for entry before nonconsensual entry by exercise of police power. Proposed § 879.12(c) requires reasonable efforts be made to purchase before condemnation is begun. OSM has accepted the comment in the final rule as an improvement over "due care and deliberation".

Section 877.13 (Entry and Consent to Reclaim). Six comments were received on this proposed section.

One commenter suggested that proposed § 877.13(a) should include noncoal as well as coal mining. This was not done because noncoal reclamation is treated separately in Part 875 of this chapter.

One commenter opposed the requirement for written findings in proposed § 877.13 (b) and (c) where nonconsensual entry will be made. The reason advanced was that Congress did

not specify that the findings be in writing. OSM's response is that due to legal considerations, a written record should always be made to preserve a record of circumstances surrounding any nonconsensual entry. No change was made in the final rule.

One commenter suggested that landowner consent in proposed § 877.13 (b) and (c) should not be required for entry to conduct studies or exploratory work on private lands and that there is no requirement in the Act for findings of adverse effect to be made in advance of entry for studies or exploratory work. OSM's response is that due to legal considerations, a written record should be made in order to preserve the record of circumstances surrounding nonconsensual entries. Accordingly, the final rule remains unchanged from the proposed rule.

One commenter suggested that the phrase "of 5 working days" be inserted in proposed § 877.13(c) for notice to property owners after entry for emergency work. The phrase was not added in the final rule because entry for emergency reclamation is treated in § 877.14.

A fifth comment noted that Paragraph (c) of proposed § 877.13 was inconsistent with Paragraphs (a) and (b) and should begin: "(c) If consent is not obtained * * *" This has been included in the final rule.

Section 877.14 (Entry for Emergency Reclamation). One comment was received on proposed § 877.14 suggesting that since the proposed notice requirements cause delay, all written requirements should be deleted for emergency situations.

As written, final rule § 877.14 does not require landowner's consent but does state that OSM shall make reasonable efforts to notify landowners consistent with the emergency conditions at hand. OSM's successful experience in managing emergency situations supports the rule as written. Written findings are essential for record purposes and create no delay in emergency response capability.

Part 879—Acquisition, Management and Disposition of Lands and Water

Proposed Part 879 reflects several provisions of Title IV of the Act concerning the acquisition, use, and disposal of lands and water for emergency and reclamation purposes. States raised two general issues concerning this part of the proposed rules. These were: (1) Whether acquired land must serve recreation and historic purposes, conservation and reclamation purposes or provide open-space benefits exclusively and (2) what constitutes permanent facilities as mentioned in proposed § 879.11 of the rules.

Sections 407, 409, and 410 of the Act provide that reclamation can be done on private property. Land acquisition by OSM, States and Indian tribes will be restricted to those situations where reclamation cannot be done without acquiring the land. In those cases, the Act spells out certain requirements; that is, the land will serve recreation and historic purposes, conservation and reclamation purposes or provide open-space benefits. This does not mean that the land must serve all these purposes or only these purposes. It is also not necessary that the total area continue to be used exclusively for reclamation purposes for an indefinite period of time. Land can be acquired for a variety of future uses. Multiple-use purposes should be encouraged, so long as such uses are not inconsistent with the reclamation objectives and as long as one of the uses meets one requirement in section 407(c) of the Act. Accordingly, the final rule remains unchanged.

The States asked that OSM provide a definition of "permanent facilities." This definition has been included in proposed and final rule § 870.5. The term permanent facilities is given an expansive connotation and is defined in the final rule to mean any structure that is built, installed or established on the surface.

Two comments were received on proposed § 879.11. One comment endorsed the interpretation that land use following reclamation will fulfill the requirements of section 407(c) of the Act if it meets any one of the recommended uses. The other comment endorsed a more restrictive interpretation that acquired land must meet only the beneficial uses of the Act; that is, recreation and historic purposes, conservation and reclamation purposes, or open-space benefits. We do not agree with a restrictive interpretation of land uses following reclamation. So long as one of the purposes of the Act is met, other land uses should be allowed. Section 407 of the Act does not restrict land uses and the word only is not used. One of the purposes of the Act, as set out in section 102, is to reclaim land for beneficial uses, not to restrict its use. Accordingly, final rule § 879.11 remains unchanged.

Section 879.1 (Scope). The proposed section has been modified to include emergency projects and to insure that State and Indian tribe acquisition procedures are included in their reclamation plans.

One comment pointed out a redundancy in proposed § 879.1 in that the word "State" before reclamation program was unnecessary. This has been corrected in the final rule.

Section 879.10 (Information Collection). The information required by Part 879 is being collected to meet the mandate of Section 407 of the Act, which requires that a State/Indian tribe include in its State reclamation plan assurances that the aquisition, management, and disposition of eligible lands and water for reclamation and other designated purposes will be accomplished in a manner prescribed by the Act. This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to be in compliance. The obligation to respond is mandatory. The information collection requirements contained in § 879.11(b)(1), (b)(2), and (e)(3), § 879.12(a), § 879.13(b), and § 879.15 (a) and (b) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029–0056.

Section 879.11 (Land Eligible for Acquisition). This proposed section included a new paragraph 879.11(b)(2). OSM reexamined Section 407(c)(3) of the Act stating "or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal-mining practices" and concluded that it was not meant to apply to coal refuse piles in particular, but rather to emergency situations. Proposed § 879.11(b)(2) provides the Secretary with the authority to acquire land in emergency situations where no other viable means are available to abate an immediate threat to human life.

One comment on proposed § 879.11(b) indicated that acquiring property in emergencies was not intended by the Act and that policy power entry was the means to use in emergencies. OSM's response is that authority to acquire land in emergency situations is given in Sections 407(c)(3) and 412(a) of the Act. This authority provides the Secretary additional flexibility in abating emergency situations. Accordingly, no change has been made in the final rule.

Examples of permanent facilities in existing rule § 879.11(a)(2) were deleted in the proposed and final rule since they are now included in a definition section in final § 870.5. Existing § 879.11(c) was changed in the proposed rule to refer to Section 407 of the Act rather than to repeat the statutory requirements. Existing § 879.11(d) was modified in the proposed and final rule to change a reference from § 874.12(b) to Part 875, because reclamation on noncoal areas is now covered in this new part.

Two comments were received suggesting that the word "and" be

changed to "or" in proposed § 879.11(a)(1) if it is to be construed that acquired lands can serve any one of the purposes listed. OSM's response is that the word "and" is correct because it follows the language in Section 407(c) of the Act. A thoughtful reading will lead to the conclusion that any one of the purposes listed can be reasonably inferred. To require that any one tract of land will serve all the listed purposes would be unrealistic. Accordingly, no change was made in the final rule.

Two comments concerned proposed § 879.11 (c) and (d). One concerned an incorrect reference to another section. This has been corrected in the final rule. The other asked if these two sections were restricted to OSM. OSM's response is that proposed § 879.11(c) is limited to OSM because the Act limits land acquisition for housing purposes to the OSM. No change in the final rule has been made. In proposed and final § 879.11(d), land acquisition for noncoal reclamation purposes includes States and Indian tribes.

Section 879.12 (Procedures for Acquisition). OSM emphasizes that there are basically two requirements for land acquisition: (1) Compliance with Section 407(c) of the Act; and (2) compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act and Department of the Interior rules implementing this Act. States and Indian tribes may use procedures already in place as long as they are in compliance with items (1) and (2) above. There were no comments on this section. Accordingly, no changes have been made in the final rule.

Section 879.13 (Acceptance of gifts of land). Existing paragraphs (a) and (b) of § 879.13 were rewritten in the proposed rules to eliminate Federal requirements governing acceptance of gifts of land. If the gift is to the Federal government, the donor must comply with existing Department of the Interior rules. If the gift is to States of Indian tribes, the gift must be consistent with existing State or Indian tribal laws. No changes have been made to the final rule.

Two comments concerned proposed § 879.13. Both comments noted that this section did not reflect the fact that land donations must meet the same criteria as any other land acquisition as well as the criteria for donations. This has been clarified in the final rule to show this requirement.

Section 879.14 (Management of acquired lands). One comment stated that the proposed rule should specify that moneys collected for user charges should be returned to the fund. This has been inserted in the final rule.

Section 879.15 (Disposition of reclaimed lands). Six comments were received. Three supported the changes in the proposed rules. Two others pointed out redundancies in wording. One stated that title to acquired land in proposed § 879.15(b)(2) should revert to OSM since the State would not want a reverter of title if it was not involved in the project. OSM's response is that title can only revert to the grantor under a deed. Consequently, if the State was not the grantor, it could not take title under a reverter. Accordingly, no substantive change has been made in the final rule.

Part 882—Reclamation on Private Land

Part 882 states the authority of OSM, States and Indian tribes to perform reclamation on private lands. It establishes a requirement for appraisals of the land value in lien situation before and after reclamation work consistent with uniform appraisal standards. The rules also establish conditions and procedures for the filing of liens on private property equal to the increase in fair market value that results from reclamation work under certain circumstances.

Section 882.1 (Scope). This § 882.1 is retained as it appears in the present rules.

Section 882.10 (Information collection). The information required by Part 882 is being collected to meet the mandate of Section 408 of the Act which establishes conditions for the application of liens and procedures for filing liens on private property. This information will be used by the regulatory authority to insure that the State/Indian tribe has sufficient programmatic capability to file liens under certain conditions. The obligation to respond is mandatory. The information collection requirements contained in § 882.12(c) and § 882.13(b) were approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1029–0057.

Section 882.12 (Appraisals). In proposed § 882.12, OSM changed the requirement in the original rule requiring appraisals on all projects to one requiring appraisals only when the possibility of a lien cannot be disregarded. Nine comments were received regarding this section. Two issues are involved. The first is whether a real estate appraisal is required as the basis for waiver of lien for every reclamation project. The second issue is whether an appraisal should be conducted before or after completion of the project. Three commenters believe the modified requirement in the proposed rule for appraisal is too restrictive; two commenters believe it is too permissive, and one favors the modification. Two comments concern the requirement for an appraisal upon completion of reclamation. One comment opposes use of an independent appraiser. One commenter points out the redundancy of proposed § 882.12(c). These comments are discussed below.

Three commenters expressed concern that the proposed § 882.12 did not adequately clarify the existing regulatory language with respect to the requirement for appraisal in connection with a possible lien. They contend that there will be circumstances under which it can be determined, without benefit of an appraisal, that there will be a significant increase in the value of the property after reclamation or that the "reclamation primarily benefits health, safety, or environmental values of the greater community." Under such circumstances, they believe that appraisals are unnecessary and wasteful. OSM agrees that there will be many situations in which appraisals are unnecessary. Indeed, that is the reason the wording was changed in the proposed rule to require appraisals only when property may be subject to a lien. When the official responsible for the reclamation program can determine from available evidence that the primary benefit from reclamation is to the greater community or that it is clear that there will be no significant increase in market value, then the property is not subject to a lien and no appraisal is necessary. When there is any doubt that these determinations can be made without the basis of appraisals, then it must be considered that the property may be subject to a lien and appraisals must be obtained. In such cases, the appraisals would provide evidence supporting waiver of a lien when they show that no significant difference in value exists.

On the other hand, one commenter believes "the cart has been placed before the horse," that the only valid method of implementing Section 408(a) of the Act is to determine, by appraisal, if there is or is not a significant increase in property value. Three years of program experience have demonstrated that in many projects, prior to start of reclamation, it was clear that either the primary benefit accrued to the public good or there was no significant increase in value resulting from reclamation, or both. In such instances, a requirement for an appraisal is unnecessary to ensure that public funds are not being expended to benefit an individual property owner and, therefore, would be wasteful. For example, in a project which stops acid

mine drainage from polluting a municipal water supply, purification of a public drinking supply is the primary benefit. It may be obvious that private land adjacent to the reservoir may appreciate in value as a result of the reclamation; however, the public health of the local population or user is the element primarily benefited. Since a benefit accruing primarily to the public safety offsite is one of the justifications for waiver of lien in the existing rules, the increase in land value is secondary and no appraisal need be obtained.

Furthermore, the determination to be made is not simply whether the benefit occurs offsite. For example, in a project involving reclamation of barren, stripmined land having large, open, water-filled pits, drainage from the pits causes sediment to build up on an adjoining county road creating a traffic hazard. The offsite benefit is the permanent elimination of the traffic hazard. It must be compared to the benefit to the landowner in the form of increased land value, in order to determine where the primary benefit lies. However, the magnitude of the benefit to the owner which may result from enhanced market value may not be even reasonably estimated without appraisals. OSM, therefore, believe that the proposed rule accommodates both situations and no change in this regard is required; however, we have restructured the paragraphs for clarity in the final rule.

Two commenters recommended either deletion or modification of the last sentence in proposed § 882.12(b) to eliminate the requirement for appraisal after completion of reclamation activities when reclamation takes more than 6 months. An advantage is cited to estimating the increase in land value before the start of reclamation activities; the difference between the appraisal of the land before reclamation and after reclamation is the basis for any increase in value. OSM's own experience has shown that landowners want to know the extent of any lien which may be placed against their property. Otherwise, they are reluctant to grant permission for entry out of fear of the unknown amount of the future lien. Since OSM prefers to obtain written consent as a means for obtaining entry to reclaim, progress on some projects has been hampered.

OSM agrees that there is good reason to perform an appraisal of the market value of the land as if reclaimed, before the start of reclamation. However, the comments fail to recognize the landowner's point of view that the appraised value of the land as if reclaimed is based upon the assumption that the reclamation will be successful and enhance the value of the land. The landowner's apprehension is that the value of the reclaimed land will not increase to the extent of the appraiser's estimate. In such event, proceeds from the sale may be even less than the value of the land in its unreclaimed state. The disparity may even be greater when appreciation due to time factors has taken place. OSM has, therefore, rewritten the existing section to require another appraisal of the land as reclaimed upon completion of reclamation activities. This updated appraisal will determine if the increase in value originally estimated has actually occurred. If a lower increase in value results, it will be the basis of the amount of the lien. An appraisal showing a higher increase in value will not be used in determination of a lien because this would defeat the purpose of implementing landowner consent. Thus, landowners have greater opportunity to be involved with project issues, such as right of entry, while assuring that the determination of the necessity of a lien or the amount of the lien will be done equitably.

One commenter wants the requirement for an independent appraiser in proposed § 882.12(a) changed to permit staff appraisers of the responsible reclamation agency to perform appraisals for liens. This comment cannot be accommodated. Section 408(a) of the Act specifically requires that appraisals performed to determine the amount of a lien must be obtained from an independent appraiser.

One commenter points out that proposed § 882.12(c) pertains to liens and therefore, should be made part of proposed § 882.13. After a review of proposed § 882.13(b), OSM finds that it contains essentially the same elements as § 882.12(c). Proposed § 882.12(c) has therefore been eliminated in the final rule.

Section 882.13 (Liens). Twelve comments were received on proposed § 882.13. One commenter noted that, in situations where a lien will be filed, the landowner should be given the right to discharge or pay a lien prior to filing in the land records. The recommended language has been incorporated in the final § 882.13(b).

Three comments were received concerning the change in proposed § 882.13(a) that would give OSM, State or Indian tribe the discretionary authority to place or waive the lien. Two of these comments supported the change while the third comment argued that the use of the word "may" in § 408 of the Act limited filing to those cases where a significant increase in value results. This commenter quoted the legislative history to the effect that "a lien is to be placed on the property for the value of the work in those instances when the reclamation results in significant increases in the property value." The legislative history reflects the fact that there was discussion of liens being placed on property for the value of the reclamation. However, in the final text of the Act the Congress provided in Section 408 that the lien shall not exceed the increase in the market value of the property as a result of the reclamation. Accordingly, OSM believes that proposed and final § 882.13 correctly reflect the provisions of Section 408 of the Act and also provide guidance for waiver of lien. This commenter also disputed the proposed rule change in § 882.13(a)(2) to allow States or Indian tribes to establish abandoned mine lands liens in accordance with State laws. With regard to the priority of the lien, OSM recognizes that liens are governed by existing State and Federal laws with which there must be compliance. An example of this is the State homestead laws.

One comment noted that the tax status of landowners who benefit from reclamation activities is still in question. This issue remains unresolved at this time.

One commenter asked about the waiver of lien if the cost of filing the lien exceeds the increase in fair market value. This provision (existing § 882.13(a)(2)) was inadvertently left out of the proposed rules but has been added as § 882.13(a)(4) in the final rules.

Three comments dealt extensively with the waiver of lien provisions in proposed § 882.13(a)(3) where the reclamation will primarily benefit the health, safety, or environmental values of the greater community. These commenters made recommendations that OSM, State, or Indian tribe be allowed to make this determination in advance so that landowners will know for certain whether there will be a lien or lien waiver. We have accepted the recommendation and clarified final rule § 882.13(a)(3) to reflect the fact that this waiver can be treated in this manner.

One commenter recommended that OSM delete the requirement in proposed § 882.13(b) for filing by OSM, States or Indian tribes of an accounting of moneys expended for the reclamation work together with the lien. The reasons advanced are that providing an accounting is expensive and time consuming. Further, the Act provides

that this "may," not "shall," be done. OSM acknowledges that Section 408 of the Act provides that OSM or a State or Indian tribe "may" file a statement of these reclamation costs together with the notarized appraisals. Accordingly final rule § 882.13(b) was changed to reflect the fact that although notarized appraisals must be filed with the lien, OSM, States or Indian tribes may include a statement of reclamation costs.

Part 884–State Reclamation Plans

Part 884 establishes the content of the State plan required by Section 405(b) (30 U.S.C. 1235) of the Act.

Section 884.1 (Scope). OSM has decided to delete portions of existing § 884.1 already contained in the Act. Existing § 884.2 (Objectives) was deleted for the same reasons.

Section 884.11 (State eligibility). Section 884.11 has not been changed and remains necessary to clearly set forth the requirements of the Act.

Section 884.13 (Content of proposed State reclamation plans). Since the information collection requirements of § 884.13 now only applies to fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.)* and does not require clearance by the Office of Management and Budget.

At the request of States, existing § 884.13 was substantially modified in the proposed rules. These modifications were as follows:

—Section 884.13(a)—limits the opinion of the State's or agency's legal officer to the authority of the agency under State law to conduct the Title IV program of the Act.
—Section 884.13(c)—the word "detailed" and the phrase "but not limited to" were deleted.
—Section 884.13(c)(1)—the word "purposes" was substituted for the phrase "goals and objectives".
—Section 884.13(c)(4)—combined public participation requirements for coal and noncoal reclamation and for public participation in the preparation of the State reclamation plan and deleted specifc requirements as to how the States implement public participation.
—Section 884.13(d)—was rewritten to preclude repetitious phrases.
—Section 884.13(e)—was consolidated with proposed § 884.13(c)(4).
—Section 884.13(f)—was redesignated (e), the phrase "derived from available data" was added, and the required map scale of 1:250,000 was deleted.
—Section 884.13(f)(4)—the requirement that the State reclamation plan contain a table summarizing the quantities of land and water proposed for reclamation was deleted.
—Section 884.13(f)(5)—deleted the required narrative descriptions of: sociologic and demographic characteristics; hydrology; flora and faura; underlying or adjacent beds of commercially mineable coal and other materials and projected methods of extraction; and the anticipated benefits from reclamation.

The reasons for the above changes are discussed in the preamble to the proposed rules at 46 FR 60785–60786.

One commenter supported all the changes to proposed § 884.13 because they "aid in speeding the approval" of State reclamation plans by eliminating several unnecessary provisions with which the States must now comply.

One commenter requested that § 884.13(b), which requires a legal opinion that the designated agency have the authority under State law to conduct the program in accordance with Title IV of the Act, be deleted because "it is not required" by the Act. OSM cannot accept this comment because Section 405(e) of the Act explicitly requires that each State reclamation plan contain the "legal authority" to perform reclamation work in conformance with Title IV.

One commenter supported the proposed § 884.13(b) modification to limit the opinion of the State's or agency's legal officer to the authority of the agency under State law to conduct the Title IV program. Another commenter requested that proposed § 884.13(b) be deleted because "it is not required" by the Act. OSM cannot accept this comment because Section 405(e) of the Act explicitly requires that each State reclamation plan contain the "legal authority" to perform reclamation work in conformance with Title IV.

One commenter suggested that proposed § 884(c)(3) be amended to require that the State also coordinate its reclamation work with OSM's reclamation projects. This coordination was formally required by existing § 872.4, which was deleted. OSM agrees that the States should be specifically required to coordinate with all reclamation programs and has, therefore, amended proposed § 884.13(c)(3) to include OSM's programs.

One commenter contended that Section 102(i) of SMCRA requires that the State reclamation plan must provide for public participation and involvement in the State program operation and not just in its development and, therefore, opposed the proposed deletion of existing § 884.13(c)(7). OSM's response is that it has not deleted the requirement for public participation and involvement in the State program operation. OSM merely proposed to combine, in order to avoid duplication and to add clarity, existing §884.13(c)(7) and existing § 884.13(e) into one new proposed § 884.13(c)(4) that requires public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

One commenter contended that the requirement of proposed § 884.13(d) for a description of the purchasing, procurement, accounting system, and personnel staffing policies is "inappropriate" for inclusion in a State reclamation plan. For this commenter, these descriptions would be more appropriate in a grant agreement since then "only add bulk to the plan and very little to the comprehension of the plan by the public." OSM's response is that Section 405(e) of the Act requires that the State reclamation plan contain the State's "programmatic capability" to perform reclamation work in conformance with Title IV. OSM has decided that, in order for it to assess "programmatic capability," it needs a description of the State agency's purchasing, procurement, accounting, and personnel staffing systems. Moreover, by including these descriptions in the State plan, they will not have to be repeated every time a State requests a grant for funds to perform reclamation under Title IV. Accordingly, no change had been made in the final rules.

One commenter asked for the authority for requiring in proposed § 884.13(d)(3) that purchasing and procurement systems to be used by the agency must meet the requirements of OMB Circular A–102. OSM's answer is that the Act provides for grants to the States and all Federal grants must conform to OMB Circular A–102 under the statutory authority of the Intergovernmental Cooperation Act of 1968, Pub. L. 90–577 (42 U.S.C. 4201 *et seq.*).

One commenter objected to the inclusion in proposed § 884.13(e) of a general description of the reclamation activities to be conducted under the State plan, including known or suspected eligible lands and water within the State and a map showing their general location. For this commenter, Section 405(e) of the Act only requires the plan to generally identify the areas to be reclaimed and therefore § 884.13(e) goes beyond the scope of the Act. OSM's response is that Section 403 requires more than just a

description of the "areas to be reclaimed," but also "the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects * * *" Moreover, the Act requires that reclamation be accomplished according to the priorities set forth in Section 403. OSM has decided that in order to implement Section 405, and the requirement that it only fund abandoned mine land reclamation projects that meet the priorities of Section 403, it needs the information required by proposed § 884.13(e). Otherwise, the State would be free to select projects without meeting the Congressional mandated priorities of Title IV. Accordingly, no change was made in the final rules.

One commenter wants proposed § 884.13(f) deleted because the Act does not require the State reclamation plan to contain descriptions of the economic base, the esthetic, historic, cultural, and recreational values, and the endangered and threatened plants, animals, and their habitats. For this commenter, such descriptions are more appropriate to State grant applications. OSM's response is that the information required by proposed § 884.13(f) is needed by OSM for it to meet the mandate of Section 702 of the Act that requires its action in approving the State reclamation plan to be coordinated with the requirements of other Federal laws. Moreover, OSM believes that it is more efficient to include the required information in the State plan rather than to require the descriptions every time a State requests a grant. The State grant application can then be limited to specific project site information. Accordingly, no change was made in the final rules.

Section 884.14 (State reclamation plan approval). One commenter requested that proposed § 884.14(a) be amended to require that the Director either approve or disapprove a State plan or amendment within 60 or 90 days instead of only having to "act on the State plan or amendment in 90 days." OSM cannot accept this request since under Section 405 of the Act it must determine that a State complies with Title IV before it can approve a State reclamation plan. The failure of OSM to act within a specific time period on a submitted State reclamation plan cannot result in approval absent specific statutory authority that would so permit. OSM will strive to meet its goal of reviewing State reclamation plans within 90 days.

Section 884.15 (State reclamation plan approval). Since the information collection requirements of 884.15 apply to fewer than 10 respondents per year, it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*) and does not require clearance by the Office of Management and Budget.

Section 884.16 (Suspension of plan). One commenter contended that in proposed § 884.16 the OSM cannot substitute "suspension" for "withdrawal" of a State reclamation plan because "withdrawal" is required by Section 405(d) of the Act. OSM's response is that its purpose in substituting "suspension" for "withdrawal" is that it avoids the necessity of a State having to resubmit a new reclamation plan which OSM would then have to reapprove whenever OSM takes action against a State for failing to meet the requirements of either Title IV or V of the Act. OSM believes that "suspension" is sufficient to achieve the purposes of Section 405(d) of the Act. Accordingly, no change was made in the final rules.

One commenter requested proposed § 884.16(c) be amended to require that the OSM decision on suspension of a State reclamation plan be conveyed to the State by mail with return receipt requested or by registered letter. OSM does not believe it is necessary to include such wording in the final rule because on a matter as serious as suspension of a State reclamation plan, it will ensure that its decision is conveyed and received by the State in the most expeditious manner.

Part 886—State Reclamation Grants

Part 886 sets forth the procedures and requirements for annual grants to States to conduct reclamation activities under their approved reclamation plans. Based on comments received from the States on the draft of the proposed rules, OSM decided to retain the major requirements for State reclamation grants in the form of Part 886 rules rather than in a separate publication.

State commenters requested exemption from the requirements of Office of Management and Budget (OMB) Circulars A–95 and A–102. Discussions with OMB concluded that such exemptions are not permissible under the authority of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577). However, OSM has attempted to minimize the reporting requirements imposed upon the States in the administration of grants under the OMB circulars.

Section 886.1 (Scope). Proposed § 886.1 indicates that the purpose of Part 886 is to set forth procedures for grants to States having approved reclamation plans. OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810–14819) is included in order to provide program guidance. One commenter requested that the reference to the guidelines be deleted because they do not specifically pertain to grants but rather to individual projects. OSM has decided to retain the reference to the guidelines in the final rules because they pertain to the individual projects which are the subject of the grant request.

One commenter noted that the statement in proposed § 886.1, that the guidelines should be utilized as appropriate, is confusing because the guidelines state that they apply to all projects under any program. For this commenter, proposed § 886.1 seems to imply that some guidelines might now not be appropriate to be used by a State. OSM's response is that it agrees with the commenter that the use of the word "appropriate" can be confusing. It was not OSM's intent to imply that the guidelines may not be "appropriate." OSM believes that they are appropriate whenever they are applicable to reclamation projects and should be utilized by the States. OSM intended to say that the guidelines may not be applicable to all projects in all situations but where they are applicable they should be utilized. Proposed § 886.1 has therefore been changed in the final rule to substitute the word "applicable" for the word "appropriate".

Existing § 886.2 (Objectives) has been deleted in the final rule to avoid duplication with the Act.

Section 886.10 (Information collection). The information required by Part 886 is being collected to meet the mandate of Section 405 of the Act, which allows the Secretary to grant funds to States/Indian tribes pursuant to Section 402(g) for the purpose of implementing the State/Indian tribes reclamation program. This information will be used by OSM to ensure that the State/Indian tribe complies with OMB Circular A–102 and sound principles of grants management. The obligation to respond is mandatory. The information collection requirements contained in § 886.15(c), § 886.17(b), § 886.18(c), § 886.23(a) and (b), and § 886.24(a) and (b) were approved by OMB under 44 U.S.C. 3507 and assigned clearance numbers 1029–0016, 1029–0017, 1029–0054, 1029–0064, 1029–0068, 1029–0070, 1029–0072 through 1029–0079.

Section 886.12 (Coverage and amount of grants). Two commenters requested that proposed § 886.12(a) be amended to

include Federal agencies as well as State agencies and local jurisdictions to which the State reclamation agency can transfer funds for services and materials provided. OSM agrees and has amended § 886.12(a) to allow transfer of funds to Federal agencies. This amendment will allow State reclamation agencies to utilize a Federal agency (for example, U.S. Forest Service or Soil Conservation Service) to carry out reclamation activities.

One commenter suggested that proposed § 886.12(b) be amended so that indirect as well as direct costs are eligible for payment of services rendered by other agencies. The OSM agrees but notes that OMB Circular A–87 must be followed. This circular allows for reimbursement for costs incurred by agencies other than the grantee and sets forth the rules and agencies other than the grantee and sets forth the rules and requirements pertaining to such reimbursement. OSM has, therefore, amended in the final rule the second sentence of proposed § 886.12(a) by deleting the word "direct" and adding as reference to OMB Circular A–87.

One commenter requested that in proposed § 886.12(b) the deleted language of the existing rule that "100 percent of the total agreed upon costs" be reincluded because the phrase makes it clear as to the funding that can be approved by OSM. OSM's response is that the language was proposed to be removed because it is redundant. Section 405 (g) of the Act states that the Secretary will grant funds for reclamation. There is no provision in the Act for a matching fund grant for reclamation as there is for land acquisition (90 percent). Therefore, it is obvious that reclamation will be funded for 100 percent of total allowable costs. Accordingly, no change has been made in the final rule.

One commenter, while supporting Executive Order 12185 (use of fuels other than petroleum or natural gas in facilities constructed with AMLR funds), expressed concern that States will have to produce a "life cycle cost analysis" for each project. OSM's response is that it does not believe that compliance with the Executive Order will be a burden to the AMLR programs since almost all projects funded will be for reclamation. Moreover, the Executive Order does not require a "life cycle cost analysis" but only to the extent technologically and economically feasible, public facilities that are planned, constructed or modified in whole or in part with Federal funds should utilize fuel other than petroleum or natural gas.

One commenter requested that proposed § 886.12(c) be amended by defining land acquisition costs to be "land costs, attorney fees, closing costs, and other related acquisition costs." OSM's response is that this amendment is not necessary. The proposal rule says that acquisition of land shall be approved for up to 90 percent of the costs. The related costs which the commenter lists are included. Otherwise, the rule would restrict approval to 90 percent of the purchase price. Accordingly, no change has been made in the final rule.

Section 886.13 (Grant period). One commenter contended that proposed § 886.13 should not be construed to allow the Secretary to withdraw funds from a State if the State has not spent the funds in a given time period. OSM cannot accept this comment because it is bound by Section 402(g)(2) of the Act, which explicitly allows the Secretary to withdraw funds from States if they have not been expended within 3 years of their allocation. The Secretary has limited his power to withdraw funds as indicated in § 872.11(b) of the final rules.

One commenter requested that proposed § 886.13(a) be amended to read "shall not exceed 1 year" instead of "shall be for 1 year." The effect of the amendment would be to allow for an administrative grant of less than 1 year and thereby allow the first administrative grant to mesh with the State's budget system. OSM agrees and adopts the amendment in the final rule since it allows for increased flexibility to the States in the administration of their reclamation programs.

One commenter requested the following rewrite of proposed §886.13(b):

"(b) The Director may extend the grant period for specific projects beyond 3 years if he finds, on the basis of information contained in the grant application that: (i) Projects to be funded will complete all the objectives of Section 403 of the Act except coal impact assistance; or (ii) an extended period is necessary to accomplish the reclamation projects; or (iii) the grant requests funding for specific projects with adequate plans, acceptable deadlines for completion, and the likelihood of specific construction contracts to meet the project deadlines; provided that (iv) sufficient funds allocated to the State or tribe under 30 CFR 872.11(b)(2) are available to complete the projects."

The commenter emphasized that he deleted the last part of § 886.13(b) which reads "including provisions for corrective works on completed projects and any additional eligible projects which may be discovered." The reason the commenter offered this deletion is that the Eastern States "may never, during the life of the OSM program, be in a position to say that they have no projections of additional eligible projects which may be discovered because of the vast magnitude of the abandoned mine problems within these States." The commenter concluded that use of the phrase in the rule will only serve "to constrain completion of projects which have projected construction periods of longer than 3 years."

OSM does not accept the suggested amendment. The reason why the existing § 886.13 was proposed to be amended is, as stated in the preamble to the proposed rules (46 FR 60786), to address a petition to amend the grant period filed by the State of Wyoming. This petition requested that the project grant period be extended beyond 3 years if the objective of Sections 403 and 409 of the Act are completed. The effect of this extension would be to allow States to obtain grant funds for coal impact assistance under Section 402(g)(2) of the Act even though the last remaining priority reclamation projects of Sections 403 and 409 of the Act have not been actually completed provided that the conditions listed in § 886.13(b) of the final rules can all be met.

The effect of the amendment which the commenter now proposes would be to extend the provision for grant funding beyond 3 years for all grants that meet any of the conditions of § 886.13(b) instead of only those grants which seek funding for coal impact assistance in States which have commenced work on the last of the priority reclamation projects required by Sections 403 and 409 of the act and which meet all the conditions of § 886.13(b).

OSM has decided that the suggested amendment which the commenter offers is not necessary since grant extensions can already be obtained under the provisions of final § 886.17. The purpose of proposed § 886.13(b) is to facilitate the consideration of coal impact assistance projects which would otherwise be delayed if all Section 403 and 409 reclamation projects had to be totally completed. The commenter's amendment is unacceptable because it would effectively avoid the provisions governing grant extensions contained in § 886.17 and the requirements of OMB Circular A–102 referenced therein. In order to avoid any possible future "misunderstandings", OSM has decided to limit § 886.13(b) of the final rules to grants requesting impact assistance

funding and to amending the rule to so indicate.

Section 886.14 (Annual submission of projects). One commenter supported proposed § 886.14 because OSM decided to limit the information requirements to Section 405(f) of the Act. Two commenters opposed proposed § 886.14. The first commenter opposed the rule because he contends that Section 405(f) of the Act only applies to annual grant applications, the information required by Section 405(f) will "not be available thirty months in advance," and this information is not needed by OSM to justify its requests to Congress for appropriations for the State reclamation projects. OSM does not agree with this comment for the reasons which follow. First, OSM believes that it can require the information listed in Section 405(f) prior to a request for assistance from a State with an approved reclamation program because Section 405(b) of the Act entitles the Secretary to obtain information which is necessary to fulfill responsibilities under Title IV of the Act. Second, OSM does not require the information contained in Section 405(f) "thirty months" in advance. Section 886.14 specifically indicates that the schedule for providing the information shall be determined by OSM on an annual basis. Third, as indicated in proposed § 886.14, OSM does need its information in order to justify to the Congress its requests for appropriations to fund the State reclamation programs and projects. In addition, OSM needs the information contained in Section 405(f) before the annual grant submission in order to justify its budget request to the Office of Management and Budget. It should be noted that proposed § 886.14 seeks the cooperation of the States and only asks for estimates which can be refined when the States actually apply for reclamation project assistance. Without some general description of proposed projects and estimates of reclamation benefits, such as number of acres to be restored and costs of reclamation projects, OSM will not be able to justify its funding requests with the consequent detriment to the State reclamation programs' need for reclamation assistance. Accordingly, no change has been made in the final rules.

The second commenter opposes proposed § 886.14 for the same reasons as the first and, in addition, contends that it is "virtually impossible for any State to provide the details of Section 405(f)" 22 months before it submits its annual grant application." This commenter also offers substitute language as follows:

> The agency shall cooperate with the Office in the development of advance budget estimates for use by the Director in the preparation of the request for appropriation of moneys from the Fund. The schedule for such estimates shall be determined by OSM on an annual basis. Funds required to collect and submit data under this section may be included in administrative grants under 30 CFR 886.12.

OSM does not accept the comment or substitute language because, as indicated in the previous paragraph, it is only requesting estimates and not, as this commenter contends "details" of the information contained in Section 405(f) of the Act. OSM notes that it has not required the estimates of Section 405(f) 22 months in advance, as the commenter contends, but will cooperate with the States in preparing an annual annually arriving at a schedule for submission of the needed estimates. OSM does not believe that the requirements of § 886.14 are a burden on the States since it will, as indicated in § 886.14, reimburse the States for the costs of obtaining the estimates.

Section 886.15 (Grant application procedures). One commenter requested that proposed § 886.15(a) be changed to limit the time in which OSM has to act on a grant application to 60 instead of 90 days. For this commenter, 90 days is too long because the State's abandoned mine land staff and their work activities are dependent on the approval of the grant application. In addition, if the State had to amend the application, that "would mean at least another 30 days, resulting in more than a 4-month delay." OSM response is that it needs 90 days in which to act upon a grant application. OSM will attempt to act upon grant applications as rapidly as possible. OSM suggests that States can avoid delay by working closely with OSM during the developmental stages of the application so that the grant application is complete and adequately supported and thus facilitate OSM's review and processing. Moreover, OSM strongly encourages the States to submit their grant applications more than 90 days before existing grants expire so that the continuity of their staff work will not risk interruption.

One commenter wants proposed § 886.15(a) to be amended to require OSM to approve or disapprove a grant application in 90 days instead of having to act on a grant application in 90 days. OSM cannot accept this amendment because the Act does not allow failure to act on a grant application within a specified time period to be construed as either approval or disapproval of a grant. Federal funds cannot, absent specific statutory authority, be committed by default, but rather require a determination of the validity of their use.

One commenter requested that a time period be placed in proposed § 886.15(a) on the preparation of the grant agreement. OSM does not believe that this is necessary since it construes the 90-day period in which it has to act on a grant application to include the preparation of the agreement. Accordingly, no change has been made in the final rule.

One commenter requested the following changes in proposed § 886.15(d): (1) OMB Circular A–95 not be required, (2) the feasibility analysis be removed, and (3) the requirement for an environmental assessment for each project be deleted. The commenter wants compliance with OMB Circular A–95 not be required since the Act "assigns moneys to the different organizations conducting AML works," the Act already requires States to coordinate with other agencies, and provides for public participation. OSM cannot accept the commenter's deletion of Circular A–95 from proposed § 886.15(d) because it is required of all Federal grants by Section 401 of the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577). As for the commenter's second request that the "feasibility analysis" be removed, there is no requirement in proposed § 886.15(d) for a "feasibility analysis." The commenter also requested that the requirement for an environmental assessment be removed. OSM's response is that § 886.15(a) does not require environmental assessments. Environmental assessments are a requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–47).

One commenter requested that proposed § 886.15(e) be amended to read: "Review and approval of project plans and specifications by OSM will not be required." The commenter's reason is that the existing regulations conveys "the impression that a State must receive approval of project plans and specifications for a project implemented under an approved State program." OSM cannot accept the commenter's amendment because proposed § 886.15(e) implements the statutory mandate of Section 405(i) of the Act. OSM's position in proposed § 886.15(e) is that complete plans and specifications are not required before the grant is approved, but OSM may review plans and specifications after the start of the project in order to fulfill its responsibilities under Section 405(i) to monitor the progress and quality of the

State reclamation programs. Accordingly, no change has been made in the final rule.

One commenter requested that the second sentence of proposed § 886.15 end with the word "Office" because an OSM representative should only visit the project site during construction at the invitation of the State agency under current OSM oversight policies. The Office disagrees and notes that under the mandate of Section 405(i) and 412(a), it has the authority to visit project sites without the invitation of the State agency. Accordingly, the final rule remains unchanged.

One commenter indicated that proposed § 886.15(f) is unnecessary because each State plan already outlines public involvement and the regulation could be interpreted to require a very detailed description for every project. OSM disagrees Section 102(i) of the Act and OMB Circular A–102 mandate public involvement. OSM's policy is not to require a detailed description of public involvement for every project but rather a general description that meets the approved State plan's requirements and OMB Circular A–102.

Section 886.16 (Grant agreements). One commenter requested that in proposed § 886.16(a) OSM impose upon itself a time limit to prepare a grant agreement. OSM believes the commenter's request is not necessary. The grant agreement is a simple administrative and clerical procedure that will be completed as rapidly as possible. OSM has already indicated in proposed § 886.15(a) that it will act upon a grant agreement within 90 days of submittal. The preparation of the agreement normally would occur within this 90-day review period.

Two commenters requested that Federal agencies be included along with other agencies and local jurisdictions in allowing for transfers of funds under proposed § 886.16(a)(4) and (b). OSM agrees and notes that this is consistent with its decision to make the same change to proposed § 886.12(a). See preamble discussion of § 886.12(a) for reason. The final rule has been changed accordingly.

One commenter indicated that the phrase "the grant is effective" in proposed § 886.16(d) should be clarified. The commenter indicates that it could be interpreted as either that the terms of the grant become effective upon the date of the Director's signature or that the effective date of the grant is the date appearing in the terms of the grant agreement. The commenter indicated preference for the second interpretation for two reasons: 1) "the letter-of-credit cannot be processed until the Director has signed the agreement which means funds cannot be drawn down for 3 to 5 weeks" and 2) "the effective starting date of a grant should coincide with a State's payroll period." For this commenter, an effective date written within the grant agreement will allow a State better management of its program. OSM's response is that the effective date of the grant is the performance period specified in the grant agreement. The date of the Director's signature does not, therefore, determine the effective date. The States are responsible for requesting the performance period dates that best suit the management of their programs. Accordingly, this change has not been incorporated into the final rule.

Section 886.17 (Grant and Budget revisions). One commenter requested that proposed § 886.17(a) be amended to provide that if the Director does not approve or disapprove of a budget revision within 15 days of its receipt, the budget revision will be "automatically approved." OSM cannot accept this amendment because the Act does not permit it and OMB Circular A–102 requires the Federal agency to act upon budget revisions. OSM will strive to act upon all budget revisions within 15 days.

One commenter requested proposed § 886.17(b)(1) and (3) be amended to allow a State to revise its budget without OSM's approval if the increase or decrease in any project is "$10,000 or 10 percent, whichever is greater" rather than "$5,000 or 5 percent, whichever is greater." The commenter's reasons are "inflation and changes in costs due to weather" make the $5,000 or 5 percent limit too low. OSM's response is that it has reconsidered its interpretation of the Circular A–102 requirement as it applies to reclamation grants under Part 886. OSM now believes that the $5,000 or 5 percent limit, as applied to each project budgeted under a reclamation grant as proposed in § 886.17(b)(1) and (b)(3), places an unnecessary burden on the States in the management of their reclamation projects. As the commenter indicated, inflation has made the $5,000 or 5 percent limit stringent. Therefore, in order to provide the States with increased flexibility in the management of reclamation projects and to reduce the paperwork burden of having to seek written authority for minor changes in a project's budget, OSM has decided to interpret the requirement of OMB Circular A–102 to apply to the total grant amount and not to the amount budgeted for each project in a multi-project grant. Proposed § 886.17(b)(1) and (b)(3) has therefore been changed accordingly in the final rules.

OSM is amending proposed § 886.17(b)(1) to add the words "whenever the total amount of the revisions" in the final rules. The reason for this amendment is that the language is necessary to prevent a series of minor revisions of less than $5,000 or 5 percent which would accumulate to more than the $5,000 or 5 percent total limit on any grant. OSM has decided that this is not a substantive amendment and is intended to implement the requirement of OMB Circular A–102.

Section 886.18 (Grant reduction, suspension, and termination). One commenter requested that proposed § 886.18 be amended to provide that OSM's decision on suspension, reduction, and termination of a grant be a final decision which is appealable to the appropriate court of law, instead of allowing the State the right to appeal OSM's decision to the Secretary. OSM does not agree with the commenter's amendment because it believes that, in order to avoid unnecessary litigation, a State should be allowed an administrative level of appeal beyond OSM. No change has been made in the final rule.

One commenter requested that note be made in proposed § 886.(a)(2) of the extension permitted under proposed § 886.13. OSM's response is that, even though it would not reduce a grant which it had agreed to extend because it would then not be expended within 3 years, OSM has decided to accept the comment in order to achieve consistency between proposed § 886.13 and proposed § 886.18(a)(2) and the final rule § 886.13 has been amended accordingly.

One commenter contended that proposed § 886.18(a)(5) and § 886.18(a)(6) do not apply to employees of a State reclamation agency because of this chapter Part 705 only covers employees of State surface mining regulatory agencies. OSM disagrees because it is clear that in Section 517(g) of the Act of Congress intended that any State employee performing any function or duty under the Act shall not have an interest in a coal mining operation. Moreover, of this chapter 705.5 defines State regulatory authority as including responsibility for reclamation as well as regulation of coal mining. Therefore, OSM has concluded that it is the intent of Part 705 to include employees of State reclamation agencies under Part 705 provisions in restrictions on financial interests of State employees. No change was made in the final rules.

Section 886.19 (Audit). One commenter requested that in proposed § 886.19, the phrase "audit guides of the

Department of the Interior" be removed because these guides are "excessive". OSM's response is that since the publication of the proposed rules, the audit guides of the Department of the Interior have been superseded by audit guides provided by the General Accounting Office and by the "Approved Compliance Supplement" issued by the OMB. The final rule has been amended to reflect this change. OSM notes that it is bound by current U.S. Government and Department of the Interior policy on audit procedures in the administration of its grant programs.

Section 886.23 (Reports). Five commenters opposed the quarterly reporting requirements of proposed §886.23, and one commenter requested that quarterly reports only apply to States with annual grants of over $3 million. Four commenters requested annual reporting only, and two commenters requested semiannual reporting. The reasons given for opposing quarterly reports were:

(1) Quarterly reports "interfere with State programs";

(2) OSM "should be sufficiently informed" of a State's work that annual reports need only be required;

(3) Quarterly reports are "excessive";

(4) Quarterly reports are not practical because projects usually take 3 months to get started;

(5) Quarterly reports are "unnecessarily burdensome on the States and of little value to OSM" because in the "duration of AML projects there will not be significant changes on a quarterly basis;

(6) Quarterly reports are "not specifically required by OMB";

(7) The "SF 183 (form that reports drawdowns on letter of credit) is sufficient to allow OSM to monitor" the progress of the State reclamation projects; and

(8) Quarterly reports are "inconsistent" with the Federal Government's current regulatory reporting requirements."

OSM has reconsidered its proposed requirement for quarterly reports and now believes that semi-annual reports will be sufficient for purposes of monitoring the progress of reclamation performed under its reclamation grant program. In keeping with the provisions of circular A–102, may require more frequent reporting whenever the State's management system is not able to achieve the grant, an applicant or recipient has a history of poor performance, or in any other circumstances where more frequent reporting would advance the goals and objectives of Title IV of the Act.

The reasons why OSM now believes that semi-annual reports are sufficient are as follows:

(1) Under its reorganized administrative structure, OSM, through its newly created State Offices, will be able to more efficiently monitor and work with the States in accomplishing abandoned mine reclamation and therefore, frequent reporting will not usually be necessary;

(2) OSM's extensive review of State Reclamation Plans under Part 884 of this subchapter assures that States with approved abondoned mine land reclamation plans have legal and administrative capacity to accomplish reclamation in keeping with the goals and objectives of Title IV of the Act; and

(3) OSM's oversight policy will assure that States maintain progress in achieving the goals and objectives of Title IV of the Act.

One commenter requested deletion of the cumulative annual report required by proposed § 886.23(b)(2) and replacement with a requirement that the States only need report changes in status since their last report. The OSM cannot agree because proposed § 886.23(b)(2) is the annual report which the OSM must obtain from the State reclamation agencies under Section 405 of the Act.

Part 888—Indian Reclamation Programs

Part 888 establishes interim procedures for identifying and conducting needed reclamation work on Indian lands. OSM did not propose change to the existing Part 888 rules but indicated that it would consider comments. OSM has made one minor change to final Part 888. In proposed § 888.11(c), costs of projects undertaken during the interim period before final plan approval could be charged against monies allocated to the Tribes under Section 402(g)(2) of the Act. A State's or a Tribe's 50% share of the AML fund, however, cannot be utilized under the limitation in Section 405(c) of the Act until a reclamation program is approved. To rectify this situation, the final states that projects undertaken during this interim period will utilize funds from OSM's discretionary share.

Two commenters requested that the term "Indian lands" used in Part 888 be changed to "Indian reservation." These commenters contend that, while Congress deferred its decision with regard to Title V jurisdication on Indian lands until such time as the Secretary of the Interior presented draft legislation, with regard to the Abandoned Mine Land Program in Title IV, Congress was specific in its allocation of funds between the States and Indian tribes. These commenters point out that Sections 402(g)(2), 409(b) and 409(c) of the Act use the term "Indian reservation" to indicate the proper scope of allocations to Indian tribes for abandoned mine land reclamation projects. These commenters contend that it is "inappropriate" for the abandoned mine land reclamation rules to allocate funds in a manner which disregards the Act. Additionally, a distinction between "Indian lands" as used in Title V and the term "Indian reservation" as used in Title IV is reasonable given that an allocation of actual funds being currently generated is necessary under Title IV, while Congress has not yet decided to make ultimate jurisdictional decisions under Title V. OSM believes that Part 888 does not concern allocation of Abandoned Mine Land Reclamation Funds collected on either "Indian lands" or "Indian reservations" but rather the interim procedures for Indian AMLR programs. The question of the jurisdiction of the Indian tribes to regulate surface mining on Indian lands or reservations under Title V is the same for regulation of abandoned mine land reclamation under Title IV. Until Congress decides the jurisdictional issue, OSM cannot promulgate final rules governing Indian AMLR programs. The fact that Congress used the term "Indian reservation" in Sections 402(g)(2) and Section 409 with regard to allocation of funds does not, as the commenters assume, require OSM to use the same term in its interim rules on Indian AMLR programs. Since Congress has not decided the question of the jurisdictional status of Indian lands outside the exterior boundaries of Indian reservations, and because Section 710 of the Act uses the term "Indian lands" in discussing the jurisdictional question, OSM has decided to continue to use the term "Indian lands" in Part 888.

Determination Under Executive Order 12291, the Regulatory Flexibility Act and the National Environmental Policy Act

The Office of Surface Mining has examined this rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981), and determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination of the regulation revisions are as follows:

1. Approval will not have a major effect on costs or prices for consumers, individual industries, Federal, State or local Government agencies or geographic regions;

2. Approval will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act 5 U.S.C. 601 et. seq., and OSM has determined that the rule will not have a significant economic impact on small entities. The revisions do not alter the statutory fee collection requirements or the disbursement of Abandoned Mine Land funds to States or Tribes. In addition, agency policy and statutory mandates requiring the utilization of small and minority businesses, when possible, remain unchanged. The revised rules will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs and aggregate effects on small entities.

Environmental Assessment: OSM has prepared a final environmental assessment (EA) on this rule that reaches the conclusion that this rule should not significantly affect the quality of the human environment. The final EA is on file in the OSM Administrative Record, Room 5315, 1100 L St., NW., Washington, D.C. 20240.

List of Subjects in 30 CFR

Part 870

Coal mining, Reporting requirements, Surface mining, Underground mining.

Part 872

Coal mining, Indian lands, Reporting requirements, Surface mining, Underground mining.

Parts 874 and 875

Coal mining, Indians—lands, Surface mining, Underground mining.

Parts 877, 879, and 882

Coal mining, Indians—lands, Reporting requirements, Surface mining, Underground mining.

Parts 884 and 886

Coal mining, Grants programs—natural resources, Reporting requirements, Surface mining, Underground mining.

Part 888

Coal mining, Indians—lands, Surface mining, Underground mining.

Effective date: June 30, 1982. The reason for making this rule effective upon date of publication is that OSM wants to avoid delay in reviewing State AMLR program submissions and wants to use the revised grant procedures to expedite review of grant requests submitted by several States.

Accordingly, 30 CFR Parts 870, 872, 874, 875, 877, 879, 882, 884, 886, and 888 are amended as set forth herein.

Dated: April 28, 1982.

J. R. Harris,

Director, Office of Surface Mining.

Dated: May 5, 1982.

Daniel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

1. Part 870 is revised to read as follows:

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

Sec.
870.1 Scope.
870.5 Definitions.
870.10 Information collection.
870.11 Applicability.
870.12 Reclamation fee.
870.13 Fee computations.
870.14 Determination of percentage-based fees.
870.15 Reclamation fee payment.
870.16 Production records.
870.17 Compliance authority.

Authority: Secs. 201, 402, and 412, Pub. L. 95–87, 91 Stat. 445, 457, and 446 (30 U.S.C. 1211, 1232, and 1242).

Source: 42 FR 62713, Dec. 13, 1977, unless otherwise noted. Redesignated at 43 FR 49940, Oct. 25, 1978.

§ 870.1 Scope.

This part sets out the procedures for the collection of fees for the Abandoned Mine Reclamation Fund.

§ 870.5 Definitions.

As used in Part 870 through 888 of this subchapter—

Abandoned Mine Reclamation Fund or *Fund* means a special fund established on the books of the U.S. Treasury for the purpose of accumulating revenues designated for reclamation of abandoned mine lands and other activities authorized by Title IV of the Act.

Agency means the State agency designated by the Governor to administer the State reclamation program to receive and administer grants under this part.

Allocate means the administrative identification in the records of OSM of moneys in the fund for a specific purpose, e.g., identification of moneys for exclusive use by a State.

Anthracite, bituminous and subbituminous coal means all coals other than lignite coal.

Calendar quarter means a 3-month period within a calendar year. The first calendar quarter begins on January 1 of the calendar year and ends on the last day of March. The second calendar quarter begins on the first day of April and ends on the last day of June. The third calendar quarter begins on the first day of July and ends on the last day of September. The fourth calendar quarter begins on the first day of October and ends on the last day of December.

Eligible lands and water means land and water eligible for reclamation or drainage abatement expenditures which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law other than the Act.

Emergency means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures.

Expended means that moneys have been obligated, encumbered, or committed for reclamation by contract by the OSM, State, or Tribe for work to be accomplished or services to be rendered.

Extreme danger means a condition that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

Fee compliance officer means any person authorized by the Secretary to exercise authority in matters relating to this part.

In situ coal mining means activities conducted on the surface or underground in connection with in-place distillation, retorting, leaching or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, bore hole mining, and fluid recovery mining. At this time, Part 870 considers only in situ gasification.

Indian Abandoned Mine Reclamation Fund or *Indian Fund* means a separate fund established by an Indian tribe for the purpose of accounting for moneys granted by the Director under an approved Indian Reclamation Program and other moneys authorized by these regulations to be deposited in the Indian Fund.

Indian reclamation program means a program established by an Indian tribe in accordance with this chapter for reclamation of lands and water

adversely affected by past mining, including the reclamation plan and annual applications for grants under the plan.

Left or abandoned in either an unreclaimed or inadequately reclaimed condition means lands and water—

(a) Which were mined or which were affected by such mining, wastebanks, processing, or other mining processes prior to August 3, 1977, and on which all mining has ceased;

(b) Which continue, in their present condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health and safety of the public; and

(c) For which there is no continuing reclamation responsibility under State or Federal laws.

Lignite coal means consolidated lignite coal having less than 8,300 British thermal units per pound, moist and mineral-matter-free. Moist, mineral-matter free British thermal units per pound are determined by Parr's formula, equation 3, on page 222 of "Standard Specification for Classification of Coals by Rank," in American Society for Testing and Materials ASTM D 388–77 (Philadelphia, 1977). Parr's formula follows:

Moist, Mn-Free Btu=
(Bu−50S)/[100−(1.08A+0.55S)]×100 where:
Mn=Mineral matter
(Btu=British thermal units per pound (calorific value)
A=percentage of ash, and
S=percentage of sulfur
"Moist" refers to coal containing its natural inherent or bed moisture, but not including water adhering to the surface of the coal.

OSM means the Office of Surface Mining Reclamation and Enforcement.

Permanent facility means any structure that is built, installed or established to serve a particular purpose or any manipulation or modification of the surface that is designed to remain after the reclamation activity is completed, such as a relocated stream channel or diversion ditch.

Project means a delineated area containing one or more abandoned mine land problems. A project may be a group of related reclamation activities with a common objective within a political subdivision of a State or within a logical, geographically defined area, such as a watershed, conservation district, or county planning area.

Reclaimed coal means coal recovered from a deposit that is not in its original geological location, such as refuse piles or culm banks or retaining dams and ponds that are or have been used during the mining or preparation process, and stream coal deposits. Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes.

Reclamation activity means the reclamation, abatement, control, or prevention of adverse effects of past mining.

Reclamation plan means a plan submitted and approved under Part 884 of this chapter.

State Abandoned Mine Reclamation Fund or *State Fund* means a separate fund established by a State for the purpose of accounting for moneys granted by the Director under an approved State Reclamation Program and other moneys authorized by these regulations to be deposited in the State Fund.

State reclamation program means a program established by a State in accordance with this chapter for reclamation of lands and water adversely affected by past mining, including the reclamation plan and annual applications for grants.

Surface coal mining means the extraction of coal from the earth by removing the materals over the coal seam before recovering the coal and includes auger coal mining. For purposes of subchapter R, reclaiming coal operations are considered surface coal mining.

Ton means 2,000 pounds avoirdupois (0.90718 metric ton).

Underground coal mining means the extraction of coal from the earth by developing entries from the surface to the coal seam before recovering the coal by underground extraction methods, and includes in situ mining.

Value means gross value at the time of initial bona fide sale, transfer of ownership, or use by the operator, but does not include the reclamation fee required by this part.

§ 870.10 Information collection.

The information required by Part 870 of this chapter is being collected to meet the mandate of Section 402 of the Act, which requires the Secretary to collect a reclamation fee from coal mining operations. The information collection requirements contained in §§ 870.12(c), 870.15 (b) and (c) and 870.16 (a) and (d) were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0063. This information will be used by the regulatory authority to determine whether coal mine operators are reporting accurate production figures and paying proper fees. The obligation to respond is mandatory.

§ 870.11 Applicability.

The regulations in this Part apply to all surface and underground coal mining operations except—

(a) The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him;

(b) The extraction of coal for commercial purposes by surface coal mining operations which affects two acres or less during the life of the mine;

(c) The extraction of coal as an incidental part of Federal, State, or local government-financed highway or other construction;

(d) The extraction of coal incidental to the extraction of other minerals where coal does not exceed 16⅔ percent of the mineral tonnage removed for commercial use or sale in any twelve consecutive months; and

(e) The extraction of less than 250 tons of coal within twelve consecutive months.

§ 870.12 Reclamation fee.

(a) The operator shall pay a reclamation fee on each ton of coal produced for sale, transfer, or use, including the products of in situ mining.

(b) The fee shall be determined by the weight and value at the time of initial bona fide sale, transfer of ownership, or use by the operator.

(1) The initial bona fide sale, transfer of ownership, or use shall be determined by the first transaction or use of the coal by the operator immediately after it is severed, or removed from a reclaimed coal refuse deposit.

(2) The value of the coal shall be determined F.O.B. mine.

(3) The weight of each ton shall be determined by the actual gross weight of the coal.

(i) Impurities, including water, that *have not* been removed prior to the time of initial bona fide sale, transfer of ownership, or use by the operator *shall not* be deducted from the gross weight.

(ii) Operators selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction.

(iii) Insufficient records shall subject the operator to fees based on raw tonnage data.

(c) If the operator combines surface mined coal, including reclaimed coal, with underground mined coal before the coal is weighed for fee purposes, the higher reclamation fee shall apply, unless the operator can substantiate the amount of coal produced by surface mining by acceptable engineering calculations or other reports which the Director may require.

§ 870.13 Fee computations.

(a) *Surface mining fees.* The fee for anthracite, bituminous, and subbituminous coal, including reclaimed coal, is 35 cents per ton unless the value of such coal is less than $3.50 per ton, in which case the fee is 10 percent of the value.

(b) *Underground mining fees.* The fee for anthracite, bituminous, and subbituminous coal is 15 cents per ton unless the value of such coal is less than $1.50 per ton, in which case the fee is 10 percent of the value.

(c) *Surface and underground mining fees for lignite coal.* The fee for lignite coal is 10 cents per ton unless the value of such coal is less than $5.00 per ton, in which case the fee charged is 2 percent of the value.

(d) *In situ coal mining fees.* The fee for in situ mined coal, except lignite coal, is 15 cents per ton based on Btu's per ton in place equated to the gas produced at the site as certified through analysis by an independent laboratory. The fee for in situ mined lignite is 10 cents per ton based on the Btu's per ton of coal in place equated to the gas produced at the site as certified through analysis by an independent laboratory.

§ 870.14 Determination of percentage-based fees.

(a) If the operator submits a fee based on a percentage of the value of coal, the operator shall include, with his fee and production report, documentation supporting the alleged coal value. Based on this information and any additional documentation; including examination of the operator's books and records, that the Director may require, the Director may accept the valuation submitted by the operator, or may otherwise determine the value of the coal.

(b) If the Director determines that a higher fee shall be paid, the operator shall submit the additional fee together with interest computed under § 870.15(c).

§ 870.15 Reclamation fee payment.

(a) Each operator shall pay the reclamation fee based on calendar quarter tonnage no later than thirty days after the end of each calendar quarter.

(b) Each operator shall use mine report form OSM–1 (or OSM–1A approved by OSM) to report tonnage of coal sold, used, or ownership transferred during the applicable calendar quarter.

(c) Delinquent payments are subject to interest at the rate of 1 percent per month, or any part thereof, on any amounts due. Interest shall begin to accrue on the 31st day following the end of the calendar quarter and will run until the date of payment or until judgment is rendered by a court of competent jurisdiction in an action at law to compel payment of debts. OSM will bill delinquent operators on a monthly basis and initiate whatever action is necessary to secure full payment of all fees and interest. All operators, including those with zero production, who receive Form OSM–1 must submit a completed form together with any fee payment due.

(d) A check or money order for each coal mine or a check or money order for all of the operator's mines represented by OSM's approved form(s) shall be made payable to Director, Office of Surface Mining, and shall be sent in the same envelope with OSM's approved form(s) to: Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, P.O. Box 25065—DFC, Denver, Colorado 80225.

§ 870.16 Production records.

(a) Each operator shall maintain, on a current basis, books and records that contain at least the following information and data—

(1) Tons of coal sold or transferred, amount received per ton, name of party to whom sold or transferred, and the date of each sale or transfer.

(2) Tons of coal used by the operator and date of consumption.

(3) Tons of coal stockpiled or inventoried which are not classified as sold or used for fee computation purposes under § 870.12 of this Part.

(4) For in situ coal mining operations, total Btu value of gas produced, the Btu value of a ton of coal in place certified by an independent laboratory, and the amount received for gas sold, transferred or used.

(b) The fee compliance officer shall have access to the mine for the purpose of determining compliance with the regulations in this part.

(c) Each operator shall make any book or record necessary to substantiate the accuracy of reports and payments available at reasonable times for inspection and copying by the fee compliance officer. If the fee is paid at the maximum rate, the fee compliance officer shall not copy information relative to price. All information copied shall be protected by OSM in accordance with the Freedom of Information Act [5 U.S.C. 552(b)].

(d) The operator shall maintain books and records for a period of 6 years from the end of the calendar quarter in which the fee was due.

§ 870.17 Compliance authority.

(a) Fee Compliance Officers shall have the authority to examine records of the second party involved in the sale or transfer of ownership of coal by the operator.

(b) Fee Compliance Officers shall have the authority to examine the records of any party selling coal to the operator.

2. Part 872 is revised to read as follows:

PART 872—ABANDONED MINE RECLAMATION FUNDS

Sec.
872.1 Scope.
872.10 Information collection.
872.11 Abandoned Mine Reclamation Fund.
872.12 State/Indian Abandoned Mine Reclamation Funds.

Authority: Secs. 102(g), 201(c), 401, 402(g), and 412, Pub. L. 95–87, 91 Stat. 449, 456, 458, and 466 (30 U.S.C. 1211, 1231, 1232, and 1242).

§ 872.1 Scope.

This part sets forth general responsibilities for administration of Abandoned Mine Land Reclamation Programs and procedures for management of the Abandoned Mine Reclamation Funds to finance such programs.

§ 872.10 Information collection.

The information required by Part 872 is being collected to meet the mandate of Sections 401 and 402 of the Act, which require that the Secretary make a determination regarding the use of allocated State funds which have not been expended in three years. The information collection requirements contained in § 872.11 (b)(2) and (b)(3) were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0054. This information will be used by the regulatory authority to determine whether delays by State/Indian tribes in use of allocated and granted funds were due to unavoidable delays in program approval. The obligation to respond is mandatory.

§ 872.11 Abandoned Mine Reclamation Fund.

(a) Revenue to the Fund shall include—

(1) Reclamation fees collected under section 402 of the Act and Part 870 of this chapter;

(2) Amounts collected by OSM from charges for use of land acquired or reclaimed with moneys from the Fund under Part 879 of this chapter;

(3) Moneys recovered by OSM through satisfaction of liens filed against privately owned lands reclaimed with moneys from the Fund under Part 882 of this chapter;

(4) Moneys recovered by OSM from the sale of lands acquired with moneys from the Fund or by donation; and

(5) Moneys donated to OSM for the purpose of abandoned mine land reclamation.

(b) Moneys deposited in Fund and appropriated by the Congress shall be used for the following purposes:

(1) An amount not exceeding 10 percent of the reclamation fees collected each quarter, up to a maximum of $10,000,000 each year, shall be used to finance the Small Operator Assistance Program under Part 795 of this chapter.

(2) An amount equal to 50 percent of the reclamation fees collected from within a State shall be allocated at the end of the fiscal year in which they are collected for use in that State under an approved State Reclamation Plan. Reclamation fees collected from Indian lands shall not be included in the calculation of amounts to be allocated to a State. If a State advises OSM in writing that it does not intend to submit a State reclamation plan, no moneys shall be allocated to that State. Amounts allocated to a State that have not been granted to the State within 3 years from the date of allocation shall be available to the Director for other purposes under paragraph (b)(5) of this section. Amounts allocated and granted to the State that have not been expended within 3 years from the date of allocation may be withdrawn from the State if the Director finds in writing—

(i) That the amounts involved are not necessary to carry out the approved reclamation activities; or

(ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities: *Provided, however,* That amounts allocated to a State and subject to withdrawal because they are not expended in 3 years will not be withdrawn from the State if the State has made reasonable efforts to expend the funds but was unable to do so because of unavoidable delays in program approval.

(3) An amount equal to 50 percent of the reclamation fees collected from Indian lands shall be allocated to the Indian tribe having an interest in those lands at the end of the fiscal year in which they are collected for use by that tribe under an approved Indian reclamation plan. If an Indian tribe advises OSM in writing that it does not intend to submit an Indian reclamation plan, no moneys shall be allocated to that tribe. Amounts allocated to Indian tribes that have not been granted to the Indian tribes within 3 years from the date of allocation shall be available to the Director for other purposes under paragraph (b)(5) of this section. Amounts allocated and granted to the Indian tribe that have not been expended within 3 years from the date of allocation may be withdrawn from the Indian tribe if the Director finds in writing—

(i) That the amounts involved are not necessary to carry out the approved reclamation activities; or

(ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities: *Provided, however,* That amounts allocated to an Indian tribe and subject to withdrawal because they are not expended in 3 years will be reallocated to the tribe if the tribe has made reasonable efforts to expend the funds but was unable to do so because of unavoidable delays in program approval.

(4) An amount not exceeding 20 percent of the moneys deposited in the Fund annually may be transferred to the Secretary of Agriculture to carry out the Rural Abandoned Mine program.

(5) All amounts not used for the above purposes shall be available to the Director for the purposes outlined in section 401(c) of the Act.

(c) Money deposited in State or Indian Abandoned Mine Reclamation Funds shall be used to carry out the reclamation plan approved under Part 884 of this chapter and projects approved under Part 888 of this chapter.

§ 872.12 State/Indian Abandoned Mine Reclamation Funds.

(a) Accounts to be known as State or Indian Abandoned Mine Reclamation Funds shall be established in each State or Indian tribal government with approved reclamation plans. These funds will be managed in accordance with the Office of Management and Budget Circular A–102.

(b) Revenue shall include—

(1) Amounts granted by the OSM for purposes of conducting the approved State reclamation plan;

(2) Moneys collected from charges for uses of land acquired or reclaimed with moneys from the State Fund under Part 879 of this chapter;

(3) Moneys recovered through the satisfaction of liens filed against privately owned lands;

(4) Moneys recovered by the State from the sale of lands acquired under Title IV of the Act; and

(5) Such other moneys as the State decides should be deposited in the Fund for use in carrying out the approved reclamation programs.

3. Part 874 is revised to read as follows:

PART 874—GENERAL RECLAMATION REQUIREMENTS

Sec.
874.1 Scope.
874.11 Applicability.
874.12 Eligible coal lands and water.
874.13 Reclamation objectives and priorities.

Authority: Secs. 201(c), 403, 404, 409, and 412(c), Pub. L. 95–87, 91 Stat. 449, 456, 459, 465, and 466 (30 U.S.C. 1211, 1233, 1234, 1239, and 1242).

§ 874.1 Scope.

This part establishes land and water eligibility requirements and reclamation objectives and priorities.

§ 874.11 Applicability.

The provisions of this part apply to all reclamation projects carried out with money from the Fund and administered by OSM and to the Rural Abandoned Mine Program administered by the Secretary of Agriculture under Section 406 of the Act (30 U.S.C. 1236).

§ 874.12 Eligible coal lands and water.

Coal lands and water are eligible for reclamation activities if—

(a) They were mined for coal or affected by coal mining processes;

(b) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the Fund may be sought under Parts 886 or 888 of this chapter.

§ 874.13 Reclamation objectives and priorities.

Reclamation projects shall reflect the priorities set out in Section 403 of the Act (30 U.S.C. 1233) and should be accomplished in accordance with OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810–14819, March 6, 1980).

4. Part 875 is added to read as follows:

PART 875—NONCOAL RECLAMATION

Sec.
875.1 Scope.
875.11 Applicability.
875.12 Eligible lands and water.
875.13 Requirements for noncoal reclamation.

Authority: Secs. 409 and 412, Pub. L. 95–87, 91 Stat. 465 and 466 (30 U.S.C. 1239 and 1242).

§ 875.1 Scope.

This part establishes land and water eligibility requirements and for noncoal reclamation.

§ 875.11 Applicability.

The provisions of this part apply to all reclamation projects on lands or water mined or affected by mining of minerals and materials other than coal and are to be carried out with money from the Fund and administered by a State or Indian tribe under an approved reclamation program according to Part 884 of this chapter.

§ 875.12 Eligible lands and water.

Noncoal lands and water are eligible for reclamation if—

(a) They were mined or affected by mining processes;

(b) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition;

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government or the State as a result of bond forfeiture, which will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation or, in cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the Fund may be sought under Parts 886 or 888 of this chapter;

(d) The reclamation has been requested by the Governor of the State or head of the tribal body;

(e) The reclamation is necessary for the protection of the public health and safety or all coal related reclamation has been accomplished; and

(f) Moneys allocated to the State or Indian tribe under § 872.11(b) (2) and (3) of this chapter are available for the work.

§ 875.13 Requirements for noncoal reclamation.

Reclamation of eligible noncoal mined lands and waters shall comply with the provisions of Section 409 of Pub. L. 95–87 (30 U.S.C. 1239).

5. Part 877 is revised to read as follows:

PART 877—RIGHTS OF ENTRY

Sec.
877.1 Scope.
877.10 Information collection.
877.11 Written consent for entry.
877.13 Entry and consent to reclaim.
877.14 Entry for emergency reclamation.

Authority: Sec. 201(c), 407 (a) and (b), 410, and 412(a), Pub. L. 95–87, 91 Stat. 449, 462, 463, and 466 (30 U.S.C. 1211, 1237, 1240, and 1242).

§ 877.1 Scope.

This part establishes procedures for entry upon lands or property by OSM, States, and Indian tribes for reclamation purposes.

§ 877.10 Information collection.

The information collection requirements contained in §§ 877.11 and 877.13(b) were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029–0055. This information is being collected to meet the mandate of Section 407 of the Act, which provides that States or Indian tribes, pursuant to an approved reclamation program, may use the police power, if necessary, to effect entry upon private lands to conduct reclamation activities or exploratory studies if the landowner's consent is refused or the landowner is not available.

This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to conduct reclamation activities on private lands. The obligation to respond is mandatory.

§ 877.11 Written consent for entry.

Written consent from the owner of record and lessee, or their authorized agents, is the preferred means for obtaining agreements to enter lands in order to carry out reclamation activities. Nonconsensual entry by exercise of the police power will be undertaken only after reasonable efforts have been made to obtain written consent.

§ 877.13 Entry and consent to reclaim.

(a) OSM, the State, or Indian tribe or its agents, employees, or contractors may enter upon land to perform reclamation activities or conduct studies or exploratory work to determine the existence of the adverse effects of past coal mining if consent from the owner is obtained.

(b) If consent is not obtained, then, prior to entry under this section, the OSM, State, or Indian tribe shall find in writing, with supporting reasons that—

(1) Land or water resources have been or may be adversely affected by past coal mining practices;

(2) The adverse effects are at a state where, in the interest of the public health, safety, or the general welfare, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) The owner of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices is not known or readily available, or the owner will not give permission for OSM, State, or Indian tribe or its agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the effects of past coal mining practices.

(c) If consent is not obtained, OSM, State, or Indian tribe shall give notice of its intent to enter for purposes of conducting reclamation at least 30 days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement of where the findings required by this section may be inspected or obtained.

§ 877.14 Entry for emergency reclamation.

(a) OSM, its agents, employees, or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary to protect the public health, safety, or general welfare.

(b) Prior to entry under this section, OSM shall make a written finding with supporting reasons that the situation qualifies as an emergency in accordance with the requirements set out in Section 410 of the Act.

(c) Notice to the owner shall not be required prior to entry for emergency reclamation. OSM shall make reasonable efforts to notify the owner and obtain consent prior to entry, consistent with the emergency conditions that exist. Written notice shall be given to the owner as soon after entry as practical in accordance with the requirements set out in § 877.13(c) of this chapter.

6. Part 879 is revised to read as follows:

PART 879—ACQUISITION, MANAGEMENT, AND DISPOSITION OF LANDS AND WATER

Sec.
879.1 Scope.

Sec.
879.10 Information collection.
879.11 Land eligible for acquisition.
879.12 Procedures for acquisition.
879.13 Acceptance of gifts of land.
879.14 Management of acquired land.
879.15 Disposition of reclaimed land.

Authority: Secs. 201(c), 407 (c), (d), (e), (f), (g), and (h); and 412 (a), Pub. L. 95–87, 91 Stat. 449, 463, 464, and 486 (30 U.S.C. 1211, 1237, and 1247).

§ 879.1 Scope.

This part establishes procedures for acquisition of eligible land and water resources for emergency abatement activities and reclamation purposes by OSM or a State or Indian tribe under an approved reclamation program. It also provides for the management and disposition of lands acquired by the OSM, State, or Indian tribe and establishes requirements for the redeposit of proceeds from the use or sale of land.

§ 879.10 Information collection.

The information collection requirements contained in §§ 879.11(b)(1),(b)(2), and (e)(3), 879.12(a), 879.13(b), and 879.15(a) and (b) were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0056. This information is being collected to meet the mandate of Section 407 of the Act, which requires that a State/Indian tribe include in its reclamation plan assurances that the acquisition, management, and disposition of eligible lands and water for reclamation and other designated purposes will be accomplished in a manner prescribed by the Act. This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to acquire, manage, and dispose of land in the prescribed manner. The obligation to respond is mandatory.

§ 879.11 Land eligible for acquisition.

(a) Land adversely affected by past coal mining practices may be acquired by the OSM with moneys from the Fund, or by a State or Indian tribe if approved in advance by OSM.

OSM shall find in writing that acquisition is necessary for successful reclamation and that—

(1) The acquired land will serve recreation, historic, conservation, and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; and

(2) Permanent facilities will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b)(1) Coal refuse disposal sites and all coal refuse thereon may be acquired with moneys from the Fund by OSM or by a State or Indian tribe if approved in advance by OSM. Prior to the approval of the acquisition of such sites, the OSM, State, or Indian tribe shall find in writing that the acquisition of such land is necessary for successful reclamation and will serve the purposes of the Abandoned Mine Land Reclamation Program.

(2) Where an emergency situation exists and a written finding as set out in § 877.14 of this chapter has been made, OSM may use Fund moneys to acquire lands where public ownership is necessary to meet an emergency situation and prevent recurrence of the adverse effects of past coal mining practices.

(c) Land adversely affected by past coal mining practices may be acquired by OSM if the acquisition with moneys from the Fund is an integral and necessary element of an economically feasible plan or project to construct or rehabilitate housing which meets the specific requirements set out in Section 407(h) of the Act.

(d) Land or interests in land needed to fill voids, seal abandoned tunnels, shafts, and entryways or reclaim surface impacts of underground or surface mines may be acquired by the OSM, State, or Indian tribe if OSM finds that acquisition is necessary under Part 875 of this chapter.

(e) The OSM, State, or Indian tribe which acquires land under this part shall acquire only such interests in the land as are necessary for the reclamation work planned or the postreclamation use of the land. Interests in improvements on the land, mineral rights, or associated water rights may be acquired if—

(1) The customary practices and laws of the State in which the land is located will not allow severance of such interests from the surface estate; or

(2) Such interests are necessary for the reclamation work planned or for the postreclamation use of the land; and

(3) Adequate written assurances cannot be obtained from the owner of the severed interest that future use will not be in conflict with the reclamation to be accomplished.

§ 879.12 Procedures for acquisition.

(a) An appraisal of all land or interest in land to be acquired shall be obtained by the OSM, State, or Indian tribe. The appraisal shall state the fair market value of the land as adversely affected by past mining.

(b) When practical, acquisition shall be by purchase from a willing seller. The amount paid for land or interests in land acquired shall reflect the fair market value of the land or interests in land as adversely affected by past mining.

(c) When necessary, land or interests in land may be acquired by condemnation. Condemnation procedures shall not be started until all reasonable efforts have been made to purchase the land or interests in lands from a willing seller.

(d) The OSM, State, or Indian tribe which acquires land under this part shall comply, at a minimum, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, *et seq.*, and 41 CFR Part 114–50.

§ 879.13 Acceptance of gifts of land.

(a) The OSM, State, or Indian tribe under an approved reclamation plan may accept donations of title to land or interests in land if the land proposed for donation meets the requirements set out in § 879.11.

(b) Offers to make a gift of land or interest in land to the U.S. Government shall be in writing and comply with U.S. Department of the Interior regulations for land donations. The States and Indian tribes may use procedures provided by applicable State or Indian tribal law.

§ 879.14 Management of acquired land.

Land acquired under this part may be used for any lawful purpose that is consistent with the necessary reclamation activities. Procedures for collection of user charges or the waiver of such charges by the OSM, State, or Indian tribe shall provide that all user fees collected shall be deposited in the appropriate Abandoned Mine Reclamation Fund.

§ 879.15 Disposition of reclaimed land.

(a) Prior to the disposition of any land acquired under this part, OSM, State, or Indian tribe shall publish a notice of proposed land disposition, hold public hearings, if required, and make written findings in accordance with the authority contained in Section 407(g)(2) of the Act.

(b) OSM may transfer administrative responsibility for land acquired by OSM to any Federal Department or Agency, with or without cost to that Department or Agency. OSM may transfer title for land acquired by OSM to any State or Indian tribe or to any agency or political subdivision of a State or Indian tribe, with or without cost to that entity, for the purposes set out in paragraphs (e) or

(f) of this section. The agreement under which a transfer is made shall specify—

(1) The purposes for which the land may be used, which shall be consistent with the authorization under which the land was acquired; and

(2) That the title of administrative responsibility for the land shall revert to OSM, State, or Indian tribe if, at any time in the future, OSM finds that the land is not used for the purposes specified.

(c) OSM may accept title for abandoned and unreclaimed land to be reclaimed and administered by OSM. If a State or Indian tribe transfers land to OSM under this section, that State or Indian tribe shall have a preference right to purchase such land from OSM after reclamation is completed. The price to be paid by the State or Indian tribe shall be the fair market value of the land in its reclaimed condition less any portion of the land acquisition price paid by the State or Indian tribe.

(d) OSM may sell land acquired and reclaimed under this part, except that acquired for housing under § 879.11(c), to the State or local government at less than fair market value but in no case less than purchase price plus reclamation cost provided such land is used for a valid public purpose.

(e) OSM may transfer or sell land acquired for housing under § 879.11(c), with or without monetary consideration, to any State or political subdivision of a State, to an Indian tribe, or to any firm, association, or corporation. The conditions of transfer or sale shall be in accordance with Section 407(h) of the Act.

(f) OSM may transfer title for land acquired for housing under § 879.11(c) by grants or commitments for grants, or may advance money under such terms and conditons as required, to—

(1) Any State or Indian tribe; or

(2) A department, agency, or instrumentality of a State; or

(3) Any public body or nonprofit organization designated by a State.

(g)(1) OSM may sell or authorize the States or Indian tribes to sell land acquired under this part by public sale if—

(i) Such land is suitable for industrial, commercial, residential, or recreational development;

(ii) Such development is consistent with local, State, of Federal land use plans for the area in which the land is located; and

(iii) Retention by OSM, State, or Indian tribe, or disposal under other paragraphs of this section is not in the public interest.

(2) Disposal procedures will be in accordance with Section 407(g) of the Act and applicable State or Indian tribal requirements.

(3) States may transfer title or administrative responsibility for land to cities, municipalities, or quasi-governmental bodies, provided that the State provide for the reverter of the title or administrative responsibility if the land is no longer used for the purposes originally proposed.

(h) All moneys received from disposal of land under this part shall be deposited in the appropriate Abandoned Mine Reclamation Fund in accordance with 30 CFR Part 872 of this chapter.

7. Part 882 is revised to read as follows:

PART 882—RECLAMATION ON PRIVATE LAND

Sec.
882.1 Scope.
882.10 Information collection.
882.12 Appraisals.
882.13 Liens.
882.14 Satisfaction of liens.

Authority: Secs. 201(c), 407 (a) and (b), 408, 409, 410, and 412(a), Pub. L. 95–87, 91 Stat. 449, 462, 463, 464, 465, and 466 (30 U.S.C. 1211, 1237, 1238, 1239, 1240, and 1242).

§ 882.1 Scope.

This part authorizes reclamation on private land and establishes procedures for recovery of the cost of reclamation activities conducted on privately owned land by the OSM, State, or Indian tribe.

§ 882.10 Information collection.

The information collection requirements contained in §§ 882.12(c) and 882.13(b) were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0057. This information is being collected to meet the mandate of Secion 408 of the Act, which allows the State/Indian tribe to file liens on private property that has been reclaimed under certain conditions. This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to file liens. The obligation to respond is mandatory.

§ 882.12 Appraisals.

(a) A notarized appraisal of private land to be reclaimed which may be subject to a lien under § 882.13 shall be obtained from an independent appraiser. The appraisal shall state—

(1) The estimated market value of the property in its unreclaimed condition; and

(2) The estimated market value of the property as reclaimed.

(b) This appraisal shall be made prior to start of reclamation activities. The agency shall furnish to the appraiser information of sufficient detail in the from of plans, factual data, specifications, etc., to make such appraisals. When reclamation requires more than 6 months to complete, an updated appraisal under paragraph (a)(2) of this section shall be made to determine if the increase in value as originally appraised has actually occurred. Such updated appraisal shall not include any increase in value of the land as unreclaimed. If the updated appraised value results in lower increase in value, such increase shall be used as a basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien. OSM shall provide appraisal standards for Federal projects, and the State or Indian tribes shall provide appraisal standards for State or Indian tribal projects consistent with generally acceptable appraisal practice.

§ 882.13 Liens.

(a) OSM, State, or Indian tribe has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value; except that—

(1) A lien shall not be placed against the property of a surface owner who acquired title prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation which necessitated the reclamation work.

(2) The basis for making a determination of what constitutes a significant increase in market value or what factual situation constitutes a waiver of lien will be made by OSM, State, or Indian tribe pursuant to the Congressional intent expressed in Section 408 of the Act and consistent with State or Indian tribal laws governing liens.

(3) A lien may be waived if findings made prior to construction indicate that the reclamation work to be performed on private land shall primarily benefit the health, safety, or environmental values of the greater community or area in which the land is located; or if the reclamation is necessitated by an unforeseen occurrence, and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the unforeseen occurrence; and

(4) OSM, State, or Indian tribe may waive the lien if the cost of filing it, including indirect costs to OSM, State, or Indian tribe, exceeds the increase in

fair market value as a result of reclamation activities.

(b) If a lien is to be filed, the OSM, State, or Indian tribe shall, within 6 months after the completion of the reclamation work, file a statement in the office having responsibility under applicable law for recording judgments and placing liens against land. Such statement shall consist of notarized copies of the appraisals obtained under § 882.12 and may include an account of moneys expended for the reclamation work. The amount reported to be the increase in value of the property shall constitute the lien to be recorded in compliance with existing Federal, State or Indian tribal laws: *Provided, however,* That prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property involved.

(c) Within 60 days after the lien is filed the landowner may petition under local law to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by local law.

§ 882.14 Satisfaction of liens.

(a) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property.

(b) The OSM, State, or Indian tribe which files a lien on private property shall maintain or renew it from time to time as may be required under State or local law.

(c) Moneys derived from the satisfaction of liens established under this part shall be deposited in the appropriate abandoned mine reclamation fund account.

8. Part 884 is revised to read as follows:

PART 884—STATE RECLAMATION PLANS

Sec.
884.1 Scope.
884.11 State eligibility.
884.13 Content of proposed State reclamation plan.
884.14 State reclamation plan approval.
884.15 State reclamation plan amendment.
884.16 Suspension of plan.
884.17 Impact assistance.

Authority: Secs. 201(c), 402(g)(2), 403, 404, 405, 407, 409, and 412(a), Pub. L. 95–87, 91 Stat. 449, 458, 459, 462, 465, and 466 (30 U.S.C. 1211, 1232, 1233, 1234, 1235, 1237, 1239, and 1242).

§ 884.1 Scope.

This part establishes the procedures and requirements for the preparation, submission and approval of State reclamation plans.

§ 884.11 State eligibility.

A State is eligible to submit a State reclamation plan if it has eligible lands or water as defined in § 870.5 within its boundaries. A State is eligible for a State reclamation plan to be approved by the Director if it has an approved State regulatory program under Section 503 of the Act and meets the other requirements of this chapter and the Act.

§ 884.13 Content of proposed State reclamation plan.

Each proposed State reclamation plan shall be submitted to the Director in writing and shall include the following information:

(a) A designation by the Governor of the State of the agency authorized to administer the State reclamation program and to receive and administer grants under Part 886 of this chapter.

(b) A legal opinion from the State Attorney General on the chief legal officer of the State agency that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.

(c) A description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including—

(1) The purposes of the State reclamation program;

(2) The specific criteria, consistent with Section 403 of the Act for ranking and identifying projects to be funded;

(3) The coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program administered by the Soil Conservation Service, the reclamation programs of any Indian tribes located within the States, and OSM's reclamation programs; and

(4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR Part 879;

(5) Policies and procedures regarding reclamation on private land under 30 CFR Part 882;

(6) Policies and procedures regarding rights of entry under 30 CFR Part 877; and

(7) Public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including—

(1) The organization of the designated agency and its relationship to other State organizations or officials that will participate in or augment the agency's reclamation capacity;

(2) The personnel staffing policies which will govern the assignment of personnel to the State reclamation program;

(3) The purchasing and procurement systems to be used by the agency. Such systems shall meet the requirements of Office of Management and Budget Circular A–102, Attachment O; and

(4) The accounting system to be used by the agency, including specific procedures for the operation of the State Abandoned Mine Reclamation Fund.

(e) A general description, derived from available data, of the reclamation activities to be conducted under the State reclamation plan, including the known or suspected eligible lands and waters within the State which require reclamation, including—

(1) A map showing the general location or known or suspected eligible lands and waters;

(2) A description of the problems occurring on these lands and waters; and

(3) How the plan proposes to address each of the problems occurring on these lands and waters.

(f) A general description, derived from available data, of the conditions prevailing in the different geographic areas of the State where reclamation is planned, including—

(1) The economic base;

(2) Significant esthetic, historic or cultural, and recreational values; and

(3) Endangered and threatened plant, fish, and wildlife and their habitat.

§ 884.14 State reclamation plan approval.

The Director shall act upon a State reclamation plan within 90 days after submittal. A State reclamation plan shall not be approved until the Director has—

(1) Held a public hearing on the plan within the State which submitted it, or made a finding that the State provided adequate notice and opportunity for public comment in the development of the plan;

(2) Solicited and considered the views of other Federal agencies having an interest in plan;

(3) Determined that the State has the legal authority, policies, and administrative structure necessary to carry out the proposed plan;

(4) Determined that the proposed plan meets all the requirements of this subchapter;

(5) Determined that the State has an approved State regulatory program; and

(6) Determined that the proposed plan is in compliance with all applicable State and Federal laws and regulations.

(b) If the Director disapproves a proposed State reclamation plan, the Director shall advise the State in writing of the reasons for disapproval. The State may submit a revised proposed State reclamation plan at any time under the procedures of this section.

§ 884.15 State reclamation plan amendment.

A State may, at any time, submit to the Director a proposed amendment or revision to its approved plan. If the amendment or revision changes the objectives, scope, or major policies followed by the State in the conduct of its reclamation program, the Director shall follow the procedures set out in § 884.14 in approving or disapproving an amendment or revision of a State reclamation plan.

§ 884.16 Suspension of plan.

(a) The Director shall suspend a State reclamation plan, in whole or in part, if he determines that—

(1) Approval of the State regulatory program has been withdrawn in whole or in part; or

(2) The State is not conductng the State reclamation program in accordance with the plan.

(b) If the Director determines that the plan should be suspended, the Director shall notify the State by mail, return receipt requested, of the proposed action. The notice of proposed suspension shall state the reasons for the proposed action. Within 30 days the State must show cause why such action should not be taken. The Director shall afford the State an opportunity for consultation, including a hearing if requested by the State and performance of remedial action prior to the notice of suspension.

(c) The Director shall notify the State of his decision in writing. The decision of the Director shall be final.

(d) The Director shall lift the suspension if he determines that the deficiencies that led to suspension have been corrected.

§ 884.17 Impact assistance.

(a) The State reclamation plan may provide for construction of specific public facilities in communities impacted by coal development. This form of assistance is available when the Governor of the State has certified, and the Director has concurred that—

(1) All reclamation with respect to past coal mining and with respect to the mining of other minerals and materials has been accomplished;

(2) The specific public facilities are required as a result of coal development; and

(3) Impact funds which may be available under the Federal Mineral Leasing Act of 1920, as amended, or the Act of October 20, 1978, Public Law 94–565 (90 Stat. 2662) are inadequate for such construction.

(b) Grant applications for impact assistance may be submitted in accordance with § 886.13 of this chapter.

9. Part 886 is revised to read as follows:

PART 886—STATE RECLAMATION GRANTS

Sec.
886.1 Scope.
886.3 Authority.
886.10 Information collection.
886.11 Eligibility for grants.
886.12 Coverage and amount of grants.
886.13 Grant period.
886.14 Annual submission of projects.
886.15 Grant application procedures.
886.16 Grant agreements.
886.17 Grant and budget revisions.
886.18 Grant reduction, suspension and termination.
886.19 Audit.
886.20 Administrative procedures.
886.21 Allowable costs.
886.22 Financial management.
886.23 Reports.
886.24 Records.

Authority: Secs. 201(c), 401 (a) and (c), 402(g), 405(h), and 412(a), Pub. L. 95–87, 91 Stat. 449, 456, 458, 460, 466 (30 U.S.C. 1211, 1231, 1232, 1235, and 1242).

§ 886.1 Scope.

This part sets forth procedures for grants to States having an approved State reclamation plan for the reclamation of eligible lands and water and other activities necessary to carry out the plan as approved. OSM's "Final Guidelines for Reclamation Programs and Projects" (45 FR 14810–14819, March 6, 1980) should be utilized as applicable.

§ 886.3 Authority.

(a) The Director is authorized to approve or disapprove applications for grants under this part if the total amount of the grants does not exceed the moneys appropriated by the Congress and specifically allocated to the State under § 872.11(b)(2).

(b) The Director is authorized to approve additional grants to a State from the moneys available under § 872.11(b)(5).

§ 886.10 Information collection.

The information collection requirements contained in 30 CFR 886.15(c), 886.17(b), 886.18(c), 886.23 (a) and (b), and 886.24 (a) and (b) were approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0016, 1029–0017, 1029–0059, 1029–0064, 1029–0068, 1029–0070, 1029–0072 through 1029–0079. This information is being collected to meet the mandate of Section 405 of the Act, which allows the Secretary to grant funds to States/Indian tribes pursuant to Section 402(g) and which are necessary to implement the State/Indian tribe reclamation program. This information will be used by the OSM to ensure that the State/Indian tribe complies with OMB Circular A–102 and sound principles of grants management. The obligation to respond is mandatory.

§ 886.11 Eligibility for grants.

A State is eligible for grants under this part if it has a State reclamation plan approved under Part 884 of this chapter.

§ 886.12 Coverage and amount of grants.

(a) An agency may use moneys granted under this part to adminster the approved State reclamation program and to carry out the specific reclamation activities included in the plan and described in the annual grant agreement. The moneys may be used to cover costs to the agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to the OMB Circular A–87.

(b) Grants shall be approved for reclamation of eligible lands and water, construction of public facilities, program administration, the incremental cost of filling voids and sealing tunnels with waste from mine waste piles reworked for conservation purposes, and community impact assistance. To the extent technologically and economically feasible, public facilities that are planned, constructed or modified in whole or in part with abandoned mine land grant funds should utilize fuel other than petroleum or natural gas.

(c) Acquisition of land or interests in land and any mineral or water rights associated with the land shall be approved for up to 90 percent of the costs.

§ 886.13 Grant period.

(a) Except as provided in paragraph (b) of this section, the grant funding period for projects shall not exceed 3 years. The grant period for administrative costs of the authorized agency shall not exceed 1 year.

(b) The Director may, in order to facilitate consideration of impact assistance funding, approve a grant period for specific projects beyond 3 years if he finds, on the basis of the information contained in the grant application that—

(1) Projects to be funded will fulfill all the objectives of Section 403 and Section 409 of the Act;

(2) The requests are for funding of specific projects with adequate plans, acceptable deadlines for completion, and the likelihood of specific construction contracts to meet the project deadlines; and

(3) Sufficient funds allocated to the State or Indian tribe under § 872.11(b)(2) of this chapter are available to complete the projects, including provisions for corrective works on completed projects and any additional eligible projects which may be discovered.

§ 886.14 Annual submission of projects.

The agency shall cooperate with OSM in the development of the annual submission of projects by providing the information required by Section 405(f) of the Act for use by the Director in the preparation of his requests for appropriation of moneys for the State reclamation grants. The schedule for such estimates shall be determined by the OSM on an annual basis. Funds required to prepare the annual submission of projects under Section 405(f) of the Act may be included in administrative grants under § 886.12.

§ 886.15 Grant application procedures.

(a) OSM shall act upon a grant application within 90 days of submittal. If OSM approves an agency's grant application, a grant agreement shall be prepared and signed by the agency and the Director.

(b) If the application is not approved, OSM shall set forth in writing the reasons for disapproval and may propose modifications if appropriate. The agency may resubmit the application or appropriate revised portions of the application. OSM shall approve or disapprove the resubmitted grant application within 30 days of the resubmittal.

(c) A preapplication is not required if the total of the grant requested is within the amounts allocated to the State under § 872.11(b)(2) of this chapter. The agency shall use the following application forms and procedures applicable to construction and/or nonconstruction programs specified by OSM in accordance with Office of Management and Budget Circular A–102, Attachment M:

(1) SF–424 Application for Federal Assistance;
(2) OSM–50A Section A of the Project Approved Information;
(3) OSM–50B Section B of the Project Approved Information;
(4) OSM–51 Program Narrative Statement
(5) OSM–47 OSM Budget Information Report; and
(6) OSM–48 Budget Information-Construction Report

(d) The agency shall agree to perform the grant in accordance with the Act, OSM implementing regulations, and applicable OMB and Treasury Circulars.

(e) Complete copies of plans and specifications for projects shall not be required before the grant is approved nor at the start of the project. The Director may review such plans and specifications after the start of the project in the agency office, on the project site, or at any other appropriate site.

(f) A description of the actual or planned public involvement in the decision to undertake the work, in the planning of the reclamation activities, and in the decision on how the land will be used after reclamation shall be included in the application.

§ 886.16 Grant agreements.

(a) If the Director approves an agency's grant application, OSM shall prepare a grant agreement, which includes:

(1) A statement of the work to be covered by the grant;

(2) A statement of the approvals of specific actions as required under this subchapter or the conditions to be met before such approvals can be given if moneys are included in the grant for such actions;

(3) The amounts approved for each individual project included in the grant application; and

(4) Allowable transfers of funds to other Federal, State or local agencies.

(b) The Director may allow an agency to assign functions and funds to other Federal, State or local agencies. The Director shall require the grantee agency to retain responsibility for overall administration of that grant, including use of funds and reporting.

(c) The Director shall transmit four copies of the grant agreement by mail, return receipt requested, or by hand to the agency for signature. The agency shall execute the grant agreement and return all copies within 3 weeks after receipt, or within an extension of time granted by the Director.

(d) The Director shall sign the agreement upon its return from the agency or when funds are available for the grants, whichever is later, and return one copy to the agency. The grant is effective and constitutes an obligation of Federal funds at the time the Director signs the agreement.

(e) Neither the approval of the grant application nor the award of any grant shall commit or obligate the United States to award any continuation grant or to enter into any grant revision, including grant increases to cover cost overruns.

§ 886.17 Grant and budget revisions.

(a) Grant revisions. (1) A grant revision is a written alteration of the terms of conditions of the grant agreement, whether accomplished on the initiative of the agency or OSM. All procedures for the grant revisions shall conform to OMB Circular A–102.

(2) The agency shall promptly notify the Director, or the Director shall promptly notify the agency, in writing of events or proposed changes which may require a grant revision. The agency shall notify the Director in advance of—

(i) Planned changes in the scope or objective of any individual project even if the change will not result in a change in the total cost of the project; and

(ii) Changes which will result in an extension of the grant period.

(b) Budget revisions. (1) The agency shall obtain the written approval of the OSM for budget revisions whenever the total amount of the revisions result in an increase or decrease of more than $5,000 or 5 percent of the grant amount, whichever is greater.

(2) OSM shall either approve or disapprove the budget revision within 15 days of its receipt.

(3) Changes of less than $5,000 or 5 percent of the grant amount may be made by the agency without advance notification or approval of OSM if the change:

(i) Can be made without exceeding the total amount of the project grant;

(ii) Does not involve a change in the scope or objective of the project involved; and

(iii) Is consistent with the procedures set forth in Office of Management and Budget Circular A–102, attachment K.

§ 886.18 Grant reduction, suspension, and termination.

(a) Conditions for reduction, suspension or termination.

(1) If an agency violates the terms of a grant agreement or an approved reclamation plan, OSM may reduce, suspend or terminate the grant.

(2) If an agency fails to expend moneys allocated and granted within three years from the date of allocation, or an extension granted under § 886.13,

OSM may reduce the grant in accordance with § 872.11(b)(2) of this subchapter.

(3) If an agency fails to implement, enforce, or maintain an approved State regulatory program or any part thereof and, as a result, the administration and enforcement grant provided under Part 735 of this Chapter is terminated, OSM shall terminate the grant awarded under this part.

(4) If an agency is not in compliance with the following nondiscrimination provisions, OSM shall terminate the grant:

(i) Title VI of the Civil Rights Act of 1964, Pub. L. 88–352, 78 Stat. 252 (42 U.S.C. 2000d-1). "Nondiscrimination in Federally Assisted Programs", which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations in 43 CFR Part 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, "Equal Employment Opportunity," requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations in 40 CFR Part 60.

(iii) Section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 355 (29 U.S.C. 794), as amended by Executive Order 11914, "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs."

(5) If an agency fails to enforce the financial interest provisions of Part 705 of this chapter, OSM shall terminate the grant.

(6) If an agency fails to submit reports required by this subchapter or Part 705 of this chapter, OSM shall terminate the grant.

(b) *Grant reduction, suspension, and termination procedures.* (1) OSM shall give at least 30 days written notice to the agency by mail, return receipt requested, of intent to reduce, suspend, or terminate a grant. OSM shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) OSM shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) OSM shall notify the agency of the termination, suspension, or reduction of the grant in writing by mail, return receipt requested.

(4) Upon termination, the agency shall refund or credit to the Fund that remaining portion of the grant money not encumbered. However, any portion of the grant that is required to meet contractual commitments made prior to the effective date of termination shall be retained by the agency.

(5) Upon notification of intent to terminate the grant, the agency shall not make any new commitments without the approval of the OSM.

(6) OSM may allow termination costs as determined by applicable Federal cost principles listed in Office of Management and Budget Circular A–87.

(c) *Appeals.* (1) Within 30 days of OSM's decision to reduce, suspend, or terminate a grant, the agency may appeal the decision to the Secretary.

(2) The agency shall include in the appeal—

(i) A statement of the decision being appealed; and

(ii) The facts which the agency believes justify a reversal or modification of the decision.

(3) The Secretary shall act upon the appeal within 30 days of receipt.

§ 886.19 Audit.

The agency shall arrange for an independent audit at least once every two years, pursuant to the requirements of Office of Management and Budget Circular No. A–102. The audit will be performed in accordance with the audit guides provided by the General Accounting Office and by the "Approved Compliance Supplement" issued by the Office of Management and Budget.

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property, and related requirements contained in Office of Management and Budget Circular No. A–102 and use the following forms: OSM–60 (Report of Government Property), OSM–62 (Recipients' Release), and OSM–63 (Recipients Assignments of Refunds, Rebates and Credits)

§ 886.21 Allowable costs.

(a) Reclamation project costs which shall be allowed include actual costs of construction, operation and maintenance, planning and engineering, construction inspection, other necessary administration costs, and up to 90 percent of the costs of the acquisition of land.

(b) Costs must conform with any limitations, conditions, or exclusions set forth in the grant agreement.

§ 886.22 Financial management.

(a) The agency shall account for grant funds in accordance with the requirement of Office of Management and Budget Circular No. A–102. Agencies shall use generally accepted accounting principles and practices consistently applied. Accounting for grant funds must be accurate and current.

(b) The Agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made by a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 886.23 Reports.

(a) For each grant/cooperative agreement, the agency shall semiannually submit to OSM the following reports prepared according to the Office of Management and Budget Circular No. A–102, Attachments H and I:

(1) Financial Status Report, Form SF–269, for the agency's administrative grant/cooperative agreement and the Performance Report, Form OSM–51, covering the performance aspects of the grant/cooperative agreement.

(2) Outlay Report and Request for Reimbursement for Construction Programs, Form SF–271, and the Performance Report, Form OSM–51, for each activity or project on which some work has occurred.

(b) For each grant/cooperative agreement, the agency shall annually submit to the Office the following reports prepared according to Office of Management and Budget Circular A–102, Attachments H and I:

(1) A final Financial Status Report, Form SF–269, for the Agency's administrative grant/cooperative agreement and a final Performance Report, Form OSM–51, covering the performance aspects of the grant/cooperative agreement.

(2) An annual Outlay Report and Request for Reimbursement for Construction Programs, Form SF–271, and a cumulative annual Performance Report, Form OSM–51, which includes—

(i) For each project or activity, a brief description and the type of reclamation

performed, the project location, the landowner's name, the amounts of land or water reclaimed or being reclaimed, and a summary of achieved or expected benefits;

(ii) For any land previously acquired by not disposed of, a statement of current or planned uses, location and size in acres, and any revenues derived from use of the land; and

(iii) For any permanent facilities acquired or constructed but not disposed of, a description of the facility and a statement of current or planned uses, location, and any revenues derived from the use of the facility.

§ 886.24 Records.

(a) The agency shall maintain complete records in accordance with Office of Management and Budget Circular A–102, Attachment C. This includes, but is not limited to, books, documents, maps, and other evidence and accounting procedures and practices sufficient to reflect properly—

(1) The amount and disposition by the agency of all assistance received for the program; and

(2) The total direct and indirect costs of the program for which the grant was awarded.

(b) Subgrantees and contractors, including contractors for professional services, shall maintain books, documents, papers, maps, and records which are pertinent to a specific grant award.

10. Part 888 is revised to read as follows:

PART 888—INDIAN RECLAMATION PROGRAMS

Sec.
888.1 Scope.
888.2 Objectives.
888.11 Interim procedures.

Authority: Secs. 201(c), 405(k), 412(a), and 710, Pub. L. 95–87, 91 Stat. 449, 460, 466, and 523 (30 U.S.C. 1211, 1235, 1242, and 1300).

§ 888.1 Scope.

This part is reserved for any additional or unique regulations that may be required as a result of the special study report submitted pursuant to Section 710 of the Act and to achieve the purposes of the Act on Indian lands. Because of the special jurisdictional status of Indian lands, general responsibilities for administration of Indian reclamation programs are set forth on an interim basis.

§ 888.2 Objectives.

(a) The objectives of this part are to provide a temporary vehicle for mitigation of emergency situations or extreme danger situations arising from past mining practices and to begin reclamation of other areas determined to have high priority on Indian lands.

(b) Upon completion or required legislation, this part will be either deleted and supplanted by the other parts of this chapter dealing with State and Indian reclamation programs or expanded as required to achieve the purposes of the Act.

§ 888.11 Interim procedures.

(a) The Director is authorized to receive proposals from Indian tribes for projects which should be carried out on Indian lands and to carry out such projects pursuant to Parts 872 through 882 of this chapter.

(b) The Director shall consult with the Indian tribe and the Bureau of Indian Affairs' office having jurisdiction over the Indian lands on all reclamation activities carried out on indian lands under this subchapter.

(c) If a proposal is made by an Indian tribe and approved by the Director, the tribal governing body shall approve the project plans. The costs of the project may be charged against the money allocated to OSM under § 872.11(b)(5).

(d) Approved projects may be carried out directly by the Director or through such arrangements as the Director may make with the Bureau of Indian Affairs or other agencies.

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Reader Aids

Federal Register

Vol. 47, No. 126

Wednesday, June 30, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

23681-23912.....1
23913-24096.....2
24097-24250.....3
24251-24538.....4
24539-24688.....7
24689-25000.....8
25001-25112.....9
25113-25318.....10
25319-25502.....11
25503-25728.....14
25729-25932.....15
25933-26116.....16
26117-26368.....17
26369-26610.....18
26611-26804.....21
26805-27056.....22
27057-27242.....23
27243-27536.....24
27537-27842.....25
27843-28066.....28
28067-28360.....29
28361-28604.....30

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Memorandums:
June 28, 1982.....28361
Executive Orders:
January 29, 1859
(Revoked by PLO 6260).....26131
January 29, 1867
(Revoked in part by PLO 6287).....27292
July 2, 1875
(Revoked by PLO 6270).....27285
July 27, 1875
(Revoked by PLO 6271).....27285
May 8, 1889
(Revoked by PLO 6257).....26130
May 28, 1889
(Revoked in part by PLO 6255).....26129
April 1, 1895
(See PLO 6260).....26131
April 30, 1896
(See PLO 6260).....26131
October 12, 1910
[Revoked by PLO 6288].....28382
August 16, 1911
(Revoked in part by PLO 6280).....27287
February 5, 1912
(Revoked by PLO 6283).....27290
July 3, 1913
(Revoked in part by PLO 6280).....27287
December 11, 1914
(Revoked in part by PLO 6280).....27287
April 16, 1914
[See PLO 6288].....28382
November 10, 1917
(Revoked in part by PLO 6259).....26130
February 11, 1918
[See PLO 6288].....28382
February 25, 1919
(Revoked in part by PLO 6282).....27289
November 26, 1921
(Revoked in part by PLO 6274).....27286
November 21, 1923
(Revoked in part by PLO 6266).....26133
June 8, 1926
(Revoked in part by PLO 6252).....26133
April 17, 1926
(See PLO 6284).....27290
December 22, 1927
(Revoked by PLO 6263).....26132
April 23, 1929
(Revoked by PLO 6263).....26132
699 (See PLO 6287).....27292
4082 (Revoked by PLO 6287).....27292
4364 (Revoked by PLO 6287).....27292
4774 (Revoked by PLO 6287).....27292
5339 (Revoked in part by PLO 6281).....27288
5702 (Revoked by PLO 6287).....27292
6205 (Revoked in part by PLO 6286).....27291
7035 (See PLO 6287).....27292
12133 Revoked by EO 12368).....27843
12367.....26119
12368.....27843
Proclamations:
1245 (Revoked by PLO 6266).....26133
4944.....24097
4945.....24099
4946.....25503
4947.....26117
4948.....26805
4949.....27537

5 CFR

307.....27539
316.....27539
1260.....26369
1261.....26369
Proposed Rules:
340.....24726
720.....24336

7 CFR

1.....26611
2.....23681, 24101, 27539
15.....25458
15b.....25458
29.....25933, 27057
102.....23910
226.....27540
272.....27544
273.....27544
277.....25496
284.....28067
301.....23682, 23683, 26121
371.....25001, 27234
411.....27058

439.....27059
724.....27546
725.....27547
726.....27548
760.....24689
905.....25935
908.....24137, 25113, 26122, 27234
910.....24251, 25319, 26370, 27548
916.....23913
917.....23913
923.....23684
979.....24109
981.....25001
1032.....25113
1040.....26370
1106.....25505
1446.....28069
1701.....24251, 28080
1900.....24539
1924.....28082
1944.....28082
2900.....25319

Proposed Rules:

28.....26637
52.....25366
54.....23725
210.....28106
235.....25368
272.....24968, 26639, 26840, 27038
273.....24968, 26639, 26840, 27038
276.....26639, 27038
932.....26394
948.....28400
1001.....27080
1006.....27342
1011.....26656
1012.....27342
1013.....27342
1033.....27342
1036.....27342
1040.....27342
1046.....26656
1065.....26840
1071.....26665
1073.....26665
1098.....26656
1104.....26665
1106.....26665
1124.....27342
1125.....27342
1126.....26665
1132.....26665
1133.....27342
1134.....27299, 27342
1135.....27342
1136.....27299, 27342
1137.....27299, 27342
1139.....27342
1200.....23733, 24338
1701.....25371, 26841, 27565
1807.....27366
1872.....27366
1901.....27366
1910.....27366
1940.....27366
1941.....27366
1943.....27366
1944.....27366
1945.....27366
1962.....27366
1990.....27366

6 CFR

100.....25002, 27549

Proposed Rules:

214.....24596, 27565
248.....24596, 27565

9 CFR

92.....24540
317.....26371, 28214
318.....26371, 28214
319.....26371, 28214

Proposed Rules:

166.....26841
318.....23941
381.....23941

10 CFR

30.....27060
35.....28087
40.....27060
50.....28363
70.....27060
456.....27752
508.....25729, 26615

Proposed Rules:

50.....27371
430.....26143
456.....26148, 27803
477.....28107
485.....25535
501.....25153

12 CFR

9.....27833
217.....24252, 27244
265.....27845
303.....25733
329.....28087
546.....26807
563.....26807
563b.....24252
611.....27060, 28088
614.....27060, 28088
701.....23685, 26808
707.....26808
708.....26808
745.....26808

Proposed Rules:

Ch. VII.....23747, 26842
9.....27833
29.....23944, 26157
202.....23738, 23741, 25019
303.....28108
308.....28108
350.....23743
545.....28110
614.....25535
701.....23750
721.....23751

13 CFR

122.....24110

14 CFR

39.....25114, 25115, 27244–27248, 27845–27848
71.....25506, 25507, 26615, 27249, 27252, 27849, 27850
73.....26123
75.....26615, 27252, 27253
91.....25116, 25508
95.....27253
97.....25510, 27851
298.....25935
323.....26809
382.....25936
385.....28088

Proposed Rules:

21.....24596
29.....27866
39.....23691–23698, 24138, 24541
71.....23699–23702, 23752, 24112, 24139–24141, 25155, 25156, 25539, 26157, 26665, 27373 27374
75.....24597
91.....26112, 26158, 27866
97.....23703
183.....27472
202.....25019
203.....25019
204.....25019
208.....25019
211.....25019
212.....25019
213.....25019
215.....25019
231.....23949
250.....24689
294.....25019
298.....23949, 25019
323.....27081, 28111
399.....24598

15 CFR

376.....25118, 27250
379.....25118, 27250
385.....25118, 27250
806.....23705
930.....27062
970.....24948

16 CFR

13.....24113, 25118
1201.....27853

Proposed Rules:

Ch. II.....24034
13.....25157
436.....25372
455.....24542
1025.....25512
1145.....27867
1632.....25159

17 CFR

3.....27550
140.....24113, 26810, 28089
145.....27550
200.....26818, 26820
201.....26818
202.....26820
203.....26820
210.....25120
211.....23915, 23916
229.....25126
230.....26818
231.....25120
239.....25126, 26818
240.....23919, 26161
249.....25120, 26818
259.....26818
260.....26818
269.....26818
274.....26818
279.....26818

Proposed Rules:

1.....28401
3.....28401
4.....28401
15.....28401
16.....28401
18.....28401
21.....23951, 28401
32.....28401
33.....28401
145.....28401
147.....28401
155.....28401
170.....28401
180.....28401
201.....25372
230.....25372
240.....24338, 25372, 26161
250.....25372
260.....25372
270.....25372
275.....25372

18 CFR

1.....24691, 28364
1b.....28364
2.....28364
3.....28364
3a.....28364
3c.....28364
4.....28364
12.....28364
16.....28364
25.....28364
32.....28364
33.....28364
34.....28364
35.....28364
41.....28364
45.....28364
131.....28364
152.....28364
153.....28364
154.....28364
156.....28364
157.....24254, 28364
158.....28364
250.....28364
270.....28364
271.....25132, 25133, 28364–28366
275.....28364
281.....28364
282.....24117, 27857, 28364
284.....24254, 28364
286.....28364
292.....28364
375.....24524, 24691, 28364
385.....28364
388.....28364

Proposed Rules:

1.....24691, 27375, 28425
3.....27375
154.....28425
157.....28425
271.....23752, 24141, 24342, 25374, 25540, 26163, 27082, 27083, 28425
274.....24726, 28425
284.....24726, 28425
375.....24726, 27375, 28425
381.....24726, 27375, 28425

19 CFR

10.....27260
18.....27260
114.....27260

143 27260
148 24117
210 25134

Proposed Rules:
134 24344
177 25975

20 CFR

416 24274

Proposed Rules:
404 ..... 23954, 25376
651 23754
654 23754

21 CFR

5 ..... 23705, 25733, 26822
12 ..... 25733, 26375
13 26375
14 26375
15 26375
16 26375
20 24277
74 ..... 24278, 27551
80 24691
81 ..... 24278, 24285, 27551
82 ..... 24278, 27551
137 24692
146 24286
172 ..... 26823, 27808
173 28089
177 24288
178 26824
182 27806–27815
184 27806–27815
193 ..... 25950, 25951, 27062, 28366
436 23707
440 23711
442 23707
444 ..... 23707, 25320
448 23707
449 23707
450 23707
510 ..... 26375, 26376
520 ..... 25320, 25734, 26376, 26377
524 26377
544 24290
548 24693
556 25320
558 ..... 23712, 24694, 24695, 26378, 26379, 26825
561 ..... 25952–25954, 27063, 27064, 28368
573 24292
610 ..... 24696, 27552
630 ..... 24696, 27552
801 26982
1308 26616

Proposed Rules:
101 ..... 25379, 26580
105 26580
155 26843
172 26843
182 27818
184 ..... 27817, 27818
186 27817
201 24735
310 28306
358 28312
680 27566

22 CFR

41 24293
514 24119

23 CFR

625 25268

Proposed Rules:
655 25541

24 CFR

3280 28091
3282 28091
3283 28091

Proposed Rules:
201 27867
203 26124
207 ..... 26124, 26852
220 ..... 26124, 26852
221 26852
236 26852
868 24293
882 27869
886 24700
888 25735
891 24120

25 CFR

Proposed Rules:
250 23755

26 CFR

1 25139
6a 24701, 28094
26a 24127

Proposed Rules:
1 ..... 24112, 24737, 25026, 26666, 26854, 28427

27 CFR

9 ..... 24293, 24295, 25517
18 ..... 23920, 25003
240 ..... 23920, 25003

Proposed Rules:
9 24344
240 26399

28 CFR

2 ..... 25735, 25736
31 28546
549 27218
552 27219

Proposed Rules:
2 27567

29 CFR

5 ..... 24296, 24297
6 24702
40 24702
570 28094
580 24702
697 26825
1601 ..... 24542, 24703
1910 ..... 25323, 26557
1952 ..... 25323, 25327

Proposed Rules:
1904 24346
1910 ..... 24751, 26560

30 CFR

Ch. II 28368
Ch. IV 28368
11 28095
33 28095
46 28095
48 28095
49 28095
57 28095
70 28095
71 28095
74 28095
75 28095
77 28095
250 ..... 24751, 25330
251 25330
730 26356
731 26356
732 26356
733 26356
736 26356
870 28574
872 28574
874 28574
875 28574
877 28574
879 28574
882 28574
884 28574
886 28574
888 28574
906 25332
913 ..... 23858, 23886
920 25955
943 24130
944 26827

Proposed Rules:
Ch. VII 26405
211 26856
221 26856
226 25252
231 ..... 24128, 26856
250 26856
270 ..... 24129, 26856
700 ..... 25092, 27688, 00000
701 ..... 24954, 25092, 25486, 00000 26592, 26754, 27688–27734
731 27744
732 27744
736 25278
740 ..... 25092, 28427
741 ..... 25092, 28427
742 ..... 25092, 28427
743 ..... 25092, 28427
744 ..... 25092, 28427
745 ..... 25092, 28427
746 25092
760 25278
761 25278
762 25278
764 25278
765 25278
769 25278
770 27694
771 27694
773 27694
775 27694
778 27694
779 27712
780 ..... 27712, 27734
782 27694
783 27712
784 ..... 27712, 27734
785 ..... 25486, 27688
786 27694
787 27694
788 27694
795 27744
816 ..... 24954, 26592, 26754, 26760, 27688, 27712, 27734, 28359
817 ..... 24954, 26592, 26754, 26760, 27688, 27712, 2727734
822 25486
826 26760
827 27688
906 25979
910 25981
913 25164
914 ..... 26406, 26857
916 ..... 23766, 26165
922 26779
925 ..... 23767, 26164
931 23898
934 26769
935 26406
936 27383
937 26786
938 25383
942 25165
947 26794
951 25029

31 CFR

209 24131
408 27552
535 25003

Proposed Rules:
51 25029
53 25543
55 25543
81 25543
90 25543
92 25543
93 25543
120 25543
121 25543
122 25543
127 25543

32 CFR

242b 24297
505 27262
536 26616
700 28370
706 ..... 24131, 24132
726 28370
728 28370
734 28370
736 28370
737 28370
763 27753
806b 26617
1665 24542
2001 27836

Proposed Rules:
293 26857
1656 24599
1660 24599

33 CFR

1 25519
3 27263
100 ..... 25139–25142, 27264
117 ..... 24543, 24544, 26125–26127, 27265
127 ..... 25519, 27858
137 27478
150 27478
157 24547
162 27265
175 24548

Proposed Rules:
110 26165
126 26166
154 26166
156 26166
161 26166

167.....26167, 27870

34 CFR

642.....24936
643.....24936
644.....24936
645.....24936
646.....24936

36 CFR

7.....2429
50.....24299, 24302
800.....24306
811.....25520

Proposed Rules:

1.....24143
2.....24143
3.....24143
4.....24143
5.....24143
6.....24143
7.....24143
9.....23768
12.....24143
219.....24348

37 CFR

201.....25004

Proposed Rules:

1.....28042
2.....16063, 28324
3.....28042
4.....28063

38 CFR

3.....24549, 28096
6.....28371
8.....28371
17.....27858

Proposed Rules:

1.....23954
21.....24603

39 CFR

111.....25957, 27266
233.....26831
3001.....23712
3002.....25523

Proposed Rules:

10.....28111

40 CFR

1.....25006
51.....27554
52.....23927, 24306, 24552, 25007–25013, 25143, 25144, 25334, 25335, 26379–26388, 26618–26623, 26832, 26833, 27065–27073, 27267, 27554 28096, 28097, 28372–28375
60.....25524
61.....24703
62.....25335, 28099
81.....25016, 27267, 28100
122.....24918, 27520
123.....27273
125.....24918, 25963, 27075
162.....23928, 28377
180.....23931–23935, 25017, 25741, 25957–25963, 28380, 28381
256.....26835
264.....27520
265.....27520
401.....24534
415.....28260
420.....24554
710.....27075
712.....26992, 28382
723.....24308
762.....23713, 23717
763.....25145

Proposed Rules:

Ch. I.....25743, 26859
4.....24755
30.....26564
50.....26407
52.....23773, 23778, 24755 25745, 27870–27874 28122
60.....26750
62.....26169
81.....24755
122.....24144, 25546, 27516
123.....23955, 25546, 26170
124.....24921, 25546
125.....24921, 25981
141.....24756
158.....26171
162.....25030, 28428
180.....23955, 23957, 24604, 25031, 25032, 25746–25750, 25981
262.....28428
264.....27516
425.....23958
440.....25682
704.....27206
712.....26992
761.....24976, 25555
790.....24348

41 CFR

Ch. 1.....25018, 27859, 27860
Ch. 9.....26390
Ch. 18.....27274, 27283
7-1.....25964
7-6.....25964
7-7.....25964
7-30.....25964
8-2.....26127
8-4.....25525
8-75.....25525

Proposed Rules:

9.....23780
101-8.....25337
101-41.....24357

42 CFR

51a.....27824
51d.....27824
51f.....27824
53.....27860
435.....27076
436.....27076

Proposed Rules:

405.....27084

43 CFR

2.....26390
4.....26390
2650.....26390
3300.....25967

Public Land Orders:

548 (Revoked in part by PLO 6252).....24133
619 (Revoked by PLO 6258).....26129
648 (Revoked in part by PLO 6272).....27285
651 (Revoked in part by PLO 6275).....27286
1409 (Revoked by PLO 6254).....23935
1461 (Revoked by PLO 6261).....26131
4395 (See PLO 6287).....27292
4913 (Revoked by PLO 6276).....27287
5345 (Amended PLO 6253).....24133
5791 (Corrected by PLO 6264).....26132
5976 (Corrected by PLO 6281).....27288
6200 (Corrected by PLO 6265).....26133
6252.....24133
6253.....24133
6254.....23935
6255.....26129
6256.....26129
6257.....26130
6258.....26130
6259.....26130
6260.....26131
6261.....26131
6262.....26132
6263.....26132
6264.....26132
6265.....26133
6266.....26133
6267.....27283
6268.....27283
6269.....27284
6270.....27285
6271.....27285
6272.....27285
6273.....27285
6274.....27286
6275.....27286
6276.....27078, 27287
6277.....27079
6279.....27079
6280.....27287
6281.....27288
6282.....27289
6283.....27290
6284.....27290
6285.....27290
6286.....27291
6287.....27292
6288.....28382
6289.....28382

Proposed Rules:

Subtitle A.....25384
Subtitle B.....25384
4.....27086
3000.....28550
3040.....28550
3100.....28550
3110.....28550
3120.....28550
3140.....25720, 28550
3150.....28550
3830.....24144

44 CFR

64.....25018, 25145, 25146, 26133
65.....23718, 23749
67.....23720, 24321

Proposed Rules:

67.....23780–23785, 24357

45 CFR

302.....24716
303.....24716
304.....24716
305.....24716
306.....24716
1611.....25148

Proposed Rules:

2.....26860
97.....26104

46 CFR

Ch. II.....25530
42.....25148
50.....24554
66.....27490
67.....27490
68.....27490
69.....27490
71.....24554
91.....24554
107.....24554
153.....27293
189.....24554
510.....24555, 25530
530.....27861
536.....25532
548.....27861

Proposed Rules:

Ch. I.....26667
7.....24604
25.....25166
26.....25166
35.....25166
58.....25166
78.....25166
97.....25166
111.....25166
112.....25166
162.....25166
196.....25166
502.....24377
507.....27875

47 CFR

0.....28102, 28103
1.....26393
2.....24557, 25342
13.....25972
22.....24557
64.....27293
67.....24720
73.....24572–24580, 25342–25346, 26624, 26836, 26838, 27861, 28385
74.....24580, 24723, 28385
81.....23722
87.....23722
90.....23722, 24581, 26631
97.....28103

Proposed Rules:

Ch. I.....24612, 25033, 26668, 27087
1.....27384
2.....25033, 25982, 27875
21.....25033
73.....24144, 24613, 26408, 26861–26868, 27385, 27572
74.....25033
87.....28113
90.....26677, 28429

94..... 25033

48 CFR

Proposed Rules:

19..... 25034
53..... 26679

49 CFR

1..... 24581
171..... 24582
172..... 24582
173..... 24582, 26633
175..... 24582
215..... 27293
385..... 26135
512..... 24587
571..... 25149, 26138
575..... 24593, 25930, 26139
1033..... 23723, 24332, 25347, 27561, 28393
1039..... 26634
1057..... 28396
1090..... 26634
1110..... 24594
1125..... 25973
1136..... 26142
1201..... 26634
1300..... 26634

Proposed Rules:

Ch. X..... 28115
172..... 24157
173..... 24157, 25167, 26172, 27876
177..... 27876
178..... 25167, 26172, 27876
192..... 25555
396..... 26172
571..... 25169, 26174
1032..... 26409
1039..... 27573
1102..... 25035
1248..... 26870
1310..... 28430

50 CFR

17..... 27295
26..... 25150
91..... 26635
285..... 25350, 26393
371..... 24723
611..... 23936, 25018, 27862
650..... 28398
661..... 24134, 24136, 28105
672..... 23936, 27862, 28105
674..... 24724

Proposed Rules:

14..... 28431
17..... 26878
20..... 25922
602..... 27228
681..... 28433

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing June 28, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 519 / Pub. L. 97–204 To provide for a temporary increase in the public debt limit. (June 28, 1982; 96 Stat. 130) Price: $1.75.

V 47 / 126 JE 30 82 UMI


C30